

# COMPLIANCE AUDIT

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## Darby Borough Non-Uniformed Pension Plan Delaware County, Pennsylvania For the Period January 1, 2012 to December 31, 2014

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September 2015



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

The Honorable Mayor and Borough Council  
Darby Borough  
Delaware County  
Darby, PA 19023

We have conducted a compliance audit of the Darby Borough Non-Uniformed Pension Plan for the period January 1, 2012 to December 31, 2014. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior audit report; and
2. To determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objectives identified above. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior audit report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- × We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit.

- × We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation.
- × We determined that there were no employee contributions required by the plan's governing document and applicable laws and regulations for the years covered by our audit period.
- × We determined whether retirement benefits calculated for the 1 plan member who retired during the current audit period, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the monthly pension benefit due to the retired individual and comparing this amount to supporting documentation evidencing amounts determined and actually paid to the recipient.
- × We determined whether retirement benefits calculated for all 3 of the plan members who terminated employment and/or retired and elected a lump-sum form of pension benefit distribution during the current audit period, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by comparing the distributed amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- × We determined whether the January 1, 2011 and January 1, 2013 actuarial valuation reports were prepared and submitted to the Public Employee Retirement Commission (PERC) by March 31, 2012 and 2014, respectively, in accordance with Act 205 and whether selected information provided on these reports is accurate, complete, and in accordance with plan provisions to ensure compliance for participation in the state aid program by comparing selected information to supporting source documentation.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Darby Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the borough's internal controls as they relate to the borough's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials to provide reasonable

assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

The results of our procedures indicated that, in all significant respects, the Darby Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following finding further discussed later in this report:

Finding – Noncompliance With Prior Audit Recommendation – Failure To Timely And Fully Pay The Minimum Municipal Obligation Of The Plan

The finding contained in this audit report repeats a condition that was cited in our previous audit report that has not been corrected by borough officials. We are concerned by the borough's failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendation noted in this audit report.

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Darby Borough and, where appropriate, their responses have been included in the report.

September 4, 2015



EUGENE A. DEPASQUALE  
Auditor General

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## **BACKGROUND**

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the Darby Borough Non-Uniformed Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

The Darby Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 712 B. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established January 1, 1970. Active members are not required to contribute to the plan. As of December 31, 2014, the plan had 4 active members, 5 terminated members eligible for vested benefits in the future, and 9 retirees receiving pension benefits from the plan.

## **BACKGROUND – (Continued)**

As of December 31, 2014, selected plan benefit provisions are as follows:

### Eligibility Requirements:

Normal Retirement	Age 65
Early Retirement	Age 55 with 10 years of service.
Vesting	Vesting schedule is 20% after 3 years of service plus 20% per year thereafter, up to 100%.

### Retirement Benefit:

Benefit equals 1.5% of average compensation multiplied by the number of years of service. Average compensation is based on the last 5 years of compensation.

### Survivor Benefit:

Actuarial equivalent options.

### Disability Benefit:

Monthly annuity equal to the accrued benefit on the date of disability with a minimum of \$20.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

Darby Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

Failure To Timely and Fully Pay The Minimum Municipal Obligation Of The Plan

The municipality did not timely pay the 2011 minimum municipal obligation (MMO) that was due to the non-uniformed pension plan by December 31, 2011, as required by Act 205. The municipality deposited \$22,705 into the plan on January 12, 2012; however, the municipality failed to pay the interest due on the late deposit in accordance with Act 205 requirements. During the current audit period, the municipality failed to pay the interest due on the 2011 MMO and failed to pay the 2013 and 2014 MMOs due to the plan, as disclosed in the Finding contained in this report.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding - Noncompliance With Prior Audit Recommendation – Failure To Timely and Fully Pay The Minimum Municipal Obligation Of The Plan**

Condition: As disclosed in the prior audit report, the municipality did not timely pay the 2011 minimum municipal obligation (MMO) that was due to the non-uniformed pension plan by December 31, 2011, as required by Act 205. The municipality deposited \$22,705 into the plan on January 12, 2012; however, the municipality failed to pay the interest due on the late deposit in accordance with Act 205 requirements. During the current audit period, the municipality failed to pay the interest due on the 2011 MMO and the municipality failed to pay the 2013 and 2014 MMOs due to the plan. Consequently, the municipality has unpaid MMO balances of \$28,794 and \$32,982 for the years 2013 and 2014, respectively, plus interest due on the late deposit of the 2011 MMO and the failure to pay the 2013 and 2014 MMOs pursuant to Act 205 requirements.

Criteria: Section 302(e) of Act 205 states:

Interest penalty on omitted municipal contributions. Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Cause: The municipality lacked the available funds to pay the outstanding MMOs, plus interest, due to the plan.

Effect: The failure to pay the MMO could result in the plan not having adequate resources to meet current and future benefit obligations to its members.

Furthermore, the borough's future state aid allocations may be withheld until the finding recommendation is complied with.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

Recommendation: We again recommend that the municipality pay the interest due to the non-uniformed pension plan from January 1, 2011, to January 12, 2012, for the late payment of the 2011 MMO in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

We also recommend that the municipality pay the MMOs due to the non-uniformed pension plan for the years 2013 and 2014, with interest, in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Management's Response: The municipality will be making payments into the non-uniformed pension fund to make the plan whole.

Auditor's Conclusion: Due to the potential withhold of state aid, the borough's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the plan.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by the finding contained in this audit report may lead to a total withholding of state aid in the future unless the finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2009, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-09	\$ 813,801	\$ 857,690	\$ 43,889	94.9%
01-01-11	847,147	943,252	96,105	89.8%
01-01-13	859,536	952,618	93,082	90.2%

Note: The market values of the plan's assets at 01-01-09 and 01-01-11 have been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 70-130 percent of market value. Additionally, the market value of the plan's assets at 01-01-13 has been adjusted to reflect the smoothing of gains and/or losses at 120 percent of market value. These methods will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
 AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	\$ 17,122	100.0%
2010	17,659	100.0%
2011	22,705	100.0%
2012	22,266	100.0%
2013	28,794	0.0% *
2014	32,982	0.0% *

\* - See the Finding contained in the Finding and Recommendation section of this audit report.

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
SUPPLEMENTARY INFORMATION  
NOTES TO SUPPLEMENTARY SCHEDULES  
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2013
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	9 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a ceiling of 120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	7.75%
Projected salary increases	5.0%
Cost-of-living adjustments	None assumed

DARBY BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf  
Governor  
Commonwealth of Pennsylvania

Darby Borough Non-Uniformed Pension Plan  
Delaware County  
1020 Ridge Avenue  
Darby, PA 19023

The Honorable Helen Thomas	Mayor
Ms. Janice Davis	Council President
Mr. Mark Possenti	Borough Manager

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).