

# COMPLIANCE AUDIT

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## Mount Joy Borough Police Pension Plan Lancaster County, Pennsylvania For the Period January 1, 2012 to December 31, 2014

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January 2016



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  
Mount Joy Borough  
Lancaster County  
Mount Joy, PA 17552

We have conducted a compliance audit of the Mount Joy Borough Police 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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings 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 findings 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 findings 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 all 5 of the plan members 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 individuals and comparing these 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.
- × We determined whether the terms of the plan's 1 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 contracts with the plan's provisions, investment policies, and state regulations.

Mount Joy Borough contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Mount Joy Borough Police 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 Mount Joy Borough Police 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 – Noncompliance With Prior Audit Recommendation – Restated Plan Document Not Adopted By Ordinance
- Finding No. 2 – Partial Compliance With Prior Audit Recommendation – Inconsistent Pension Benefits
- Finding No. 3 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Findings No. 1 and 2 contained in this audit report repeat conditions that were cited in our previous audit report that have not been corrected by borough officials. We are concerned by the borough's failure to correct those previously reported audit findings and strongly encourage timely implementation of the recommendations 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 Mount Joy 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.

December 31, 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 Mount Joy Borough Police 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 including, but not limited to, the following:

Act 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Mount Joy Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 492, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established February 1, 1965. Active members are not required to contribute to the plan. As of December 31, 2014, the plan had 9 active members, no terminated members eligible for vested benefits in the future, and 9 retirees receiving pension benefits.

## **BACKGROUND – (Continued)**

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

### Eligibility Requirements:

Normal Retirement	Age 50 and 25 years of service.
Early Retirement	Eligible with 20 years of service.
Vesting	A member is 100% vested after 12 years of service.

### Retirement Benefit:

Benefit equals 50% of final 36 months average salary, plus a service increment of \$100 per month after 26 years of service.

### Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Retirement Eligibility	A monthly benefit equal to 50% of the pension the member was receiving or was entitled to receive on the day of the member's death.

### Service Related Disability Benefit:

Benefit equals 50% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Audit Recommendation

Mount Joy Borough has partially complied with the prior audit recommendation concerning the following:

- Inconsistent Pension Benefits

During the current audit period, the borough modified the definition of a dependent child contained in the collective bargaining agreement to be consistent with the plan's governing document; however, there still are provisions that remain inconsistent as noted in Finding No. 2 contained in this audit report.

Noncompliance With Prior Audit Recommendation

Mount Joy Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Restated Plan Document Not Adopted By Ordinance

MOUNT JOY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Restated Plan Document Not Adopted By Ordinance**

Condition: As disclosed in our prior 2 audit reports, the terms, provisions and conditions of the police pension plan were restated in a separately executed plan agreement effective January 1, 2003. Furthermore, on August 19, 2009, the plan’s governing document was again restated in another executed plan agreement with the plan custodian effective January 1, 2008. The current restated plan agreement has not been formally adopted by an ordinance that would properly amend the plan’s existing governing ordinance.

Criteria: Act 600 at Section 1(a)(1) states, in part:

Each borough, town and township of this Commonwealth maintaining a police force of three or more full-time members and each regional police department shall, and all other boroughs, towns or townships may, establish, by ordinance or resolution, a police pension fund. . . .

Furthermore, in Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Plan officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendations.

Effect: The failure to properly adopt the plan agreement could result in improper or inconsistent benefit payments to plan members and their beneficiaries.

Recommendation: We again recommend that municipal officials take appropriate action to formally adopt the restated plan document through a properly executed ordinance.

Management’s Response: Municipal officials agreed with the finding and stated the Borough will make the effort to adopt an ordinance that properly restates the current separately executed plan agreement.

Auditor’s Conclusion: Based on the management response, it appears that municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Partial Compliance With Prior Audit Recommendation – Inconsistent Pension Benefits**

Condition: As disclosed in the prior audit report, the borough’s separately executed adoption agreements with the plan custodian contained benefit provisions that conflicted with the collective bargaining agreement (CBA) between the police officers and the borough. During the current audit period, the CBA for the period January 1, 2014 to December 31, 2017 modified the definition of a dependent child to be consistent with the plan’s governing document; however, the following provisions remain inconsistent:

<u>Benefit Provision</u>	<u>Adoption Agreement</u>	<u>Collective Bargaining Agreement</u>
Definition of Salary	Earnings as used in this definition includes base pay, longevity pay, night differential pay and other remuneration with the following exclusions: Unused sick pay Unused vacation pay Overtime pay	Gross wages as reported on the W-2 for the last thirty-six (36) months of employment.
Survivor’s Eligibility	The survivor annuity shall be paid to the Participant’s spouse until the date of the spouse’s death.	Pension ... shall be paid to spouse of the deceased member until his or her death or remarriage

Criteria: A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits.

Cause: Municipal officials were not able to change the remaining inconsistencies during the collective bargaining process.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We again recommend that municipal officials ensure the plan’s governing document and CBA contain consistent benefit provisions that are in compliance with Act 600 at their earliest opportunity to do so.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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.

**Finding No. 3 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid**

Condition: The borough certified 2 ineligible police officers (4 units) and overstated payroll by \$48,621 on the Certification Form AG 385 filed in 2013. The data contained on this certification form is based on prior calendar year information.

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.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data certified.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the borough’s 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>
2013	4	\$ 3,884	\$ 15,536

In addition, the failure to comply with the finding recommendation could result in a withholding of the borough’s 2016 state aid allocation.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

Recommendation: We recommend that the total overpayment state aid, in the amount of \$15,536, be returned to the Commonwealth from the borough's general fund. 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, 320 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

We also recommend that in the future, plan officials establish adequate internal control procedures, such as having at least 2 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.

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

Auditor's Conclusion: Compliance will be monitored subsequent to the release of the audit report and through our next audit of the plan.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

Finding No. 3 contained in this audit report cites an overpayment of state aid to the borough in the amount of \$15,536. A condition of this nature may lead to a total withholding of state aid in the future unless that finding 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, 320 Finance Building, Harrisburg, PA 17120.

MOUNT JOY BOROUGH POLICE 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	\$ 2,455,542	\$ 3,310,594	\$ 855,052	74.2%
01-01-11	3,005,419	3,778,200	772,781	79.5%
01-01-13	3,410,992	4,354,130	943,138	78.3%

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 to 130 percent of the market value of the plans assets. The market value of the plan's assets at 01-01-13 has been adjusted to reflect the smoothing of gains and/or losses over a 5- year averaging period subject to a corridor between 80 to 120 percent of the market value of the plans assets. These methods will lower contributions in years of less than expected returns and increase the 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.

MOUNT JOY BOROUGH POLICE 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.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	\$ 138,762	100.0%
2010	222,869	100.0%
2011	247,748	100.0%
2012	251,627	100.0%
2013	239,317	100.0%
2014	263,302	100.0%

MOUNT JOY BOROUGH POLICE 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	14 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 80-120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	7.75%
Projected salary increases	5.0%
Cost-of-living adjustments	Related to the Consumer Price Index (up to 3% in such year) with overall benefit limit of 130% of normal retirement benefit.

MOUNT JOY BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

Mount Joy Borough Police Pension Plan  
Lancaster County  
21 East Main Street  
Mount Joy, PA 17552

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<b>Mr. Charles Glessner</b>	Council President
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