

COMPLIANCE AUDIT

Ambridge Borough Non-Uniformed Pension Plan Beaver County, Pennsylvania For the Period January 1, 2017 to December 31, 2018

October 2019



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov

EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Ambridge Borough
Beaver County
Ambridge, PA 15003

We have conducted a compliance audit of the Ambridge Borough Non-Uniformed Pension Plan for the period January 1, 2017 to December 31, 2018. 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 the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding 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.

- 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 determined that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017 actuarial valuation report was prepared and submitted by March 31, 2018, respectively, in accordance with Act 205 and whether selected information provided on this report 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 and methodologies of the issuance of pension obligation bonds by the municipality, and any restrictions were in compliance with plan provisions and Act 205 through inquiry of plan officials and examination of supporting documentation.

Ambridge Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements 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 Ambridge 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 objective, 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 objective.

The results of our procedures indicated that, in all significant respects, the Ambridge 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 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

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 Ambridge 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.

October 9, 2019



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

The Ambridge Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1290, 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 June 1, 1970. For calendar year beginning January 1, 2017, active members were required to contribute 4 percent of compensation to the plan and for calendar year beginning January 1, 2018, members are required to contribute 5 percent of compensation to the plan. As of December 31, 2018, the plan had 4 active members, 4 terminated members eligible for vested benefits in the future, and 9 retirees receiving pension benefits from the plan.

Effective April 10, 2018, the borough adopted Ordinance No. 1305, which amended the non-uniformed pension plan to provide for a defined contribution retirement plan for non-uniformed employees not in a bargaining unit, hired by Ambridge Borough after January 1, 2014 on a regular full-time basis, who are not a police officer and who are not eligible to participate under the provisions of any other pension plan. As of December 31, 2018, the plan had 3 active members.

BACKGROUND – (Continued)

As of December 31, 2018, selected plan benefit provisions for the pension plan, are as follows:

Eligibility Requirements:

Normal Retirement	Age 62 and 20 years of service.
Early Retirement	Age 62 and completion of 5 years of service.
Vesting	25% vesting available after the completion of 10 years of credited service, 50% for 11 to 13 years; 75% for 14 to 19 years and 100% after 20 years of service.

Retirement Benefit:

A monthly benefit equal to 1.5% of Average Monthly Compensation (pay averaged over the final 60 months of employment) multiplied by years of credited service.

Survivor Benefit:

The retiree's beneficiary will receive the remainder, if any, of the 120 guaranteed monthly payments less those paid to the retiree.

Disability Benefit:

After 10 years of credited service, a monthly benefit equal to 50% of the participant's accrued benefit is payable for the duration of disability prior to normal retirement date at which time it will be considered a normal retirement benefit.

AMBRIDGE BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The borough certified 3 ineligible non-uniformed employees (3 units) and overstated payroll by \$153,959 on the Certification Form AG 385 filed in 2019. The data contained on this certification form is based on prior calendar year information. These 3 employees became participants in the borough’s recently established defined contribution retirement plan, which was enacted by the borough through Ordinance No. 1305 as adopted on April 10, 2018, with an effective date of January 1, 2018, to provide pension coverage to full-time administrative employees hired after January 1, 2014 and not in a bargaining unit. It was determined, however, that these 3 employees were not eligible for certification according to Act 205.

Criteria: Section 402(d) of Act 205 states that pension plans established subsequent to December 18, 1984, must be maintained for at least three plan years before becoming eligible for state aid. Further, Section 102 of Act 205 defines plan year as “a calendar year commencing on January 1 and ending on December 31.”

Cause: Plan officials believed that the defined contribution features stated in Ordinance No. 1305 represented a continuation of the borough’s existing non-uniformed pension plan and therefore, accurately certified the data on the AG 385 submitted during 2019.

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 plan. Since the borough’s state aid allocation was based on unit value, the borough improperly received a portion of its 2019 state aid allocation before they had properly funded the non-uniformed defined contribution pension plan in accordance with Act 205, as identified below:

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2019	3	\$ 5,121	\$ 15,363

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

Recommendation: We recommend that the total excess state aid, in the amount of \$15,363, 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.

AMBRIDGE BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Management Response: During the exit conference meeting held at the borough building on September 17, 2019, the borough manager indicated that the borough would provide a written response and, based upon advice of legal counsel, the plan actuary, and the third-party administrator, the borough specifically disagrees with the finding.

Subsequently, on October 2, 2019, the borough’s solicitor provided the following written response:

This letter is to formally contest the state aid denial for 3 non-uniformed employees in the exit interview of the Ambridge Borough Non-Uniformed Pension Plan. The employees in question were active, full time employees of the Borough for 6 or more months in 2018 and were active members of the pension plan in 2018. While we do not yet have anything in writing outlining the specific reasons for disqualifying the 3 employees, it is our understanding that it relates to the coverage of those employees under the defined contribution (DC) amendment to the Non-Uniformed Pension Plan and the Department’s opinion that the amendment constitutes a new plan, which would not be eligible for state aid for 3 years.

To deny aid under these circumstances is inappropriate as an analogy demonstrates. It is obviously not a new plan every time a new category or title of an employee classification is created or newly covered under an existing pension plan and that the Borough’s factual situation is no different. The borough still does not see the legal basis for the AG’s position, and once the Borough receives a full written explanation from the AG with references to legal authority, it reserves the right to respond in detail. However, in order to move forward and to clarify the matter (and to save legal and consulting fees), the Borough intends to amend the DC ordinance as of January 1, 2014 to cover these folks in the DC and fund their 1% employer contribution from date of hire but not request state aid for 2014-2017.

While the Borough believes that the Auditor General position is not sustainable, the Borough’s approach accommodates the Auditor General’s position should this issue arise with another municipality in the future. For the Auditor General to further dispute this matter merely hurts the employees for 3 more years and could substantially increase legal and consulting costs as otherwise the impacted employees will go without the state aid allocation to their accounts and could substantially increase legal and accounting costs.

AMBRIDGE BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

The Borough intends to draft the requisite amendment to the DC-arrangement and have it passed by Council in the next six to eight weeks. The goal is to have the accounts of these individuals funded with the employer 1% contribution by year end 2019. We trust that this is sufficient to have the proposed Auditor Finding removed and aid restored for any year in question. Please confirm this is accurate. The Borough intends to hold the related state aid in escrow until this is resolved.

Auditors Conclusion: As noted in the Condition above, the borough enacted Ordinance No. 1305, effective January 1, 2018, to provide pension coverage through a defined contribution retirement plan to full-time non-uniformed borough employees not previously in bargaining unit that were hired after January 1, 2014 and not previously participating in the borough's defined benefit pension plan.

Section 14.2(d) of newly enacted Ordinance No. 1305, states, in part:

Defined Contribution Employee shall mean any individual who is a non-uniformed employee not in a bargaining unit hired by Ambridge Borough after January 1, 2014 on a regular full-time basis, who is not a police officer and who is not eligible to participate under the provisions of any other pension plan employed by the Employer....

Prior to the adoption of Ordinance No. 1305, the Ambridge Borough Non-Uniformed Pension Plan (defined benefit) was controlled by the provisions of Ordinance No. 1290 for all individuals employed by the borough on a regular, full-time basis (i.e., 40 hours per week) exclusive of police officers and firefighters. Section 1.19 of Ordinance No. 1290 states the following:

“Employee” shall mean any individual employed by the Employer on a regular full-time bases who is scheduled for forty (40) hours per week, exclusive of any and all police officers of the Employer’s police force and firefighters of the Employer’s fire department.

In addition, Section 2.01 states, in part:

Each Employee who is employed as a regular, Full-time Employee of the Employer shall be eligible to participate on his employment date subject to any required Participant contributions as set forth in Section 3.01...

Finally, Section 2.02 states the following:

An Employee who satisfies the eligibility requirements of Section 2.01 shall become a Participant effective as of the first day of his Employment.

AMBRIDGE BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

The three (3) non-bargaining administrative employees hired by the borough since January 1, 2014 and prior to enactment of Ordinance No. 1305, effective January 1, 2018, appeared to be eligible and should have been enrolled in the non-uniformed (defined benefit) pension plan in accordance with the plan document that was in effect on their respective dates of hire. We can only surmise from the documentation provided by plan officials that this class of employee was not entitled to pension benefits prior to enactment of this ordinance and appears contrary to the explanation provided that the plan was a continuation of the existing plan. Furthermore, borough officials were unable to provide this Department with any evidence that non-bargaining (administrative) non-uniformed employees have ever been enrolled in the defined benefit plan in the past.

Furthermore, Section 402(j) of Act 205 provides the Auditor General's Department the responsibility for administration of the General Municipal Pension System State Aid Program, and states, in part:

(j) Administration. The Auditor General shall have the duty of administering the General Municipal Pension System State Aid Program. The Auditor General may promulgate rules and regulations necessary for the efficient administration of this program and may specify the form and content of any forms applicable to the program.

Therefore, the position of the department remains that Ordinance No. 1305 establishes a new pension plan for a new classification of non-uniformed (non-bargaining, administrative) employees hired after January 1, 2014, and as a result, must be maintained for at least three plan years before becoming eligible to participate in the General Municipal Pension System State Aid Program in accordance with Section 402(d) of Act 205. Therefore, the finding and recommendation remain as stated. 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.

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

The finding contained in this audit report cites an overpayment of state aid to the borough in the amount of \$15,363, plus interest. 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.

AMBRIDGE 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, 2013, 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)
01-01-13	\$ 651,933	\$ 1,025,810	\$ 373,877	63.6%
01-01-15	713,183	1,005,405	292,222	70.9%
01-01-17	757,785	1,024,549	266,764	74.0%

Note: The market values of the plan’s assets at 01-01-13, 01-01-15, and 01-01-17 have been adjusted to reflect the smoothing of gains and/or losses over a four-year averaging period. This method 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.

AMBRIDGE 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.

AMBRIDGE 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
2013	\$ 58,361	100.0%
2014	61,498	100.0%
2015	51,032	100.0%
2016	52,517	100.0%
2017	63,317	100.0%
2018	61,277	100.0%

AMBRIDGE 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, 2017
Actuarial cost method	Entry age normal
Amortization method	Level dollar, closed
Remaining amortization period	7 years
Asset valuation method	Fair value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return *	7.25%
Projected salary increases *	4.5%

* Includes inflation at 2.75%

AMBRIDGE 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

The Honorable David Drewnowski
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