

# ATTESTATION ENGAGEMENT

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Lackawanna County

Pennsylvania

35-000

Liquid Fuels Tax Fund

And Act 44 Tax Fund

For the Period

January 1, 2014 to December 31, 2014

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August 2016



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  
Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Form MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 Tax Fund With Adjustments of Lackawanna County for the period January 1, 2014 to December 31, 2014. The county's management is responsible for the Form MS-991 and the Reports of Act 44 Tax Fund. Our responsibility is to express an opinion on the Form 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 Form MS-991 and Reports of Act 44 Tax Fund for the period January 1, 2014 to December 31, 2014 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, Act 44, and Act 89 Tax Funds 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 Form 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 the Findings and Recommendations section of this report:

- The county transferred \$19,357.48 to the Capital Account for the pay period ending January 17, 2014 twice. This amount was reimbursed to the Liquid Fuels Tax Fund on July 12, 2016.
- The county failed to receive \$207,157.22 of bridge reimbursements due for expenses paid by the Liquid Fuels Tax Fund during our prior examination periods.
- The county received \$80,717.27 in reimbursements for prior years expenses paid by the Liquid Fuels Tax Fund for bridge projects. However, the county deposited this money into the Capital Account, which is in noncompliance with the Liquid Fuels Tax Law.

Although management of the county provided us with a management representation letter on the date of our exit conference of June 28, 2016, 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 Form MS-991 and the Report of Act 44 through the date of this report.

In our opinion, except for the effects of the bulleted items discussed above and the possible effects of the county's failure to provide an updated management representation letter, the Form MS-991 With Adjustments and the Reports of Act 44 Tax Fund With Adjustments presents, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels and Act 44 Tax Fund of Lackawanna County for the period January 1, 2014 to December 31, 2014, 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 Form 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 Form 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 Form 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 Form MS-991 and the Reports of Act 44 Tax Fund or on compliance and other matters; accordingly, we express no such opinions.

## Independent Auditor's Report (Continued)

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 Form 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:

- Duplicate Transfer Of Payroll.

As part of obtaining reasonable assurance about whether the Form MS-991 and the Reports of Act 44 Tax Fund are free from material misstatement, we performed tests of Lackawanna 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 Form 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 the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Failure To Receive Bridge Reimbursements As Per Agreements and Deposit Reimbursements Into The Liquid Fuels Tax Fund.
- Nonpermissible Payroll Expenditures.

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.

We appreciate the courtesy extended by Lackawanna 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

July 19, 2016

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LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

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.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
2014 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2014	\$ 84,525.60	\$ -	\$ 84,525.60
<u>Receipts:</u>			
State allocations	768,500.36	-	768,500.36
Interest (Note 3)	136.27	(136.27)	-
Reimbursable agreements (Note 5)	-	9,890.89	9,890.89
Miscellaneous (Note 6)	58,776.00	361,915.17	420,691.17
Total receipts	<u>827,412.63</u>	<u>371,669.79</u>	<u>1,199,082.42</u>
Total funds available	<u>911,938.23</u>	<u>371,669.79</u>	<u>1,283,608.02</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	868,656.68	-	868,656.68
Administrative	37,784.61	-	37,784.61
Grants to political subdivisions	-	-	-
Miscellaneous (Note 6)	-	361,915.17	361,915.17
Total expenditures	<u>906,441.29</u>	<u>361,915.17</u>	<u>1,268,356.46</u>
Balance, December 31, 2014	5,496.94	9,754.62	15,251.56
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2014	<u>\$ 5,496.94</u>	<u>\$ 9,754.62</u>	<u>\$ 15,251.56</u>

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
2014 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2014	\$ 325,526.37	\$ (47,694.77)	\$ 277,831.60
<u>Receipts:</u>			
Act 44 Funds	40,534.29	-	40,534.29
Interest (Note 3)	15.77	138.46	154.23
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts (Note 6)	-	95,112.62	95,112.62
	40,550.06	95,251.08	135,801.14
Total receipts			
Total funds available	366,076.43	47,556.31	413,632.74
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous (Note 8)	-	47,556.31	47,556.31
	-	47,556.31	47,556.31
Total expenditures			
Balance, December 31, 2014	\$ 366,076.43	\$ -	\$ 366,076.43

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

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.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

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.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

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 purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. 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 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, 2014. 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 consists of the following:

Cash	\$15,251.56
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The fund balance for the Act 44 Tax Fund consists of the following:

Cash	\$366,076.43
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LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

3. Interest Earnings

The county deposited idle Act 44 tax money in an interest-bearing account which earned \$154.23 during 2014, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2014 Form MS-991

An adjustment of \$(136.27) was made to “Interest” because interest earned was overstated.

An adjustment of \$9,890.89 was made to “Reimbursable agreements” because reimbursements for bridge inspections were not reported.

An adjustment of \$361,915.17 was made to “Miscellaneous” because a deposit in error was not reported.

An adjustment of \$361,915.17 was made to “Miscellaneous” because the correction of a deposit in error was not reported.

2014 Report of Act 44 Tax Fund

An adjustment of \$(47,694.77) was made to “Balance, January 1, 2014” because an incorrect fund balance was reported.

An adjustment of \$138.46 was made to “Interest” because interest earned was understated.

An adjustment of \$95,112.62 was made to “Miscellaneous” because these receipts were not reported.

5. Reimbursable Agreements

During our examination, we noted that the county entered into reimbursement agreements with the Commonwealth of Pennsylvania for bridge inspections and reconstruction. During our current examination period, the county deposited \$9,890.89 into its Liquid Fuels Tax Fund as a result of these agreements. Our examination further disclosed the county deposited \$80,717.27 into the Capital Account as a result of these agreements (see Finding No. 2). As of December 31, 2014, \$207,157.22 was due the Liquid Fuels Tax Fund (see Finding No. 2).

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

6. Miscellaneous Receipts

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

Source	Description	Amount
Commonwealth of Pennsylvania Capital Account P.E.M.A.	Turnback allocation Reimbursement (Finding No. 3) Deposit in error (Note 8)	\$ 6,720.00 52,056.00 361,915.17
Total		<u>\$420,691.17</u>

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

Source	Description	Amount
Capital Account Capital Account	Reimbursement (Summary of Prior Examination Recommendation) Deposit in error (Note 8)	\$47,556.31 47,556.31
Total		<u>\$95,112.62</u>

7. Lease-Purchase Agreement

On October 28, 2008, the county entered into a lease-purchase agreement with John Deere Credit to purchase a backhoe/loader 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. Prior years' principal and interest payments from the Liquid Fuels Tax Fund were \$46,264.49 and \$11,189.15, respectively. Additionally, the municipality paid principal of \$10,885.44 and interest of \$3,477.97 from the General Fund.

During the current examination period, the municipality paid principal of \$13,693.90 and interest of \$669.51 from the Liquid Fuels Tax Fund. These amounts are reflected in maintenance and repair on the 2014 Form MS-991. The lease purchase agreement was paid-in-full on August 27, 2014.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
NOTES TO FORM MS-991 AND  
REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

8. Deposits In Error

On January 22, 2014, the municipality deposited \$361,915.17 to the Liquid Fuels Tax Fund that should have been deposited to the Capital Account. On February 24, 2014, the municipality transferred \$361,915.17 from the Liquid Fuels Tax Fund to the Capital Account to correct the deposit in error.

Additionally, on June 19, 2014, the municipality deposited \$47,556.31 into the Act 44 Fund in error. On June 23, 2014, the municipality transferred \$47,556.31 from the Act 44 Fund to the Capital Account to correct the deposit in error.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

**Finding No. 1 - Duplicate Transfer Of Payroll**

Our examination disclosed that the county transferred \$19,357.48 to the General Fund for the pay period ending January 17, 2014 twice. This amount consisted of \$12,453.68 for salaries and \$6,903.80 for overtime.

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 \$19,357.48 to remain undetected.

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

The county reimbursed \$19,357.48 to the Liquid Fuels Tax Fund on July 12, 2016, which was subsequent to our examination.

**Recommendation**

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

**Management's Response**

The municipal officials stated:

The \$19,357.48 has been reimbursed to the Liquid Fuels Tax Fund on July 12, 2016.

**Auditor's Conclusion**

During our next examination we will determine if the municipality complied with our recommendation.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

**Finding No. 2 - Failure To Receive Bridge Reimbursements As Per Agreements And Deposit Reimbursements Into Liquid Fuels Tax Fund**

Our prior examination for the period 2010 through 2013 disclosed that the county entered into various agreements with the Department of Transportation to receive reimbursements for bridge inspections and reconstruction. The agreements provided for various percentages of the county's expenditures for bridge reconstruction to be reimbursed upon the Pennsylvania Department of Transportation's receipt of invoice and payment documentation. During our prior examination, we disclosed the county was due a total of \$287,874.49 per these reimbursement agreements.

Our current examination disclosed that the county received \$80,717.27 of the \$287,874.49 due to the county. We further noted that the county deposited \$34,155.23 on March 26, 2014 and \$46,562.04 on July 23, 2014 into the Capital Account, which is in noncompliance with the Liquid Fuels Tax Municipal Allocation Law.

Good internal control procedures ensure that documentation is filed in a timely manner as required by contractual agreements so reimbursements are received in a timely manner.

Additionally, the practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Act of June 1, 1956, P.L. (1955) 1944, 72 P.S. § 2615.5, known as the Liquid Fuels Tax Municipal Allocation Law, which states:

. . .each city, borough, town and township, shall . . . Establish and maintain a special fund into which the moneys [liquid fuels tax funds] . . . shall be deposited and into which no other moneys may be deposited or commingled . . .

Because the county failed to file the documentation with the Pennsylvania Department of Transportation, the county did not have access to the \$207,157.22 for up to six years. Additionally, had the money been received, it would have been available for road maintenance and repairs.

Additionally, the risk that Liquid Fuels Tax Fund money may be used for unauthorized purposes increases when liquid fuels money is commingled with other funds.

The failure to follow the Liquid Fuels Tax Municipal Allocation Law as noted above could result in the municipality having to reimburse \$80,717.27 to its Liquid Fuels Tax Fund.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

**Finding No. 2 - Failure To Receive Bridge Reimbursements As Per Agreements and Deposit Reimbursements Into Liquid Fuels Tax Fund (Continued)**

Recommendations

We recommend the county file all necessary documentation with the Department of Transportation to obtain the \$207,157.22 in reimbursements due the county.

Additionally, we recommend the county reimburse \$80,717.27 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that in the future, the county file all necessary documentation as per agreements with the Department of Transportation in a timely manner and when reimbursements are received the county deposit all liquid fuels tax money promptly into the Liquid Fuels Tax Fund.

Management's Response

The municipal officials stated:

We have entered a transfer into our financial accounting system to reimburse the Liquid Fuels Tax Fund for the \$80,717.27. The transfer will be completed by July 31, 2016. We are also setting up a meeting between our county engineer and our Department of Transportation liaison to determine what course of action needs to be taken to collect the outstanding amounts due the Liquid Fuels Tax Fund.

Auditor's Conclusion

As stated above, good internal control procedures ensure that documentation is filed in a timely manner as required by contractual agreements so reimbursements are received in a timely manner. Without this control, the potential exists for errors or misappropriations to go undetected for long periods of time. During our next examination we will determine if the municipality complied with our recommendations.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

**Finding No. 3 - Nonpermissible Payroll Expenditures**

Our examination disclosed that the county expended \$52,056.00 during 2014 from the Liquid Fuels Tax Fund for payroll for work related to a walking trail, which is a nonpermissible payroll expenditure.

The Liquid Fuels and Fuel 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. . .”

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Funds money and has determined that certain items, including payroll for maintaining county parks, are outside the scope of permissible expenditures.

The failure to comply with the Liquid Fuels and Fuel Tax Act and the Department of Transportation’s Regulations could result in the county having to reimburse General Fund monies to its Liquid Fuels Tax Fund.

On November 6, 2014, the county reimbursed \$52,056.00 to the Liquid Fuels Tax Fund.

**Recommendations**

We 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 municipal officials stated:

The funds were reimbursed to the Liquid Fuels Tax Fund on November 6, 2014.

**Auditor’s Conclusion**

During our next examination we will determine if the municipality complied with our recommendation.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$47,556.37 to its Act 44 Fund for allocations that were deposited into the General Fund.

We noted that the county reimbursed this amount to its Act 44 Fund on May 14, 2014.

In our prior report we also recommended that the county:

- Establish and implement internal controls to ensure vendor invoices are reviewed timely to avoid duplicate payments.
- Ensure that its Forms MS-991 and Reports of Act 44 Tax Fund are complete and accurate and filed timely with the Department of Transportation.
- Continue to deposit all Act 44 tax money promptly into the Act 44 Tax Fund.

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

An exit conference was held June 28, 2016. Those participating were:

LACKAWANNA COUNTY

Mr. Steven Barcoski, Budget Director

Mr. Reginald H. Mariani, Chief Internal Auditor

Mr. Thomas Arduino, Accountant

Mr. Larry Lukasik, Director of Roads and Bridges

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Raymond J. Insalaco, Auditor

Mr. Martin Lawler, Audit Manager

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2014 TO DECEMBER 31, 2014

This report was initially distributed to:

**The Honorable Leslie Richards**  
Secretary  
Department of Transportation

**Lackawanna County**  
200 Adams Avenue  
Scranton, PA 18503

**The Honorable Patrick M. O'Malley**  
County Commissioner

**The Honorable Gary Dibileo**  
Controller

**The Honorable Edward Karpovich**  
Treasurer

**Mr. Thomas Durkin**  
Chief Financial Officer

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).