

ATTESTATION ENGAGEMENT

Delaware County
Pennsylvania
23-000

Liquid Fuels, Act 44, and Act 89
Tax Funds
For the Period
January 1, 2017 to December 31, 2018

2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
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TIMOTHY L. DEFOOR
AUDITOR GENERAL

Independent Auditor's Report

Yassmin Gramian, P.E.
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 and Act 89 Tax Funds With Adjustments of Delaware County for the period January 1, 2017 to December 31, 2018 (Forms). The county's management is responsible for presenting the Forms in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. Our responsibility is to express an opinion on the Forms 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Forms whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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 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*.

Independent Auditor's Report (Continued)

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Forms are made by the Department of the Auditor General.

As discussed in the Findings And Recommendations and Summary Of Prior Examination section of this report:

- The county expended \$33,962.50 during 2017 and \$54,495.00 during 2018 for snow removal from county bridges from the Liquid Fuels Tax Fund without advertising for bids (see Finding No. 1).
- The county expended \$12,090.00 during 2017 and \$19,190.00 during 2018 from the Liquid Fuels Tax Fund for cleaning and removal of debris on county bridges. However, documentation for price quotations was not available for examination (see Finding No. 2).
- In our prior report, we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$382,221.94 to its Act 89 Tax Fund for depositing Act 89 allocations into the General Fund. We noted that the county reimbursed \$365,486.79 its Act 89 Tax Fund on December 19, 2017, which was \$16,735.15 less than the amount requested (Summary Of Prior Examination Recommendations).
- In our prior report, the county's encumbered balance in its Liquid Fuels Tax Fund exceeded its fund balance by \$163,216.35 as of December 31, 2015. As of the exit conference date of this report of June 9, 2021, the county had not reimbursed \$163,216.35 to its Liquid Fuels Tax Fund (Summary Of Prior Examination Recommendations).

In our opinion, except for the bulleted items discussed above, the Forms present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund, the Act 44 Tax Fund, and the Act 89 Tax Fund of Delaware County for the period January 1, 2017 to December 31, 2018, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Forms 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 Forms 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 internal control over reporting on the Forms was for the limited purpose of expressing an opinion on whether the Forms are presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Forms are free from material misstatement, we performed tests of Delaware County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms. 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*:

- Noncompliance With Advertising And Bidding Requirements.
- Documentation For Price Quotations Was Not Available For Examination.

The purpose of this report is to determine whether the county's Liquid Fuels Tax Fund, Act 44 Tax Fund, and Act 89 Tax Fund money is spent in accordance with the laws and regulations identified in the Background section of this report and the Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

We appreciate the courtesy extended by Delaware County to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

June 21, 2021

Timothy L. DeFoor
Auditor General

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DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background

The Vehicle Code makes provisions and provides funding for the County Liquid Fuels, Act 44, and Act 89 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 amended by Act 44 of 2007 (July 18, 2007, P.L.169) and Act 89 of 2013 (November 25, 2013, P.L. 169), provides the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Commonwealth's Motor License Fund (75 Pa. C.S. § 8915.6(b)(2) and as of July 1, 2014 § 9301(b)). 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.

The Vehicle Code, as amended by Act 89 of 2013 (November 25, 2013, P.L. 974, No.89) provides for semi-annual allocations to all counties that own public bridges (75 Pa. C.S. § 9502(a)(2)(iv)). These allocations are made on the first business day of June and December each year. The Commonwealth allocates the funds available through Act 89 to counties 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.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (Continued)

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;

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (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 31 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 may 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 amended by Act 44 of 2007 (July 18, 2007, P.L. 169) and Act 89 of 2013 (November 25, 2013, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from 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.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (Continued)

(1) Funds received by the counties must be deposited in a special fund designated as the County Act 44 Fund and no other money may be deposited and commingled. (Note: Act 44 and Act 89 Funds may be deposited in a single account. However, the county must account for these funds independently for auditing). 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 public bridges for which the county is legally responsible.
- Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
- County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only).
- Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
- Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 44 Fund.
- Inspection costs associated with bridges.
- Purchase of right-of-way for bridge construction, reconstruction, or maintenance.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (Continued)

- (3) For bridge maintenance/preservation activities, the county must confer with a District Municipal Services Representative to determine if Department of Transportation approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas requires the approval of the Department of Transportation.
 - (4) In order to receive Act 44 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. The use of the funds must be in compliance with the Act. Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.
- C. *The Vehicle Code*, as amended by Act 89 of 2013 (November 25, 2013, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 89 funds distributed to the counties from the Department of Transportation. The County's Act 89 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.
- (1) Funds received by the counties must be deposited in a special fund designated as the County Act 89 Fund and no other money may be deposited and commingled. (Note: Act 89 and Act 44 Funds may be deposited in a single account. However, the county must account for these funds independently for auditing). 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 public bridges for which the county is legally responsible.
 - Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (Continued)

- County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only).
 - Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
 - Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 89 Fund.
 - Inspection costs associated with bridges.
 - Purchase of right-of-way for bridge construction, reconstruction, or maintenance.
- (3) For bridge maintenance/preservation activities, the county must confer with a District Municipal Services Representative to determine if Department of Transportation approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas requires the approval of the Department of Transportation.
- (4) In order to receive Act 89 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. The use of the funds must be in compliance with the Act. Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (Continued)

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Form MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds 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, the County Act 44 Tax Fund and, the County Act 89 Tax Fund, respectively.

The Pennsylvania Department of Transportation prescribes that the county report the following on the Form MS-991, *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 the County's Liquid Fuels Tax Fund allocations, interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- 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.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Background (Continued)

The Pennsylvania Department of Transportation prescribes that the county report the following on the Reports Of Act 44 Tax Fund and Act 89 Tax Fund:

- A. The balance in the County Act 44 and Act 89 Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include the County's Act 44 and Act 89 allocations, interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- C. Total Act 44 and Act 89 funds available for expenditure.
- D. Expenditures for county-owned bridges.
- E. The balance in the fund at the close of the report calendar year.

Basis Of Accounting

The accompanying Form MS-991 With Adjustments, Report of Act 44 Tax Fund With Adjustments, and Report of Act 89 Tax Fund With Adjustments are prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation. Under this method, revenues are recognized when received and expenditures are recorded when paid.

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2017 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Actual balance in county Liquid Fuels Tax Fund on January 1, 2017	\$ 1,038,244.30	\$ -	\$ 1,038,244.30
<u>Receipts:</u>			
Liquid Fuels Tax Funds received from Commonwealth	1,095,679.66	-	1,095,679.66
Interest	320.85	-	320.85
Reimbursable agreements	-	-	-
Miscellaneous	5,618.12	-	5,618.12
	1,101,618.63	-	1,101,618.63
Total receipts			
Total Liquid Fuels Tax Funds available for expenditures and encumbrances	2,139,862.93	-	2,139,862.93
<u>Expenditures:</u>			
Administrative	-	9,757.10	9,757.10
Minor equipment purchases	-	-	-
County aid payments	105,436.00	587,730.00	693,166.00
Major equipment expenditures	-	-	-
Street cleaning and gutters	-	-	-
Winter maintenance services	33,962.50	-	33,962.50
Traffic control devices	-	-	-
Street lighting	1,581.20	-	1,581.20
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repairs - roads and bridges	883,159.85	(587,730.00)	295,429.85
Highway construction and rebuilding projects	-	-	-
Miscellaneous	9,757.10	(9,757.10)	-
	1,033,896.65	-	1,033,896.65
Total expenditures			
Remaining funds available as of December 31, 2017	\$ 1,105,966.28	\$ -	\$ 1,105,966.28

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2017 FORM MS-991 WITH ADJUSTMENTS

2017 Form MS-991 With Adjustments (Continued)

	Reported	Adjustments	Adjusted Amount
<u>Approved future year receipts and expenditures</u>			
Accounts receivable	\$ -	\$ -	\$ -
Accounts payable	-	-	-
Unpaid encumbrances	-	-	-
Unpaid county aid grants	331,635.00	-	331,635.00
Total approved future year receipts and expenditures	331,635.00	-	331,635.00
Year end balance available for future years as of December 31, 2017	\$ 774,331.28	\$ -	\$ 774,331.28

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2018 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Actual balance in county Liquid Fuels Tax Fund on January 1, 2018	\$ 1,105,966.28	\$ -	\$ 1,105,966.28
<u>Receipts:</u>			
Liquid Fuels Tax Funds received from Commonwealth	994,130.66	-	994,130.66
Interest	2,835.47	-	2,835.47
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>996,966.13</u>	<u>-</u>	<u>996,966.13</u>
Total Liquid Fuels Tax Funds available for expenditures and encumbrances	<u>2,102,932.41</u>	<u>-</u>	<u>2,102,932.41</u>
<u>Expenditures:</u>			
Administrative	42,761.15	12,966.29	55,727.44
Minor equipment purchases	-	-	-
County aid payments	430,418.00	24,705.00	455,123.00
Major equipment expenditures	-	-	-
Street cleaning and gutters	-	-	-
Winter maintenance services	54,495.00	-	54,495.00
Traffic control devices	-	-	-
Street lighting	1,537.86	-	1,537.86
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repairs - roads and bridges	126,429.29	419,854.83	546,284.12
Highway construction and rebuilding projects	-	-	-
Miscellaneous	457,526.12	(457,526.12)	-
Total expenditures	<u>1,113,167.42</u>	<u>-</u>	<u>1,113,167.42</u>
Remaining funds available as of December 31, 2018	<u>\$ 989,764.99</u>	<u>\$ -</u>	<u>\$ 989,764.99</u>

DELAWARE COUNTY
LIQUID FUELS TAX FUND
2018 FORM MS-991 WITH ADJUSTMENTS

2018 Form MS-991 With Adjustments (Continued)

	Reported	Adjustments	Adjusted Amount
<u>Approved future year receipts and expenditures</u>			
Accounts receivable	\$ -	\$ -	\$ -
Accounts payable	-	-	-
Unpaid encumbrances	-	-	-
Unpaid county aid grants	700,856.00	-	700,856.00
Total approved future year receipts and expenditures	700,856.00	-	700,856.00
Year end balance available for future years as of December 31, 2018	\$ 288,908.99	\$ -	\$ 288,908.99

DELAWARE COUNTY
2017 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 298,278.34	\$ -	\$ 298,278.34
<u>Receipts:</u>			
Act 44 Funds	90,064.33	(90,064.33)	-
Interest	1,717.61	-	1,717.61
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>91,781.94</u>	<u>(90,064.33)</u>	<u>1,717.61</u>
Total funds available	<u>390,060.28</u>	<u>(90,064.33)</u>	<u>299,995.95</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	100,686.18	-	100,686.18
Miscellaneous	90,064.33	(90,064.33)	-
Total expenditures	<u>190,750.51</u>	<u>(90,064.33)</u>	<u>100,686.18</u>
Balance, December 31, 2017	<u>\$ 199,309.77</u>	<u>\$ -</u>	<u>\$ 199,309.77</u>

DELAWARE COUNTY
2018 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2018	\$ 199,309.77	\$ -	\$ 199,309.77
<u>Receipts:</u>			
Act 44 Funds	92,137.12	90,064.33	182,201.45
Interest	3,644.78	-	3,644.78
Reimbursable agreements	-	-	-
Miscellaneous	90,064.33	(90,064.33)	-
Total receipts	<u>185,846.23</u>	<u>-</u>	<u>185,846.23</u>
Total funds available	<u>385,156.00</u>	<u>-</u>	<u>385,156.00</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	25,696.47	-	25,696.47
Miscellaneous	-	-	-
Total expenditures	<u>25,696.47</u>	<u>-</u>	<u>25,696.47</u>
Balance, December 31, 2018	<u>\$ 359,459.53</u>	<u>\$ -</u>	<u>\$ 359,459.53</u>

DELAWARE COUNTY
2017 REPORT OF ACT 89 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ -	\$ -	\$ -
<u>Receipts:</u>			
Act 89 Funds	170,533.84	-	170,533.84
Interest	168.80	-	168.80
Reimbursable agreements	-	-	-
Miscellaneous	365,486.79	-	365,486.79
Total receipts	<u>536,189.43</u>	<u>-</u>	<u>536,189.43</u>
Total funds available	<u>536,189.43</u>	<u>-</u>	<u>536,189.43</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2017	<u>\$ 536,189.43</u>	<u>\$ -</u>	<u>\$ 536,189.43</u>

DELAWARE COUNTY
2018 REPORT OF ACT 89 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2018	\$ 536,189.43	\$ -	\$ 536,189.43
<u>Receipts:</u>			
Act 89 Funds	188,004.87	-	188,004.87
Interest	7,378.63	-	7,378.63
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>195,383.50</u>	<u>-</u>	<u>195,383.50</u>
Total funds available	<u>731,572.93</u>	<u>-</u>	<u>731,572.93</u>
<u>Expenditures:</u>			
Construction	-	170,393.05	170,393.05
Maintenance and repair	174,847.45	(167,403.05)	7,444.40
Miscellaneous	-	-	-
Total expenditures	<u>174,847.45</u>	<u>2,990.00</u>	<u>177,837.45</u>
Balance, December 31, 2018	<u>\$ 556,725.48</u>	<u>\$ (2,990.00)</u>	<u>\$ 553,735.48</u>

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

The following information relates to certain types of transactions for which the Pennsylvania Department of Transportation requested that we provide additional detail.

Adjustments

2017 Form MS-991

Adjustments were made to “Administrative” and “Miscellaneous” because expenditures of \$9,757.10 were misclassified.

Adjustments were made to “County aid payments” and “Maintenance and repairs - roads and bridges” because expenditures of \$587,730.00 were misclassified.

2018 Form MS-991

Adjustments were made to “Administrative,” “County aid payments,” “Maintenance and repairs - roads and bridges,” and “Miscellaneous” because expenditures of \$457,526.12 were misclassified.

2017 Act 44 Tax Fund

An adjustment of \$(90,064.33) was made to “Act 44 Funds” because the 2017 Act 44 Tax Fund allocation was not deposited into its Act 44 Tax Fund until January 25, 2018.

An adjustment of \$(90,064.33) was made to “Miscellaneous” because these expenditures were overstated.

2018 Act 44 Tax Fund

Adjustments were made to “Act 44 Funds” and “Miscellaneous” because the 2107 Act 44 Tax Fund allocation was not deposited into its Act 44 Tax Fund until January 25, 2018.

2018 Act 89 Tax Fund

An adjustment of \$170,393.05 was made to “Construction” because these expenditures were misclassified as maintenance and repair.

An adjustment of \$(167,403.05) was made to “Maintenance and repair” because expenditures of \$170,393.05 for construction were misclassified and these expenditures were understated by \$2,990.00.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Miscellaneous Receipts

On July 12, 2017, the county transferred \$5,618.12 from its General Fund to its Liquid Fuels Tax Fund that for the reimbursement of engineering fees.

On December 19, 2017, the county transferred \$365,486.79 from its General Fund to its Act 89 Fund for the reimbursement of prior years' allocations that were deposited into the General Fund (see Summary of Prior Examination Recommendations).

Encumbrances

As of December 31, 2018, \$700,856.00 was encumbered for grants to political subdivisions.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Finding No. 1 - Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the county expended \$33,962.50 during 2017 and \$54,495.00 during 2018 from the Liquid Fuels Tax Fund for snow removal from county bridges. *The Delaware County Administrative Code* requires purchases of over \$25,000.00 to be advertised and awarded by contract. The county did not advertise for bids for snow removal for 2017. In January of 2018 the county advertised bids for snow removal. Only one bid was received, which was rejected. Therefore, the county did not comply with the *Delaware County Administrative Code*.

The Delaware County Administrative Code, § 6-28 states:

B. Formal contract procedure

- (a) All Goods and contractual services involving goods shall be purchased by formal, written contract from the lowest responsible bidder . . . after due notice inviting proposals . . .

[Commentary: This provision provides that bidding procedures under this chapter must be followed for all purchases of goods or services or equipment valued over \$25,000.00 unless the services are unique, professional, or necessary to remedy an emergency . . .]

[Amended 12-1-92 by Ord. No. 92-5]

The county did not specifically state why they didn't advertise for bids during 2017 nor why it rejected the only bid received during 2018. However, the county did advertise for bids and awarded a contract for snow removal from county bridges for the period November 1, 2018 through November 1, 2021.

The failure to comply with the *Delaware County Administrative Code* could result in the county having to reimburse \$88,457.50 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$88,457.50 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county continues to comply with the *Delaware County Administrative Code* as noted in this finding.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Finding No. 1 - Noncompliance With Advertising And Bidding Requirements (Continued)

Management's Response

The County Controller stated:

On December 6, 2017, County Council approved the advertisement for bids for snow removal for County bridges for 2018 through 2021. The request for proposals ("RFP") for the three-year contract for snow removal for the County's bridges was advertised on January 11th and January 18th 2018. Unfortunately, only one bidder, submitted a proposal for this contract. The bid was rejected because only one bid was received. The vendor agreed to keep the same pricing for snow removal in 2018 as it charged the County in 2017. On June 6, 2018, County Council formally rejected the bid and requested that the three-year contract for snow removal be rebid. The County submitted another RFP for snow removal services for the County's bridges. This RFP was advertised on August 23rd and August 30th 2018. Although two potential bidders showed interest, only one vendor submitted a proposal. The County entered into a three-year contract with this vendor for snow removal services for the County's bridges. The term of this contract is from November 1, 2018 through November 1, 2021. In 2021, the County will be doing another RFP for snow removal services for its bridges for a three-year period beginning November 1, 2021.

Auditor's Conclusion

If the county only receives one bid, it has the option to accept the bid or reject it and rebid. However, the county should not just extend the existing agreement. During our next examination, we will determine if the county complied with our recommendations.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Finding No. 2 - Documentation For Price Quotations Was Not Available For Examination

Our examination disclosed that the county expended \$12,090.00 during 2017 and \$19,190.00 during 2018 from the Liquid Fuels Tax Fund for cleaning and removal of debris on county bridges. The county was required to obtain five written or telefaxed price quotations for these expenditures. However, documentation for price quotations was not available for examination.

The above expenditures were not made in compliance with the contract requirements of the *Delaware County Administrative Code*, § 6-29(2)(b), which states:

All purchases in excess of \$10,000 and less than \$25,000 shall, so far as feasible and practical, be based on five written or telefaxed solicited proposals, and price quotes submitted in response to such proposals must be returned to Central Purchasing in sealed envelopes within the allotted time frame. The sealed quotes will be opened by the Director of Central Purchasing at the time and place designated at the time of solicitation. Awards shall be to the lowest responsible vendor . . .

The county stated that three quotes were obtained for each individual project but that no documentation was maintained. They did not state why they did not maintain the documentation.

The failure to comply with the *Delaware County Administrative Code* could result in the county having to reimburse \$31,280.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$31,280.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county complies with the *Delaware County Administrative Code* as noted in this finding.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

Finding No. 2 - Documentation For Price Quotations Was Not Available For Examination
(Continued)

Management's Response

The County Controller stated:

For debris removal for individual bridges, the County solicits three proposals for each debris project. Typically, the interested bidders will review the project with the County's engineering company, to review the needs for the project before they submit proposals to the County. County Council does not need to approve most debris removal projects because the total cost of each project is less than \$25,000.00. The county accepts oral bids from three companies which is consistent with the Section 6-29(2)(a) of the County Administrative Code requirement for three telephonic bids for purchases between \$1,000.00 and \$10,000.00. However, the County's Department of Public Works did not keep documentation of these bids during 2017 and 2018. Beginning in 2019, the County has been documenting the proposals received for each bridge debris removal project. The county may consider debris removal in the RFP for snow removal for the three-year period beginning November 1, 2021.

Auditor's Conclusion

Because the total cost the clean and debris removal from county bridges was between \$10,000.00 and \$25,000.00 the county should follow § 6-29(2)(b) of the *Delaware County Administrative Code* by obtaining five written or telefaxed proposals for debris removal annually. During our next examination, we will determine if the county complied with our recommendations.

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

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 \$382,221.94 to its Act 89 Tax Fund for depositing its Act 89 allocations for December 2014 of \$67,834.75, June 2015 of \$66,985.62, December 2015 of \$83,052.20, June 2016 of \$82,282.96, and December 2016 of \$82,066.41 into its General Fund.

During our current examination, we reviewed a letter dated October 16, 2017, from the Department of Transportation informing the county to reimburse \$382,221.94 to its Act 89 Tax Fund. We noted that the county reimbursed \$365,486.79 to its Act 89 Tax Fund on December 19, 2017, which was \$16,735.15 less than the amount requested.

Additionally, in our prior report, we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$163,216.35 to its Liquid Fuels Tax Fund because the county encumbered more than its fund balance.

As of the date of the exit conference of this examination of June 9, 2021, the county had not reimbursed \$163,216.35 to its Liquid Fuels Tax Fund.

We also recommended in our prior report that the county:

- Deposit all Act 89 money promptly into the Act 89 Tax Fund.
- Complies with the policies and procedures outlined in the Department of Transportation's *Publication 9* regarding encumbered fund balances.
- Ensure that its Reports of Act 89 Tax Fund are complete and accurate and filed with the Department of Transportation.

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

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

An exit conference was held June 9, 2021. Those participating were:

DELAWARE COUNTY

The Honorable Joanne Phillips, Esq., Controller

Mr. Jeffrey Powers, First Deputy Controller

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Martin Lawler, Audit Manager

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

DELAWARE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2018

This report was initially distributed to:

Yassmin Gramian, P.E.
Acting Secretary
Department of Transportation

Delaware County
201 West Front Street
Media, PA 19063

The Honorable Brian P. Zidek
Chairman of County Council

The Honorable Joanne Phillips, Esq.
Controller

This report is a matter of public record and is available online at 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.