

# COMPLIANCE AUDIT

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## Bentleyville Borough Police Cash Balance Pension Plan Washington County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

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February 2024



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  
Bentleyville Borough  
Washington County  
Bentleyville, PA 15314

We have conducted a compliance audit of the Bentleyville Borough Police Cash Balance Pension Plan for the period January 1, 2018 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. State aid allocations 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 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 that there were no benefit calculations prepared for the years covered by our audit period.
- 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 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.

The Bentleyville Borough Police Cash Balance Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Annual Comprehensive Financial Report, copies of which are available from the PMRS accounting office. PMRS's 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 Bentleyville Borough Police Cash Balance 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.

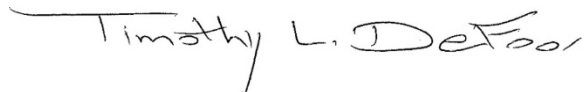
The results of our procedures indicated that, in all significant respects, the Bentleyville Borough Police Cash Balance Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the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

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

Finding No. 2 – Inconsistent Governing Plan Documents And Administration Of The Pension Plan

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 Bentleyville 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  
January 19, 2024

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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 two 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 Bentleyville Borough Police Cash Balance 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 including, but not limited to, the following:

Act 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974  
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The Bentleyville Borough Police Cash Balance Pension Plan is a single-employer pension cash balance pension plan locally controlled by the provisions of Ordinance No. 598, effective January 1, 2021, and a separately executed plan agreement with the plan custodian adopted pursuant to Act 15. Prior to January 1, 2021, the pension plan was locally controlled by the provisions of Ordinance No. 596, and an agreement with the plan custodian, effective January 1, 2020, adopted pursuant to Act 15. Prior to January 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 570, adopted pursuant to Act 15. (*Refer to Finding No. 2*). The plan was established January 1, 2009. Active members are not required to the plan. For years after 2020, the municipality is required to contribute \$9,316 per member per year. For the years 2018, 2019, and 2020, the municipality was required to contribute \$9,368, \$9,568, and \$9,803 per member, respectively. As of December 31, 2022, the plan had one active member and one terminated member eligible for vested benefits in the future.

BENTLEYVILLE BOROUGH POLICE CASH BALANCE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

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

Condition: The borough failed to certify an eligible police officer and understated payroll by \$43,702 on the Certification Form AG 385 filed in 2023. The data contained on this certification form 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: The borough’s failure to include the eligible police officer was attributed to an oversight and the borough lacked adequate internal control procedures to timely identify the omission prior to submission.

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 borough received an underpayment of state aid, as identified below:

<u>Units</u> <u>Understated</u>	<u>Unit</u> <u>Value</u>	<u>State Aid</u> <u>Underpayment</u>
2	\$ 5,828	\$ 11,656

Although the borough will be reimbursed for the underpayment of state aid due to the borough’s certification error, the full amount of the 2023 state aid allocation was not available to be deposited timely and therefore were not available to fund benefits, pay operating expenses or for investment.

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two individuals 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.

BENTLEYVILLE BOROUGH POLICE CASH BALANCE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Inconsistent Governing Plan Documents And Administration Of The Pension Plan**

Condition: The borough previously enacted Ordinance No. 570, effective July 1, 2014, creating a two-tiered pension plan benefit structure for its police officers. For individuals hired prior to July 1, 2014, the borough provided defined benefit features and for individuals hired on or after July 1, 2014, the borough provided cash balance features. Prior to the current audit period, there was one police officer hired by the borough on July 1, 2014, participating in the cash balance features of the police pension plan.

During the current audit period, the borough amended the police pension plan by enacting Ordinance No. 596, effective January 1, 2020, which effectively split the two-tiered police pension plan into two separate and distinct pension plans by adopting two separately executed plan agreements with the custodian; a defined benefit pension plan (P1) which deemed employees with an employment commencement date or re-employment commencement date on or after July 1, 2014, as *Ineligible Employees*, and a cash balance pension plan (P2) which deemed employees with an employment commencement date or re-employment commencement date on or before June 30, 2014, as *Ineligible Employees*.

The borough again amended its police pension plan by enacting Ordinance No. 598 along with restatement of the separately executed defined benefit pension agreement (*Auditor's Note: It was noted that the agreement was stated as the Defined Benefit Plan but had an incorrect reference on the first page of the agreement (P2) which was the internal coding for the cash balance pension plan.*), effective January 1, 2021, which deemed employees with an employment commencement date or re-employment commencement date on or before June 30, 2014, and on or after January 1, 2021 as *Ineligible Employees*. The aforementioned police officer hired July 1, 2014, became a participant in the defined benefit pension plan effective January 1, 2021, based on the amendment.

The borough further amended its police pension plan via Ordinance No. 603 and enacted a new cash balance plan agreement (P3), effective January 1, 2022, which restated and superseded the previous plan document (*previously coded P2*), which deemed employees with an employment commencement date or re-employment commencement date on or before December 31, 2020, as *Ineligible Employees*. A police officer, who was hired by the borough on December 20, 2021, was inadvertently enrolled into the borough's non-uniformed pension plan instead of the cash balance police pension plan (P2) in effect at the time of the individual's employment according to the plan document.

Criteria: Governing documents and related amendments which contain clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits.



BENTLEYVILLE BOROUGH POLICE CASH BALANCE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Cause: Municipal officials indicated that the borough was notified by the plan’s custodian that the entity’s legal department determined that the borough needed to create a new pension plan agreement for the newly hired police officer because the original cash balance pension plan (P2) was effectively closed when the lone active, participant was subsequently transferred into the defined benefit plan (P1) with the enactment of Ordinance No. 598 of 2021. On September 6, 2022, the borough adopted Ordinance No. 603, along with a new cash balance pension plan agreement (P3), effective January 1, 2022, accordingly. However, the borough was subsequently notified by the custodian that it no longer had a new cash balance plan (P3) and that the original cash balance plan (P2) was no longer closed. Therefore, the newly hired police officer was eligible for enrollment in the original cash balance police pension plan (P2). In addition, municipal officials attributed the custodian’s failure to provide timely activity statements for the borough’s inability to adequately monitor the participants and activities of the borough’s police pension plans.

Effect: Due to the multiple revisions made to the various plan agreements, the borough did not ensure the plan documents were properly amended (*i.e., the amendment to the defined benefit plan agreement in 2020 was inadvertently coded (P2) which was the cash balance plan*), creating confusion in the administration of its pension plans. During March 2021, the borough commissioned a cost study to assess the impact of enhancing the defined benefit plan provisions and transferring the member originally participating in the cash balance plan (P2) into the defined benefit plan. However, with the improper coding of the defined benefit plan amendment (P2), it was unclear whether the original defined benefit plan (P1) was correctly amended to reflect the changes. The cost study recommended, and the borough deposited \$37,092 into the defined benefit plan (P1) to reflect the increased costs of transferring the member into the plan.

The borough contributed into the plan on behalf of the member; however, the borough could not provide supporting documentation authorizing such action (*Section 4.02 of the original defined benefit plan (P1), effective January 1, 2020, and the restated defined benefit plan (incorrectly coded (P2), effective January 1, 2021, require after-tax contributions by members equal to 5 percent of compensation.*). On June 1, 2021, the borough adopted a resolution waiving member contributions during the period January 1, 2021, to December 31, 2021; however, the borough still contributed \$4,166 on behalf of the participant equaling 5 percent of the plan member’s 2021 compensation. Additionally, the borough contributed \$4,368 on behalf of the active member during 2022 but did not ensure the individual’s account was properly credited with the contribution for the year 2022.

As noted earlier in the *Condition*, the borough discovered that the police officer hired December 20, 2021, was improperly enrolled in the borough’s *non-uniformed pension plan* when the 2022 account transaction statements for the pension plans were received from the custodian.

BENTLEYVILLE BOROUGH POLICE CASH BALANCE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

The 2021 actuarial valuation report for the defined benefit plan (P1) disclosed benefit provisions that are a part of the defined contribution plan (P2) and likewise, the 2021 actuarial valuation report for the cash balance plan (P2) disclosed plan provisions contained in the cash balance plan (P3) which does not exist according to the custodian.

The borough was not withholding required member contributions in accordance with the amended plan documents.

The borough and this department were unable to ascertain the source of transferred funds in the amount of \$55,673 into the cash balance plan (P2) which occurred on January 1, 2022.

The borough did not properly credit the account of the plan member hired on December 20, 2021 for the required municipal contributions, \$9,316 made on June 7, 2023, into the cash balance plan (P2) for the year 2022 since the individual was incorrectly enrolled in the borough's non-uniformed pension plan.

As of December 31, 2022, both the defined benefit (P1) and cash balance (P2) pension plans included the member hired on July 1, 2014, as an active plan member.

Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan. In addition, failing to properly fund the plan could result in plan members being denied benefits to which they are entitled in accordance with the plan's governing document.

Recommendation: We recommend that the borough consult with its solicitor and the custodian, and take whatever action is necessary to determine the applicable benefit structure and applicable provisions of its pension plans for all participating plan members.

We also recommend that the borough review the amended plan documents and plan activity of its police pension plans and make the adjustments necessary in order to ensure that plan members received the proper benefits to which they were entitled.

Furthermore, we recommend that municipal officials establish and maintain a financial accounting and reporting system that allows the municipality to effectively monitor the plan's financial operations, even in the absence of statements from the plan custodian. Municipal officials should refer to the Auditor General's Bulletin No. 2-88 entitled "Preparation, Maintenance and Auditability of Financial Records," for further guidance in establishing adequate accounting and record-keeping procedures.

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.

BENTLEYVILLE BOROUGH POLICE CASH BALANCE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Statutorily Required Contribution (SRC)*	Contributions in Relation to the SRC*	Contribution Deficiency (Excess)**	Covered- Employee Payroll***	Contributions as a Percentage of Covered- Employee Payroll
2014	\$ -	\$ -	\$ -	\$ -	-
2015	8,020	8,020	-	48,885	16.41%
2016	6,400	6,400	-	49,371	12.96%
2017	6,440	8,040	(1,600)	56,574	14.21%
2018	7,924	6,324	1,600	65,892	9.60%
2019	9,608	9,608	-	74,938	12.82%
2020	9,843	9,843	-	77,947	12.63%
2021	40	40	-	-	N/A
2022	9,316	9,316	-	-	

\* The Statutorily Required Contribution (SRC) is a contribution amount based upon the payroll and the contribution rate as outlined under the terms of the cash balance pension plan.

\*\* The SRC and the actual Contributions in Relation to the SRC were provided by the custodian. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account. The excess contributions noted in 2017 represents a plan forfeiture applied in the year 2018.

\*\*\* Due to the timing of this audit, covered-employee payroll for 2022 was not provided in this schedule.

BENTLEYVILLE BOROUGH POLICE CASH BALANCE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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

**The Honorable Timothy Jansante**  
Mayor

**Mr. Stanley Glowaski**  
Council President

**Ms. Tammy Stamm**  
Secretary/Treasurer

**Mr. Richard Cardamone, CPA, CGMA**  
Pennsylvania Municipal Retirement System

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