

# ATTESTATION ENGAGEMENT

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Westmoreland County  
Pennsylvania  
64-000

Liquid Fuels Tax Fund  
Act 44 Tax Fund  
Act 89 Tax Fund

County Fee for Local Use Fund  
for the Period  
January 1, 2021 to December 31, 2021

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July 2023



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General

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Department of the Auditor General  
Harrisburg, PA 17120-0018  
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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 Form MS-991 With Adjustments for the Liquid Fuels Tax Fund, the Reports of Act 44 and Act 89 Tax Funds With Adjustments, and the Report of County Fee for Local Use Funds With Adjustments of Westmoreland County for the period January 1, 2021 to December 31, 2021 (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 required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to 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 the Findings And Recommendations and Summary Of Prior Examinations' Recommendations sections of this report:

- On April 12, 2021 the county transferred \$71,593.66 from its Liquid Fuels Tax Fund to its General Fund for the reimbursement of wages and benefits of the county engineers that was originally paid during 2020, which are retroactive expenditures (see Finding No. 1).
- The county expended \$13,717.25 from its County Fee for Local Use Fund for retiree health insurance, which is a nonpermissible expenditure. The county reimbursed \$6,856.43 to its County Fee for Local Use Fund on December 29, 2021. As of the exit conference date of this examination of April 20, 2023, \$6,860.82 remained due to the County Fee for Local Use Fund (see Finding No. 2).
- In our 2020 report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$28,132.20 to its Liquid Fuels Tax Fund for an over expenditure on construction project No. 20-64000-001. We noted that the county reimbursed this amount to its Liquid Fuels Tax Fund on March 18, 2022, which was subsequent to our examination period (see Summary Of 2020 Examination Recommendations).

In our opinion, except for the bulleted matters discussed above, the Forms present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund, the Act 44 Tax Fund, the Act 89 Tax Fund, and the County Fee for Local Use Fund of Westmoreland County, for the period January 1, 2021 to December 31, 2021, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Forms or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

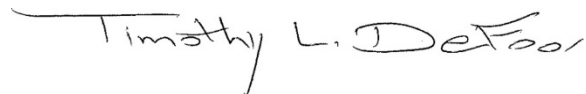
Our consideration of internal control over reporting on the Forms was for the limited purpose of expressing an opinion on whether the Forms are presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Forms are free from material misstatement, we performed tests of 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 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 instance of noncompliance that is required to be reported under *Government Auditing Standards*:

- Retroactive Expenditures.
- Nonpermissible Expenditure.

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 the Bureau of County Audits at 717-787-1363.



Timothy L. DeFoor  
Auditor General  
May 16, 2023

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WESTMORELAND 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, 2021

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.

WESTMORELAND 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, 2021

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.

WESTMORELAND 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, 2021

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.
  - 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.



WESTMORELAND 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, 2021

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.

WESTMORELAND 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, 2021

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.

WESTMORELAND 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, 2021

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.

WESTMORELAND 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, 2021

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.

WESTMORELAND 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, 2021

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 fees 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 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 bridges.
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).

WESTMORELAND 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, 2021

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 Report 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.

WESTMORELAND 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, 2021

Background (Continued)

*Basis Of Accounting*

The accompanying Forms 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 TAX FUND  
2021 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Actual balance in county Liquid Fuels Tax Fund on January 1, 2021	\$ 854,358.15	\$ 78,269.22	\$ 932,627.37
<u>Receipts:</u>			
Liquid Fuels Tax Funds received from Commonwealth	731,252.53	-	731,252.53
Interest	116.87	-	116.87
Reimbursable agreements	372,048.18	-	372,048.18
Miscellaneous	75,830.29	-	75,830.29
	1,179,247.87	-	1,179,247.87
Total receipts			
Total Liquid Fuels Tax Funds available for expenditures and encumbrances	2,033,606.02	78,269.22	2,111,875.24
<u>Expenditures:</u>			
Administrative	98.81	-	98.81
Minor equipment purchases	7,793.51	-	7,793.51
County aid payments	-	-	-
Major equipment expenditures	155,314.80	-	155,314.80
Street cleaning and gutters	-	-	-
Winter maintenance services	158,596.51	-	158,596.51
Traffic control devices	12,955.42	-	12,955.42
Street lighting	6,108.03	-	6,108.03
Storm sewers and drains	25,098.41	-	25,098.41
Repairs of tools and machinery	9,898.80	-	9,898.80
Maintenance and repairs - roads and bridges	300,031.12	-	300,031.12
Highway construction and rebuilding projects	309,906.55	-	309,906.55
Miscellaneous	209,405.55	78,269.22	287,674.77
	1,195,207.51	78,269.22	1,273,476.73
Total expenditures			
Remaining funds available as of December 31, 2021	\$ 838,398.51	\$ -	\$ 838,398.51



WESTMORELAND 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	\$ 38,710.32	\$ -	\$ 38,710.32
Accounts payable	105,835.48	-	105,835.48
Unpaid encumbrances	-	-	-
Unpaid county aid grants	-	-	-
	<hr/>	<hr/>	<hr/>
Total approved future year receipts and expenditures	<u>67,125.16</u>	<u>-</u>	<u>67,125.16</u>
	<hr/>	<hr/>	<hr/>
Year end balance available for future years as of December 31, 2021	<u>\$ 771,273.35</u>	<u>\$ -</u>	<u>\$ 771,273.35</u>

WESTMORELAND COUNTY  
2021 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2021	\$ 218,105.57	\$ -	\$ 218,105.57
<u>Receipts:</u>			
Act 44 Funds	44,238.37	-	44,238.37
Interest	69.94	-	69.94
Reimbursable agreements	-	-	-
Miscellaneous	-	78,269.22	78,269.22
Total receipts	<u>44,308.31</u>	<u>78,269.22</u>	<u>122,577.53</u>
Total funds available	<u>262,413.88</u>	<u>78,269.22</u>	<u>340,683.10</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	10,825.06	-	10,825.06
Highway Construction and			
Rebuilding Projects	7,460.53	-	7,460.53
Miscellaneous	-	78,269.22	78,269.22
Total expenditures	<u>18,285.59</u>	<u>78,269.22</u>	<u>96,554.81</u>
Balance, December 31, 2021	<u>\$ 244,128.29</u>	<u>\$ -</u>	<u>\$ 244,128.29</u>

WESTMORELAND COUNTY  
2021 REPORT OF ACT 89 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Balance, January 1, 2021	\$ 332,232.86	\$ (78,269.22)	\$ 253,963.64
<u>Receipts:</u>			
Act 89 Funds	85,856.65	78,269.22	164,125.87
Interest	127.52	-	127.52
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>85,984.17</u>	<u>78,269.22</u>	<u>164,253.39</u>
Total funds available	<u>418,217.03</u>	<u>-</u>	<u>418,217.03</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	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2021	<u>\$ 418,217.03</u>	<u>\$ -</u>	<u>\$ 418,217.03</u>

WESTMORELAND 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	\$ 2,114,502.60	\$ -	\$ 2,114,502.60
<u>Receipts:</u>			
Local Use Funds	1,859,830.00	-	1,859,830.00
Interest	504.28	-	504.28
Reimbursable agreements	-	-	-
Miscellaneous	41,270.37	-	41,270.37
Total receipts	<u>1,901,604.65</u>	<u>-</u>	<u>1,901,604.65</u>
Total funds available	<u>4,016,107.25</u>	<u>-</u>	<u>4,016,107.25</u>
<u>Expenditures:</u>			
County-Owned road maintenance	613,789.30	(587,809.30)	25,980.00
County-Owned road construction	-	1,527,389.70	1,527,389.70
County-Owned bridge maintenance	1,674,118.00	(954,312.26)	719,805.74
County-Owned bridge construction	-	-	-
Administrative expenditures	-	1,634.61	1,634.61
Miscellaneous	620.00	13,097.25	13,717.25
Grants to political subdivisions	-	-	-
Total expenditures	<u>2,288,527.30</u>	<u>-</u>	<u>2,288,527.30</u>
Balance, December 31, 2021	<u>\$ 1,727,579.95</u>	<u>\$ -</u>	<u>\$ 1,727,579.95</u>

WESTMORELAND 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, 2021

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

An adjustment of \$78,269.22 was made to “Balance, January 1, 2021” because of prior report adjustments that were not carried forward in the fund balance.

An adjustment of \$78,269.22 was made to “Miscellaneous” because a correction of a deposit in error was not reported (see Summary Of 2020 Examination Recommendations).

2021 Report of Act 44 Tax Fund

An adjustment of \$78,269.22 was made to “Miscellaneous” because a deposit in error was not reported (see Summary Of 2020 Examination Recommendations).

An adjustment of \$78,269.22 was made to “Miscellaneous” because a correction of a deposit in error was not reported (see Summary Of 2020 Examination Recommendations).

2021 Report of Act 89 Tax Fund

An adjustment of \$(78,269.22) was made to “Balance, January 1, 2021” because of a prior report adjustment that was not carried forward in the fund balance.

An adjustment of \$78,269.22 was made to “Act 89 Funds” because the Act 89 Tax Fund allocations were understated (see Summary Of 2020 Examination Recommendations).

2021 Report of County Fee For Local Use Funds

Adjustments were made to “County - Owned road maintenance,” “County - Owned road construction,” “County - Owned bridge maintenance,” “Administrative expenditures” and “Miscellaneous” because expenditures of \$1,542,121.56 were misclassified.

WESTMORELAND 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, 2021

Reimbursable Agreements

During our examination, we noted that the county entered into reimbursable agreements with the Department of Transportation for bridge inspections and construction costs. During our current examination period, the county received \$410,666.07 as a result of these agreements and deposited this money into its Liquid Fuels Tax Fund. This amount consisted of \$372,048.18 of 2021 reimbursements and \$38,617.89 of 2021 accounts receivables. As of December 31, 2021, \$3,983.60 was due the Liquid Fuels Tax Fund.

Miscellaneous Receipts

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

Source	Description	Amount
General Fund	Reimbursement for snow fence	\$ 399.92
Commonwealth of Pennsylvania	Reimbursement for bridge lighting	699.89
Local Businesses	Permit fees	290.00
Commonwealth of Pennsylvania	Gas tax refund	9,942.29
Westmoreland County Treasurer	Reimbursement for P-card errors	133.94
Commonwealth of Pennsylvania	Deposit in error	64,364.25
Total		<u>\$75,830.29</u>

WESTMORELAND 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, 2021

Miscellaneous Receipts (Continued)

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

<u>Source</u>	<u>Description</u>	<u>Amount</u>
Westmoreland County Treasurer	Reimbursement of employee health insurance	\$12,863.10
Westmoreland County Treasurer	Reimbursement (Summary of 2018-2019 examination recommendation)	13,258.00
Westmoreland County Treasurer	Reimbursement (Finding No. 2)	6,856.43
Westmoreland County Treasurer	Reimbursement of 2020 retiree health insurance	8,292.84
Total		<u>\$41,270.37</u>

Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>Amount</u>
Act 44 Fund	Reimbursement (Summary Of 2020 Examination Recommendations)	\$ 78,269.22
Act 13 Fund	Correction of deposit in error	209,405.55
Total		<u>\$287,674.77</u>

WESTMORELAND 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, 2021

Deposits In Error

During our prior examination, we noted that on April 6, 2020, the county deposited \$209,405.55 from the Commonwealth of Pennsylvania into its Liquid Fuels Tax Fund in error. These funds were for the reimbursement of a bridge construction invoice paid from the Act 13 Fund. On November 1, 2021, the county transferred this amount from its Liquid Fuels Tax Fund to its Act 13 Fund to correct the deposit in error.

On December 21, 2021, the county deposited \$64,364.25 from the Commonwealth of Pennsylvania into its Liquid Fuels Tax Fund in error. The county transferred this amount from its Liquid Fuels Tax Fund to its Act 89 Fund, to correct the deposit in error on January 27, 2022, which was subsequent to our examination period.

Lease Agreement

On July 1, 2016, the county entered into a lease agreement with Enterprise Fleet Management to lease a 2016 Ford F350 for \$33,923.73. The agreement was for a term of five years. The total monthly payment is \$637.89. This includes \$508.86 in fixed costs for depreciation reserve at 1.5 percent, \$85.05 monthly lease charge, and \$43.98 for full maintenance. The lease agreement is for 60 payments of the fixed cost payment of \$508.86 with a buyout remaining after those payments of \$3,392.13. Prior years' payments from the Liquid Fuels Tax Fund were \$8,650.62. Additionally, the municipality paid \$18,827.82 from the General Fund.

During the current examination period, the county paid lease payments of \$3,053.16 from the Liquid Fuels Tax Fund. The lease was up in July 2021, but the county did not do the buyout and was waiting on a new truck to lease through Enterprise. Therefore, the county paid additional monthly rental payments of \$2,553.53 from the Liquid Fuels Tax Fund during the current examination period. These amounts are reflected in major equipment purchases on the 2021 Form MS-991. As of December 31, 2021 the book value for the lease buyout was \$3,392.13.



WESTMORELAND 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, 2021

Lease Agreement

On June 1, 2019, the county entered into a lease agreement with Enterprise Fleet Management to lease a 2019 Chevrolet Tahoe for \$42,062.09. The agreement was for a term of five years. The total monthly payment is \$797.63. This includes \$630.93 in fixed costs for depreciation reserve at 1.5 percent, \$128.72 monthly lease charge, and \$37.98 for full maintenance. The lease agreement is for 60 payments of the fixed cost payment of \$630.93 with a buyout remaining after those payments of \$4,206.29. Prior years' payments from the Liquid Fuels Tax Fund were \$11,987.67.

During the current examination period, the county paid payments of \$6,940.23 from the Liquid Fuels Tax Fund. This amount is reflected in major equipment purchases on the 2021 Form MS-991. The outstanding balance of the lease agreement as of December 31, 2021 was \$23,134.19.

WESTMORELAND 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, 2021

**Finding No. 1 - Retroactive Expenditures**

Our examination disclosed that on April 12, 2021 the county transferred \$71,593.66 from its Liquid Fuels Tax Fund to its General Fund for the reimbursement of wages and benefits of the county engineers that was originally paid during 2020, which are retroactive expenditures.

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

Unacceptable Expenditures

10. Retroactive expenditures.

Because these expenditures were paid from the General Fund during 2020, and were not reimbursed with Liquid Fuels Tax Fund money until April 12, 2021, the expenditures incurred were not reimbursed in a reasonable period of time. Therefore, the county did not comply with the Department of Transportation's *Publication 9*.

The condition occurred due to a change in personnel and the new employee was not aware that this was not taken care of by the previous employee.

The failure to follow the Department of Transportation's *Publication 9* could result in the county having to reimburse \$71,593.66 to its Liquid Fuels Tax Fund.

Recommendations

We recommend that the county reimburse \$71,593.66 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 Department of Transportation's *Publication 9* as noted above.

WESTMORELAND 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, 2021

**Finding No. 1 - Retroactive Expenditures (Continued)**

Management's Response

The county officials stated:

The individual that took over the position was unaware that wages for prior year were not taken care of. When it was caught, it was immediately taken care of. Human error.

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  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2021

**Finding No. 2 - Nonpermissible Expenditure**

Our examination disclosed that the county expended \$13,717.25 during 2021 from the County Fee for Local Use Fund for retiree health insurance, which is a nonpermissible expenditure.

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

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including retiree health insurance, are outside the scope of permissible expenditures.

The condition occurred because the county was not aware that this was a nonpermissible expenditure.

On December 29, 2021, the county reimbursed \$6,856.43 to the County Fee for Local Use Fund.

The failure to comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation’s Regulations could result in the county having to reimburse \$6,860.82 to its County Fee for Local Use Fund.

**Recommendations**

We recommend that the county reimburse \$6,860.82 to its County Fee for Local Use Fund upon official notification by the Department of Transportation.

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

WESTMORELAND 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, 2021

**Finding No. 2 - Nonpermissible Expenditure (Continued)**

Management's Response

The county officials stated:

Since we started this report in 2016, we were never told we were not allowed to pay retiree's health insurance that worked on local use until now, 7 years later.

Auditor's Conclusion

The Department of Transportation will determine if the county is required to reimburse \$6,860.82 to its County Fee for Local Use Fund. 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 PRIOR EXAMINATIONS' RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2021 TO DECEMBER 31, 2021

Summary Of 2018-2019 Examination Recommendation

In our 2018-2019 report, we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$13,258.00 to its Liquid Fuels Tax Fund for failing to maintain documentation for price quotations.

During our prior examination, we reviewed a letter dated April 5, 2021, from the Department of Transportation directing the county to reimburse \$13,258.00 to its Liquid Fuels Tax Fund. We noted that the county deposited this amount into its County Fee for Local Use Fund on May 3, 2021.

Summary Of 2020 Examination Recommendations

In our 2020 report, we disclosed that the county deposited the 2020 Act 89 Tax Fund allocations of \$38,530.23 and \$39,738.99 into the Liquid Fuels Tax Fund on June 5, 2020 and December 10, 2020, respectively, which is in noncompliance with the Liquid Fuels and Liquid Fuels Tax Act.

We further noted that on January 22, 2021, the county transferred \$38,530.23 and \$39,738.99 from the Liquid Fuels Tax Fund to the Act 44 Tax Fund in error. The county then corrected the error by transferring these funds to the Act 89 Tax Fund on January 25, 2021.

In our 2020 report, we also recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$28,132.20 to its Liquid Fuels Tax Fund for an over expenditure on construction project No. 20-64000-001.

During our current examination, we reviewed a letter dated March 9, 2022, from the Department of Transportation directing the county to reimburse \$28,132.20 to its Liquid Fuels Tax Fund. We noted that the county reimbursed this amount to its Liquid Fuels Tax Fund on March 18, 2022, which was subsequent to our examination period.

In our 2020 report, we also recommended that the county:

- Deposit all Act 89 tax money promptly into the Act 89 Tax Fund.
- Expend only the approved amount of Liquid Fuels Tax Fund money on road construction projects.

During our current examination, we noted that 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, 2021 TO DECEMBER 31, 2021

An exit conference was held April 20, 2023. Those participating were:

WESTMORELAND COUNTY

Mrs. Sara K. Elias, Director of Accounting and Financial Reporting

Mrs. Katie Bianco, General Ledger Supervisor

DEPARTMENT OF THE AUDITOR GENERAL

Mrs. Debra L. Alsippi, Audit Supervisor

Ms. Penelope Fjellanger, Auditor

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, 2021 TO DECEMBER 31, 2021

This report was initially distributed to:

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

**Westmoreland County**  
2 North Main Street  
Suite 101  
Greensburg, PA 15601

**The Honorable Sean Kertes**  
Chairman of the Board of Commissioners

**The Honorable Jeffrey Balzer**  
Controller

**The Honorable Jared M. Squires**  
Treasurer

**Mrs. Sara K. Elias**  
Director of Accounting and Financial Reporting

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