ATTESTATION ENGAGEMENT

Westmoreland County
Pennsylvania
64-000
Liquid Fuels Tax Fund,
Act 44 Tax Fund,
Act 89 Tax Fund and,
County Fee for Local Use Fund
For the Period
January 1, 2022 to December 31, 2022

August 2024



Commonwealth of Pennsylvania Department of the Auditor General

Timothy L. DeFoor • Auditor General



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

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, 2022 to December 31, 2022 (Forms). The county's management is responsible for presenting the Forms in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. Our responsibility is to express an opinion on the Forms based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. 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 qualified opinion.

We are required to be independent and to meet our other ethical responsibilities in accordance with ethical requirements relating to the engagement.

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Forms are made by the Department of the Auditor General.

<u>Independent Auditor's Report (Continued)</u>

As discussed in the Findings and Recommendations and Summary Of Prior Examinations' Recommendations sections of this report:

- On December 28, 2021, the county transferred \$3,751.70 from the County Fee For Local Use Account to the General Fund to reimburse a retiree health insurance invoice for the fourth quarter 2021. During our current examination, the county transferred \$3,722.30 from the County Fee For Local Use Account to the General Fund on January 2, 2022, for the same invoice. This amount is also included in Finding No. 2 (see Finding No. 1).
- The county expended \$22,585.53 during 2022 from the County Fee For Local Use Fund for retiree health insurance, which is a nonpermissible expenditure (see Finding No. 2).
- In our prior report, we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$71,593.66 for retroactive expenditures to its Liquid Fuels Tax Fund and \$6,860.82 for a nonpermissible expenditure to its County Fee for Local Use Fund. We noted that the county reimbursed \$71,593.66 to its Liquid Fuels Tax Fund on July 21, 2023, and \$6,860.82 to its County Fee For Local Use Fund on July 24, 2023, which were both subsequent to our examination period (Summary Of 2021 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, 2022 to December 31, 2022, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

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

<u>Independent Auditor's Report (Continued)</u>

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 was for the limited purpose of expressing an opinion on whether the Forms are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a material weakness in internal control:

• Duplicate Reimbursement Of Invoice.

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*:

• Nonpermissible Expenditure - Recurring.

Timothy L. Detoor

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

July 23, 2024

CONTENTS

Page

Background	1
Financial Section:	
2022 Form MS-991 With Adjustments	11
2022 Report Of Act 44 Tax Fund With Adjustments	13
2022 Report Of Act 89 Tax Fund With Adjustments	14
2022 Report Of County Fee For Local Use Funds With Adjustments	15
Auditor Description Of Select Transactions	16
Findings And Recommendations:	
Finding No. 1 - Duplicate Reimbursement Of Invoice	22
Finding No. 2 - Nonpermissible Expenditure - Recurring	24
Summary Of Prior Examinations' Recommendations	26
Summary Of Onsite Closeout Meeting	27
Report Distribution	28

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 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.

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.

- Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and
- Individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.
- (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.
- (4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.
- (5) Counties must submit a report to the Pennsylvania Department of Transportation by January 31 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation may withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.
- B. *The Vehicle Code*, as amended by Act 44 of 2007 (July 18, 2007, P.L. 169) and Act 89 of 2013 (November 25, 2013, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Commonwealth's Motor License Fund. The County's Act 44 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

- (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.

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

- 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.

- (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.
 - 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.

Background (Continued)

- (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation.
- (4) Each county that has adopted a fee for local use ordinance must submit a set of annual reports showing the receipts and expenditures of all fee for local use funds received from the Commonwealth on forms supplied by the Center for Program Development and Management.

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the 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 do not constitute complete financial presentations of the county's assets, liabilities, expenses, and fund balance but include the receipts, expenditures, and fund balances of the County Liquid Fuels Tax Fund, the County Act 44 Tax Fund, the County Act 89 Tax Fund, and the County Fee For Local Use Fund, respectively.

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

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

Background (Continued)

- G. The balance in the fund at the close of the report calendar year.
- H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

The Pennsylvania Department of Transportation prescribes that the county report the following on the Reports Of Act 44 Tax Fund and Act 89 Tax Fund:

- A. The balance in the County Act 44 and Act 89 Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include the County's Act 44 and Act 89 allocations, interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.
- C. Total Act 44 and Act 89 funds available for expenditure.
- D. Expenditures for county-owned bridges.
- E. The balance in the fund at the close of the report calendar year.

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

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

Background (Continued)

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 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 TAX FUND 2022 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments	Adjusted Amount
Actual balance in county Liquid			
Fuels Tax Fund on January 1, 2022	\$ 838,398.51	\$ -	\$ 838,398.51
Receipts:			
Liquid Fuels Tax Funds received			
from Commonwealth	749,014.11	-	749,014.11
Interest	5,190.26	-	5,190.26
Reimbursable agreements	129,061.58	_	129,061.58
Miscellaneous	33,331.81	87,735.50	121,067.31
Total receipts	916,597.76	87,735.50	1,004,333.26
Total Liquid Fuels Tax Funds available			
for expenditures and encumbrances	1,754,996.27	87,735.50	1,842,731.77
or experiences and encumbrances	1,734,770.27		1,042,731.77
Expenditures:			
Administrative	635.93	110.00	745.93
Minor equipment purchases	40,250.55	-	40,250.55
County aid payments	-	-	-
Major equipment expenditures	11,733.00	-	11,733.00
Street cleaning and gutters	-	-	-
Winter maintenance services	123,407.74	-	123,407.74
Traffic control devices	25,976.99	(11,514.57)	14,462.42
Street lighting	16,205.02	-	16,205.02
Storm sewers and drains	21,556.27	-	21,556.27
Repairs of tools and machinery	39,605.10	-	39,605.10
Maintenance and repairs - roads and			
bridges	157,869.92	73,026.44	230,896.36
Highway construction and rebuilding			
projects	724,845.34	11,514.57	736,359.91
Miscellaneous	137,500.69	14,599.06	152,099.75
Total expenditures	1,299,586.55	87,735.50	1,387,322.05
Remaining funds available as of			
December 31, 2022	\$ 455,409.72	\$ -	\$ 455,409.72

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

2022 Form MS-991 With Adjustments (Continued)

		Reported	Adjı	ustments		Adjusted Amount
Approved future year receipts and expenditures						
Accounts receivable	\$	46,711.39	\$	_	\$	46,711.39
Accounts payable	Ψ	135,786.24	Ψ	_	4	135,786.24
Unpaid encumbrances		-		-		, -
Unpaid county aid grants				_		
Total approved future year receipts and expenditures		89,074.85		_		89,074.85
and expenditures	_	02,074.03				07,074.03
Year end balance available for future years as of December 31, 2022	\$	366,334.87	\$	-	\$	366,334.87

WESTMORELAND COUNTY 2022 REPORT OF ACT 44 TAX FUND WITH ADJUSTMENTS

	 Reported	 Adjustments	 Adjusted Amount
Balance, January 1, 2022	\$ 244,128.29	\$ -	\$ 244,128.29
Receipts:			
Act 44 Funds	45,539.03	-	45,539.03
Interest	4,224.48	-	4,224.48
Reimbursable agreements	-	-	-
Miscellaneous	 		
Total receipts	 49,763.51	 	 49,763.51
Total funds available	 293,891.80		293,891.80
Expenditures:			
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	1,902.38	(1,902.38)	-
Highway Construction and			
Rebuilding Projects	-	-	-
Miscellaneous	 	 45,539.03	 45,539.03
Total expenditures	 1,902.38	 43,636.65	 45,539.03
Balance, December 31, 2022	\$ 291,989.42	\$ (43,636.65)	\$ 248,352.77

WESTMORELAND COUNTY 2022 REPORT OF ACT 89 TAX FUND WITH ADJUSTMENTS

	Reported	 Adjustments	Adjusted Amount
Balance, January 1, 2022	\$ 418,217.03	\$ -	\$ 418,217.03
Receipts:			
Act 89 Funds	84,816.99	-	84,816.99
Interest	8,018.89	-	8,018.89
Reimbursable agreements	-	-	-
Miscellaneous		45,539.03	45,539.03
Total receipts	 92,835.88	 45,539.03	 138,374.91
Total funds available	 511,052.91	45,539.03	 556,591.94
Expenditures:			
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	-	1,902.38	1,902.38
Highway Construction and Rebuilding Projects	_	_	_
Miscellaneous	 		
Total expenditures		 1,902.38	1,902.38
Balance, December 31, 2022	\$ 511,052.91	\$ 43,636.65	\$ 554,689.56

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

	Reported	Adjustments	Adjusted Amount
Balance, January 1, 2022	\$ 1,727,579.95	\$ -	\$ 1,727,579.95
Receipts:			
Local Use Funds	1,801,280.00	-	1,801,280.00
Interest	30,786.21	-	30,786.21
Reimbursable agreements	-	-	-
Miscellaneous	12,851.48		12,851.48
Total receipts	1,844,917.69		1,844,917.69
Total funds available	3,572,497.64		3,572,497.64
Expenditures:			
County-Owned road maintenance	537,991.76	(537,991.76)	-
County-Owned road construction	-	897,253.77	897,253.77
County-Owned bridge maintenance	1,107,303.53	(339,938.26)	767,365.27
County-Owned bridge construction	-	-	-
Administrative expenditures	-	-	-
Miscellaneous	19,323.75	(19,323.75)	-
Grants to political subdivisions			
Total expenditures	1,664,619.04		1,664,619.04
Balance, December 31, 2022	\$ 1,907,878.60	\$ -	\$ 1,907,878.60

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

Adjustments

2022 Form MS-991

An adjustment of \$87,735.50 was made to "Miscellaneous" because a correction of a transfer in error for \$43,867.75 was not reported and the erroneous deposit of the Act 89 allocation for \$43,867.75 was not reported.

An adjustment of \$110.00 was made to "Administrative" because these expenditures were misclassified as miscellaneous.

An adjustment of \$(11,514.57) was made to "Traffic control devices" because expenditures for highway construction and rebuilding projects were misclassified.

An adjustment of \$73,026.44 was made to "Maintenance and repairs - roads and bridges" because these expenditures were misclassified as miscellaneous.

An adjustment of \$11,514.57 was made to "Highway construction and rebuilding projects" because these expenditures were misclassified as traffic control devices.

An adjustment of \$14,599.06 was made to "Miscellaneous" because \$110.00 of administrative expenditures and \$73,026.44 of maintenance and repair expenditures were misclassified as miscellaneous and transfers in error of \$87,735.50 were not reported.

2022 Report of Act 44 Tax Fund

An adjustment of \$(1,902.38) was made to "Maintenance and repairs- roads and bridges" because there were no expenditures for the maintenance and repairs of roads and bridges.

An adjustment of \$45,539.03 was made to "Miscellaneous" because a transfer of Act 44 money to the Act 89 Tax Fund was not reported.

Adjustments (Continued)

2022 Report of Act 89 Tax Fund

An adjustment of \$45,539.03 was made to "Miscellaneous" because a transfer of Act 44 money to the Act 89 Tax Fund was not reported.

An adjustment of \$1,902.38 was made to "Maintenance and repairs- roads and bridges" because these expenditures were understated.

2022 Report of County Fee For Local Use Funds

Adjustments were made to "County-Owned Road maintenance," "County-Owned road construction," "County-Owned bridge maintenance," and "Miscellaneous" because expenditures of \$897,253.77 were misclassified.

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 \$129,061.58 as a result of these agreements and deposited this money into its Liquid Fuels Tax Fund. As of December 31, 2022, \$8,848.19 was due to the Liquid Fuels Tax Fund.

Miscellaneous Receipts - Liquid Fuels Tax Fund

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

Source	Description	Amount
Westmoreland County	Reimbursement (Summary Of 2020 Examination Recommendation)	\$ 28,132.20
Commonwealth of Pennsylvania	Gas tax refund	3,205.72
Vendor	Sale of scrap metal	534.20
Vendor	Permit fees	545.00
Commonwealth of Pennsylvania	Reimbursement for bridge lighting	772.74
Westmoreland County	Reimbursement for July 2022 P-card error	119.95
Westmoreland County	Partial reimbursement of invoice	22.00
General Fund	Correction of transfer in error	43,867.75
Commonwealth of Pennsylvania	Deposit in error	43,867.75
Total		\$121,067.31

Miscellaneous Receipts - Act 89 Fund

On December 8, 2022, the county transferred \$45,539.03 from its General Fund into its Act 89 Fund for the correction of a deposit in error.

Miscellaneous Receipts - County Fee For Local Use Fund

The following miscellaneous receipts were deposited into the Local Use Tax Fund during the examination period:

Source	Description	Amount
Westmoreland County Treasurer	Employee health insurance reimbursement	\$12,476.92
Westmoreland County Treasurer	Retiree health insurance reimbursement	374.56
Total		\$12,851.48

Miscellaneous Expenditures - Liquid Fuels Tax Fund

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

Payee	Description	Amount
Act 13 Fund	Correction of 2021 deposit in error	\$ 64,364.25
General Fund	Transfers in error	87,735.50
Total		\$152,099.75

Miscellaneous Expenditures - Act 44 Fund

On December 8, 2022, the county transferred \$45,539.03 from the Act 44 Tax Fund to the Act 89 Fund to temporarily hold the money before a new Act 44 Tax Fund account was opened.

Deposits In Error

During our prior examination, we noted that on December 21, 2021, the county deposited \$64,364.25 that was received 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 13 Fund to correct the deposit in error on January 27, 2022.

On December 1, 2022, the Commonwealth of Pennsylvania electronically deposited the county's Liquid Fuels Tax Fund allocation of \$382,520.74 into its General Fund in error. On December 8, 2022, the county transferred this amount from its General Fund to its Liquid Fuels Tax Fund to correct the deposit in error.

On December 12, 2022, the Commonwealth of Pennsylvania electronically deposited the county's Act 89 Tax Fund allocation of \$43,867.75 into its Liquid Fuels Tax Fund in error. On December 12, 2022, the county incorrectly transferred this amount from its Liquid Fuels Tax Fund to its Act 44 Tax Fund to correct the deposit in error. On December 13, 2022, the county correctly transferred this amount from its Act 44 Tax Fund to its Act 89 Tax Fund to correct the deposit in error.

On December 1, 2022, the Commonwealth of Pennsylvania electronically deposited the county's Act 44 Tax Fund allocation of \$45,539.03 into its General Fund in error. On December 8, 2022, the county transferred this amount from its General Fund to its Act 44 Fund to correct the deposit in error.

Transfers In Error

On December 8, 2022, the county transferred \$43,867.75 from its General Fund to its Liquid Fuels Tax Fund in error. On December 12, 2022, the county transferred this amount from its Liquid Fuels Tax Fund to its General Fund to correct the transfer in error.

On December 8, 2022, the county closed one of their two Act 44 accounts and transferred the remaining balance of \$45,539.03 to its Act 89 Tax Fund to be maintained until the opening of the new Act 44 Tax Fund account. The county transferred \$45,539.03 from its Act 89 Tax Fund to a new Act 44 Tax Fund account on January 17, 2023, which was subsequent to our examination.

Lease Agreement

On July 1, 2016, the county entered into a lease agreement with Enterprise Fleet Management to lease a 2016 Ford F-350 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 \$11,703.78. Additionally, the county paid \$18,827.82 from the General Fund. The lease term ended 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 during prior years from the Liquid Fuels Tax Fund.

During the current examination period, the county paid rental payments of \$1,026.54 and management fees of \$337.27 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2022 Form MS-991. As of December 31, 2022, the book value for the lease buyout was \$3,392.13. After our examination, this truck was traded in on a new 2022 Ford F-350.

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 \$18,927.90.

During the current examination period, the county paid payments of \$8,202.09 from the Liquid Fuels Tax Fund. These amounts are reflected in major equipment purchases on the 2022 Form MS-991. The outstanding balance of the lease agreement as of December 31, 2022, was \$14,932.10.

Finding No. 1 - Duplicate Reimbursement Of Invoice

Our prior examination disclosed that on December 28, 2021, the county transferred \$3,751.70 from the County Fee For Local Use Account to the General Fund to reimburse a retiree health insurance invoice for the fourth quarter 2021. During our current examination, the county transferred \$3,722.30 from the County Fee For Local Use Account to the General Fund on January 2, 2022, for the same invoice.

Although this money should be reimbursed to the County Fee For Local Use Fund, the primary concern is the inadequate internal controls which enabled the duplicate reimbursement of \$3,722.30 to remain undetected.

Good business practices include the implementation of internal controls to prevent duplicate transfers and/or detect duplicate transfers in a timely manner.

We were unable to determine why this condition occurred.

The amount of the duplicate reimbursement is also included in Finding No. 2 for nonpermissible expenditures.

Recommendations

If the Department of Transportation does not require reimbursement for Finding No. 2, we recommend that the municipality reimburse \$3,722.30 to its County Fee For Local Use Fund upon official notification by the Department of Transportation.

We also recommend that the county establish and implement internal controls to reduce the risk of duplicate transfers being made and remaining undetected.

Finding No. 1 - Duplicate Reimbursement Of Invoice (Continued)

Management's Response

The county officials stated:

Fiscal journaled an additional payment to local use without realizing part of No. 2's finding reimbursement.

Auditor's Conclusion

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

Finding No. 2 - Nonpermissible Expenditure - Recurring

We cited the county for a nonpermissible expenditure in our prior examination for the period January 1, 2021 to December 31, 2021. Our current examination disclosed that the county expended \$22,585.53 during 2022 from the County Fee For Local Use Fund for retiree health insurance, which is a nonpermissible expenditure.

The Department of Transportation *Publication 9, Chapter 5.8*, states:

... Consequently, fee for local use funds can only be used by counties or others if distributed by a county under Section 9010(c) or by application, for construction, maintenance and repair of and safety on public highways and bridges and costs and expenses incident thereto.

Furthermore, *Publication 9, Chapter 5.8.1, Examples of Acceptable Expenditures*, states:

26. Administrative costs to a maximum of 10% of that year's total allocation, including benefits, overhead, and other administrative charges for county employees directly involved in permitted activities.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of County Fee For Local Use 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 during 2022. The county was made aware that this was a nonpermissible expenditure at our prior examination exit conference held on April 20, 2023.

The failure to comply with the County Fee For Local Use Fund and the Department of Transportation's Regulations could result in the county having to reimburse \$22,585.53 to its County Fee For Local Use Fund.

Recommendations

We recommend that the county reimburse \$22,585.53 to its County Fee For Local Use Fund upon official notification by the Department of Transportation.

We further recommend that the county comply with the Department of Transportation's *Publication 9* regarding nonpermissible expenditures.

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

Management's Response

The county officials stated:

We became aware of the nonpermissible retiree expense during the 2021 audit which was completed in 2023 and 2022 was already closed out. It has already been corrected for all of 2023.

Auditor's Conclusion

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

Summary Of 2020 Prior Examination Recommendation

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.

During our prior 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 its Liquid Fuels Tax Fund on March 18, 2022.

Summary Of 2021 Examination Recommendations

In our 2021 report, we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$71,593.66 for retroactive expenditures to its Liquid Fuels Tax Fund and \$6,860.82 for a nonpermissible expenditure to its County Fee for Local Use Fund.

During our current examination, we reviewed a letter dated July 12, 2023, from the Department of Transportation directing the county to reimburse \$71,593.66 to its Liquid Fuels Tax Fund and \$6,860.82 to its County Fee For Local Use Fund. We noted that the county reimbursed \$71,593.66 to its Liquid Fuels Tax Fund on July 21, 2023, and \$6,860.82 to its County Fee For Local Use Fund on July 24, 2023, which were both subsequent to our examination period.

In our 2021 report, we also recommended that:

- The county comply with the Department of Transportation's *Publication 9* regarding retroactive expenditures.
- The county comply with the Liquid Fuels and Fuels Tax Act and the Department of Transportation's Regulations regarding permissible expenditures.

During our current examination, we noted that the county complied with our first bulleted recommendation. However, the county did not comply with our second bulleted recommendation (see Finding No. 2).

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

An onsite closeout meeting was held December 7, 2023. Those participating were:

WESTMORELAND COUNTY

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

Mrs. Katie Bianco, General Ledger Supervisor

Ms. Tawnya Faulk, General Ledger Accountant

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Brian Delaney, Audit Supervisor

Ms. Lizann Tokarski, Auditor

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

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.