

# ATTESTATION ENGAGEMENT

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Luzerne County

Pennsylvania

40-000

Liquid Fuels Tax Fund

And Act 44 Tax Fund

For the Period

January 1, 2012 to December 31, 2013

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May 2015



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DEPASQUALE  
AUDITOR GENERAL

### Independent Auditor's Report

The Honorable Leslie Richards  
Acting Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 Tax Fund With Adjustments of Luzerne County for the period January 1, 2012 to December 31, 2013. The county's management is responsible for the Forms MS-991 and the Reports of Act 44 Tax Fund. Our responsibility is to express an opinion on the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting Luzerne County's Forms MS-991 and Reports of Act 44 Tax Fund for the period January 1, 2012 to December 31, 2013 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each county's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As described in Note 4, the adjustments included on the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments are made by the Department of the Auditor General.

### Independent Auditor's Report (Continued)

Although management of the municipality provided us with a management representation letter on the date of our exit conference of December 4, 2014, held at the municipality, they did not respond to our request for an updated management representation letter including the disclosure of any subsequent events that affected the Forms MS-991 or Reports of Act 44 Tax Funds through the date of this report.

In our opinion, except for the possible effects of the matter described in the preceding paragraph, the Forms MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund and Act 44 Tax Fund of Luzerne County for the period January 1, 2012 to December 31, 2013, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms MS-991 and the Reports of Act 44 Tax Fund; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms MS-991 and the Reports of Act 44 Tax Fund. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms MS-991 and the Reports of Act 44 Tax Fund are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund or on compliance and other matters; accordingly, we express no such opinions.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms MS-991 and the Reports of Act 44 Tax Fund will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of the internal control was for the limited purpose of expressing an opinion on whether the Forms MS-991 and the Reports of Act 44 Tax Fund are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a material weakness in internal control:

- Failure To File 2013 Form MS-991 And 2013 Report Of Act 44 Tax Fund – Recurring.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms MS-991 and the Reports of Act 44 Tax Fund are free from material misstatement, we performed tests of Luzerne County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms MS-991 and the Reports of Act 44 Tax Fund. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We are concerned that the county failed to correct our prior reported examination finding for failure to properly prepare Form MS-991. During our current examination period the county properly prepared its 2012 Form MS-991. However, it failed to file its 2013 Form MS-991 and its 2013 Report of Act 44 Tax Fund. Good internal controls ensure that the county completes its Forms MS-991 and Reports of Act 44 Tax Fund accurately and completely. The failure to properly complete and file these forms with the Department of Transportation increases the risk that errors or misappropriations may occur and remain undetected. The county should strive to comply with the recommendation and corrective action noted in this report.

This report is intended solely for the information and use of the Pennsylvania Department of Transportation and the management of Luzerne County and is not intended to be and should not be used by anyone other than these specified parties.

We appreciate the courtesy extended by Luzerne County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale  
Auditor General

March 9, 2015

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LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

Background

*The Vehicle Code* makes provisions and provides funding for County Liquid Fuels and Act 44 Programs. The Pennsylvania Department of Transportation has regulatory administration and oversight of the funds supporting these county programs. Counties are required to comply with those provisions and to report annually.

*The Vehicle Code* imposes a state tax on liquid fuels and fuels used or sold and delivered by distributors within the Commonwealth (75 Pa. C.S. § 9004(a)). One-half cent of the tax collected on each gallon of liquid fuels is deposited in the Commonwealth's Liquid Fuels Tax Fund. The Vehicle Code further provides for the disposition and use of this tax, including the allocations to counties in June and December of each year to fund construction, reconstruction, maintenance and repair of county roads, streets and bridges. The allocation to the respective counties is made in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years (75 Pa C.S. § 9010).

*The Vehicle Code*, as recently amended by Act 44 of 2007 (July 18, 2007, P.L.169), requires the Pennsylvania Turnpike Commission to make annual contributions for the benefit of the Pennsylvania Department of Transportation's Motor License Fund, and further requires the Department of Transportation to distribute \$5,000,000 of the annual contribution to counties (75 Pa. C.S. § 8915.6). The annual distribution to counties is determined based upon the ratio of square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout the Commonwealth. The reporting of the square footage of deck area of a county's county-owned bridges is required as part of the National Bridge Inspection Standards Program.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2012 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ 1,391,802.10	\$ -	\$ 1,391,802.10
<u>Receipts:</u>			
State allocations	1,158,628.91	-	1,158,628.91
Interest (Note 3)	3,715.34	-	3,715.34
Reimbursable agreements (Note 5)	33,800.30	-	33,800.30
Miscellaneous (Note 6)	58,292.42	-	58,292.42
Total receipts	<u>1,254,436.97</u>	<u>-</u>	<u>1,254,436.97</u>
Total funds available	<u>2,646,239.07</u>	<u>-</u>	<u>2,646,239.07</u>
<u>Expenditures:</u>			
Construction	1,200,000.00	-	1,200,000.00
Maintenance and repair	683,670.96	(159,250.71)	524,420.25
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Miscellaneous (Bank service charges)	1,778.71	-	1,778.71
Total expenditures	<u>1,885,449.67</u>	<u>(159,250.71)</u>	<u>1,726,198.96</u>
Balance, December 31, 2012	760,789.40	159,250.71	920,040.11
Unpaid encumbrances	<u>500,000.00</u>	<u>-</u>	<u>500,000.00</u>
Unencumbered balance, December 31, 2012	<u>\$ 260,789.40</u>	<u>\$ 159,250.71</u>	<u>\$ 420,040.11</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2013 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2013	\$ -	\$ 920,040.11	\$ 920,040.11
<u>Receipts:</u>			
State allocations	-	1,063,185.29	1,063,185.29
Interest (Note 3)	-	1,468.82	1,468.82
Reimbursable agreements (Note 5)	-	39,479.40	39,479.40
Miscellaneous (Note 6)	-	47,903.85	47,903.85
Total receipts	<u>-</u>	<u>1,152,037.36</u>	<u>1,152,037.36</u>
Total funds available	<u>-</u>	<u>2,072,077.47</u>	<u>2,072,077.47</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	1,399,905.80	1,399,905.80
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Miscellaneous (Bank service charges)	-	671.43	671.43
Total expenditures	<u>-</u>	<u>1,400,577.23</u>	<u>1,400,577.23</u>
Balance, December 31, 2013	-	671,500.24	671,500.24
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2013	<u>\$ -</u>	<u>\$ 671,500.24</u>	<u>\$ 671,500.24</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2012 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ 433,400.16	\$ 103,484.63	\$ 536,884.79
<u>Receipts:</u>			
Act 44 Funds	295,787.26	(147,075.68)	148,711.58
Interest (Note 3)	953.85	-	953.85
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>296,741.11</u>	<u>(147,075.68)</u>	<u>149,665.43</u>
Total funds available	<u>730,141.27</u>	<u>(43,591.05)</u>	<u>686,550.22</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	171,868.62	(43,591.05)	128,277.57
Miscellaneous	-	-	-
Total expenditures	<u>171,868.62</u>	<u>(43,591.05)</u>	<u>128,277.57</u>
Balance, December 31, 2012	<u>\$ 558,272.65</u>	<u>\$ -</u>	<u>\$ 558,272.65</u>

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2013 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2013	\$ -	\$ 558,272.65	\$ 558,272.65
<u>Receipts:</u>			
Act 44 Funds	-	149,272.56	149,272.56
Interest (Note 3)	-	662.79	662.79
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts (Note 6)	-	26,800.73	26,800.73
Total receipts	-	176,736.08	176,736.08
Total funds available	-	735,008.73	735,008.73
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	196,588.97	196,588.97
Miscellaneous	-	-	-
Total expenditures	-	196,588.97	196,588.97
Balance, December 31, 2013	\$ -	\$ 538,419.76	\$ 538,419.76

Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments are an integral part of this report.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

1. Criteria

A. *The Vehicle Code* prescribes criteria for liquid fuels program funds (75 Pa C.S. § 9010). The Pennsylvania Department of Transportation's *Publication 9* provides more specific policies and procedures to counties for the administration and reporting of the liquid fuels program funds. In the event of any discrepancies between the two, the legislation governs.

(1) Funds received by the counties must be deposited in a special fund designated as the County Liquid Fuels Tax Fund and no other money may be deposited and commingled. Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

(2) Payments from the special fund may be used for:

- construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law;
- property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges;
- construction, reconstruction, operation and maintenance of publicly owned ferryboat operations;
- interest and principal payments on road, bridge, or publicly owned ferryboat operation bonds or sinking fund charges;
- acquisition, maintenance, repair and operation of traffic signs and signals;
- erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices;
- indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and

LUZERNE COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

1. Criteria (continued)

- individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.
- (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.
- (4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.
- (5) Counties must submit a report to the Pennsylvania Department of Transportation by January 15 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation will withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.
- B. *The Vehicle Code*, as recently amended by Act 44 of 2007 (July 18, 2007, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Pennsylvania Turnpike Commission's annual contribution of \$5,000,000 to the Commonwealth's Motor License Fund. The County's Act 44 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

1. Criteria (continued)

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Report of County Liquid Fuels Tax Fund With Adjustments and the Report of Act 44 Tax Fund With Adjustments do not constitute complete financial presentations of the county's assets, liabilities, expenses, and fund balance but include the receipts, expenditures, and fund balances of the County Liquid Fuels Tax Fund and the County Act 44 Tax Fund, respectively.

The Pennsylvania Department of Transportation prescribes that the county report the following on the MS-991 form, *Report of County Liquid Fuels Tax Fund*:

- A. The balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.  
  
*Refer to the related Notes: Note 3, Interest Earnings; Note 5, Reimbursable Agreements; and Note 6, Miscellaneous Receipts.*
- C. Accounts receivable (to be realized within 60 days of the year end).
- D. Total Liquid Fuels Tax funds available for expenditure and encumbrances.
- E. Expenditures for county-owned roads, highways, and bridges.
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
- G. The balance in the fund at the close of the report calendar year.
- H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

2. Deposits

*The County Code*, Title 16 P.S § 17067, authorizes the county to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit from institutions having their principal place of business in or outside the Commonwealth of Pennsylvania that are insured by the FDIC or other like insurance. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in financial institutions. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

There were no deposits exposed to custodial credit risk as of December 31, 2013. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the county's name.

Fund Balance

The fund balance for the Liquid Fuels Tax Fund as of December 31, 2013 consists of the following:

Cash	\$671,500.24
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The fund balance for the Act 44 Tax Fund as of December 31, 2013 consists of the following:

Cash	\$538,419.76
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LUZERNE COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts which earned \$3,715.34 during 2012, and \$1,468.82 during 2013, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in an interest-bearing account which earned \$953.85 during 2012, and \$662.79 during 2013, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2012 Form MS-991

An adjustment of \$(159,250.71) was made to “Maintenance and repair” because expenditures of \$177,713.13 that were paid during 2011 were incorrectly reported as paid during 2012 and these expenditures were understated by \$18,462.42.

2013 Form MS-991

Adjustments were made to this form because it was not filed with the Department of Transportation (see Finding).

2012 Report of Act 44 Tax Fund

An adjustment of \$103,484.63 was made to “Balance, January 1, 2012” because an incorrect fund balance was reported.

An adjustment of \$(147,075.68) was made to “Act 44 Funds” because the Act 44 Fund allocation that was received in December 2011 was reported as received during 2012.

An adjustment of \$(43,591.05) was made to “Maintenance and repair” because expenditures of \$43,591.05 that were paid during 2011 were incorrectly reported as expenditures paid during 2012.

2013 Report of Act 44 Tax Fund

Adjustments were made to this form because it was not filed with the Department of Transportation (see Finding).

LUZERNE COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

5. Reimbursable Agreements

During our examination we noted that the county entered into a reimbursement agreement with Commonwealth of Pennsylvania for street lighting and maintenance cost on the North Cross Valley Expressway. During our current examination period, the county received \$33,800.30 in 2012 and \$39,479.40 in 2013 as a result of this agreement.

6. Miscellaneous Receipts

The following miscellaneous receipts were deposited into the Liquid Fuels Tax Fund during the examination period:

<u>Source</u>	<u>Description</u>	<u>2012</u>	<u>2013</u>
Resident	Driveway permits	\$ 475.00	\$ 425.00
Resident	Utility permits	970.00	850.00
Commonwealth of Pennsylvania	Turnback allocations	43,800.00	43,800.00
Insurance companies	Reimbursement for damages	5,663.56	1,250.85
Vendor	Scrap	1,303.50	1,418.00
Vendor	Fuel discount	6,080.36	-
Vendor	Bridge hanger fee	-	160.00
Totals		<u>\$58,292.42</u>	<u>\$47,903.85</u>

The following miscellaneous receipts were deposited into the Act 44 Fund during the examination period:

<u>Source</u>	<u>Description</u>	<u>2013</u>
Insurance company	Reimbursement for damages	\$ 1,800.73
Insurance company	Reimbursement for damages	<u>25,000.00</u>
Total		<u><u>\$26,800.73</u></u>

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

**Finding - Failure To File 2013 Form MS-991 And 2013 Report Of Act 44 Fund - Recurring**

We cited the county for failing to properly prepare its Forms MS-991 in our prior report for the period January 1, 2010 to December 31, 2011. Our current examination disclosed that the county failed to file its 2013 Form MS-991 and 2013 Report of Act 44 Tax Fund with the Department of Transportation as required by the Department of Transportation's *Publication 9*.

The Department of Transportation's *Publication 9*, Chapter one, Section 1.4, states:

In order to receive Liquid Fuels Tax funds as scheduled, each county must submit an annual report showing the receipts, expenditures, and encumbrances for the preceding 12 months. (See Section 1.8, Reporting Requirements.) The use of the funds must be in compliance with Act. (See Section 1.6, Appropriate Use of Funds.) Failure to do so may result in the county not receiving allocations until such deficiencies are resolved.

Additionally, the Department of Transportation's *Publication 9*, Chapter Four, Section 4.8, states:

In order to receive Act 44 funds as scheduled, each county must submit a set of annual reports showing the receipts and expenditures of all Act 44 funds received from the Commonwealth on forms supplied by the Bureau of Municipal Services.

Good internal controls ensure that the county completes its Form MS-991 and Report of Act 44 Tax Fund accurately and completely. The failure to properly complete and file these forms with the Department of Transportation increases the risk that errors or misappropriations may occur and remain undetected.

This condition occurred because the county failed to comply with our prior examination recommendation to ensure that its Form MS-991 was accurate and complete.

After fieldwork was completed for this examination, the county did file its 2013 Forms MS-991 and Reports of Act 44 Tax Fund with the Department of Transportation using figures that we provided them during our examination.

**Recommendation**

We recommend that the county ensure that its Form MS-991 and Reports of Act 44 Tax Fund are complete and accurate and filed timely with the Department of Transportation.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

**Finding - Failure To File 2013 Form MS-991 And 2013 Report Of Act 44 Fund - Recurring  
(Continued)**

Management's Response

The county officials stated:

The 2013 MS 991 and Act 44 Fund reports are complete and will be filed within the next week.

Auditor's Conclusion

We strongly recommend that the county comply with our recommendation and file Forms MS-991 and Reports of Act 44 Fund with the Department of Transportation by January 31 of each year. During our next examination we will determine if the county complied with our recommendation.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

Summary Of Prior Examination Recommendation

In our prior report we recommended that the county ensure its Forms MS-991 are complete and accurate.

During our current examination we noted that the county complied with our recommendation during 2012. However, the county did not file its 2013 Form MS-991 (see Finding).

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

An exit conference was held December 4, 2014. Those participating were:

LUZERNE COUNTY

Mr. Gregory Parrs, Engineer

Ms. Wendy K. Saxe, Senior Auditor

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Raymond Insalaco, Auditor

Mr. Martin Lawler, Audit Supervisor

The results of the examination were presented and discussed in their entirety.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Leslie Richards  
Acting Secretary  
Department of Transportation

Luzerne County  
200 North River Street  
Wilkes-Barre, PA 18711

The Honorable Linda McClosky Houck	Chairman of Council
The Honorable Michelle Bednar	Controller
Mr. Gregory Parrs	Engineer

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