

# ATTESTATION ENGAGEMENT

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Borough of McSherrystown

Adams County, Pennsylvania

01-409

Liquid Fuels Tax Fund

For the Period

January 1, 2023 to December 31, 2024

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September 2025



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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Department of the Auditor General  
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TIMOTHY L. DEFOOR  
AUDITOR GENERAL

### Independent Auditor's Report

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

We have examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of McSherrystown, Adams County, for the period January 1, 2023 to December 31, 2024. The municipality's management is responsible for presenting the Forms MS-965 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 MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-965 are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-965. 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 MS-965, 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 discussed in the Finding And Recommendations section of this report, during 2023 the borough expended \$39,900.00 for construction project No. 23-01409-001 without properly advertising for bids.

### Independent Auditor's Report (Continued)

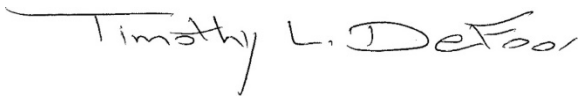
In our opinion, except for the effects of the deviation from the criteria discussed in the preceding paragraph, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of McSherrystown, Adams County, for the period January 1, 2023 to December 31, 2024, 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, regulations, contracts, or grant agreements that have a material effect on the Forms MS-965; and any other instances that warrant the attention of those charged with governance. 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 MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed the following finding that is required to be reported under *Government Auditing Standards*:

- Noncompliance With Advertising And Bidding Requirements.

The purpose of this report is to provide information related to the municipality's Liquid Fuels Tax Fund to assist the Pennsylvania Department of Transportation in fulfilling its regulatory authority as described in the laws and regulations identified in the Background section of this report and the Pennsylvania Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

We appreciate the courtesy extended by the Borough of McSherrystown, Adams 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  
August 27, 2025

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BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

Background

The Liquid Fuels Tax Municipal Allocation Law<sup>1</sup> provides municipalities other than counties (i.e., townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based upon: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage maintained by all political subdivisions making application in the county; and (2) 50 percent on the proportion of a municipality's population to the total population of all municipalities making application in the state.<sup>2</sup>

Section 9511 (relating to Allocation of proceeds) of the Pennsylvania Vehicle Code provides municipalities with annual maintenance payments to be received from the Motor License Fund.<sup>3</sup>

Each municipality must deposit the allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In such a case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).

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<sup>1</sup> 72 P.S. § 2615.1 *et seq.*, Act 655 of 1956, as amended.

<sup>2</sup> 75 Pa.C.S. § 9010(c)(1)-(2) as last amended by Act 89 of 2013.

<sup>3</sup> 75 Pa.C.S. § 9511, as last amended by Act 89 of 2013 and Act 101 of 2016, *See also* 72 P.S. § 2615.4, as last amended by Act 42 of 2013.

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

Background (Continued)

2. Make deposits and payments or expenditures in compliance with Act 655, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts that can be placed into the Liquid Fuels Tax Fund.
3. Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31<sup>st</sup> and the Survey of Financial Condition By March 15<sup>th</sup>.
4. Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
5. Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

*Criteria*

The criteria for the Form MS-965 With Adjustment are described below.

Section 1 of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment with varying yearly costs in excess of the amounts indicated below:

<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
<u>\$11,500.00</u>	<u>\$11,800.00</u>	<u>\$12,200.00</u>	<u>\$12,600.00</u>

- Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs that are less than or equal to the amounts indicated below:

<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
<u>\$11,500.00</u>	<u>\$11,800.00</u>	<u>\$12,200.00</u>	<u>\$12,600.00</u>

- Agility projects are exchanges of services with the Department of Transportation.

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

Background (Continued)

Section 2 of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

Section 3 of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

Background (Continued)

*Basis of Presentation*

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Form MS-965 has been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the Fuels Tax Act 655, as amended, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Form MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity's financial activities.

*Basis Of Accounting*

The accompanying Forms MS-965 With Adjustments is 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.

*General Fixed Assets*

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.



BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
2023 FORM MS-965 – SECTION 1  
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	29,396.43	-	29,396.43
Storm sewers and drains	1,769.28	-	1,769.28
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	1,394.24	-	1,394.24
Highway construction and rebuilding projects	39,900.00	-	39,900.00
Miscellaneous	1,998.00	-	1,998.00
Total (To Section 2, Line 5)	<u>\$ 74,457.95</u>	<u>\$ -</u>	<u>\$ 74,457.95</u>

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
2023 FORM MS-965 – SECTION 2  
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2023	\$ 442,480.29	\$ -	\$ 442,480.29
Receipts:			
2. State allocation	84,053.71	-	84,053.71
2a. Turnback allocation	-	-	-
2b. Interest on investments	465.73	-	465.73
2c. Miscellaneous	564.28	-	564.28
3. Total receipts	85,083.72	-	85,083.72
4. Total funds available	527,564.01	-	527,564.01
5. Expenditures (Section 1)	74,457.95	-	74,457.95
6. Balance, December 31, 2023	<u>\$ 453,106.06</u>	<u>\$ -</u>	<u>\$ 453,106.06</u>

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
2023 FORM MS-965 – SECTION 3  
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 102,667.79	\$ -	\$ 102,667.79
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	16,810.74	-	16,810.74
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	119,478.53	-	119,478.53
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>119,478.53</u>	<u>-</u>	<u>119,478.53</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 119,478.53</u>	<u>\$ -</u>	<u>\$ 119,478.53</u>

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
2024 FORM MS-965 – SECTION 1  
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
Minor equipment purchases	\$ -	\$ -	\$ -
Computer/Computer related training	-	-	-
Major equipment purchases	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	-	-	-
Traffic control devices	-	-	-
Street lighting	28,312.90	-	28,312.90
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	598.56	-	598.56
Highway construction and rebuilding projects	-	-	-
Miscellaneous	-	-	-
Total (To Section 2, Line 5)	<u>\$ 28,911.46</u>	<u>\$ -</u>	<u>\$ 28,911.46</u>

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
2024 FORM MS-965 – SECTION 2  
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2024	\$ 453,106.06	\$ -	\$ 453,106.06
Receipts:			
2. State allocation	83,495.72	-	83,495.72
2a. Turnback allocation	-	-	-
2b. Interest on investments	501.92	-	501.92
2c. Miscellaneous	-	-	-
3. Total receipts	83,997.64	-	83,997.64
4. Total funds available	537,103.70	-	537,103.70
5. Expenditures (Section 1)	28,911.46	-	28,911.46
6. Balance, December 31, 2024	<u>\$ 508,192.24</u>	<u>\$ -</u>	<u>\$ 508,192.24</u>

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
2024 FORM MS-965 – SECTION 3  
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 119,478.53	\$ -	\$ 119,478.53
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	16,699.14	-	16,699.14
3. PENNDOT approved adjustments	<u>-</u>	<u>-</u>	<u>-</u>
4. Total funds available for equipment acquisition	136,177.67	-	136,177.67
5. Less: Major equipment expenditures	<u>-</u>	<u>-</u>	<u>-</u>
6. Remainder	<u>136,177.67</u>	<u>-</u>	<u>136,177.67</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 136,177.67</u>	<u>\$ -</u>	<u>\$ 136,177.67</u>

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

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

Deposit In Error

On August 19, 2020, \$1,998.00 of state funds were electronically deposited into the municipality's Liquid Fuels Tax Fund in error. On May 10, 2023, the municipality transferred this amount from its Liquid Fuels Tax Fund to its General Fund to correct the deposit in error.

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

**Finding - Noncompliance With Advertising And Bidding Requirements**

Our examination disclosed that the borough expended \$39,900.00 during 2023 from the Liquid Fuels Tax Fund for construction project No. 23-01409-001. The borough advertised for this project initially but did not receive any bids. After failing to receive any bids, the borough directly contacted vendors to complete the work, instead of advertising the project a second time as required by the *Borough Code* and the Department of Transportation's *Publication 9*.

The above expenditure was not made in compliance with the advertising, bidding, and contract requirements of *The Borough Code*, 53 P.S. § 46402(a), (also found at § 1402(a) of *The Borough Code* as published by the Local Government Commission), which requires that purchases made over \$18,500.00 during 2012 must be advertised, bid, and awarded by contract. The bidding threshold increased to purchases over \$22,500.00 for 2023, \$23,200.00 for 2024 and \$23,800.00 for 2025. *The Borough Code*, 53 P.S. § 46403(a), (also found at § 1403(a) of *The Borough Code* as published by the Local Government Commission) further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

Additionally, the Department of Transportation's *Publication 9*, Appendix D, § 449.5, states:

If a purchase or contract over \$10,000 is advertised and no bids are received, the municipality may not proceed with the purchase or contract unless it is again advertised for bids. If again no bids are received, the municipality may negotiate the purchase or contract on the best terms available within 45 days of the second advertisement if no substantial changes are made in the terms, conditions and specifications contained in the bid proposal. If substantial changes must be made to procure the purchase or contract, the purchase or contract shall be re-advertised and bid on the basis of the changes. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

The secretary/treasurer stated this condition occurred due to the borough going through a federal lawsuit which put time constraints on work being done, facing hardships to obtain a contractor, and challenges determining the circumstances surrounding the bidding and advertisement process.

The failure to comply with *The Borough Code* and the Department of Transportation's *Publication 9* could result in the borough having to reimburse \$39,900.00 to its Liquid Fuels Tax Fund.



BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

**Finding - Noncompliance With Advertising And Bidding Requirements (Continued)**

Recommendations

We recommend that the borough reimburse \$39,900.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that the borough comply with *The Borough Code* and the Department of Transportation's *Publication 9* as noted in this finding.

Management's Response

The secretary/treasurer stated:

McSherrystown Borough understands the bidding and advertisement requirements. During this time frame, the borough was going through a federal case Smith v. Borough of McSherrystown Docket No. 1:22-cv-01541-SES which placed time constraints on the borough to complete the ADA ramp project. The borough also faced hardship obtaining a contractor for the project. Additionally, due to substantial changes of officials and staffing, the borough has faced challenges determining the circumstances surrounding the bidding and advertisement process.

Auditor's Conclusion

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

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF 2021 EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

Summary Of 2021 Examination Recommendation

In our 2021 report, we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$564.28 to its Liquid Fuels Tax Fund for depositing Liquid Fuels Tax Fund money into the General Fund.

During our current examination, we reviewed a letter dated April 10, 2023, from the Department of Transportation directing the municipality to reimburse \$564.28 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on April 13, 2023.

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
SUMMARY OF ONSITE CLOSEOUT MEETING  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

An onsite closeout meeting was held May 21, 2025. Those participating were:

BOROUGH OF MCSHERRYSTOWN

Ms. Jessica Freiert, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Ryan W. Shrauder, Audit Supervisor

BOROUGH OF MCSHERRYSTOWN  
ADAMS COUNTY  
LIQUID FUELS TAX FUND  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2023 TO DECEMBER 31, 2024

This report was initially distributed to:

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

**Borough of McSherrystown**  
Adams County  
338 Main Street  
McSherrystown, PA 17344

**The Honorable Robert Niedererr**  
President of Council

**Ms. Jessica Freiert**  
Secretary/Treasurer

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