

# ATTESTATION ENGAGEMENT

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Luzerne County

Pennsylvania

40-000

Liquid Fuels, Act 44, and Act 89

Tax Funds

For the Period

January 1, 2018 to December 31, 2018

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December 2020



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

### Independent Auditor's Report

Yassmin Gramian, P.E.  
Acting Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Form MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 and Act 89 Tax Funds With Adjustments of Luzerne County for the period January 1, 2018 to December 31, 2018 (Forms). The county's management is responsible for presenting the Forms in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. Our responsibility is to express an opinion on the Forms based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Forms whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each county's Liquid Fuels, Act 44 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 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.

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

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms; any other instances that warrant the attention of those charged with governance; and 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*:

- Failure To Obtain Project Approval.
- Noncompliance With Advertising And Bidding Requirements.

We also noted a matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Idle Funds In Non-Interest Bearing Account.

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 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.



Eugene A. DePasquale  
Auditor General

November 10, 2020

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

Background

*The Vehicle Code* makes provisions and provides funding for the County Liquid Fuels, Act 44, and Act 89 Programs. The Pennsylvania Department of Transportation has regulatory administration and oversight of the funds supporting these county programs. Counties are required to comply with those provisions and to report annually.

*The Vehicle Code* imposes a state tax on liquid fuels and fuels used or sold and delivered by distributors within the Commonwealth (75 Pa. C.S. § 9004(a)). One-half cent of the tax collected on each gallon of liquid fuels is deposited in the Commonwealth's Liquid Fuels Tax Fund. *The Vehicle Code* further provides for the disposition and use of this tax, including the allocations to counties in June and December of each year to fund construction, reconstruction, maintenance and repair of county roads, streets and bridges. The allocation to the respective counties is made in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years (75 Pa C.S. § 9010).

*The Vehicle Code*, as amended by Act 44 of 2007 (July 18, 2007, P.L.169), 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.

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

Background (Continued)

*Criteria*

A. *The Vehicle Code* prescribes criteria for liquid fuels program funds (75 Pa C.S. § 9010). The Pennsylvania Department of Transportation's *Publication 9* provides more specific policies and procedures to counties for the administration and reporting of the liquid fuels program funds. In the event of any discrepancies between the two, the legislation governs.

(1) Funds received by the counties must be deposited in a special fund designated as the County Liquid Fuels Tax Fund and no other money may be deposited and commingled. Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

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

- Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law;
- Property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges;
- Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations;
- Interest and principal payments on road, bridge, or publicly owned ferryboat operation bonds or sinking fund charges;
- Acquisition, maintenance, repair and operation of traffic signs and signals;
- Erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices;

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

Background (Continued)

- Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and
  - Individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.
- (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.
- (4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.
- (5) Counties must submit a report to the Pennsylvania Department of Transportation by January 31 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation may withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.
- B. *The Vehicle Code*, as amended by Act 44 of 2007 (July 18, 2007, P.L. 169), 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.



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

Background (Continued)

(1) Funds received by the counties must be deposited in a special fund designated as the County Act 44 Fund and no other money may be deposited and commingled. (Note: Act 44 and Act 89 Funds may be deposited in a single account. However, the county must account for these funds independently for auditing). Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

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

- Construction, reconstruction, maintenance, and repair of public bridges for which the county is legally responsible.
- Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
- County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only).
- Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
- Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 44 Fund.
- Inspection costs associated with bridges.
- Purchase of right-of-way for bridge construction, reconstruction, or maintenance.

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

Background (Continued)

- (3) For bridge maintenance/preservation activities, the county must confer with a District Municipal Services Representative to determine if Department of Transportation approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas requires the approval of the Department of Transportation.
  - (4) In order to receive Act 44 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. The use of the funds must be in compliance with the Act. Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.
- C. *The Vehicle Code*, as amended by Act 89 of 2013 (November 25, 2013, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 89 funds distributed to the counties from the Department of Transportation. The County's Act 89 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.
- (1) Funds received by the counties must be deposited in a special fund designated as the County Act 89 Fund and no other money may be deposited and commingled. (Note: Act 89 and Act 44 Funds may be deposited in a single account. However, the county must account for these funds independently for auditing). Money should be invested to earn interest until expended.
    - For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.
  - (2) Payments from the special fund may be used for:
    - Construction, reconstruction, maintenance, and repair of public bridges for which the county is legally responsible.
    - Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.

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

Background (Continued)

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

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

Background (Continued)

*Basis Of Presentation*

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

The Pennsylvania Department of Transportation prescribes that the county report the following on the Form MS-991, *Report of County Liquid Fuels Tax Fund*:

- A. The balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include the County's Liquid Fuels Tax Fund allocations, interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- C. Accounts receivable (to be realized within 60 days of the year end).
- D. Total Liquid Fuels Tax funds available for expenditure and encumbrances.
- E. Expenditures for county-owned roads, highways, and bridges.
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end)

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

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.

Background (Continued)

*Basis Of Accounting*

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

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

	Reported	Adjustments	Adjusted Amount
Actual balance in county Liquid Fuels Tax Fund on January 1, 2018	\$ 831,858.81	\$ -	\$ 831,858.81
 <u>Receipts:</u>			
Liquid Fuels Tax Funds received from Commonwealth	1,041,149.28	-	1,041,149.28
Interest	3,488.14	-	3,488.14
Reimbursable agreements	-	-	-
Miscellaneous	273,602.68	(70,149.38)	203,453.30
 Total receipts	 1,318,240.10	 (70,149.38)	 1,248,090.72
 Total Liquid Fuels Tax Funds available for expenditures and encumbrances	 2,150,098.91	 (70,149.38)	 2,079,949.53
 <u>Expenditures:</u>			
Administrative	-	-	-
Minor equipment purchases	575.00	-	575.00
County aid payments	-	-	-
Major equipment expenditures	-	-	-
Street cleaning and gutters	-	-	-
Winter maintenance services	318,828.20	-	318,828.20
Traffic control devices	879.90	-	879.90
Street lighting	132,975.53	-	132,975.53
Storm sewers and drains	-	-	-
Repairs of tools and machinery	128,799.75	-	128,799.75
Maintenance and repairs - roads and bridges	738,940.48	-	738,940.48
Highway construction and rebuilding projects	390,800.40	-	390,800.40
Miscellaneous	70,485.03	(70,149.38)	335.65
 Total expenditures	 1,782,284.29	 (70,149.38)	 1,712,134.91

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

Remaining funds available as of December 31, 2018	367,814.62	-	367,814.62
<u>Approved future year receipts and expenditures</u>			
Accounts receivable	-	-	-
Accounts payable	-	-	-
Unpaid encumbrances	-	-	-
Unpaid county aid grants	-	-	-
Total approved future year receipts and expenditures	-	-	-
Year end balance available for future years as of December 31, 2018	\$ 367,814.62	\$ -	\$ 367,814.62

LUZERNE COUNTY  
2018 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2018	\$ 157,133.03	\$ -	\$ 157,133.03
<u>Receipts:</u>			
Act 44 Funds	151,430.56	-	151,430.56
Interest	1,025.99	-	1,025.99
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>152,456.55</u>	<u>-</u>	<u>152,456.55</u>
Total funds available	<u>309,589.58</u>	<u>-</u>	<u>309,589.58</u>
<u>Expenditures:</u>			
Construction	182,830.01	74,172.60	257,002.61
Maintenance and repair	58,762.80	(58,762.80)	-
Miscellaneous	15,409.80	(15,409.80)	-
Total expenditures	<u>257,002.61</u>	<u>-</u>	<u>257,002.61</u>
Balance, December 31, 2018	<u><u>\$ 52,586.97</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 52,586.97</u></u>



LUZERNE COUNTY  
2018 REPORT OF ACT 89 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2018	\$ 137,602.84	\$ -	\$ 137,602.84
<u>Receipts:</u>			
Act 89 Funds	307,458.69	-	307,458.69
Interest	-	-	-
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>307,458.69</u>	<u>-</u>	<u>307,458.69</u>
Total funds available	<u>445,061.53</u>	<u>-</u>	<u>445,061.53</u>
<u>Expenditures:</u>			
Construction	-	233,574.91	233,574.91
Maintenance and repair	233,574.91	(233,574.91)	-
Miscellaneous	-	-	-
Total expenditures	<u>233,574.91</u>	<u>-</u>	<u>233,574.91</u>
Balance, December 31, 2018	<u>\$ 211,486.62</u>	<u>\$ -</u>	<u>\$ 211,486.62</u>

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

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

Adjustments

2018 Form MS-991

An adjustment of \$(70,149.38) was made to “Miscellaneous” because a transfer between two Liquid Fuels Tax Fund accounts was incorrectly reported as a receipt.

An adjustment of \$(70,149.38) was made to “Miscellaneous” because a transfer between two Liquid Fuels Tax Fund accounts was incorrectly reported as an expenditure.

2018 Report of Act 44 Tax Fund

Adjustments were made to “Construction,” “Maintenance and repair” and “Miscellaneous” because expenditures of \$74,172.60 were misclassified.

2018 Report of Act 89 Tax Fund

Adjustments were made to “Construction” and “Maintenance and repair” because expenditures of \$233,574.91 were misclassified.

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>Amount</u>
Department of Transportation	Turnback allocation	\$ 43,880.00
Commonwealth of Pennsylvania	Lighting reimbursement	47,243.80
Local business	Scrap	1,542.45
Local business	Fees and licenses	525.00
Commonwealth of Pennsylvania	Bridge inspections	23,284.93
General Fund	Reimbursement (Finding No. 1)	80,141.35
Insurance company	Reimbursement for damages	6,766.77
Liquid Fuels Tax Fund	2017 voided check	69.00
Total		<u>\$203,453.30</u>

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

Miscellaneous Expenditures

During 2018 the Liquid Fuels Tax Fund incurred bank service charges of \$335.65.

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

**Finding No. 1 - Failure To Obtain Project Approval**

Our examination disclosed that the county expended \$80,141.35 during 2018 for road culverts, roadway repair, and bridge abutment repair without obtaining the approval of the Department of Transportation. We further noted that the county did not file an application with the Department of Transportation for the project and also failed to submit specifications for approval.

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 6.6.1, states:

County Liquid Fuels Tax Fund monies may not be allocated or expended for construction or reconstruction projects by the county or any of its political subdivisions, without the prior approval of the application, contract or plans for the proposed expenditure by the Department of Transportation.

Furthermore, *Publication 9*, Chapter One, Section 6.6.2, states:

Completed work by the county or one of its political subdivisions must be approved by the Municipal Services district office before payment can be made.

The county reimbursed \$32,550.00 on December 24, 2018 and \$47,591.35 on December 26, 2018 to the Liquid Fuels Tax Fund.

**Recommendation**

We recommend that before the county expends money on a project, it applies for and obtains prior approval of the project, and when the project is completed it obtains approval for the completed work.

**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 municipality complied with our recommendation.

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

**Finding No. 2 - Noncompliance With Advertising And Bidding Requirements**

Our examination disclosed that the county expended \$34,000.00 during 2018 from the Liquid Fuels Tax Fund for the rental of a paving machine without advertising for bids. These expenditures were as follows:

<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Date Paid</u>	<u>Check Number</u>	<u>Amount</u>
Various	Various	07/09/18	507802	\$11,300.00
Various	Various	07/18/18	507814	14,200.00
09/10/18	005	09/12/18	507885	6,900.00
10/31/18	007	12/13/18	507983	1,600.00
Total				<u>\$34,000.00</u>

The above expenditures were not made in compliance with the advertising, bidding and contract requirements of *The County Code*, 53 P.S. § 1802(b), (also found at § 1802(b) of *The County Code* as published by the Local Government Commission), which requires that purchases over \$18,500.00 during 2012 must be advertised, bid and awarded by contract. The bidding threshold increased to purchases over \$20,100.00 for 2018, \$20,600.00 for 2019, and \$21,000.00 for 2020. *The County Code*, 53 P.S. § 1803, (also found at § 1803 of *The County Code* as published by the Local Government Commission) further states that advertising, bidding, and contract requirements should not be evaded through piecemeal purchases.

The failure to comply with *The County Code* could result in the county having to reimburse \$34,000.00 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$34,000.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

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

Management's Response

The county officials offered no formal response at this time.

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

**Finding No. 2 - Noncompliance With Advertising And Bidding Requirements (Continued)**

Auditor's Conclusion

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

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

**Finding No. 3 - Idle Funds Held In A Noninterest-Bearing Account**

Our examination disclosed that Act 89 money in excess of current needs was deposited in a noninterest-bearing checking account from January 1 2018 to December 31, 2018 with an average balance of \$174,544.73.

The Department of Transportation's *Publication 9*, Chapter One, Section 1.6.1, states:

Monies in the County Liquid Fuels Tax Fund should be invested to earn interest until expended. . .

*The County Code*, Section 1706, as published by the Local Government Commission, lists the types of permissible investments for county funds. If the county had invested the liquid fuels tax funds in interest-bearing accounts, certificates of deposit, or other investments permitted by *The County Code*, additional money would have been earned for road maintenance and repairs.

**Recommendation**

We recommend that the county officials comply with the Department of Transportation's *Publication 9* by reassessing their fiscal policy and consider investing money in excess of current needs in investments outlined in *The County Code* as published by the Local Government Commission.

**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 municipality complied with our recommendation.

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

An exit conference was held August 19, 2020. Those participating were:

LUZERNE COUNTY

Mr. Larry Plesh, County Engineer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Raymond J. Insalaco, Audit Supervisor

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



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

This report was initially distributed to:

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

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

**The Honorable Tim McGinley**  
Chairman of the Board of Commissioners

**Mr. David Pedri**  
County Manager

**Mr. Larry Plesh**  
County Engineer

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