

COMPLIANCE AUDIT

Ambler Borough Non-Uniformed Defined Contribution Pension Plan Montgomery County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

October 2022



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
Ambler Borough
Montgomery County
Ambler, PA 19002

We have conducted a compliance audit of the Ambler Borough Non-Uniformed Defined Contribution Pension Plan for the period January 1, 2018 to December 31, 2021. 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 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 finding contained in our prior 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 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2016 to December 31, 2021, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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, 2016 to December 31, 2021, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan. We also tested individual employee contributions for all 16 active employees employed during the audit period amounting to \$33,866, 40,332, \$48,605, and \$48,822, for the years 2018, 2019, 2020, and 2021, respectively, made during the audit period.
- We determined whether retirement benefits calculated for plan members who retired, or separated employment and received a lump-sum distribution during and subsequent to the current audit period, and through the completion of our fieldwork procedures, 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, 2017, January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2018, 2020, and 2022, 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 Ambler Borough Non-Uniformed Defined Contribution 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 objectives.

The results of our procedures indicated that, in all significant respects, the Ambler Borough Non-Uniformed Defined Contribution 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 – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan

Finding No. 2 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

The contents of this report were discussed with officials of Ambler 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.



Timothy L. DeFoor
Auditor General
August 30, 2022

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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 Ambler Borough Non-Uniformed Defined Contribution 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 Ambler Borough Non-Uniformed Defined Contribution Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 1079, as amended. 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, 2014 for non-uniformed employees hired on or after January 1, 2014. Active members are required to contribute a varying rate between 3 to 5 percent of compensation to the plan. The municipality is required to contribute a varying rate between 4 to 8 percent of compensation per year, depending on the percentage of what the employee chooses to contribute to the plan. As of December 31, 2021, the plan had 16 active members.

AMBLER BOROUGH NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

Ambler Borough has partially complied with the prior recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid

During the current audit period, the borough reimbursed \$3,432 to the Commonwealth for the net overpayment of state aid received in the years 2014, 2015, and 2017, however, plan officials again failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data in the years 2020 and 2021, as further discussed in the Findings and Recommendations section of this report.

AMBLER BOROUGH NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan

Condition: The municipality did not deposit the full amount of its 2018 state aid allocation into an eligible pension plan. The municipality received its 2018 state aid allocation in the amount of \$243,588, but, as of the date of this report, only state aid totaling \$239,005 was deposited into an eligible pension plan.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension funds or the alternate funding mechanisms applicable to the respective pension plans....

Cause: The full amount of the 2018 state aid was not deposited into an eligible pension plan because plan officials were unaware of applicable Act 205 provisions, and internal control procedures were not in effect to ensure the deposit of the full amount of state aid.

Effect: When state aid is not deposited into a pension plan account, the funds are not available to pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We recommend that the municipality deposit the borough's remaining state aid allocation of \$4,583, plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually, into one or both of the borough's two defined benefit pension plans. 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 plan officials develop and implement procedures to ensure that future state aid is deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer.

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.

AMBLER BOROUGH NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: As disclosed in the Status of Prior Finding section of this report, although the borough partially complied with the prior audit recommendation by returning the net overpayment of state aid received in 2014, 2015, and 2017 to the Commonwealth, a similar condition occurred during the current audit period. Plan officials again failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data in the years 2020 and 2021.

The borough failed to certify three eligible police officers (6 units) and understated payroll by \$265,053 and failed to certify an eligible non-uniformed defined contribution employee (1 unit) and understated payroll by \$22,454 on the Certification Form AG 385 filed in 2020. The borough also failed to certify an eligible police officer (2 units) and understated payroll by \$88,420 on the Certification Form AG 385 filed in 2021. The data contained on these certification forms is based on prior calendar year information.

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

Cause: Borough officials attributed the failure to include the eligible employees to an oversight. The borough lacked adequate internal control procedures, such as having another individual review the data certified to ensure compliance with the instructions that accompanied Certification Form AG 385 prior to submission.

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 state aid allocations were based on unit value, the borough received an underpayment of state aid in the amount of \$44,062, as identified below:

| Year | Type of Plan | Units Understated | Unit Value | State Aid Underpayment |
|---------------------------------|---|-------------------|------------|-------------------------|
| 2020 | Police Non-Uniformed Defined Contribution | 6 | \$ 4,924 | \$ 29,544 |
| | | 1 | \$ 4,924 | <u>4,924</u> |
| | Total | | | <u><u>\$ 34,468</u></u> |
| 2021 | Police | 2 | \$ 4,797 | <u>9,594</u> |
| Total Underpayment of State Aid | | | | <u><u>\$ 44,062</u></u> |

AMBLER BOROUGH NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Although the additional state aid will be allocated to the borough, the full amount of the 2020 and 2021 state aid allocations were not available to be deposited timely and therefore was not available to pay operating expenses or for investment.

Recommendation: We again 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.

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.

AMBLER BOROUGH NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

| Year Ended December 31 | State Aid | Employer Contributions |
|------------------------|-----------|------------------------|
| 2016 | \$ 12,746 | \$ 13,559 |
| 2017 | 17,672 | 23,950 |
| 2018 | 49,614 | None |
| 2019 | 55,558 | None |
| 2020 | 6,463 | 65,138 |
| 2021 | None | 74,635 |

Note: In 2018, the borough met the plan's \$55,067 funding requirement through the deposit of \$49,614 in state aid and the allocation of \$5,453 in terminated employee forfeitures. In 2019, the borough met the plan's \$65,632 funding requirement through the deposit of \$55,558 in state aid and the allocation of \$10,074 in terminated employee forfeitures. In 2020, the borough met the plan's \$75,360 funding requirement through the deposit of \$6,463 in state aid, \$65,138 in employer contributions, and the allocation of \$3,759 in terminated employee forfeitures. In 2021, the borough met the plan's \$76,120 funding requirement through the deposit of \$74,635 in employer contributions and the allocation of \$1,485 in terminated employee forfeitures.

AMBLER BOROUGH NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Jeanne Sorg
Mayor

Ms. Glynnis Siskind
Council President

Ms. Mary Aversa
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Mr. Albert Yaghooty
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