

# ATTESTATION ENGAGEMENT

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Luzerne County  
Pennsylvania  
40-000

Liquid Fuels Tax Fund,  
Act 44 Tax Fund,  
Act 89 Tax Fund, and  
County Fee for Local Use Fund  
For the Period  
January 1, 2021 to December 31, 2022

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May 2024



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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TIMOTHY L. DEFOOR  
AUDITOR GENERAL

### Independent Auditor's Report

The Honorable Michael Carroll  
Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Forms MS-991 With Adjustments for the Liquid Fuels Tax Fund, the Reports of Act 44 and Act 89 Tax Funds With Adjustments, and the Reports of County Fee For Local Use Funds With Adjustments of Luzerne County for the period January 1, 2021 to December 31, 2022 (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. An examination involves performing procedures 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 required to be independent and to meet our other ethical responsibilities in accordance with ethical requirements relating to the engagement.

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.

## Independent Auditor's Report (Continued)

As discussed in Finding No. 1, the county expended \$97,381.27 from the Liquid Fuels Tax Fund for construction project No. 19-40000-005. However, no Liquid Fuels Tax Fund money was approved to be expended for the project. Additionally, as discussed in Finding No. 2, the 2022 County Fee For Local Use allocations of \$282,430.00 and \$675.00, which should have been distributed from the Department of Transportation to the county on June 1, 2022, and December 1, 2022, respectively, were not received until February 6, 2023, which was subsequent to our examination period.

In our opinion, except for the matters discussed in the preceding paragraph, 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, the Act 89 Tax Fund, and the County Fee For Local Use Fund of Luzerne County for the period January 1, 2021 to December 31, 2022, 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; 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.

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.

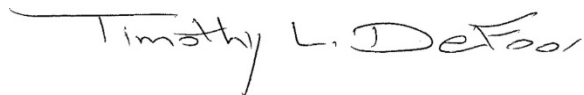
Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Forms are free from material misstatement, we performed tests of Luzerne 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*:

- Liquid Fuels Money Improperly Expended On Project.
- Late Receipt Of 2022 Act 89 Allocation And 2022 County Fee For Local Use Allocations.

The purpose of this report is to determine whether the county's Liquid Fuels Tax Fund, Act 44 Tax Fund, Act 89 Tax Fund, and County Fee For Local Use 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 Luzerne 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.



Timothy L. DeFoor  
Auditor General  
March 27, 2024

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LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

Background

*The Vehicle Code* makes provisions and provides funding for the County Liquid Fuels, Act 44, Act 89, and County Fee For Local Use 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.

*The Vehicle Code*, as amended by Act 89 of 2013 (November 25, 2013, P.L. 974, No.89), permits counties to impose a \$5 fee for local use on nonexempt vehicles registered to an address located in the county (75 Pa. C.S. § 1935 (b)). This fee is collected by the Department of Transportation and is distributed to counties that impose the fee on the first business day of June and December each year.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

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;

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

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.



LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

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 Act 44 Tax Fund money 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.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

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 Act 89 Tax Fund money 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.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
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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.
- D. *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 County Fee For Local Use funds distributed to the counties from the Department of Transportation. The County Fee For Local Use 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. No other money may be deposited and commingled in this fund. Money should be invested to earn interest until expended.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

Background (Continued)

(2) Payments from the special fund may be used for:

- Construction, reconstruction, maintenance, and repair of public roads/streets, or bridges for which the county is legally responsible including a roadway open to the use of the public for vehicular traffic on the grounds of a college or university, public or private school, or public or historical park.
- Curb ramps to provide for access by individuals with disabilities in accordance with the Americans with Disabilities Act (ADA) and Department of Transportation Standards.
- Property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges.
- Ferry boat operations, where applicable.
- 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.
- Transportation related safety studies or safety projects on public highways.
- The construction of sound walls if included in a highway project as a mitigation measure for environmental purposes and all warrants are met.
- Other expenditures determined, on a case-by-case basis, to be consistent with the requirements and restrictions of Article 8, Section 11 of the Pennsylvania Constitution.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

Background (Continued)

- (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.
- (4) Each county that has adopted a fee for local use ordinance must submit a set of annual reports showing the receipts and expenditures of all fee for local use funds received from the Commonwealth on forms supplied by the Center for Program Development and Management.

*Basis Of Presentation*

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Forms MS-991 With Adjustments, the Reports of Act 44 and Act 89 Tax Funds With Adjustments, and the Report of County Fee For Local Use Funds 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, the County Act 89 Tax Fund, and the County Fee For Local Use 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).

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

Background (Continued)

- 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.
- 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.

The Pennsylvania Department of Transportation prescribes that the county report the following on the Reports of County Fee For Local Use Funds:

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

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

Background (Continued)

*Basis Of Accounting*

The accompanying Forms MS-991 With Adjustments, Report of Act 44 Tax Fund With Adjustments, Report of Act 89 Tax Fund With Adjustments, and Report of County Fee For Local Use Funds 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.

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2021 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, 2021	\$ 445,140.00	\$ -	\$ 445,140.00
<u>Receipts:</u>			
Liquid Fuels Tax Funds received from Commonwealth	421,865.54	502,345.68	924,211.22
Interest	39.98	-	39.98
Reimbursable agreements	1,068,549.42	(639,666.48)	428,882.94
Miscellaneous	-	137,320.80	137,320.80
Total receipts	<u>1,490,454.94</u>	<u>-</u>	<u>1,490,454.94</u>
Total Liquid Fuels Tax Funds available for expenditures and encumbrances	<u>1,935,594.94</u>	<u>-</u>	<u>1,935,594.94</u>
<u>Expenditures:</u>			
Administrative	-	-	-
Minor equipment purchases	-	-	-
County aid payments	-	-	-
Major equipment expenditures	-	-	-
Street cleaning and gutters	-	-	-
Winter maintenance services	256,999.61	-	256,999.61
Traffic control devices	751.93	-	751.93
Street lighting	94,783.52	-	94,783.52
Storm sewers and drains	-	-	-
Repairs of tools and machinery	35,505.08	-	35,505.08
Maintenance and repairs - roads and bridges	908,954.90	(105,130.68)	803,824.22
Highway construction and rebuilding projects	186,843.14	105,130.68	291,973.82
Miscellaneous	-	-	-
Total expenditures	<u>1,483,838.18</u>	<u>-</u>	<u>1,483,838.18</u>
Remaining funds available as of December 31, 2021	<u>\$ 451,756.76</u>	<u>\$ -</u>	<u>\$ 451,756.76</u>



LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2021 FORM MS-991 WITH ADJUSTMENTS

2021 Form MS-991 With Adjustments (Continued)

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
<u>Approved future year receipts and expenditures</u>			
Accounts receivable	\$ -	\$ -	\$ -
Accounts payable	-	-	-
Unpaid encumbrances	-	-	-
Unpaid county aid grants	-	-	-
	<hr/>	<hr/>	<hr/>
Total approved future year receipts and expenditures	<hr/> -	<hr/> -	<hr/> -
Year end balance available for future years as of December 31, 2021	<hr/> <u>\$ 451,756.76</u>	<hr/> <u>\$ -</u>	<hr/> <u>\$ 451,756.76</u>

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2022 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, 2022	\$ 451,756.76	\$ -	\$ 451,756.76
<u>Receipts:</u>			
Liquid Fuels Tax Funds received from Commonwealth	947,258.83	-	947,258.83
Interest	2,306.12	-	2,306.12
Reimbursable agreements	-	411,116.14	411,116.14
Miscellaneous	493,179.68	(411,116.14)	82,063.54
Total receipts	<u>1,442,744.63</u>	<u>-</u>	<u>1,442,744.63</u>
Total Liquid Fuels Tax Funds available for expenditures and encumbrances	<u>1,894,501.39</u>	<u>-</u>	<u>1,894,501.39</u>
<u>Expenditures:</u>			
Administrative	-	-	-
Minor equipment purchases	-	-	-
County aid payments	-	-	-
Major equipment expenditures	11,370.60	134,736.00	146,106.60
Street cleaning and gutters	-	-	-
Winter maintenance services	309,376.30	-	309,376.30
Traffic control devices	1,673.13	12,178.89	13,852.02
Street lighting	181,078.11	(12,178.89)	168,899.22
Storm sewers and drains	-	-	-
Repairs of tools and machinery	25,530.29	-	25,530.29
Maintenance and repairs - roads and bridges	846,073.19	(134,736.00)	711,337.19
Highway construction and rebuilding projects	137,607.04	-	137,607.04
Miscellaneous	-	-	-
Total expenditures	<u>1,512,708.66</u>	<u>-</u>	<u>1,512,708.66</u>
Remaining funds available as of December 31, 2022	<u>\$ 381,792.73</u>	<u>\$ -</u>	<u>\$ 381,792.73</u>

LUZERNE COUNTY  
LIQUID FUELS TAX FUND  
2022 FORM MS-991 WITH ADJUSTMENTS

2022 Form MS-991 With Adjustments (Continued)

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
<u>Approved future year receipts and expenditures</u>			
Accounts receivable	\$ -	\$ -	\$ -
Accounts payable	-	-	-
Unpaid encumbrances	-	-	-
Unpaid county aid grants	-	-	-
	<hr/>	<hr/>	<hr/>
Total approved future year receipts and expenditures	<hr/> -	<hr/> -	<hr/> -
Year end balance available for future years as of December 31, 2022	<hr/> <u>\$ 381,792.73</u>	<hr/> <u>\$ -</u>	<hr/> <u>\$ 381,792.73</u>

LUZERNE COUNTY  
2021 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2021	\$ 151,891.29	\$ -	\$ 151,891.29
<u>Receipts:</u>			
Act 44 Funds	150,371.47	-	150,371.47
Interest	8.82	-	8.82
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>150,380.29</u>	<u>-</u>	<u>150,380.29</u>
Total funds available	<u>302,271.58</u>	<u>-</u>	<u>302,271.58</u>
<u>Expenditures:</u>			
Administrative	-	-	-
Minor Equipment Purchases	-	-	-
Major Equipment Purchases	-	-	-
Street Cleaning and Gutters	-	-	-
Traffic Control Devices	-	-	-
Street Lighting	-	-	-
Storm Sewers and Drains	-	-	-
Repairs of Tools and Machinery	-	-	-
Maintenance and Repairs-			
Roads and Bridges	85,872.95	-	85,872.95
Highway Construction and			
Rebuilding Projects	62,450.00	-	62,450.00
Miscellaneous	-	-	-
Total expenditures	<u>148,322.95</u>	<u>-</u>	<u>148,322.95</u>
Balance, December 31, 2021	<u>\$ 153,948.63</u>	<u>\$ -</u>	<u>\$ 153,948.63</u>

LUZERNE COUNTY  
2022 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Balance, January 1, 2022	\$ 153,948.63	\$ -	\$ 153,948.63
<u>Receipts:</u>			
Act 44 Funds	151,796.13	-	151,796.13
Interest	856.03	-	856.03
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>152,652.16</u>	<u>-</u>	<u>152,652.16</u>
Total funds available	<u>306,600.79</u>	<u>-</u>	<u>306,600.79</u>
<u>Expenditures:</u>			
Administrative	-	-	-
Minor Equipment Purchases	-	-	-
Major Equipment Purchases	-	-	-
Street Cleaning and Gutters	-	-	-
Traffic Control Devices	-	-	-
Street Lighting	-	-	-
Storm Sewers and Drains	-	-	-
Repairs of Tools and Machinery	-	-	-
Maintenance and Repairs-			
Roads and Bridges	60,550.00	-	60,550.00
Highway Construction and			
Rebuilding Projects	45,449.11	-	45,449.11
Miscellaneous	-	-	-
Total expenditures	<u>105,999.11</u>	<u>-</u>	<u>105,999.11</u>
Balance, December 31, 2022	<u>\$ 200,601.68</u>	<u>\$ -</u>	<u>\$ 200,601.68</u>

LUZERNE COUNTY  
2021 REPORT OF ACT 89 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2021	\$ 156,825.29	\$ -	\$ 156,825.29
<u>Receipts:</u>			
Act 89 Funds	292,563.03	-	292,563.03
Interest	27.13	-	27.13
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>292,590.16</u>	<u>-</u>	<u>292,590.16</u>
Total funds available	<u>449,415.45</u>	<u>-</u>	<u>449,415.45</u>
<u>Expenditures:</u>			
Administrative	-	-	-
Minor Equipment Purchases	-	-	-
Major Equipment Purchases	-	-	-
Street Cleaning and Gutters	-	-	-
Traffic Control Devices	-	-	-
Street Lighting	-	-	-
Storm Sewers and Drains	-	-	-
Repairs of Tools and Machinery	-	-	-
Maintenance and Repairs-			
Roads and Bridges	-	-	-
Highway Construction and			
Rebuilding Projects	404,216.48	-	404,216.48
Miscellaneous	-	-	-
Total expenditures	<u>404,216.48</u>	<u>-</u>	<u>404,216.48</u>
Balance, December 31, 2021	<u>\$ 45,198.97</u>	<u>\$ -</u>	<u>\$ 45,198.97</u>

LUZERNE COUNTY  
2022 REPORT OF ACT 89 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2022	\$ 45,198.97	\$ -	\$ 45,198.97
<u>Receipts:</u>			
Act 89 Funds	287,577.37	-	287,577.37
Interest	330.17	-	330.17
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>287,907.54</u>	<u>-</u>	<u>287,907.54</u>
Total funds available	<u>333,106.51</u>	<u>-</u>	<u>333,106.51</u>
<u>Expenditures:</u>			
Administrative	-	-	-
Minor Equipment Purchases	-	-	-
Major Equipment Purchases	-	-	-
Street Cleaning and Gutters	-	-	-
Traffic Control Devices	-	-	-
Street Lighting	-	-	-
Storm Sewers and Drains	-	-	-
Repairs of Tools and Machinery	-	-	-
Maintenance and Repairs-			
Roads and Bridges	-	-	-
Highway Construction and			
Rebuilding Projects	192,575.40	-	192,575.40
Miscellaneous	-	-	-
Total expenditures	<u>192,575.40</u>	<u>-</u>	<u>192,575.40</u>
Balance, December 31, 2022	<u>\$ 140,531.11</u>	<u>\$ -</u>	<u>\$ 140,531.11</u>

LUZERNE COUNTY  
2021 REPORT OF COUNTY FEE FOR LOCAL USE FUNDS  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2021	\$ 1,365,322.94	\$ -	\$ 1,365,322.94
<u>Receipts:</u>			
Local Use Funds	1,541,840.00	-	1,541,840.00
Interest	179.36	-	179.36
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>1,542,019.36</u>	<u>-</u>	<u>1,542,019.36</u>
Total funds available	<u>2,907,342.30</u>	<u>-</u>	<u>2,907,342.30</u>
<u>Expenditures:</u>			
County-Owned road maintenance	-	-	-
County-Owned road construction	-	-	-
County-Owned bridge maintenance	-	-	-
County-Owned bridge construction	1,023,164.75	-	1,023,164.75
Administrative expenditures	-	-	-
Miscellaneous	-	-	-
Grants to political subdivisions	-	-	-
Total expenditures	<u>1,023,164.75</u>	<u>-</u>	<u>1,023,164.75</u>
Balance, December 31, 2021	<u>\$ 1,884,177.55</u>	<u>\$ -</u>	<u>\$ 1,884,177.55</u>



LUZERNE COUNTY  
2022 REPORT OF COUNTY FEE FOR LOCAL USE FUNDS  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2022	\$ 1,884,177.55	\$ -	\$ 1,884,177.55
<u>Receipts:</u>			
Local Use Funds	-	-	-
Interest	1,859.65	-	1,859.65
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>1,859.65</u>	<u>-</u>	<u>1,859.65</u>
Total funds available	<u>1,886,037.20</u>	<u>-</u>	<u>1,886,037.20</u>
<u>Expenditures:</u>			
County-Owned road maintenance	-	-	-
County-Owned road construction	-	-	-
County-Owned bridge maintenance	-	-	-
County-Owned bridge construction	1,880,151.31	-	1,880,151.31
Administrative expenditures	-	-	-
Miscellaneous	-	-	-
Grants to political subdivisions	-	-	-
Total expenditures	<u>1,880,151.31</u>	<u>-</u>	<u>1,880,151.31</u>
Balance, December 31, 2022	<u>\$ 5,885.89</u>	<u>\$ -</u>	<u>\$ 5,885.89</u>

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

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

Adjustments

2021 Form MS-991

Adjustments were made to “Liquid Fuels Tax Funds received from Commonwealth,” “Reimbursable agreements,” and “Miscellaneous” because receipts of \$639,666.48 were misclassified.

Adjustments were made to “Maintenance and repairs - roads and bridges” and “Highway construction and rebuilding projects” because expenditures of \$105,130.68 were misclassified.

2022 Form MS-991

Adjustments were made to “Reimbursable agreements” and “Miscellaneous” because receipts of \$411,116.14 were misclassified.

Adjustments were made to “Major equipment expenditures,” “Traffic control devices,” “Street lighting,” and “Maintenance and repairs - roads and bridges” because expenditures of \$146,914.89 were misclassified.

Reimbursable Agreements

During our examination, we noted that the county entered into reimbursable agreements with the Commonwealth of Pennsylvania for bridge inspections and street lighting. During our current examination period, the county received \$428,882.94 during 2021 and \$411,116.14 during 2022 and as a result of these agreements, it deposited this money into its Liquid Fuels Tax Fund.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

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>2021</u>	<u>2022</u>
Department of Transportation	Turnback Allocation	\$ 43,880.00	\$43,880.00
Local Business	Scrap	136.00	584.45
General Fund	Summary Of 2018 Examination Recommendation	34,000.00	-
Local Business	Fees and licenses	10,825.00	750.00
Local Businesses	Reimbursement for returned purchases	39,176.35	32,888.09
Resident	Fees and licenses	350.00	1,136.00
Insurance Company	Reimbursement for damages	8,953.45	2,825.00
Totals		<u>\$137,320.80</u>	<u>\$82,063.54</u>

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

**Finding No. 1 - Liquid Fuels Money Improperly Expended On Project**

Our examination disclosed that the county expended a total of \$822,438.27 on construction project No. 19-40000-005. This amount consists of \$725,057.00 from the County Fee For Local Use Fund during 2019 and \$97,381.27 from the Liquid Fuels Tax Fund during 2021. Although the expenditures from the County Fee For Local Use Fund were approved, no Liquid Fuels Tax Fund money was approved by the Department of Transportation to be expended for this project. The difference of \$97,381.27 should have been paid directly from the General Fund.

The Department of Transportation's Regulations do not permit a county to expend Liquid Fuels Tax Fund money in excess of the amount approved on Municipal Services Completion Report Form MS-999.

The failure to comply with the Department of Transportation's Regulations could result in the county having to reimburse \$97,381.27 to its Liquid Fuels Tax Fund.

We were unable to determine why this condition occurred.

Recommendations

We recommend that the county reimburse \$97,381.27 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that no liquid fuels tax funds be expended for construction projects without the prior approval of the Department of Transportation.

Management's Response

The county officials offered no formal response at this time.

Auditor's Conclusion

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

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

**Finding No. 2 - Late Receipt Of 2022 Act 89 Allocation And 2022 County Fee For Local Use Allocations**

Our examination disclosed that the 2022 Act 89 Tax Fund allocation of \$141,352.16, which should have been distributed from the Department of Transportation to the county during the first week of June of that year, was not received until September 19, 2022, because the county failed to comply with the Department of Transportation's *Publication 9*, Chapter Six, Section 6.4 which states:

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. (See Section 6.8, Required Reports.) The use of the funds must be in compliance with the Act. (See Section 6.6, Appropriate Use of Funds.) Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.

Our examination also disclosed that the 2022 County Fee For Local Use allocations of \$282,430.00 and \$675.00, which should have been distributed from the Department of Transportation to the county on June 1, 2022, and December 1, 2022, respectively, were not received until February 6, 2023, which was subsequent to our examination period, because the county failed to comply with the Department of Transportation's *Publication 9*, Chapter Five, Sections 5.10.1, which states:

The MS-991 and M2-992 forms are prepared throughout the year and are due before January 31<sup>st</sup> for the preceding calendar year.

Because the county failed to file documents and information timely as noted above, the county did not have use of its June 2022 Act 89 allocation for more than three months, its June 2022 County Fee For Local Use allocations for more than nine months, and its December 2022 County Fee For Local Use allocations for more than two months. Furthermore, had the allocations been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

We further noted that effective January 1, 2022, the county repealed county ordinance No. 2018-04 to implement an annual fee of \$5.00 for each vehicle registered to an address located in the county. Therefore, the county will no longer receive County Fee For Local Use allocations in the future.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

**Finding No. 2 - Late Receipt Of 2022 Act 89 Allocation And 2022 County Fee For Local Use Allocations (Continued)**

Recommendation

We recommend that the county comply with the Department of Transportation's *Publication 9* to ensure that allocations are received in a timely manner as outlined above.

Management's Response

The county officials offered no formal response at this time.

Auditor's Conclusion

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

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
SUMMARY OF 2018 EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

Summary Of 2018 Examination Recommendation

In our 2018 report, we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$34,000.00 to its Liquid Fuels Tax Fund for failing to advertise for bids.

During our current examination, we reviewed a letter dated December 4, 2020, from the Department of Transportation directing the county to reimburse \$34,000.00 to its Liquid Fuels Tax Fund. We noted that the county reimbursed this amount to its Liquid Fuels Tax Fund on January 4, 2021.

LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
SUMMARY OF ONSITE CLOSEOUT MEETING  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

An onsite closeout meeting was held February 14, 2024. Those participating were:

LUZERNE COUNTY

Ms. Jennifer Pecora, Acting Director of Operational Services

Ms. Romilda P. Crocamo, County Manager

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Anthony J. Frable, Jr., Auditor



LUZERNE COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS,  
AND COUNTY FEE FOR LOCAL USE FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2022

This report was initially distributed to:

**The Honorable Michael Carroll**  
Secretary  
Department of Transportation

**Luzerne County**  
200 North River Street  
Wilkes-Barre, PA 18711

**The Honorable Tim McGinley**  
County Commissioner

**Ms. Romilda P. Crocamo**  
County Manager

**Ms. Jennifer Pecora**  
Acting Director of Operational Services

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