

LACKAWANNA COUNTY
35-000

LIQUID FUELS TAX FUND
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND ACT 44
TAX FUND FOR THE TWO YEARS
ENDED DECEMBER 31, 2009
EXAMINATION REPORT

CONTENTS

	<u>Page</u>
Background.....	1
Independent Auditor's Report	3
Financial Section:	
2007 Form MS-991 With Adjustments	7
2008 Form MS-991 With Adjustments	8
2009 Form MS-991 With Adjustments	9
2008 Report Of Act 44 Tax Fund With Adjustments.....	10
2009 Report Of Act 44 Tax Fund With Adjustments.....	11
Notes To Forms MS-991 And Reports Of Act 44 Tax Fund With Adjustments	12
Findings and Recommendations:	
Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Failure To File Reports Of Act 44 Tax Fund	23
Finding No. 2 - Duplicate Payment Of Invoice.....	27
Finding No. 3 - Nonpermissible Expenditures	28
Finding No. 4 - Documentation For Purchase Of Backhoe Was Not Provided	30
Finding No. 5 - A Complete Record Of Board Of Commissioners Meeting Minutes Was Not Available For Examination For 2009	32
Comments	33
Summary Of Exit Conference.....	35
Report Distribution	37

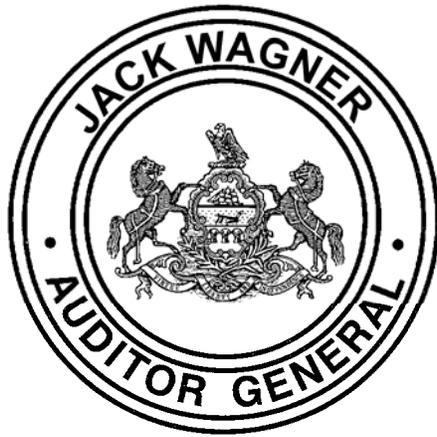
LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND ACT 44
TAX FUND FOR THE TWO YEARS
ENDED DECEMBER 31, 2009
EXAMINATION REPORT
BACKGROUND

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.





**Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER
AUDITOR GENERAL**

Independent Auditor's Report

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund for the three years ended December 31, 2009 and the Reports for Act 44 Tax Fund With Adjustments for the two years ended December 31, 2009 for Lackawanna County. 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 Lackawanna County's Forms MS-991 for the three years ended December 31, 2009 and Reports of Act 44 Tax Fund for the two years ended December 31, 2009 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)

As discussed in Findings and Recommendations and Comments section of this report we noted the following:

- Finding No. 2 - Duplicate Payment Of Invoice - The county paid \$4,245.99 on February 20, 2008 with check No. 59712 and again on March 14, 2008 with check No. 60723.
- Finding No. 3 - Nonpermissible Expenditures - The county expended \$185,399.03 in 2007, \$17,187.55 in 2008, and \$230,973.01 in 2009 for nonpermissible expenditures. The municipality reimbursed \$172,444.12 to its Liquid Fuels Tax Fund on December 21, 2009, leaving a balance of \$261,115.47 to be reimbursed to the Liquid Fuels Tax Fund.
- Finding No. 4 - Documentation For Purchase Of Backhoe Was Not Provided - The county expended \$12,221.90 from its Liquid Fuels Tax Fund for a John Deere backhoe. However, the county did not provide us with an invoice showing the total cost of the purchase of the backhoe nor did they provide us with a lease-purchase agreement. Additionally, the county did not provide us with documentation that the county advertised for bids for the purchase of the backhoe.
- Comment No. 1 - During the 2004 examination period the county expended \$24,289.02 without obtaining project approval. As of the date of this report, the Department of Transportation had not determined if the reimbursement of \$24,289.02 would be required.
- Comment No. 2 - During the 2005 examination period the county expended \$91,738.12 without obtaining project approval. As of the date of this report, the municipality had not reimbursed that amount to its Liquid Fuels Tax Fund.

In our opinion, except for the bulleted items discussed above, 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 for the three years ended December 31, 2009 and the Act 44 Tax Fund for the two years ended December 31, 2009, in conformity with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-991 and the Reports of Act 44 Tax Fund and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. 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 control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects Lackawanna County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of Lackawanna County's Forms MS-991 and the Reports of Act 44 Tax Fund that is more than inconsequential will not be prevented or detected by Lackawanna County's internal control. We consider the deficiencies described in the findings below to be significant deficiencies in internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund:

- Failure To Properly Prepare Forms MS-991 And Failure To File Reports Of Act 44 Tax Fund.
- Duplicate Payment Of Invoice.

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-991 and the Reports of Act 44 Tax Fund will not be prevented or detected by Lackawanna County's internal control. Our consideration of the internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, of the

Independent Auditor's Report (Continued)

We consider the deficiencies described above to be material weaknesses.

The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Nonpermissible Expenditures.
- Documentation For Purchase Of Backhoe Was Not Provided.
- A Complete Record Of Board Of Commissioners Meeting Minutes Was Not Available For Examination For 2009.

We are concerned in light of the county's failure to correct a previously reported finding regarding the county's failure to properly prepare Form MS-991. During our current examination period the county failed to properly prepare Forms MS-991 and failed to file Reports of Act 44 Tax Fund, made a duplicate payment of an invoice, made nonpermissible expenditures, failed to maintain documentation for the purchase of a backhoe, and failed to maintain a complete record of board of commissioners meeting minutes during 2009. The municipality should strive to implement the recommendations and corrective actions noted in this report.

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

March 8, 2011

JACK WAGNER
Auditor General

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
2007 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2007	\$ (59,225.35)	\$ 724,948.33	\$ 665,722.98
<u>Receipts:</u>			
State allocations	1,257,014.54	(365,705.65)	891,308.89
Interest (Note 3)	29,460.01	-	29,460.01
Reimbursable agreements (Note 5)	156,278.08	1,191,741.40	1,348,019.48
Miscellaneous (Note 6)	26,038.74	910,361.71	936,400.45
Total receipts	<u>1,468,791.37</u>	<u>1,736,397.46</u>	<u>3,205,188.83</u>
Total funds available	<u>1,409,566.02</u>	<u>2,461,345.79</u>	<u>3,870,911.81</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	2,231,516.29	22,669.57	2,254,185.86
Administrative	572,249.77	(512,249.77)	60,000.00
Grants to political subdivisions	-	-	-
Miscellaneous (Note 7)	-	1,095,812.69	1,095,812.69
Total expenditures	<u>2,803,766.06</u>	<u>606,232.49</u>	<u>3,409,998.55</u>
Balance, December 31, 2007	(1,394,200.04)	1,855,113.30	460,913.26
Unpaid encumbrances	<u>86,430.97</u>	<u>(86,430.97)</u>	<u>-</u>
Unencumbered balance, December 31, 2007	<u><u>\$ (1,480,631.01)</u></u>	<u><u>\$ 1,941,544.27</u></u>	<u><u>\$ 460,913.26</u></u>

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

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2008	\$ 273,556.36	\$ 187,356.90	\$ 460,913.26
<u>Receipts:</u>			
State allocations	851,414.87	(46,718.19)	804,696.68
Interest (Note 3)	15,043.00	(8,085.73)	6,957.27
Reimbursable agreements (Note 5)	781,104.58	727,355.43	1,508,460.01
Miscellaneous (Note 6)	1,310.00	2,439.68	3,749.68
Total receipts	<u>1,648,872.45</u>	<u>674,991.19</u>	<u>2,323,863.64</u>
Total funds available	<u>1,922,428.81</u>	<u>862,348.09</u>	<u>2,784,776.90</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	1,721,742.48	749,263.42	2,471,005.90
Administrative	651,206.13	(591,206.13)	60,000.00
Grants to political subdivisions	-	-	-
Miscellaneous (Note 7)	-	21,463.54	21,463.54
Total expenditures	<u>2,372,948.61</u>	<u>179,520.83</u>	<u>2,552,469.44</u>
Balance, December 31, 2008	(450,519.80)	682,827.26	232,307.46
Unpaid encumbrances	<u>86,430.97</u>	<u>(86,430.97)</u>	<u>-</u>
Unencumbered balance, December 31, 2008	<u>\$ (536,950.77)</u>	<u>\$ 769,258.23</u>	<u>\$ 232,307.46</u>

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

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
2009 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2009	\$ 273,556.36	\$ (41,248.90)	\$ 232,307.46
<u>Receipts:</u>			
State allocations	762,833.87	-	762,833.87
Interest (Note 3)	1,156.45	113.64	1,270.09
Reimbursable agreements (Note 5)	1,938,729.25	773,571.53	2,712,300.78
Miscellaneous (Note 6)	1,784.00	172,575.12	174,359.12
Total receipts	<u>2,704,503.57</u>	<u>946,260.29</u>	<u>3,650,763.86</u>
Total funds available	<u>2,978,059.93</u>	<u>905,011.39</u>	<u>3,883,071.32</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	2,809,186.67	456,615.65	3,265,802.32
Administrative	76,000.00	-	76,000.00
Grants to political subdivisions	-	-	-
Miscellaneous (Note 7)	-	230,993.01	230,993.01
Total expenditures	<u>2,885,186.67</u>	<u>687,608.66</u>	<u>3,572,795.33</u>
Balance, December 31, 2009	92,873.26	217,402.73	310,275.99
Unpaid encumbrances	<u>86,430.97</u>	<u>(86,430.97)</u>	<u>-</u>
Unencumbered balance, December 31, 2009	<u>\$ 6,442.29</u>	<u>\$ 303,833.70</u>	<u>\$ 310,275.99</u>

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

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
2008 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2008	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	46,717.87	46,717.87
Interest	-	-	-
Total receipts	-	46,717.87	46,717.87
Total funds available	-	46,717.87	46,717.87
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	-	-	-
Balance, December 31, 2008	<u>\$ -</u>	<u>\$ 46,717.87</u>	<u>\$ 46,717.87</u>

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

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
2009 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2009	\$ -	\$ 46,717.87	\$ 46,717.87
<u>Receipts:</u>			
Act 44 Funds	-	47,902.69	47,902.69
Interest	-	-	-
Total receipts	-	47,902.69	47,902.69
Total funds available	-	94,620.56	94,620.56
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	-	-	-
Balance, December 31, 2009	\$ -	\$ 94,620.56	\$ 94,620.56

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

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

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;

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

1. Criteria (Continued)

- 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
 - 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.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

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.

Refer to related Note: Note 7, Miscellaneous Expenditures.

- 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.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

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, 2009. 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.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

2. Deposits (Continued)

Fund Balance

The fund balance for the Liquid Fuels Tax Fund as of December 31, 2009, consists of the following:

Cash	<u>\$310,275.99</u>
------	---------------------

The fund balance for the Act 44 Tax Fund as of December 31, 2009, consists of the following:

Cash	<u>\$94,620.56</u>
------	--------------------

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts and a certificate of deposit which earned \$29,460.01 during 2007, \$6,957.27 during 2008, and \$1,270.09 during 2009, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2007 Form MS-991

An adjustment of \$724,948.33 was made to "Balance, January 1, 2007" because an incorrect fund balance was reported.

An adjustment of \$(365,705.65) was made to "State allocations" because the Liquid Fuels Tax Fund allocations were overstated.

An adjustment of \$1,191,741.40 was made to "Reimbursable agreements" because these receipts were understated.

An adjustment of \$910,361.71 was made to "Miscellaneous" because deposits in error were not reported.

An adjustment of \$22,669.57 was made to "Maintenance and repair" because these expenditures were misclassified as administrative.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

4. Adjustments(Continued)

2007 Form MS-991 (Continued)

An adjustment of \$(512,249.77) was made to “Administrative” because expenditures of \$22,669.57 for maintenance and repair were misclassified and miscellaneous expenditures of \$489,580.20 were misclassified.

An adjustment of \$1,095,812.69 was made to “Miscellaneous” because expenditures of \$489,580.20 were misclassified as administrative and miscellaneous expenditures of \$606,232.49 were not reported.

An adjustment of \$(86,430.97) was made to “Unpaid encumbrances” because there were no unpaid encumbrances.

2008 Form MS-991

An adjustment of \$187,356.90 was made to “Balance, January 1, 2008” because an incorrect fund balance was reported.

An adjustment of \$(46,718.19) was made to “State allocations” because the Liquid Fuels Tax Fund allocations were overstated.

An adjustment of \$(8,085.73) was made to “Interest” because interest earned was overstated.

An adjustment of \$727,355.43 was made to “Reimbursable agreements” because these receipts were understated.

An adjustment of \$2,439.68 was made to “Miscellaneous” because these receipts were understated.

An adjustment of \$749,263.42 was made to “Maintenance and repair” because expenditures of \$591,206.13 for maintenance and repair were misclassified as administrative, miscellaneous expenditures of \$21,433.54 were misclassified, and expenditures of \$179,490.83 for maintenance and repair expenditures were not reported.

An adjustment of \$(591,206.13) was made to “Administrative” because expenditures for maintenance and repair were misclassified.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

4. Adjustments (Continued)

2008 Form MS-991 (Continued)

An adjustment of \$21,463.54 was made to “Miscellaneous” because expenditures of \$21,433.54 were misclassified as maintenance and repair and bank service charges of \$30.00 were not reported.

An adjustment of \$(86,430.97) was made to “Unpaid encumbrances” because there were no unpaid encumbrances.

2009 Form MS-991

An adjustment of \$(41,248.90) was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.

An adjustment of \$113.64 was made to “Interest” because interest earned was understated.

An adjustment of \$773,571.53 was made to “Reimbursable agreements” because these receipts were understated.

An adjustment of \$172,575.12 was made to “Miscellaneous” because these receipts were understated.

An adjustment of \$456,615.65 was made to “Maintenance and repair” because miscellaneous expenditures of \$230,973.01 were misclassified and expenditures of \$687,588.66 were not reported.

An adjustment of \$230,993.01 was made to “Miscellaneous” because expenditures of \$230,973.01 were misclassified as maintenance and repair and bank service charges of \$20.00 were not reported.

An adjustment of \$(86,430.97) was made to “Unpaid encumbrances” because there were no unpaid encumbrances.

2008 Report Of Act 44 Tax Fund

All adjustments were made because the county failed to file a Report of Act 44 Tax Fund with the Department of Transportation.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

4. Adjustments (Continued)

2009 Report Of Act 44 Tax Fund

All adjustments were made because the county failed to file a Report of Act 44 Tax Fund with the Department of Transportation.

5. Reimbursable Agreements

During our examination, we noted that the county entered into various reimbursement agreements with the Commonwealth of Pennsylvania. During our current examination period the county received \$1,348,019.48 during 2007, \$1,508,460.01 during 2008, and \$2,712,300.78 during 2009 as a result of these agreements. As of December 31, 2009, \$288,030.23 is due the Liquid Fuels Tax Fund.

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>2007</u>	<u>2008</u>	<u>2009</u>
Local business	Pave cut permit fees	\$ 2,373.30	\$3,749.68	\$ 1,915.00
Capital Fund	Reimbursement for deposits in error (Note 10)	910,361.71	-	-
General Fund	Reimbursement (Comment No. 1)	6,500.00	-	-
General Fund	Reimbursement (Comment No. 2)	5,500.00	-	-
General Fund	Reimbursement (Comment No. 3)	11,665.44	-	-
General Fund	Reimbursement (Finding No. 3)	-	-	172,444.12
Total		<u>\$936,400.45</u>	<u>\$3,749.68</u>	<u>\$174,359.12</u>

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

7. Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
General Fund	Deposits in error (Note 10)	\$ 910,361.71	\$ -	\$ -
Various vendors	Nonpermissible expenditures (Finding No. 3)	185,399.03	17,187.55	230,973.01
Vendor	Duplicate payment (Finding No. 2)	-	4,245.99	-
Financial institution	Bank service charges	<u>51.95</u>	<u>30.00</u>	<u>20.00</u>
Total		<u>\$1,095,812.69</u>	<u>\$21,463.54</u>	<u>\$230,993.01</u>

8. Lease-Purchase Agreement

On October 27, 2006, the county entered into a lease-purchase agreement with Daimler Chrysler Financial Services to purchase a 2007 Sterling LT9500 dump truck for \$116,359.00. The agreement was for a term of six years at an interest rate of 5.57 percent. Principal and interest payments of \$22,112.66 are due annually. Prior years' principal payments from the Liquid Fuels Tax Fund were \$22,112.66.

During the current examination period the county paid \$53,459.54 and interest of \$12,878.41 from the Liquid Fuels Tax Fund. These amounts are reflected in maintenance and repair on the 2007, 2008, and 2009 Forms MS-991. The outstanding balance of the lease-purchase agreement as of December 31, 2009 was \$40,786.80, plus interest.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORMS MS-991 WITH ADJUSTMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORTS OF ACT 44
TAX FUND WITH ADJUSTMENTS
FOR THE TWO YEARS
ENDED DECEMBER 31, 2009

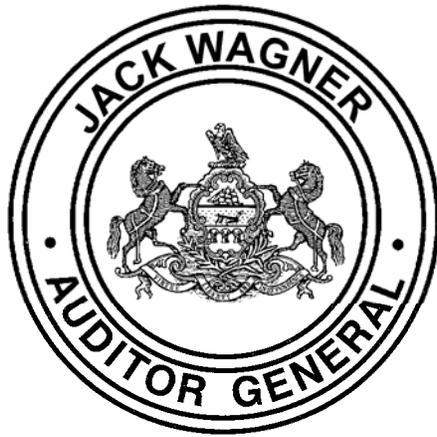
9. Lease-Purchase Agreement

On October 28, 2008 the county entered into a lease-purchase agreement with John Deere Credit to purchase a loader/backhoe for \$88,793.78. The county received a trade-in allowance of \$11,660.53 and made a down payment of \$6,289.42 from the General Fund, leaving a balance to be financed of \$70,843.83. The agreement was for a term of six years at an interest rate of 5.75 percent. Principal and interest payments of \$14,363.41 are due annually.

During the current examination period the county paid principal of \$9,598.06 and interest of \$4,765.35 from the Liquid Fuels Tax Fund. These amounts are reflected in maintenance and repair on the 2009 Form MS-991. The outstanding balance of the lease-purchase agreement as of December 31, 2009 was \$61,245.77, plus interest.

10. Deposits In Error

During our examination, we noted that the county deposited \$172,478.11 on December 19, 2007, \$442,430.38 on December 20, 2007, and \$295,453.22 on December 21, 2007 into its Liquid Fuels Tax Fund in error. On December 24, 2007, the county transferred \$910,361.71 from its Liquid Fuels Tax Fund to its General Fund to correct the deposits in error.



LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Failure To File Reports Of
Act 44 Tax Fund

Our examination disclosed that there were numerous errors made in the preparation of the county's 2007, 2008, and 2009 Forms MS-991. These adjustments, which are disclosed in Note 4, are as follows:

2007 Form MS-991

- An adjustment of \$724,948.33 was made to "Balance, January 1, 2007" because an incorrect fund balance was reported.
- An adjustment of \$(365,705.65) was made to "State allocations" because the Liquid Fuels Tax Fund allocations were overstated.
- An adjustment of \$1,191,741.40 was made to "Reimbursable agreements" because these receipts were understated.
- An adjustment of \$910,361.71 was made to "Miscellaneous" because deposits in error were not reported.
- An adjustment of \$22,669.57 was made to "Maintenance and repair" because these expenditures were misclassified as administrative.
- An adjustment of \$(512,249.77) was made to "Administrative" because expenditures of \$22,669.57 for maintenance and repair were misclassified and miscellaneous expenditures of \$489,580.20 were misclassified.
- An adjustment of \$1,095,812.69 was made to "Miscellaneous" because expenditures of \$489,580.20 were misclassified as administrative and miscellaneous expenditures of \$606,232.49 were not reported.
- An adjustment of \$(86,430.97) was made to "Unpaid encumbrances" because there were no unpaid encumbrances.

2008 Form MS-991

- An adjustment of \$187,356.90 was made to "Balance, January 1, 2008" because an incorrect fund balance was reported.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Failure To File Reports Of
Act 44 Tax Fund (Continued)

2008 Form MS-991 (Continued)

- An adjustment of \$(46,718.19) was made to “State allocations” because the Liquid Fuels Tax Fund allocations were overstated.
- An adjustment of \$(8,085.73) was made to “Interest” because interest earned was overstated.
- An adjustment of \$727,355.43 was made to “Reimbursable agreements” because these receipts were understated.
- An adjustment of \$2,439.68 was made to “Miscellaneous” because these receipts were understated.
- An adjustment of \$749,263.42 was made to “Maintenance and repair” because expenditures of \$591,206.13 for maintenance and repair were misclassified as administrative, miscellaneous expenditures of \$21,433.54 were misclassified, and expenditures of \$179,490.83 for maintenance and repair expenditures were not reported.
- An adjustment of \$(591,206.13) was made to “Administrative” because expenditures for maintenance and repair were misclassified.
- An adjustment of \$21,463.54 was made to “Miscellaneous” because expenditures of \$21,433.54 were misclassified as maintenance and repair and bank service charges of \$30.00 were not reported.
- An adjustment of \$(86,430.97) was made to “Unpaid encumbrances” because there were no unpaid encumbrances.

2009 Form MS-991

- An adjustment of \$(41,248.90) was made to “Balance, January 1, 2009” because an incorrect fund balance was reported.
- An adjustment of \$113.64 was made to “Interest” because interest earned was understated.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Failure To File Reports Of
Act 44 Tax Fund (Continued)

2009 Form MS-991 (Continued)

- An adjustment of \$773,571.53 was made to “Reimbursable agreements” because these receipts were understated.
- An adjustment of \$172,575.12 was made to “Miscellaneous” because these receipts were understated.
- An adjustment of \$456,615.65 was made to “Maintenance and repair” because miscellaneous expenditures of \$230,973.01 were misclassified and expenditures of \$687,588.66 were not reported.
- An adjustment of \$230,993.01 was made to “Miscellaneous” because expenditures of \$230,973.01 were misclassified as maintenance and repair and bank service charges of \$20.00 were not reported.
- An adjustment of \$(86,430.97) was made to “Unpaid encumbrances” because there were no unpaid encumbrances.

2008 Report Of Act 44 Tax Fund

- All adjustments were made because the county failed to file a Report of Act 44 Tax Fund with the Department of Transportation.

2009 Report Of Act 44 Tax Fund

- All adjustments were made because the county failed to file a Report of Act 44 Tax Fund with the Department of Transportation.

Good internal controls ensure that the county completes its Form MS-991 accurately and completely. The failure to properly complete Form MS-991 increases the risk that errors or irregularities may occur and remain undetected.

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

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 1 - Failure To Properly Prepare Forms MS-991 And Failure To File Reports Of
Act 44 Tax Fund (Continued)

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.

Beginning in 2011 the failure to file a Report of Act 44 Tax Fund could result in a failure to receive future Act 44 allocations.

A finding for failure to properly prepare Forms MS-991 was also written in our 2005 and 2006 reports.

Recommendations

We again recommend that the county ensure that its Form MS-991 is complete and accurate.

We also recommend that the county file the necessary Report of Act 44 Tax Fund forms to the Department of Transportation.

Management's Response

The county officials stated:

MS-991 Forms will be reviewed with PENNDOT prior to submission. Additionally, Act 44 funds will be deposited into a separate fund.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the county comply with our recommendations and file a Report of Act 44 Tax 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 recommendations.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 2 - Duplicate Payment Of Invoice

Our examination disclosed that the county paid the following invoice twice:

<u>Invoice Number</u>	<u>First Check No.</u>	<u>First Date Paid</u>	<u>Second Check No.</u>	<u>Second Date Paid</u>	<u>Invoice Amount</u>
Statement	59712	02/20/08	60723	03/14/08	<u>\$4,245.99</u>

Although this money should be reimbursed to the Liquid Fuels Tax Fund the primary concern is the inadequate internal controls which enabled the duplicate payment of \$4,245.99 to remain undetected.

Good internal controls ensure that all invoices are reviewed timely to avoid duplicate payments. The failure to follow this procedure increases the possibility that duplicate payments can be made on vendor invoices and go undetected for long periods of time.

Recommendations

We recommend that the county reimburse \$4,245.99 to its Liquid Fuels Tax Fund upon official notification of the Department of Transportation. We also recommend that the county officials contact the vendor as soon as possible to obtain reimbursement.

We further recommend that the county establish and implement internal controls to ensure vendor invoices are reviewed timely to avoid duplicate payments.

Management's Response

The county officials offered no formal response at this time.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 3 - Nonpermissible Expenditures

Our examination disclosed that the county expended \$185,399.03 in 2007, \$17,187.55 in 2008, and \$230,973.01 in 2009 from the Liquid Fuels Tax Fund for the following nonpermissible items:

<u>Description</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Non liquid fuels data processing	\$ 1,199.70	\$ -	\$ -
Items for various departments	3,571.77	-	-
Annex and Courthouse trash	2,198.00	2,288.00	-
Repairs on administration building	1,733.61	-	-
PC Access and AC System	31,769.48	-	-
Maintenance contract for elevator	561.75	-	-
Computer education program	1,050.00	-	-
Air conditioner repairs	17,186.59	-	-
Rent for meals on wheels	9,176.69	-	-
Elevator repairs	17,041.72	-	-
Juvenile Detention	165.00	8,743.83	-
Water for various buildings	11,372.67	-	-
Cleaning supplies	4,152.84	3,196.29	449.89
Electricity for lighting of buildings	35,749.72	2,645.30	-
Car wash	7.00	-	-
Service charges for courthouse	75.00	-	-
Sewer charges for buildings	494.74	-	-
Administration alarm systems	600.00	-	-
Heat for various buildings	46,195.91	-	-
Security for Administration building	608.00	234.00	-
Trash pick up	488.84	-	-
Non liquid fuels items for various Departments	-	80.13	-
Non liquid fuels engineering fees	-	-	58,079.00
Payroll for playground employees	-	-	172,444.12
Total	<u>\$185,399.03</u>	<u>\$17,187.55</u>	<u>\$230,973.01</u>

The Liquid Fuels and Fuels Tax Act of April 17, 1997, P.L. 6, § 12, 75 Pa. C.S.A. § 9010(b)(2)(i)(A-H), provides, in part, that Liquid Fuels Tax Fund money can only be used “for the purposes of construction, reconstruction, maintenance and repair of roads, highways, and bridges. . . .”

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 3 - Nonpermissible Expenditures (Continued)

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including the items listed above, are outside the scope of permissible expenditures.

On December 21, 2009, the county reimbursed \$172,444.12 for payroll for playground employees to its Liquid Fuels Tax Fund.

The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's Regulations could result in the county having to reimburse \$261,115.47 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$261,115.47 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's Regulations regarding permissible expenditures.

Management's Response

The county officials stated:

Funds will be deposited to Liquid Fuels for nonpermissible expenditures.

Auditor's Conclusion

The county officials should review the Department of Transportation's *Publication 9* to become familiar with permissible Liquid Fuels Tax Fund expenditures. During our next examination we will determine if the municipality complied with our recommendations.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 4 - Documentation For Purchase Of Backhoe Was Not Provided

Our examination disclosed that on September 16, 2008, the county expended \$12,221.90 for a lease-purchase payment on a John Deere backhoe. However, the county did not provide us with an invoice showing the total cost of the purchase of the backhoe nor did they provide us with a lease-purchase agreement. Additionally, the county did not provide us with documentation that the county advertised for bids for the purchase of the backhoe.

The Lackawanna County Home Rule Charter, §1.16-1617, states:

Until adoption of an ordinance by the Board of Commissioners specifying procedures and requirements for contracts and purchase, all contracts and purchases shall be made in conformity with state laws applicable to counties whose population is most equal to that of Lackawanna County.

Because the county did not provide documentation that the backhoe was advertised and bid, we were unable to determine if the above purchase was made in compliance with the advertising, bidding and contract requirements of *The County Code*, 53 P.S. § 1802(b), (also found at § 1802(b) of *The County Code* as published by the Local Government Commission), which requires that purchases over \$10,000.00 made after September 8, 1990 must be advertised, bid and awarded by contract. *The County Code*, 53 P.S. § 1803, (also found at § 1803 of *The County Code* as published by the Local Government Commission) further states that advertising, bidding, and contract requirements should not be evaded through piecemeal purchases.

Additionally, without an invoice we could not determine if the expenditure was permissible according to the Liquid Fuels Tax Municipal Allocation Law and the Department of Transportation's Regulations.

The failure to comply with *The County Code* could result in the county having to reimburse \$12,221.90 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$12,221.90 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county comply with *The County Code* as noted in this finding.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No. 4 - Documentation For Purchase Of Backhoe Was Not Provided (Continued)

Recommendations (Continued)

Additionally, we recommend that the municipality ensure good internal control over expenditures by maintaining adequate documentation to support all expenditures.

Management's Response

The county officials offered no formal response at this time.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Finding No 5 - A Complete Record Of Board Of Commissioners Meeting Minutes Was Not Available For Examination For 2009

Our examination disclosed that during 2009 the minutes of the board of commissioners meetings were video recorded, however, they were not transcribed into the minute book as required by Lackawanna County Home Rule Charter.

The Lackawanna County Home Rule Charter, §1.3-312, states:

The minutes and ordinances, resolutions and motions of the Board shall be entered as approved in the record books of the County. These books shall be in the custody and control of the Administrative Director. All County ordinances and any resolutions or motions having legislative effect shall be codified and the codification kept current. The record books shall be open and available for public inspection during the County's regular business hours. Copies of the codified ordinances and resolutions shall be made available to the public upon request at a reasonable rate.

The primary purpose of the minutes is to provide an official record of meetings of the board of commissioners. Without a complete recording of readable minutes, we were unable to determine if there were any references to the road projects or if any additional information would have had an impact on the propriety of liquid fuels expenditures. Additionally, we were unable to determine if litigation or related party transactions were noted that would affect the Liquid Fuels Tax Fund.

Recommendation

We recommend that, in the future, transcribed minutes for board meetings be available for public review within a reasonable period of time after each meeting.

Management's Response

The county officials offered no formal response at this time.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
COMMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Comment No. 1 - Summary Of 2004 Audit Recommendations

In our 2004 report we recommended that the Department of Transportation review our audit finding to determine if the county should reimburse \$30,789.02 to its Liquid Fuels Tax Fund. This amount consists of \$24,289.02 for a failure to obtain project approval and \$6,500.00 for a failure to maintain documentation for price quotations.

During our 2006 examination, we reviewed a letter dated May 16, 2006 from the Department of Transportation informing the county to reimburse \$30,789.02 to its Liquid Fuels Tax Fund. We noted the county reimbursed \$6,500.00 to its Liquid Fuels Tax Fund on June 26, 2007. We reviewed a letter from the county to the Department of Transportation dated December 27, 2006 requesting a waiver for the remaining \$24,289.02. As of the date of this report, the Department of Transportation had not determined if the reimbursement of the remaining \$24,289.02 would be required.

Comment No. 2 - Summary Of 2005 Examination Recommendations

In our 2005 report we recommended that the Department of Transportation review our examination findings to determine if the county should reimburse \$97,238.12 to its Liquid Fuels Tax Fund. This amount consists of \$91,738.12 for a failure to obtain project approval and \$5,500.00 for the inspection of a county dam, which was a nonpermissible expenditure.

During our current examination we reviewed a letter dated September 28, 2007, from the Department of Transportation informing the county to reimburse \$97,238.12 to its Liquid Fuels Tax Fund. We noted the county reimbursed \$5,500.00 to its Liquid Fuels Tax Fund on June 26, 2007. As of the date of this report, the remaining \$91,738.12 had not been reimbursed to the Liquid Fuels Tax Fund.

Comment No. 3 - Summary Of 2006 Examination Recommendations

In our 2006 report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$11,665.44 to its Liquid Fuels Tax Fund for a failure to obtain the approval of the Department of Transportation before a bridge construction project is done.

During our current examination we noted that the county reimbursed \$11,665.44 to its Liquid Fuels Tax Fund on November 19, 2007.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
COMMENTS
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009 AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

Comment No. 3 - Summary Of 2006 Examination Recommendations (Continued)

In our 2006 report we also recommended that the county comply with the application, approval, and specification requirements of the Department of Transportation.

During our current examination we noted that the county complied with our recommendation.

LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009
AND REPORT OF ACT 44
TAX FUND FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

An exit conference was held March 8, 2011. Those participating were:

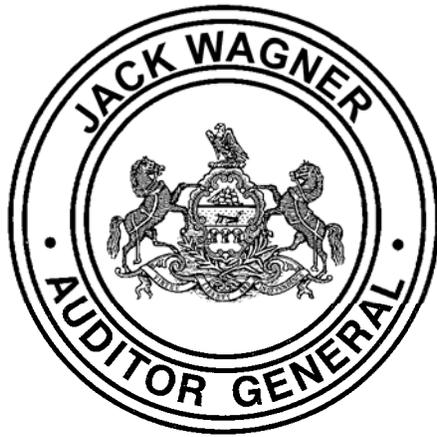
LACKAWANNA COUNTY

The Honorable Reginald H. Mariani, Deputy Controller
Mr. Thomas Arduino, Accountant
Mr. Sean Kerrigan, Administrative Assistant
Mr. John Grzenda, Clerk

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Georgeanne M. Walacavage, Auditor

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



LACKAWANNA COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE THREE YEARS ENDED
DECEMBER 31, 2009
AND REPORT OF ACT 44 TAX FUND
FOR THE TWO YEARS ENDED
DECEMBER 31, 2009

This report was initially distributed to:

The Honorable Barry J. Schoch, P.E.
Secretary
Department of Transportation

Lackawanna County
200 Adams Avenue
Scranton, PA 18503

The Honorable Corey D. O'Brien	Chairman of the Board of Commissioners
The Honorable Edward Karpovich	Treasurer
The Honorable Kenneth McDowell	Controller
Mr. Steve Barcoski	Finance Director

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.