

# 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, 2010 to December 31, 2013

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February 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 Lackawanna County for the period January 1, 2010 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 Lackawanna County's Forms MS-991 and Reports of Act 44 Tax Fund for the period January 1, 2010 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)

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

- As discussed in Finding No. 3, the county deposited its 2007-2012 Act 44 Tax Fund allocations totaling \$284,832.47 into the General Fund. On December 19, 2013 the county transferred \$237,276.10 from the General Fund to its Act 44 Fund, leaving a balance of \$47,556.37 which is due to the Act 44 Fund as of December 31, 2013.
- As discussed in Comment No. 1, during the 2004 examination period the county expended \$24,289.02 from its Liquid Fuels Tax Fund 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.
- As discussed in Comment No. 2, during the 2005 examination period the county expended \$97,238.12 from its Liquid Fuels Tax Fund without obtaining project approval. The county reimbursed \$5,500.00 to its Liquid Fuels Tax Fund on June 26, 2007. As of the exit conference date of this examination, the county had not reimbursed the remaining \$91,738.12 to its Liquid Fuels Tax Fund.
- As discussed in Comment No. 3, in our 2007-2009 report the county expended \$4,245.99 for a duplicate payment of an invoice, \$261,115.47 for nonpermissible expenditures, and \$12,221.90 for failure to provide advertising and bidding documentation for the purchase of a backhoe. As of the exit conference date of this examination, the Department of Transportation had not determined if the reimbursement of \$277,583.36 would be required.

In our opinion, except for the bulleted matters 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 and Act 44 Tax Fund of Lackawanna County for the period January 1, 2010 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 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.

### Independent Auditor's Report (Continued)

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 a significant deficiencies in internal control over reporting on the Forms MS-991 and the Reports of Act 44 Tax Fund:

- Duplicate Payment Of Invoices - Recurring.
- Failure To File Forms MS-991 And Reports Of Act 44 Tax Fund - Recurring.

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. We consider the second and third bulleted deficiencies described above to be material weaknesses.

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

- 2007-2012 Act 44 Tax Fund Allocations Deposited Into The General Fund.

We are concerned that the county failed to correct previously reported findings regarding the duplicate payment of invoices and the failure to file Forms MS-991 and Reports of Act 44 Tax Fund. During our current examination the county paid invoices twice, failed to file Forms MS-991 and Reports of Act 44 Tax Fund, and deposited the 2007-2012 Act 44 Tax Fund allocations into the General Fund. The failure to correct these conditions resulted in duplicate payments going undetected for a long period of time and also increased the possibility that errors or misappropriations may occur and remain undetected. We strongly recommend that the county implement the recommendations and corrective actions noted in this report. Additionally, the Department of Transportation should work with the county to ensure that these conditions are corrected.

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.

Independent Auditor's Report (Continued)

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.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke at the end.

October 3, 2014

Eugene A. DePasquale  
Auditor General

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LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
AND ACT 44 TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2010 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.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
2010 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ -	\$ 310,275.99	\$ 310,275.99
<u>Receipts:</u>			
State allocations	-	816,573.47	816,573.47
Interest (Note 3)	-	297.48	297.48
Reimbursable agreements (Note 5)	-	983,852.94	983,852.94
Miscellaneous (Note 6)	-	2,556.58	2,556.58
Total receipts	-	1,803,280.47	1,803,280.47
Total funds available	-	2,113,556.46	2,113,556.46
<u>Expenditures:</u>			
Construction	-	436,220.12	436,220.12
Maintenance and repair	-	1,642,881.52	1,642,881.52
Administrative	-	-	27,250.60
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	-	2,106,352.24	2,106,352.24
Balance, December 31, 2010	-	7,204.22	7,204.22
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2010	<u>\$ -</u>	<u>\$ 7,204.22</u>	<u>\$ 7,204.22</u>

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



LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
2011 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2011	\$ -	\$ 7,204.22	\$ 7,204.22
<u>Receipts:</u>			
State allocations	-	817,966.98	817,966.98
Interest (Note 3)	-	26.46	26.46
Reimbursable agreements (Note 5)	-	467,896.44	467,896.44
Miscellaneous (Note 6)	-	71,638.78	71,638.78
Total receipts	-	1,357,528.66	1,357,528.66
Total funds available	-	1,364,732.88	1,364,732.88
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	1,334,233.03	1,334,233.03
Administrative	-	28,132.76	28,132.76
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	-	1,362,365.79	1,362,365.79
Balance, December 31, 2011	-	2,367.09	2,367.09
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2011	<u>\$ -</u>	<u>\$ 2,367.09</u>	<u>\$ 2,367.09</u>

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

LACKAWANNA 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	\$ -	\$ 2,367.09	\$ 2,367.09
<u>Receipts:</u>			
State allocations	-	863,527.40	863,527.40
Interest (Note 3)	-	44.89	44.89
Reimbursable agreements (Note 5)	-	1,747,544.54	1,747,544.54
Miscellaneous (Note 6)	-	9,386.45	9,386.45
Total receipts	<u>-</u>	<u>2,620,503.28</u>	<u>2,620,503.28</u>
Total funds available	<u>-</u>	<u>2,622,870.37</u>	<u>2,622,870.37</u>
<u>Expenditures:</u>			
Construction	-	1,427,182.94	1,427,182.94
Maintenance and repair	-	1,161,641.42	1,161,641.42
Administrative	-	28,350.90	28,350.90
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>2,617,175.26</u>	<u>2,617,175.26</u>
Balance, December 31, 2012	-	5,695.11	5,695.11
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2012	<u>\$ -</u>	<u>\$ 5,695.11</u>	<u>\$ 5,695.11</u>

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

LACKAWANNA 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	\$ -	\$ 5,695.11	\$ 5,695.11
<u>Receipts:</u>			
State allocations	-	792,416.92	792,416.92
Interest (Note 3)	-	136.27	136.27
Reimbursable agreements (Note 5)	-	2,758,130.76	2,758,130.76
Miscellaneous (Note 6)	-	572,625.76	572,625.76
Total receipts	-	4,123,309.71	4,123,309.71
Total funds available	-	4,129,004.82	4,129,004.82
<u>Expenditures:</u>			
Construction	-	1,110,328.65	1,110,328.65
Maintenance and repair	-	2,540,139.57	2,540,139.57
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Miscellaneous (Note 9)	-	394,011.00	394,011.00
Total expenditures	-	4,044,479.22	4,044,479.22
Balance, December 31, 2013	-	84,525.60	84,525.60
Unpaid encumbrances	-	-	-
Unencumbered balance, December 31, 2013	<u>\$ -</u>	<u>\$ 84,525.60</u>	<u>\$ 84,525.60</u>

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
2010 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2010	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total receipts	-	-	-
	<hr/>	<hr/>	<hr/>
Total funds available	-	-	-
	<hr/>	<hr/>	<hr/>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
	<hr/>	<hr/>	<hr/>
Total expenditures	-	-	-
	<hr/>	<hr/>	<hr/>
Balance, December 31, 2010	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
2011 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2011	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>-</u>	<u>-</u>	<u>-</u>
Total funds available	<u>-</u>	<u>-</u>	<u>-</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2011	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

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

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2012	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds	-	-	-
Interest	-	-	-
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>-</u>	<u>-</u>	<u>-</u>
Total funds available	<u>-</u>	<u>-</u>	<u>-</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2012	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

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

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

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2013	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 44 Funds (Finding No. 4)	-	277,826.28	277,826.28
Interest (Note 3)	-	5.32	5.32
Reimbursable Agreement Receipts	-	-	-
Miscellaneous Receipts	-	-	-
Total receipts	<u>-</u>	<u>277,831.60</u>	<u>277,831.60</u>
Total funds available	<u>-</u>	<u>277,831.60</u>	<u>277,831.60</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2013	<u><u>\$ -</u></u>	<u><u>\$ 277,831.60</u></u>	<u><u>\$ 277,831.60</u></u>

Notes To Forms MS-991 And Reports 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 FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 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



LACKAWANNA 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, 2010 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.

LACKAWANNA 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, 2010 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.
- Refer to related Note: Note 9, Deposit In Error.*
- 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 FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 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	\$84,525.60
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The fund balance for the Act 44 Tax Fund as of December 31, 2013 consists of the following:

Cash	\$277,831.60
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LACKAWANNA 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, 2010 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 \$297.48 during 2010, \$26.46 during 2011, \$44.89 during 2012, and \$136.27 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 \$5.32 during 2013, thus providing additional funds for road maintenance and repairs.

4. Adjustments

2010 Form MS-991

Adjustments were made to this form because it was not filed with the Department of Transportation (Finding No. 3).

2011 Form MS-991

Adjustments were made to this form because it was not filed with the Department of Transportation (Finding No. 3).

2012 Form MS-991

Adjustments were made to this form because it was not filed with the Department of Transportation (Finding No. 3).

2013 Form MS-991

Adjustments were made to this form because it was not filed with the Department of Transportation (Finding No. 3).

2013 Report of Act 44 Tax Fund

Adjustments were made to this form because it was not filed with the Department of Transportation (Finding No. 3).

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
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NOTES TO FORMS MS-991 AND  
REPORTS OF ACT 44 TAX FUND WITH ADJUSTMENTS  
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JANUARY 1, 2010 TO DECEMBER 31, 2013

5. Reimbursable Agreements

During our examination, we noted that the county entered into various reimbursable agreements with the Commonwealth of Pennsylvania. During our current examination period, the county received \$983,852.94 during 2010, \$467,896.44 during 2011, \$1,747,544.54 during 2012, and \$2,758,130.76 during 2013 as a result of these agreements and deposited this money into the Liquid Fuels Tax Fund. As of December 31, 2013, \$571,990.63 was due the Liquid Fuels Tax Fund.

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6. Miscellaneous Receipts

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

Source	Description	2010	2011	2012	2013
Utility companies	Pave cuts	\$1,725.00	\$ 2,495.00	\$1,910.00	\$ 1,585.00
Local business	Returned item	771.08	-	-	2,942.49
Local business	Scrap	60.50	5,826.90	1,928.60	-
General Fund	Reimbursement for payroll	-	42,566.88	-	-
Insurance company	Reimbursement for damages	-	19,750.00	-	-
Insurance company	Refund for insurance deductible	-	1,000.00	-	-
Local business	Reimbursement for duplicate payments (Finding No. 1)	-	-	5,547.85	59,260.42
Commonwealth of Pennsylvania	Reimbursement from P.E.M.A.	-	-	-	107,221.85
Commonwealth of Pennsylvania	Turnback allocation	-	-	-	6,720.00
General Fund	Deposit in error (Note 9)	-	-	-	394,011.00
Local business	Permits	-	-	-	885.00
Totals		<u>\$2,556.58</u>	<u>\$71,638.78</u>	<u>\$9,386.45</u>	<u>\$572,625.76</u>

LACKAWANNA COUNTY  
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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 \$9,598.06 and \$4,765.35, respectively.

During the current examination period the municipality paid principal of \$36,666.43 and interest of \$6,423.80 from the Liquid Fuels Tax Fund. These amounts are reflected in maintenance and repair on the 2011, 2012, and 2013 Forms MS-991. Additionally, the municipality paid principal of \$10,885.44 and interest of \$3,477.97 from the General Fund. The outstanding balance of the loan as of December 31, 2013 was \$13,693.90, plus interest.

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 and interest payments from the Liquid Fuels Tax Fund were \$75,909.94 and \$12,878.41, respectively.

During the current examination period the municipality paid principal of \$40,449.06 and interest of \$3,776.26 from the Liquid Fuels Tax Fund. These amounts are reflected in maintenance and repairs on the 2010 and 2011 Forms MS-991. The loan was paid-in-full on October 14, 2011.

9. Deposit In Error

On June 1, 2013 the county deposited \$394,011.00 into its Liquid Fuels Tax Fund in error. On June 20, 2013 the county transferred this amount from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
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FINDINGS AND RECOMMENDATIONS  
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**Finding No. 1 - Duplicate Payment Of Invoices - Recurring**

We cited the county for paying an invoice twice in our prior report for the period January 1, 2007 to December 31, 2009. Our current examination disclosed that the county paid the following invoices 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>
14254	112727	07/13/10	146612	03/30/12	\$ 5,547.85
NA	167518	05/13/13	171492	07/26/13	57,720.06
NA	175519	04/10/13	165844	10/16/13	<u>1,540.36</u>
				Total	<u>\$64,808.27</u>

The county deposited \$64,808.27 into its Liquid Fuels Tax Fund that was received from local businesses for the reimbursement of the duplicate payments. This amount consists of \$5,547.85 on November 7, 2012, \$57,720.06 on September 9, 2013, and \$1,540.36 on November 7, 2013. The primary concern is the inadequate internal controls which enabled the duplicate payments 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.

This condition occurred because the county failed to comply with our prior examination recommendation that the county establish and implement internal controls to ensure vendor invoices are reviewed timely to avoid duplicate payments.

**Recommendation**

We again 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.

**Auditor's Conclusion**

This is a recurring finding. We strongly recommend that the county comply with our recommendation.



LACKAWANNA COUNTY  
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**Finding No. 2 - Failure To File Forms MS-991 And Reports Of Act 44 Tax Fund -  
Recurring**

We cited the county for failure to properly prepare Forms MS-991 and failure to file Reports of Act 44 Tax Fund in our prior report for the period January 1, 2007 to December 31, 2009. Our current examination disclosed that the county failed to take corrective action. As a result, the county failed to file its Forms MS-965 and Reports of Act 44 Tax Fund for the period January 1, 2010 to December 31, 2013 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 the 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 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.

After fieldwork was completed for this examination, the county did file its 2010-2012 Forms MS-965 with the Department of Transportation using figures that we provided them during our examination.

This condition occurred because the township failed to comply with our prior examination recommendations to ensure that its Forms MS-991 are accurate and complete and to file necessary Reports of Act 44 Tax Fund with the Department of Transportation.

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**Finding No. 2 - Failure To File Forms MS-991 And Reports Of Act 44 Tax Fund -  
Recurring (Continued)**

Recommendations

We again recommend that, in the future, the county 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.

We further recommend that the county immediately file its 2013 Form MS-965 and 2010-2013 Reports of Act 44 Tax Fund with the Department of Transportation.

Management's Response

The county officials stated:

The 2013 MS-991 was held up until the 2010 through 2012 were correctly adjusted by the auditors and we were able to complete the 2013 correctly with the up to date beginning cash balance. In the future, all reports will be filed timely.

Auditor's Conclusion

During our next examination we will determine if the county complied with our recommendations.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
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**Finding No. 3 - 2007-2012 Act 44 Tax Fund Allocations Deposited Into The General Fund**

Our examination disclosed that the county deposited Act 44 Tax Fund monies totaling \$284,832.47 into the General Fund, which is in noncompliance with the Department of Transportation's *Publicaiton 9*. The allocations were as follows.

<u>Description</u>	<u>Amount</u>
2007 Act 44	\$ 46,717.87
2008 Act 44	47,902.69
2009 Act 44	47,595.93
2010 Act 44	47,556.31
2011 Act 44	47,634.21
2012 Act 44	<u>47,425.46</u>
Total	<u><u>\$284,832.47</u></u>

The practice of depositing Act 44 Tax Fund money into any account other than the Act 44 Tax Fund in contrary to the Department of Transportation's *Publication 9*, Chapter Four, Section 4.5 states:

Each county must deposit the Act 44 funds it receives into a special fund called the County Act 44 Fund, which may be used only for those purposes permitted by the Act.

When Act 44 Tax Fund money is comingled with the General Fund or other funds, the potential for Act 44 Tax Fund money to be used for unauthorized purposes increases significantly.

On December 11, 2013, the municipality deposited its 2013 Act 44 Tax Fund allocation of \$40,550.18 into its Act 44 Tax Fund upon receipt. Additionally, on December 19, 2013 the county transferred \$237,276.10 from its General Fund to its Act 44 Tax Fund.

**Recommendations**

We recommend that the county reimburse \$47,556.37 to its Act 44 Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county continue to deposit all Act 44 tax money promptly into the Act 44 Tax Fund.

LACKAWANNA COUNTY  
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**Finding No. 3 - 2007-2012 Act 44 Tax Fund Allocations Deposited Into The General Fund**  
**(Continued)**

Management's Response

The county officials stated:

All Act 44 payments were moved into a separate, interest-bearing account on December 19, 2013. The current years' Act 44 allocation was properly deposited into the separate interest-bearing account as well.

Auditor's Conclusion

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  
COMMENTS  
FOR THE PERIOD  
JANUARY 1, 2010 TO DECEMBER 31, 2013

Comment No. 1 - Summary Of 2004 Examination Recommendations

In our 2004 report we recommended that the Department of Transportation review our examination 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 failure to obtain project approval and \$6,500.00 for 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 that 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 that 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 2007-2009 Examination Recommendations

In our 2007-2009 report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$277,583.36 to its Liquid Fuels Tax Fund. This amount consists of \$4,245.99 for a duplicate payment of an invoice, \$261,115.47 for nonpermissible expenditures, and \$12,221.90 for failure to provide advertising and bidding documentation for the purchase of a backhoe. A finding for duplicate payment of invoices was also written in our current report (see Finding No. 1).

As of the date of this report the Department of Transportation had not determined if the reimbursement of \$277,583.36 would be required.

LACKAWANNA COUNTY  
LIQUID FUELS TAX FUND  
COMMENTS  
FOR THE YEAR ENDED  
DECEMBER 31, 2013

Comment No. 3 - Summary Of 2007-2009 Examination Recommendations (Continued)

In our prior report we also recommended:

- That the county comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's Regulations regarding permissible expenditures.
- That the county maintain adequate documentation to support all expenditures.
- That transcribed minutes for board meetings be available for public review within a reasonable period of time after each meeting.

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  
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An exit conference was held June 12, 2014. Those participating were:

LACKAWANNA COUNTY

The Honorable Edward Karpovich, County Treasurer  
Mr. Steve Barcoski, Interim Chief of Staff/Budget Director  
Ms. Mary Jo Sheridan, Deputy County Controller  
Mr. Larry Lukasik, Deputy Director, Roads and Bridges  
Mr. Sean Kerrigan, Clerk, Roads and Bridges  
Mr. Thomas Arduino, Accountant, Revenue and Finance

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Brian P. Dries, Auditor  
Mr. Jerome Werner, Auditor  
Mr. Martin Lawler, Audit Supervisor

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, 2010 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Leslie Richards  
Acting Secretary  
Department of Transportation

Lackawanna County  
200 Adams Avenue  
Scranton, PA 18503

The Honorable Jim Wansacz	County Commissioner
The Honorable Edward Karpovich	County Treasurer
The Honorable Gary Dibileo	County Controller
Mr. Thomas Durkin	Chief Financial Officer

This report is a matter of public record and is available online at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: [news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).