

COMPLIANCE AUDIT

Jermyn Borough General Employees Pension Plan Lackawanna County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

June 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Jermyn Borough
Lackawanna County
Jermyn, PA 18433

We have conducted a compliance audit of the Jermyn Borough General Employees 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 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 three active employees employed during the audit period amounting to \$3,477, \$6,668, \$7,650, \$6,930, and \$6,969, for the years 2018, 2019, 2020, 2021, and 2022, respectively, made during the audit period.
- We determined whether benefits calculated for the plan member 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 benefits due to the individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- 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.

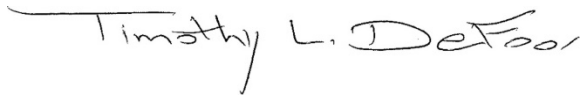
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Jermyn Borough General Employees Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local 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 Jermyn Borough General Employees 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 Deposit The Full Amount Of State Aid Into An Eligible Pension Plan

The contents of this report were discussed with officials of Jermyn 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
May 16, 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 Jermyn Borough General Employees 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 Jermyn Borough General Employees Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 1-96, as amended. The plan was established January 1, 1996. Active members are required to contribute eight (8.0) percent of compensation to the plan. The municipality is required to contribute eight (8.0) percent of each member's compensation per year. As of December 31, 2022, the plan had two active members.

JERMYN BOROUGH GENERAL EMPLOYEES 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 overstated eligible General Employees’ payroll by \$2,500 on the Certification Form AG 385 filed in years 2020, 2021 and 2022, respectively, by including the annual stipend for one of its members. The data contained on these certification forms is based on prior calendar year information.

Criteria: Pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: There was a recent turnover in the position responsible for preparation of the annual AG 385 and the newly appointed individual was not made aware that the annual stipend of the borough’s working mayor was ineligible for certification on the AG 385 form. In addition, the borough lacked adequate control procedures, such as having another individual review the data certified, to ensure the accuracy of the reported data for its full-time positions 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 2020, 2021, and 2022 state aid allocations were based on pension costs, the incorrect certification of pension data affected the borough’s state aid allocations, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2020	8.00%	\$ 2,500	\$ 200
2021	8.00%	2,500	200
2022	8.00%	2,500	<u>200</u>
Total Overpayment of State Aid			<u>\$ 600</u>

In addition, the borough used the overpayments of state aid to pay the minimum municipal obligations (MMOs) due to the General Employees’ pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMOs will not be fully paid.

JERMYN BOROUGH GENERAL EMPLOYEES PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$600, 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.

We also 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.

In addition, if the reimbursement to the Commonwealth is made from General Employees 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: Compliance will be evaluated during our next audit of the plan.

Finding No. 2 – 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 2019 state aid allocation into an eligible pension plan. The municipality received its 2019 state aid allocation in the amount of \$25,602 on September 18, 2019, but, as of the date of this report, only state aid totaling \$24,768 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 mechanism applicable to the pension plans.

JERMYN BOROUGH GENERAL EMPLOYEES PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Cause: Due to a recent turnover in borough personnel responsible for administration of the plans, plan officials were unaware that the full amount of the 2019 state aid was not deposited into an eligible pension plan. A portion of the 2019 state aid, amounting to the police pension plan’s 2019 minimum municipal obligation, was deposited into the police pension plan on October 8, 2019, while the remaining state aid was earmarked towards funding the remaining 2019 non-uniformed defined contribution plan costs. However, newly appointed officials were unaware of the need to reconcile the total amount of state aid deposited into both pension plans with the total state aid received during 2019 to ensure compliance with Act 205.

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

Recommendation: We recommend that the municipality deposit the borough’s remaining state aid allocation of \$834, plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually, into its defined benefit police pension plan. 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.

JERMYN BOROUGH GENERAL EMPLOYEES PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2017	None	\$ 2,301
2018	None	3,751
2019	\$ 8,932	None
2020	9,051	\$ 838
2021	6,771	1,459
2022	3,563	None

Note: In 2022, the borough met the plan's \$8,710 funding requirement through the deposit of state aid and the allocation of terminated employee forfeitures.

JERMYN BOROUGH GENERAL EMPLOYEES PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Anthony Fuga, Jr.
Mayor

Mr. Frank Kulick
Council President

Ms. Shannon Lee
Secretary/Treasurer

This report is a matter of public record and is available online at 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.