COMPLIANCE AUDIT

Mars Borough
Non-Uniformed Pension Plan

Butler County, Pennsylvania

For the Period
January 1, 2018 to December 31, 2021

October 2022

TIMOTHY L. DeFOOR • AUDITOR GENERAL •

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
Mars Borough
Butler County
Mars, PA 16046

We have conducted a compliance audit of the Mars Borough Non-Uniformed 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 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.

- 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 also tested individual employee contributions for all five active employees employed during 2018, and all four employees employed during the years 2019, 2020 and 2021 amounting to $14,909, $13,745, $15,304 and $11,163, for the years 2018, 2019, 2020 and 2021, respectively, made during the audit period.

- We determined whether retirement 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 pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.

- We determined whether the January 1, 2019 actuarial valuation report was prepared and submitted by March 31, 2020, 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 Mars Borough Non-Uniformed 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 Mars Borough Non-Uniformed 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 Mars 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 findings further discussed later in this report:

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Finding No. 2 – Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Finding No. 3 – Ordinance Improperly Amended By Resolution

Finding No. 4 – Inadequate Accounting/Reporting Over Activity 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 Mars 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

Timothy L. DeFoor
Auditor General
October 14, 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 Mars Borough Non-Uniformed 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 Mars Borough Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Resolution No. 8 of 2020, and a separately executed plan agreement with the plan's custodian, adopted pursuant to Act 15 (*refer to Finding No. 3)*. Prior to January 1, 2020, the plan was controlled by the provisions of Ordinance No. 428, and a separate agreement adopted pursuant to Act 15. Effective January 1, 2020, active members are required to contribute 2.25 percent of their compensation to the plan. Prior to 2020, active members were required to contribute one (1.0) percent of their compensation to the plan. Effective January 1, 2020, the municipality is required to contribute 2.25 percent of each member's compensation to the plan. Prior to January 1, 2020, the municipality was required to contribute $125 per quarter, per plan member. As of December 31, 2021, the plan had four active members and one retiree receiving pension benefits.

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Condition: The borough received state aid in excess of the plan's annual pension costs *(adjusted for available plan forfeitures in accordance with the plan document)* for the year 2018. In addition, the borough received state aid in excess of the non-uniformed pension plan's defined contribution pension costs in the year 2019, as illustrated below:

	2018	2019
Municipal pension costs	$ 2,600	$ 2,120
Employee forfeitures available	(1,616)	-
State aid allocation	(2,395)	(2,782)
Excess state aid	$ 1,411	$ 662

Criteria: Section 402(f)(2) of Act 205 states:

> No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Section 13 of the plan agreement *(adopted pursuant to Ordinance No. 428)*, provides the following:

> ln the event a member's service with the Borough is terminated for any reason whatsoever before the funds set aside for such member are vested or if the member elects not to receive a benefit, then the amount of such funds which have not been contributed by the member and which are not vested shall be credited against the next contribution due from the Borough for the remaining or future members of this Plan.

Cause: Plan officials failed to establish adequate internal control procedures to reconcile the borough's state aid allocation, along with available forfeitures, and municipal contributions with the plan's actual defined contribution pension costs during 2018 and 2019.

Finding No. 1 – (Continued)

Effect: It is this department's opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Consequently, the overpayment of state aid in the years 2018 and 2019 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the $2,073 of excess state aid received in the years 2018 and 2019 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 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 evidence of payment.

Furthermore, we recommend that, in the future, plan officials reconcile the borough's annual state aid allocation and any available employee forfeitures with the plan's annual defined contribution pension costs and reimburse any excess state aid received to the Commonwealth.

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

Auditor's Conclusion: 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 pension plan.

Finding No. 2 – Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Condition: The borough made contributions to the non-uniformed pension plan during 2020 in excess of contributions required to fund the pension plan, as illustrated below:

Actual municipal pension costs	$ 4,160
State aid allocated	(2,216)
Municipal contributions required to fund plan	$ 1,944
Actual municipal contributions made	$ 4,160
Municipal contributions required to fund plan	(1,944)
Excess municipal Contributions	$ 2,216

Finding No. 2 – (Continued)

Criteria: Section 3.01 of Resolution No. 8 of 2020, states:

> The required municipal contribution is an amount equal to 2.25% of each Member's Compensation.

Since state aid allocated to a pension plan must be expended on pension costs, it is the opinion of this department that where municipal contributions and state aid are both deposited into a pension plan, the state aid is expended first to fund pension costs.

Cause: Municipal officials deposited the required municipal contributions to the plan for the year 2020 along with the full allocation of 2020 state aid instead of reimbursing the borough for the municipal contributions already made to the plan.

Effect: As a result of the borough making contributions to the non-uniformed pension plan in excess of contributions required to fund the pension plan, an unallocated reserve fund in the amount of $2,216 was generated.

The unallocated reserve fund maintained by the non-uniformed pension plan resulted because no reduction of municipal contributions occurred to reconcile the amount of state aid with the plan's defined contribution pension costs. It is appropriate to use state aid to reimburse a municipality for contributions made to the pension plan to fund the pension costs in that same fiscal year, as long as annual pension costs for that pension plan are equal to or greater than the state aid allocated to that pension plan.

It is the opinion of this department that the borough's failure to withdraw excess municipal contributions made in prior years does not preclude the borough from withdrawing the municipal contributions maintained in the unallocated reserve fund at this time.

Recommendation: We recommend that the borough liquidate the unallocated reserve fund maintained by the non-uniformed pension plan by transferring the assets which represent nonstate aid funds, to the borough's general fund. In addition, any interest income earned on assets held in the reserve fund to the date of transfer should also be transferred to the general fund.

We also recommend that, in the future, plan officials reconcile the amount of state aid allocated to the non-uniformed pension plan and municipal contributions made to the pension plan with the pension plan's annual defined contribution pension costs.

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 – Ordinance Improperly Amended By Resolution

Condition: The pension plan governing document, Ordinance No. 428, was restated in its entirety by Resolution No. 8 of 2020.

Criteria: 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: Municipal officials acted upon guidance from their plan custodian, which provided the borough with a copy of the Resolution and new plan agreement to be adopted by municipal officials.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that the borough amend the plan's governing document with a properly executed ordinance.

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. 4 – Inadequate Accounting/Reporting Over Activity Of The Pension Plan

Condition: The municipality's accounting/reporting system did not provide effective control over the transactional activity of the pension plan during the year 2021. Municipal officials were unable to furnish annual financial statements or custodial account statements summarizing the financial activity of its pension plan.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of pension plans. In addition, assets held in a custodial account for the purpose of plan management are to be governed by the terms and provisions of the account contract, provided that the terms and provisions of the contract are within the parameters of all prevailing pension legislation. Although the municipality may contract with a trustee to administer the financial management of the plan, the fiduciary responsibility for the plan remains with the municipality.

Finding No. 4 – (Continued)

Cause: Municipal officials did not maintain a separate detailed accounting of pension plan transactions which, among other things, helps assure the production of proper financial statements to effectively monitor the annual activity of the pension plan. Additionally, municipal officials indicated that the plan's custodian failed to provide copies of the custodial account transaction statements summarizing activity of the pension plan account for the year 2021.

Effect: Although we were able to obtain alternate documentation from the municipality to evidence the propriety of individual transactions tested during performance of the audit, the failure to maintain annual financial and/or account transaction statements prohibits municipal officials from effectively monitoring the plan's financial operations and could lead to undetected errors or improprieties in account transactions.

Recommendation: 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. In addition, we recommend that municipal officials contact the plan custodian and obtain annual financial statements of the custodial account for its pension plan for the year 2021 to ensure the accuracy and propriety of the transaction activity.

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

Auditor's Conclusion: It was noted that the plan custodian recently went through a substantial upgrade to the plan administration software and implemented a new accounting system. The modernization process, along with the COVID-19 pandemic, resulted in unforeseen delays in the year-end reporting process for financial statements and GASB 68 reports. In addition, the custodian has taken active measures to resolve these issues and expects 2021 financial reports to be distributed before the end of 2022. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

MARS BOROUGH NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

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	$ 1,600	$ 1,600	$ -	$ 110,480	1.45%
2015	1,600	1,600	-	110,980	1.44%
2016	2,080	2,100	(20)	144,376	1.45%
2017	2,600	2,620	(20)	176,811	1.48%
2018	2,600	2,600	-	206,147	1.26%
2019	2,120	2,120	-	182,253	1.16%
2020	4,260	6,478	(2,218)	184,910	3.50%
2021	3,877	3,620	257		

* 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 Contribution were provided by the custodian. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account. For 2020, the borough made excess contributions for the year *(refer to Finding No. 2)*.

*** Due to the timing of this audit, covered-employee payroll for 2021 was not provided in this schedule.

MARS 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 Gregg Hartung
Mayor

Mr. G. Michael Fleming
Council President

Mr. Bradford Price
Chief Administrative Officer

Ms. Bonnie Forsythe
Secretary/Treasurer

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

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