

# COMPLIANCE AUDIT

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## Mahanoy City Borough Non-Uniformed Pension Plan Schuylkill County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

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September 2023



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Mahanoy City Borough  
Schuylkill County  
Mahanoy City, PA 17948

We have conducted a compliance audit of the Mahanoy City Borough Non-Uniformed Pension Plan for the period January 1, 2019 to December 31, 2022. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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. Employer contributions that were deposited into the pension plan for the years ended December 31, 2017 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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 plan members who separated employment and received a lump-sum 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 recalculating the amount of the pension benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- We determined whether the January 1, 2019 and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2020 and 2022, respectively, in accordance with Act 205 and whether selected information provided on these reports are 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.
- We determined whether the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

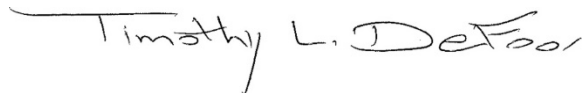
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Mahanoy City Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary 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 objective.

The results of our procedures indicated that, in all significant respects, the Mahanoy City 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 findings further discussed later in this report:

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Finding No. 2 – Failure To Fund Member Accounts

The contents of this report were discussed with officials of Mahanoy City Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor  
Auditor General  
September 11, 2023

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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.

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 Mahanoy City Borough Non-Uniformed Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code, and applicable provisions of various other state statutes.

The Mahanoy City Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 96-4, as amended, adopted pursuant to Act 581. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established July 1, 1984. Active members are not required to contribute to the plan. The municipality is required to contribute 11 percent of each participant's gross wages per year. As of December 31, 2022, the plan had six active members and five terminated members eligible for vested benefits in the future.

MAHANOEY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment  
Of State Aid**

Condition: The borough certified two ineligible non-uniformed employees (2 units) and overstated payroll by \$77,149 on the Certification Form AG 385 filed in 2022, and certified one ineligible non-uniformed employee (1 unit) and overstated payroll by \$37,136 on the Certification Form AG 385 filed in 2023. The data contained on these certification forms is based on prior calendar year information. The employees were new employees who were not eligible to become members of the pension plan until January 1 following their respective dates of hire and were prematurely included on the Certification Forms AG 385.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year.

In addition, the plan’s governing document, Ordinance No. 96-4, at Section 3 states:

All future full time employees, except police officers, are eligible for membership and shall become members of the plan on the anniversary date next following their date of employment.

The governing document defines “Anniversary Date” as the first day of each year.

Cause: Plan officials indicated they were unaware of the Anniversary Date eligibility requirement in the plan document for new employees to become plan members and therefore did not realize the employees were not yet eligible for certification.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the borough’s 2022 state aid allocation was based on unit value, the incorrect certification of pension data affected the borough’s state aid allocation, as identified below:

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2022	2	\$5,180	\$ 10,360

The impact on the borough’s 2023 state aid allocation was indeterminable as of the date of this report; however, the amount of the overpayment will be determined after 2023 state aid is released.

MAHANOEY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

In addition, the borough used the 2022 overpayment of state aid to pay the minimum municipal obligation (MMO) due to the police pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan's MMO will not be fully paid.

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

Recommendation: We recommend that the overpayment of state aid, in the amount of \$10,360, plus interest, be returned to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

In addition, since the 2023 certification error will result in an additional overpayment of state aid once state aid is released later in September 2023, we further recommend that municipal officials contact the Department upon receipt of the 2023 state aid allocation to assist the borough in determining the additional amount of state aid to be returned.

Further, we recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two people review the data certified, to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

Finally, if the reimbursement to the Commonwealth is made from police pension plan funds, we recommend that any resulting MMO deficiencies be paid to the pension plan with interest, at a rate earned by the pension plan.

Management's Response: Municipal officials agreed with the finding without exception.

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.



MAHANOEY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Failure To Properly Fund Member Accounts**

Condition: The borough did not fully fund the account of a plan member in 2020, as illustrated below:

<u>Employee Hire Date</u>	<u>2020 Required Contributions</u>	<u>2020 Actual Contributions</u>	<u>Contributions Due</u>
11/13/19	\$ 3,940	\$ 557	\$ 3,383

In addition, the borough contributed \$3,884 for an employee in 2022 who was hired April 18, 2022, and therefore not eligible for plan membership until January 1, 2023.

Criteria: The plan’s governing document, Ordinance No. 96-4, sets the municipal contribution rate at 11 percent of each participant’s gross wages.

In addition, Section 3 of the plan’s governing document states:

All future full time employees, except police officers, are eligible for membership and shall become members of the plan on the anniversary date next following their date of employment.

The governing document defines “Anniversary Date” as the first day of each year.

Cause: For the employee hired in 2019, plan officials only began contributing once he completed his CDL in 2020. In addition, plan officials indicated they were unaware of the Anniversary Date eligibility requirement in the plan document when making contributions for the employee hired in 2022.

Effect: The failure to properly fund members’ accounts results in plan members receiving benefits in excess or denied benefits to which they are entitled in accordance with the plan’s governing document.

Furthermore, due to the borough’s failure to properly fund the member accounts, the borough must now pay interest on the delinquent contributions and/or consider whether excess contributions require adjustment.

MAHANNOY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Recommendation: We recommend the borough deposit the contribution due to the member's account for the year 2020, with interest, from the date of deposit of the municipal contributions which were made in that year to the date of deposit of the amount in arrears. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Furthermore, we recommend the borough review the improper contributions made in 2022 for the ineligible employee and make the adjustment deemed necessary to ensure the member's account is funded in accordance with the provisions contained in the plan's governing document.

We also recommend that plan officials implement adequate internal control procedures to ensure that the members' accounts are consistently funded in accordance with the provisions contained in the plan's governing document in the future.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

MAHANAY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

Finding No. 1 contained in this audit report cites an overpayment of state aid to the borough in the amount of \$10,360, plus interest, and an additional amount to be determined after 2023 state aid has been released. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania, and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120.

MAHANOEY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2017	None	\$ 26,038
2018	None	24,107
2019	None	18,130
2020	None	22,194
2021	None	19,742
2022	None	29,177

MAHANOEY CITY BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Joshua D. Shapiro**  
Governor  
Commonwealth of Pennsylvania

**The Honorable George Krall**  
Mayor

**Mr. Michael Connolly**  
Council President

**Mr. John Fatula**  
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).