

ATTESTATION ENGAGEMENT

Fayette County Pennsylvania 26-000

Liquid Fuels, Act 44,
and Act 89 Tax Funds
For the Period

January 1, 2016 to December 31, 2017

February 2019



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov

EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Leslie Richards
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 Fayette County for the period January 1, 2016 to December 31, 2017. The county's management is responsible for presenting the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Fund, in accordance with the criteria set forth in Note 1. Our responsibility is to express an opinion on the Forms MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds are in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds. 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 MS-991 and Reports of Act 44 and Act 89 Tax Funds, 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 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*.

Independent Auditor's Report (Continued)

As described in Note 4, the adjustments included on the Forms MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds With Adjustments are made by the Department of the Auditor General.

As discussed in the Findings and Recommendations section of this report:

- The county deposited its 2016 Act 89 Tax Fund allocations of \$36,748.74 and \$36,652.03 into the Act 44 Tax Fund on June 7, 2016 and December 7, 2016, respectively. The county transferred \$73,400.77 from its Act 44 Tax Fund to its Act 89 Tax Fund on June 25, 2018, which was subsequent to our examination period (see Finding No. 1).
- The county transferred \$19,335.41 from its Liquid Fuels Tax Fund to its Payroll Fund on January 30, 2017 to reimburse payroll expenditures incurred during 2016. Also, on January 24, 2018, subsequent to our examination period, the county expended \$14,861.27 from the Liquid Fuels Tax Fund and \$17,552.70 from the Act 44 Tax Fund, for bridge project invoices that were dated in 2016 and 2017. All three transactions are retroactive expenditures (see Finding No. 2).
- The county expended \$47,650.41 during 2016 and \$1,032.86 during 2017 in excess of the 10 percent limit on indirect/administrative costs from its Liquid Fuels Tax Fund. On November 17, 2017 and December 7, 2017, the county reimbursed \$32,272.56 and \$3,000.00, respectively to its Liquid Fuels Tax Fund, leaving a balance of \$13,411.01 due the Liquid Fuels Tax Fund (see Finding No. 3).
- The county expended \$11,387.73 during 2016 and \$23,953.15 during 2017 from the Liquid Fuels Tax Fund for nonpermissible payroll expenditures. The county reimbursed \$35,340.88 to the Liquid Fuels Tax Fund August 22 2018, which was subsequent to our examination period (see Finding No. 4).

In our opinion, except for the bulleted matters discussed above, the Forms MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels, Act 44, and Act 89 Tax Funds of Fayette County for the period January 1, 2016 to December 31, 2017, in accordance with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds 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 MS-991 and the Reports of Act 44 and Act 89 Tax Funds or on compliance and other matters; accordingly, we express no such opinions.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds 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 MS-991 and the Reports of Act 44 and Act 89 Tax Funds was for the limited purpose of expressing an opinion on whether the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds are 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.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds are free from material misstatement, we performed tests of Fayette County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds. 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*:

- Act 89 Tax Fund Allocations Deposited Into The Act 44 Tax Fund - Recurring.
- Retroactive Expenditures.
- Expenditures In Excess Of the 10 Percent Limit On Indirect/Administrative Costs - Recurring.
- Nonpermissible Expenditures.

The examination finding for expenditures in excess of the 10 percent limit on indirect/administrative costs contained in this report cites conditions that existed in the operation of the county during the previous engagement period and were not corrected during the current examination period. The county should strive to comply with the recommendations noted in this report.

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 Fayette 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

February 4, 2019

CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2016 Form MS-991 With Adjustments	2
2017 Form MS-991 With Adjustments	3
2016 Report Of Act 44 Tax Fund With Adjustments.....	4
2017 Report Of Act 44 Tax Fund With Adjustments.....	5
2016 Report Of Act 89 Tax Fund With Adjustments.....	6
2017 Report Of Act 89 Tax Fund With Adjustments.....	7
Notes To Forms MS-991 And Reports Of Act 44 And Act 89 Tax Funds With Adjustments.....	8
Findings And Recommendations:	
Finding No. 1 - Act 89 Tax Fund Allocations Deposited Into The Act 44 Tax Fund - Recurring.....	21
Finding No. 2 - Retroactive Expenditures	23
Finding No. 3 - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs.....	25
Finding No. 4 - Nonpermissible Expenditures	27
Summary Of Prior Examinations' Recommendations	29
Summary Of Exit Conference.....	31
Report Distribution	32

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Background

The Vehicle Code makes provisions and provides funding for 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), 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.

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 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.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2016 FORM MS-991 WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2016	\$ 190,472.56	\$ -	\$ 190,472.56
<u>Receipts:</u>			
State allocations	511,852.85	-	511,852.85
Interest (Note 3)	729.98	-	729.98
Reimbursable agreements (Note 5)	811,308.91	-	811,308.91
Miscellaneous (Note 6)	32,916.47	-	32,916.47
Total receipts	<u>1,356,808.21</u>	<u>-</u>	<u>1,356,808.21</u>
Total funds available	<u>1,547,280.77</u>	<u>-</u>	<u>1,547,280.77</u>
<u>Expenditures:</u>			
Construction	305,570.93	170,110.51	475,681.44
Maintenance and repair	870,246.55	(185,488.66)	684,757.89
Administrative	83,457.55	15,378.15	98,835.70
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>1,259,275.03</u>	<u>-</u>	<u>1,259,275.03</u>
Balance, December 31, 2016	288,005.74	-	288,005.74
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2016	<u>\$ 288,005.74</u>	<u>\$ -</u>	<u>\$ 288,005.74</u>

Notes To Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

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

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 288,005.74	\$ -	\$ 288,005.74
<u>Receipts:</u>			
State allocations	571,240.72	-	571,240.72
Interest (Note 3)	1,293.68	-	1,293.68
Reimbursable agreements (Note 5)	1,125,037.47	-	1,125,037.47
Miscellaneous (Note 6)	145,470.27	-	145,470.27
Total receipts	<u>1,843,042.14</u>	<u>-</u>	<u>1,843,042.14</u>
Total funds available	<u>2,131,047.88</u>	<u>-</u>	<u>2,131,047.88</u>
<u>Expenditures:</u>			
Construction	1,406,878.03	-	1,406,878.03
Maintenance and repair	521,356.43	67.13	521,423.56
Administrative	58,156.93	-	58,156.93
Grants to political subdivisions	-	-	-
Miscellaneous (Summary Of 2010-2012 Examination Recommendations)	98,476.37	(67.13)	98,409.24
Total expenditures	<u>2,084,867.76</u>	<u>-</u>	<u>2,084,867.76</u>
Balance, December 31, 2017	46,180.12	-	46,180.12
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2017	<u>\$ 46,180.12</u>	<u>\$ -</u>	<u>\$ 46,180.12</u>

Notes To Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2016 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2016	\$ 219,013.74	\$ -	\$ 219,013.74
<u>Receipts:</u>			
Act 44 Funds	84,187.41	-	84,187.41
Interest (Note 3)	1,448.94	-	1,448.94
Reimbursable agreements	-	-	-
Miscellaneous (Note 6)	<u>73,400.77</u>	<u>511,852.85</u>	<u>585,253.62</u>
Total receipts	<u>159,037.12</u>	<u>511,852.85</u>	<u>670,889.97</u>
Total funds available	<u>378,050.86</u>	<u>511,852.85</u>	<u>889,903.71</u>
<u>Expenditures:</u>			
Construction	10,890.34	-	10,890.34
Maintenance and repair	3,914.10	-	3,914.10
Miscellaneous (Note 7)	<u>-</u>	<u>511,852.85</u>	<u>511,852.85</u>
Total expenditures	<u>14,804.44</u>	<u>511,852.85</u>	<u>526,657.29</u>
Balance, December 31, 2016	<u><u>\$ 363,246.42</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 363,246.42</u></u>

Notes To Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2017 REPORT OF ACT 44 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 363,246.42	\$ -	\$ 363,246.42
<u>Receipts:</u>			
Act 44 Funds	41,810.22	-	41,810.22
Interest (Note 3)	3,425.17	-	3,425.17
Reimbursable agreements (Note 5)	5,391.05	-	5,391.05
Miscellaneous (Note 6)	<u>98,409.24</u>	<u>571,240.72</u>	<u>669,649.96</u>
Total receipts	<u>149,035.68</u>	<u>571,240.72</u>	<u>720,276.40</u>
Total funds available	<u>512,282.10</u>	<u>571,240.72</u>	<u>1,083,522.82</u>
<u>Expenditures:</u>			
Construction	-	7,750.82	7,750.82
Maintenance and repair	88,149.83	(6,738.82)	81,411.01
Miscellaneous (Note 7)	<u>73,572.20</u>	<u>570,228.72</u>	<u>643,800.92</u>
Total expenditures	<u>161,722.03</u>	<u>571,240.72</u>	<u>732,962.75</u>
Balance, December 31, 2017	<u><u>\$ 350,560.07</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 350,560.07</u></u>

Notes To Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2016 REPORT OF ACT 89 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2016	\$ 50.86	\$ -	\$ 50.86
<u>Receipts:</u>			
Act 89 Funds	-	-	-
Interest (Note 3)	.25	-	.25
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>.25</u>	<u>-</u>	<u>.25</u>
Total funds available	<u>51.11</u>	<u>-</u>	<u>51.11</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2016	<u>\$ 51.11</u>	<u>\$ -</u>	<u>\$ 51.11</u>

Notes To Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

FAYETTE COUNTY
LIQUID FUELS TAX FUND
2017 REPORT OF ACT 89 TAX FUND
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 51.11	\$ -	\$ 51.11
<u>Receipts:</u>			
Act 89 Funds	79,121.38	67,009.02	146,130.40
Interest (Note 3)	717.87	-	717.87
Reimbursable agreements	-	-	-
Miscellaneous	67,009.02	(67,009.02)	-
Total receipts	<u>146,848.27</u>	<u>-</u>	<u>146,848.27</u>
Total funds available	<u>146,899.38</u>	<u>-</u>	<u>146,899.38</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2017	<u>\$ 146,899.38</u>	<u>\$ -</u>	<u>\$ 146,899.38</u>

Notes To Forms MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

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 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), 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.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

1. Criteria (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.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

1. Criteria (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.
- County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only).

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

1. Criteria (Continued)

- 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.

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 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 and the County Act 44 and Act 89 Tax Funds, respectively.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

1. Criteria (Continued)

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.

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 the related Note: Note 7, Miscellaneous Expenditures.
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
- G. The balance in the fund at the close of the report calendar year.
- H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

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.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

1. Criteria (Continued)

- 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.

Refer to the related Notes: Note 3, Interest Earnings; Note 5, Reimbursable Agreements; and Note 6, Miscellaneous Receipts.

- C. Total Liquid Fuels Tax funds available for expenditure and encumbrances.

- D. Expenditures for county-owned bridges.

Refer to the related Note: Note 7, Miscellaneous Expenditures.

- E. The balance in the fund at the close of the report calendar year.

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 a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

2. Deposits (Continued)

There were no deposits exposed to custodial credit risk as of December 31, 2017. Custodial credit risk, as defined by GASB No. 40, as amended, 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, 2017 consists of the following:

Cash	<u>\$46,180.12</u>
------	--------------------

The fund balance for the Act 44 Tax Fund as of December 31, 2017 consists of the following:

Cash	<u>\$350,560.07</u>
------	---------------------

The fund balance for the Act 89 Tax Fund as of December 31, 2017 consists of the following:

Cash	<u>\$146,899.38</u>
------	---------------------

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in an interest-bearing account which earned \$729.98 during 2016 and \$1,293.68 during 2017, 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 \$1,448.94 during 2016 and \$3,425.17 during 2017, thus providing additional funds for bridge maintenance and repairs.

Additionally, the county deposited idle Act 89 tax money in an interest-bearing account which earned \$.25 during 2016 and \$717.87 during 2017, thus providing additional funds for bridge maintenance and repairs.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

4. Adjustments

2016 Form MS-991

Adjustments were made to “Maintenance and repair,” “Construction,” and “Administrative” because expenditures of \$185,488.66 were misclassified.

2017 Form MS-991

Adjustments were made to “Maintenance and repair” and “Miscellaneous” because expenditures of \$67.13 were misclassified.

2016 Report of Act 44 Tax Fund

An adjustment was made to “Miscellaneous” receipts because deposits in error of \$511,852.85 were not reported.

An adjustment was made to “Miscellaneous” expenditures because the correction of deposits in error of \$511,852.85 were not reported.

2017 Report of Act 44 Tax Fund

An adjustment was made to “Miscellaneous” receipts because deposits in error of \$571,240.72 were not reported.

An adjustment of \$7,750.82 was made to “Construction” because expenditures of \$1,012.00 of were misclassified as miscellaneous and expenditures of \$6,738.82 were misclassified as maintenance and repair.

An adjustments of \$(6,738.82) was made to “Maintenance and repair” because expenditures for construction were misclassified.

An adjustment of \$570,228.72 was made to “Miscellaneous” expenditures because the correction of deposits in error of \$571,240.72 were not reported and expenditures of \$1,012.00 for construction were misclassified.

2017 Report of Act 89 Tax Fund

Adjustments were made to “Act 89 Funds” and “Miscellaneous” because receipts of \$67,009.02 were misclassified.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

5. Reimbursable Agreements

During our examination we noted that the county entered into reimbursable agreements with the Department of Transportation for bridge construction and inspections. During our current examination period the county received \$811,308.91 during 2016, and \$1,130,428.52 during 2017 as a result of these agreements. These amounts included \$811,308.91 during 2016 and \$1,125,037.47 during 2017 that were deposited into the Liquid Fuels Tax Fund and \$5,391.05 that was deposited into the Act 44 Tax Fund during 2017. As of December 31, 2017, \$142,801.06 was due the county's Liquid Fuels Tax Fund.

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

6. Miscellaneous Receipts

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

<u>Source</u>	<u>Description</u>	<u>2016</u>	<u>2017</u>
Fayette County			
Behavioral Health Administration	Reimbursement for snow plowing	\$ 1,410.00	\$ 900.00
General Fund	Grant	16,934.00	-
Vendor	Reimbursement of bridge invoices	1,242.73	-
General Fund	Reimbursement for snow plowing	400.00	400.00
Children and Youth Services	Reimbursement for snow plowing	1,210.00	675.00
Act 44	Reimbursement of bridge Invoices	9,647.61	5,551.18
Commonwealth of Pennsylvania			
General Fund	Severe weather assistance Reimbursement (Summary Of 2010-2012 Examination Recommendations)	2,072.13	-
General Fund	Reimbursement (Summary Of 2013 Examination Recommendations)	-	43,386.72
General Fund	Reimbursement (Summary Of 2014-2015 Examination Recommendations)	-	4,266.00
General Fund	Reimbursements (Finding No. 1)	-	55,019.11
		<u>-</u>	<u>35,272.26</u>
Totals		<u>\$32,916.47</u>	<u>\$145,470.27</u>

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

6. Miscellaneous Receipts (Continued)

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

<u>Source</u>	<u>Description</u>	<u>2016</u>	<u>2017</u>
Commonwealth of Pennsylvania	Deposit in error (Note 8)	\$253,992.79	\$304,988.09
Commonwealth of Pennsylvania	Deposits in error (Note 8)	257,860.06	266,252.63
Commonwealth of Pennsylvania	Deposits in error (Finding No. 1)	73,400.77	-
Liquid Fuels Tax Fund	Reimbursement (Summary Of 2010-2012 Examination Recommendations)	<u>-</u>	<u>98,409.24</u>
Totals		<u>\$585,253.62</u>	<u>\$669,649.96</u>

7. Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Act 44 Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>2016</u>	<u>2017</u>
Liquid Fuels Tax Fund	Correction of deposit in error (Note 8)	\$253,992.79	\$304,988.09
Liquid Fuels Tax Fund	Correction of deposit in error (Note 8)	257,860.06	266,252.63
Act 89 Tax Fund	Reimbursement (Summary of 2014-2015 Examination Recommendations)	-	67,009.02
Liquid Fuels Tax Fund	Share of bridge invoices	<u>-</u>	<u>5,551.18</u>
Totals		<u>\$511,852.85</u>	<u>\$643,800.92</u>

FAYETTE COUNTY
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS
NOTES TO FORMS MS-991 AND REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

8. Deposits In Error

On June 1, 2016, December 1, 2016, June 1, 2017, and December 1, 2017, the county deposited its state allocations of \$253,992.79, \$257,860.06, \$304,988.09, and \$266,252.63, respectively, into its Act 44 Tax Fund in error. On June 2, 2016, December 13, 2016, June 2, 2017, and December 4, 2017, the county transferred these amounts from its Act 44 Tax Fund to its Liquid Fuels Tax Fund to correct the deposits in error.

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 1 - Act 89 Tax Fund Allocations Deposited Into The Act 44 Tax Fund - Recurring

We cited the county for depositing Act 89 Tax Fund allocations into the Act 44 Tax Fund in our prior report for the period January 1, 2014 to December 31, 2015. Our current examination disclosed that the county deposited its 2016 Act 89 Tax Fund allocations of \$36,748.74 and \$36,652.03 into the Act 44 Tax Fund on June 7, 2016 and December 7, 2016, respectively. While it is permissible to deposit Act 44 and Act 89 Tax Fund money in the same account, it must be accounted for separately. However, the county failed to account for these funds separately, which is in noncompliance with the Department of Transportation's *Publication 9*, Chapter 6, Section 6.5, which states:

Each county must deposit the Act 89 funds it receives into a special fund called the County Act 89 Fund, which may be used only for those purposes permitted by the Act...(Note: Act 89 and Act 44 funds may be deposited into a single account. However, the county must account for these funds independently for auditing.)

When Act 89 Tax Fund money is commingled with the Act 44 Tax Fund money or other funds, the potential for Act 89 Tax Fund money to be used for unauthorized purposes increases significantly.

The county transferred \$73,400.77 from its Act 44 Tax Fund to its Act 89 Tax Fund on June 25, 2018, which was subsequent to our examination period.

We further noted that the county deposited its 2017 Act 89 Tax Fund allocations promptly into the Act 89 Tax Fund.

Recommendation

We recommend that the county continue to deposit all Act 89 tax money promptly into the Act 89 Tax Fund.

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

**Finding No. 1 - Act 89 Tax Fund Allocations Deposited Into The Act 44 Tax Fund - Recurring
(Continued)**

Management's Response

The chief accountant stated:

Beginning in June 2017, Finding No. 1 was corrected. Act 89 Tax Fund allocations have been deposited into the Act 89 Tax Fund since then. This holds true for the December 2017 and June 2018 Act 89 Tax Fund allocations as well. Prior year Act 89 funds that were deposited to Act 44 were transferred into the Act 89 fund in June 2018.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 2 - Retroactive Expenditures

Our examination disclosed that the county transferred of \$19,335.41 from its Liquid Fuels Tax Fund to its Payroll Fund on January 30, 2017 for the reimbursement of payroll expenditures incurred for work performed from May 15, 2016 to May 28, 2016. Additionally, the county issued check No. 13123, dated January 24, 2018, for \$14,861.27 from its Liquid Fuels Tax Fund for invoices dated between May 13, 2016 and October 6, 2016. Furthermore, on January 24, 2018, the county issued check No. 1049 for \$17,552.70 from its Act 44 Tax Fund for invoices dated between April 20, 2016 and February 24, 2017. All three transactions are retroactive expenditures.

The Department of Transportation's *Publication 9* contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter One, Section 1.6.6.3, states, in relevant part:

Unacceptable Expenditures

10. Retroactive expenditures.

Because invoices were incurred during 2016 and 2017 and were not paid until January 24, 2018, and payroll expenditures were incurred during May 2016, and were not paid until January 30, 2017 the expenditures incurred were not paid in a reasonable period of time. Therefore, the municipality did not comply with the Department of Transportation's *Publication 9*.

The failure to follow the Department of Transportation's *Publication 9* could result in the county having to reimburse \$34,196.68 to its Liquid Fuels Tax Fund and \$17,552.70 to its Act 44 Tax Fund.

Recommendations

We recommend that the county reimburse \$34,196.68 to its Liquid Fuels Tax Fund and \$17,552.70 to its Act 44 Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county complies with the Department of Transportation's *Publication 9* as noted above.

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 2 - Retroactive Expenditures (Continued)

Management's Response

The chief accountant stated:

In order to correct late payments that use Liquid Fuels funds, spreadsheets are being kept, as of 2017, to identify the amounts of invoices paid and their corresponding reimbursements received, along with the dates of both payment and receipt. This also tracks which funds are used to ensure that payment and receipt both use the same fund. The Liquid Fuels fund is also currently being monitored for its payroll expenditures, reimbursing the County General Fund either immediately, or immediately upon availability of funding, so that it is kept within the same period.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 3 - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs - Recurring

We cited the county for making expenditures in excess of the 10 percent limit on indirect/administrative costs in our prior report for the period January 1, 2014 to December 31, 2015. Our current examination disclosed that the county expended a total of \$98,835.70 from the Liquid Fuels Tax Fund in the 2016 calendar year and \$58,156.93 from the Liquid Fuels Tax Fund in the 2017 calendar year for indirect/administrative costs. These amounts are greater than 10 percent of the yearly Liquid Fuels Tax Fund allocation to the county of \$511,852.85 for 2016 and \$571,240.72 for 2017. This resulted in excess administrative costs of \$47,650.41 during 2016 and \$1,032.86 during 2017.

The Liquid Fuels and Fuels Tax Act of 75 Pa. C.S.A. § 9010(b)(2)(i)(G) permits the use of county liquid fuels tax funds for “Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects. . .” However, the use of liquid fuels tax funds for indirect costs “. . . may not exceed 10% of the yearly allocation to the county.” By way of correspondence to county liquid fuels tax fund administrators dated October 28, 1994, and other correspondence, the Department of Transportation explained the use of county Liquid Fuels Tax Fund money for documented, permissible indirect costs.

The indirect/administrative costs charged to the Liquid Fuels Tax Fund by the county during 2016 and 2017 are as follows:

<u>Description</u>	<u>2016</u>	<u>2017</u>
Wages and benefits	\$63,017.64	\$51,831.16
Department Cost Allocation	29,159.00	-
Phone, Internet	931.16	1,105.44
Office Supplies, Equipment	460.24	265.80
Copier Lease Payments	1,017.90	939.60
Utilities	2,839.15	3,365.86
Security System	1,410.61	649.07
	<hr/>	<hr/>
Total indirect/administrative costs	98,835.70	58,156.93
	<hr/>	<hr/>
Less 10% permissible amount	51,185.29	57,124.07
	<hr/>	<hr/>
Excess expenditures for indirect/administrative costs	<u>\$47,650.41</u>	<u>\$1,032.86</u>

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 3 - Expenditures In Excess Of The 10 Percent Limit On Indirect/Administrative Costs - Recurring (Continued)

On November 8, 2017 and December 7, 2017, the county reimbursed \$32,272.26 and \$3,000.00, respectively, to its Liquid Fuels Tax Fund, leaving a balance of \$13,411.01 due the Liquid Fuels Tax Fund.

The failure to comply with the Liquid Fuels and Fuels Tax Act could result in the county having to reimburse \$13,411.01 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$13,411.01 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county limit all indirect/administrative costs charged to the Liquid Fuels Tax Fund to the 10 percent maximum permitted by the Liquid Fuels and Fuels Tax Act.

Management's Response

The chief accountant stated:

As of 2017, indirect costs are no longer being charged to the Liquid Fuels fund, which significantly decreases the amount expended in excess of the 10 percent allowability. Additionally, administrative costs are currently being monitored for exceeding the 10 percent allowability; the County General Fund has included an amount in its annual budget, beginning in 2018, to reimburse the Liquid Fuels fund for any unallowable expenditures in excess of the 10 percent.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 4 - Nonpermissible Expenditures

Our examination disclosed that the county expended \$11,387.73 during 2016 and \$23,953.15 during 2017 from the Liquid Fuels Tax Fund for payroll expenditures involving painting, moving furniture, and the storage of boxes in various county offices, along with mowing grass and maintenance of parks, which are nonpermissible expenditures.

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

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including painting, moving furniture and storage boxes of various county offices, along with grass mowing and maintenance of the parks, are outside the scope of permissible expenditures.

The county reimbursed \$35,340.88 to the Liquid Fuels Tax Fund On August 22, 2018, which was subsequent to our examination period.

Recommendation

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Finding No. 4 - Nonpermissible Expenditures (Continued)

Management's Response

The chief accountant stated:

New timesheets and payroll accounts for the general ledger were created for the Bridge Department staff's use for 2018. These new timesheets allow for the Bridge Department staff to directly charge any hours worked for the General Fund departments through the payroll system. This avoids waiting for reimbursement from the General Fund and does not allow Liquid Fuels funding to be spent on payroll expenditures for non-liquid fuels work. Prior year nonpermissible payroll expenditures for the years 2016-2017 were calculated, and the General Fund reimbursed a total of \$11,387.73 for 2016 and \$23,953.15 for 2017, with a grand total of \$35,340.88 transferred into the Liquid Fuels fund in August 2018.

Auditor's Conclusion

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Summary Of 2010-2012 Examination Recommendations

In our 2010-2012 report we recommended that the Department of Transportation review our examination findings to determine if the county should reimburse \$128,842.70 to its Act 44 Tax Fund because Act 44 Tax Fund allocations were deposited into the Liquid Fuels Tax Fund.

During our 2013 examination we reviewed a letter dated August 18, 2014, from the Department of Transportation informing the county to reimburse \$128,842.70 to its Act 44 Tax Fund. During our 2014-2015 examination we noted that the county reimbursed \$30,433.46 to its Act 44 Tax Fund on December 3, 2015. During our current examination we noted that the county reimbursed the remaining \$98,409.24 to its Act 44 Tax Fund on June 9, 2017.

In our 2010-2012 report we also recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$33,972.24 to its Liquid Fuels Tax Fund. This amount consists of \$24,557.76 for nonpermissible expenditures and \$9,414.48 for expenditures in excess of the 10 percent limit on indirect/administrative costs.

During our 2013 examination we reviewed a letter dated August 18, 2014, from the Department of Transportation informing the county to reimburse \$33,972.24 to its Liquid Fuels Tax Fund. During our current examination we noted that the county reimbursed \$43,386.72 to its Liquid Fuels Tax Fund on May 5, 2017. This amount exceeded the required reimbursement by \$9,414.48 and remained in the Liquid Fuels Tax Fund.

Summary Of 2013 Examination Recommendation

In our 2013 report we recommended that the Department of Transportation review our examination findings to determine if the county should reimburse \$4,266.00 to its Liquid Fuels Tax Fund for retroactive expenditures.

During our 2014-2015 examination we reviewed a letter dated August 27, 2015, from the Department of Transportation informing the county to reimburse \$4,266.00 to its Liquid Fuels Tax Fund. During our current examination we noted that the county reimbursed \$4,266.00 to its Liquid Fuels Tax Fund on May 5, 2017.

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
SUMMARY OF PRIOR EXAMINATIONS' RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

Summary Of 2014-2015 Examination Recommendations

In our 2014-2015 report we recommended that the Department of Transportation review our examination findings to determine if the county should reimburse \$67,009.02 to its Act 89 Tax Fund because Act 89 Tax Fund allocations were deposited into the Act 44 Tax Fund.

During our current examination we reviewed a letter dated July 7, 2017 from the Department of Transportation informing the county to reimburse \$67,009.02 to its Act 89 Tax Fund. During our current examination we noted that the county reimbursed \$67,009.02 to its Act 89 Tax Fund on June 9, 2017.

In our 2014-2015 report we also recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$55,019.11 to its Liquid Fuels Tax Fund for expenditures in excess of the 10 percent limit on indirect/administrative costs.

During our current examination we reviewed a letter dated July 7, 2017 from the Department of Transportation informing the county to reimburse \$55,019.11 to its Liquid Fuels Tax Fund. During our current examination we noted that the county had already reimbursed \$55,019.11 to its Liquid Fuels Tax Fund on May 5, 2017.

In our 2014-2015 report we also recommended that the county:

- Ensure that its Forms MS-991 and Reports of Act 44 Tax Fund are complete and accurate.
- Deposit all Act 89 tax money promptly into the Act 89 Tax Fund.
- Limit all indirect/administrative costs charged to the Liquid Fuels Tax Fund to the 10 percent maximum permitted by the Liquid Fuels and Fuels Tax Act.
- Ensure that its Report of Act 89 Tax Funds are complete and accurate and are filed by January 31 each year.

During our current examination we noted that the county complied with our first and fourth bulleted recommendations. The county did not comply with our second bulleted recommendation until 2017 (see Finding No. 1) and did not comply with our third bulleted recommendation (see Findings No. 3).

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

An exit conference was held October 31, 2018. Those participating were:

FAYETTE COUNTY

The Honorable Scott T. Abraham, Controller
Mr. Samuel J. Lynch, Jr., Chief Financial Consultant
Ms. Jill Frinzi, Purchasing Budget Manager
Ms. Kimberly Radvansky, Chief Accountant

DEPARTMENT OF THE AUDITOR GENERAL

Brian Delaney, CFE, Audit Supervisor

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

FAYETTE COUNTY
LIQUID FUELS, ACT 44,
AND ACT 89 TAX FUNDS
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2016 TO DECEMBER 31, 2017

This report was initially distributed to:

The Honorable Leslie Richards
Secretary
Department of Transportation

Fayette County
61 East Main Street
Uniontown, PA 15401

The Honorable Vincent A. Vicites
Chairman of the Board of Commissioners

The Honorable Nancy Lee Wilson
Treasurer

The Honorable Scott T. Abraham
Controller

Ms. Kimberly Radvansky
Chief Accountant

Mr. Samuel J. Lynch, Jr.
Chief Financial Consultant

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.