

ATTESTATION ENGAGEMENT

Westmoreland County Pennsylvania 64-000

Liquid Fuels, Act 44, and Act 89
Tax Funds, and County Fee
For Local Use Fund
For the Period
January 1, 2017 to December 31, 2017

July 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 Form MS-991 With Adjustments for the Liquid Fuels Tax Fund, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use Funds With Adjustments of Westmoreland County for the period January 1, 2017 to December 31, 2017. The county's management is responsible for presenting the Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use Funds in accordance with the criteria set forth in Note 1. Our responsibility is to express an opinion on the Form MS-991 With Adjustments, the Reports of Act 44 and Act 89 Tax Funds, and Report of County Fee for Local Use 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use Funds are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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.

Independent Auditor's Report (Continued)

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, and County Fee for Local Use 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*.

As described in Note 4, the adjustments included on the Form 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 With Adjustments are made by the Department of the Auditor General.

In our opinion, the Form 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 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund, Act 44 Tax Fund, Act 89 Tax Fund, and County Fee for Local Use Fund of Westmoreland County for the period January 1, 2017 to December 31, 2017, in accordance with the criteria set forth in Note 1.

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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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.

Independent Auditor's Report (Continued)

Our consideration of internal control over reporting on the Form MS-991, the Reports of Act 44 and Act 89 Tax Fund, and the Report of County Fee for Local Use Funds was for the limited purpose of expressing an opinion on whether the Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use Funds are presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use Funds are free from material misstatement, we performed tests of Westmoreland 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 Form MS-991, the Reports of Act 44 and Act 89 Tax Funds, and the Report of County Fee for Local Use 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note a matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Nonpermissible Expenditures.

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 Westmoreland 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

June 21, 2019

CONTENTS

	<u>Page</u>
Background.....	1
Financial Section:	
2017 Form MS-991 With Adjustments	2
2017 Report Of Act 44 Tax Fund With Adjustments.....	3
2017 Report Of Act 89 Tax Fund With Adjustments.....	4
2017 Report Of County Fee For Local Use Funds With Adjustments.....	5
Notes To Forms MS-991, Reports Of Act 44 And Act 89 Tax Funds, And Report Of County Fee For Local Use Funds With Adjustments.....	6
Finding And Recommendations:	
Finding - Nonpermissible Expenditures	20
Summary Of Exit Conference.....	22
Report Distribution	23

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89
TAX FUNDS, AND COUNTY FEE
FOR LOCAL USE FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

Background

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

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.

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 166,589.38	\$ -	\$ 166,589.38
<u>Receipts:</u>			
State allocations	926,813.74	-	926,813.74
Interest (Note 3)	3,172.54	-	3,172.54
Reimbursable agreements (Note 5)	287,523.41	-	287,523.41
Miscellaneous (Note 6)	181,859.57	-	181,859.57
Total receipts	<u>1,399,369.26</u>	<u>-</u>	<u>1,399,369.26</u>
Total funds available	<u>1,565,958.64</u>	<u>-</u>	<u>1,565,958.64</u>
<u>Expenditures:</u>			
Construction	213,767.45	-	213,767.45
Maintenance and repair	480,541.56	-	480,541.56
Administrative	745.89	-	745.89
Grants to political subdivisions	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>695,054.90</u>	<u>-</u>	<u>695,054.90</u>
Balance, December 31, 2017	870,903.74	-	870,903.74
Unpaid encumbrances	<u>-</u>	<u>-</u>	<u>-</u>
Unencumbered balance, December 31, 2017	<u>\$ 870,903.74</u>	<u>\$ -</u>	<u>\$ 870,903.74</u>

Notes To Form MS-991, Reports of Act 44 and Act 89 Tax Funds, and Report of County Fee for Local Use Funds With Adjustments are an integral part of this report.

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 46,230.28	\$ -	\$ 46,230.28
<u>Receipts:</u>			
Act 44 Funds	41,308.18	-	41,308.18
Interest (Note 3)	340.78	-	340.78
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>41,648.96</u>	<u>-</u>	<u>41,648.96</u>
Total funds available	<u>87,879.24</u>	<u>-</u>	<u>87,879.24</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2017	<u>\$ 87,879.24</u>	<u>\$ -</u>	<u>\$ 87,879.24</u>

Notes To Form MS-991, Reports of Act 44 and Act 89 Tax Funds, and Report of County Fee for Local Use Funds With Adjustments are an integral part of this report.

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

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 118,206.32	\$ -	\$ 118,206.32
<u>Receipts:</u>			
Act 89 Funds	78,171.31	-	78,171.31
Interest (Note 3)	990.16	-	990.16
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>79,161.47</u>	<u>-</u>	<u>79,161.47</u>
Total funds available	<u>197,367.79</u>	<u>-</u>	<u>197,367.79</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2017	<u>\$ 197,367.79</u>	<u>\$ -</u>	<u>\$ 197,367.79</u>

Notes To Form MS-991, Reports of Act 44 and Act 89 Tax Funds, and Report of County Fee for Local Use Funds With Adjustments are an integral part of this report.

WESTMORELAND COUNTY
LIQUID FUELS TAX FUND
2017 REPORT OF COUNTY FEE FOR LOCAL USE FUNDS
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2017	\$ 622,490.47	\$ 391,640.84	\$ 1,014,131.31
<u>Receipts:</u>			
Act 89 Funds	1,730,955.00	-	1,730,955.00
Interest (Note 3)	9,639.97	-	9,639.97
Reimbursable agreements	-	-	-
Miscellaneous (Note 6)	10,071.92	8,108.20	18,180.12
Total receipts	<u>1,750,666.89</u>	<u>8,108.20</u>	<u>1,758,775.09</u>
Total funds available	<u>2,373,157.36</u>	<u>399,749.04</u>	<u>2,772,906.40</u>
<u>Expenditures:</u>			
County-Owned road maintenance	-	-	-
County-Owned road construction	740,420.82	(69,145.70)	671,275.12
County-Owned bridge maintenance	626,332.94	437,494.77	1,063,827.71
County-Owned bridge construction	-	-	-
Administrative expenditures	-	-	-
Miscellaneous (Note 7)	-	10,847.62	10,847.62
Grants to political subdivisions	-	-	-
Total expenditures	<u>1,366,753.76</u>	<u>379,196.69</u>	<u>1,745,950.45</u>
Balance, December 31, 2017	<u><u>\$ 1,006,403.60</u></u>	<u><u>\$ 20,552.35</u></u>	<u><u>\$ 1,026,955.95</u></u>

Notes To Form MS-991, Reports of Act 44 and Act 89 Tax Funds, and Report of County Fee for Local Use Funds With Adjustments are an integral part of this report.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 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;

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria (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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria (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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria (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 from 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; and
- Transportation related safety studies or safety projects on public highways.
- The construction of sounds 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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria (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 Form MS-991 With Adjustments, Reports of Act 44 and Act 89 Tax Funds With Adjustments, and 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, County Act 44 and Act 89 Tax Funds, and 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.

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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria (Continued)

- D. Expenditures for county-owned roads, highways, and bridges.
- E. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
- F. The balance in the fund at the close of the report calendar year.
- G. 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.

Refer to the related Notes: Note 3, Interest Earnings.

- 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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

1. Criteria (Continued)

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.

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

- C. Total County Fee for Local Use funds available for expenditure.
- D. Expenditures.

Refer to the related Note: Note 7, Deposits In Error..

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

Basis Of Accounting

The accompanying Form MS-991 With Adjustments, Report of Act 44 Tax Fund With Adjustments, Report of Act 89 Tax Fund With Adjustments, and Report of County Fee For Local Use Funds Form MS-965 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.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

2. Deposits (Continued)

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

There were no deposits exposed to custodial credit risk as of December 31, 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	\$870,903.74
	\$870,903.74

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

Cash	\$87,879.24
	\$87,879.24

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

2. Deposits (Continued)

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

Cash	<u>\$197,367.79</u>
------	---------------------

The fund balance for the County Fee for Local Use Fund as of December 31, 2017, consists of the following:

Cash	<u>\$1,026,955.95</u>
------	-----------------------

3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in an interest-bearing account which earned \$3,172.54 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 \$340.78 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 \$990.16 during 2017, thus providing additional funds for bridge maintenance and repairs.

Additionally, the county deposited idle County Fee for Local Use money in an interest-bearing account which earned \$9,639.97 during 2017, thus providing additional funds for bridge maintenance and repairs.

4. Adjustments

2017 Report of County Fee For Local Use Funds

An adjustment of \$391,640.84 was made to “Balance, January 1, 2017” because the county reported the beginning balance on an accrual basis instead of a cash basis.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

4. Adjustments (Continued)

An adjustment of \$8,108.20 was made to “Miscellaneous” because receipts of \$10,071.92 from the General Fund were incorrectly reported but were not deposited into the County Fee For Local Use Fund and receipts of \$18,180.12 were not reported.

An adjustment of \$(69,145.70) was made to “County-Owned road construction” because expenditures for County-Owned bridge maintenance were misclassified.

Adjustments of \$437,494.77 were made to “County-Owned bridge maintenance” because expenditures of \$438,706.79 were not reported, expenditures of \$69,145.70 were misclassified as County-Owned road construction, and these expenditures were overstated by \$70,357.72.

An adjustment of \$10,847.62 was made to “Miscellaneous” because the correction of deposits in error were not reported.

5. Reimbursable Agreements

During our examination, we noted that the county entered into reimbursable agreements with the Department of Transportation for road and bridge construction projects. During our current examination period, the county received \$287,523.41 as a result of these agreements and deposited this money into its Liquid Fuels Tax Fund. As of December 31, 2017, \$11,671.79 was due the Liquid Fuels Tax Fund.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

6. Miscellaneous Receipts

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

Source	Description	Amount
Westmoreland County Act 13	Grant	\$127,015.72
Commonwealth of Pennsylvania	Severe weather assistance	44,117.58
Commonwealth of Pennsylvania	Gas tax refund	7,267.06
Commonwealth of Pennsylvania	Reimbursement for bridge lighting	757.77
Various Vendors	Bid documents	450.00
Vendor	Invoice credit	592.34
Vendors	Sale of scrap	312.00
Westmoreland County Treasurer	Reimbursement for card purchases	511.10
Vendor	Auction proceeds	200.00
Vendor	Purchase of pipe	636.00
Total		<u>\$181,859.57</u>

7. Miscellaneous Receipts

The following miscellaneous receipts were deposited into the County Fee For Local Use Fund during the examination period:

Source	Description	Amount
Westmoreland County Treasurer	Deposits in error (Note 8)	\$10,847.62
Westmoreland County Treasurer	Reimbursement of health insurance	7,332.50
Total		<u>\$18,180.12</u>

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44 AND ACT 89 TAX FUNDS,
AND COUNTY FEE FOR LOCAL USE FUND
NOTES TO FORM MS-991, REPORTS OF
ACT 44 AND ACT 89 TAX FUNDS, AND REPORT OF COUNTY
FEE FOR LOCAL USE FUNDS WITH ADJUSTMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

8. Deposits In Error

On March 10, 2017, the county deposited a total of \$10,847.62 into its County Fee For Local Use Fund in error. On March 13, 2017, the county transferred this amount from its County Fee For Local Use Fund to its Treasurer Fund to correct the deposit in error.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44, AND ACT 89
TAX FUNDS, AND COUNTY FEE
FOR LOCAL USE FUND
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

Finding - Nonpermissible Expenditures

Our examination disclosed that the county expended \$37,720.89 on project No. 17-64000-02 and \$485.10 on project No. 17-64000-001 during 2017 from the County Fee For Local Use Fund for purchases of Type 2A modified stone, which is a nonpermissible expenditure. These expenditures are as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
1141	05/31/17	822379	06/26/17	\$37,720.89
App 1	06/20/17	822851	07/03/17	485.10
Total				<u>\$38,205.99</u>

Stone approved by the Department of Transportation are listed in the Department of Transportation Specifications *Publication 408*, Section 703.2. Type 2A Modified stone is not approved for use by counties in *Publication 408*.

The failure to comply with the Department of Transportation’s *Publication 408* could result in the county having to reimburse \$38,205.99 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$38,205.99 to its Local Use 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 408* regarding permissible stone.

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44, AND ACT 89
TAX FUNDS, AND COUNTY FEE
FOR LOCAL USE FUND
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

Finding - Nonpermissible Expenditures (Continued)

Management's Response

The county officials stated:

We are aware of the situation. We will reimburse title 75 monies. We will also make the new engineer aware of the issue.

Auditor's Conclusion

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

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44, AND ACT 89
TAX FUNDS, AND COUNTY FEE
FOR LOCAL USE FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

An exit conference was held February 26, 2019. Those participating were:

WESTMORELAND COUNTY

Mr. Raymond T. Levay, Director of Accounting and Financial Reporting

Ms. Sara Elias, General Ledger Supervisor

DEPARTMENT OF THE AUDITOR GENERAL

Brian Delaney, CFE, Audit Supervisor

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

WESTMORELAND COUNTY
LIQUID FUELS, ACT 44, AND ACT 89
TAX FUNDS, AND COUNTY FEE
FOR LOCAL USE FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2017

This report was initially distributed to:

The Honorable Leslie Richards
Secretary
Department of Transportation

Westmoreland County
2 North Main Street
Greensburg, PA 15601

The Honorable Gina Cerilli
Chairperson of the Board of Commissioners

The Honorable Jeffrey Balzer
Controller

The Honorable Jared M. Squires
Treasurer

Mr. Raymond T. Levay
Director of Accounting and Financial Reporting

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.