

COMPLIANCE AUDIT

Midland Borough Police Pension Plan Beaver County, Pennsylvania For the Period January 1, 2020 to December 31, 2022

March 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
Midland Borough
Beaver County
Midland, PA 15059

We have conducted a compliance audit of the Midland Borough Police Pension Plan for the period January 1, 2020 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 finding 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 findings 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.
- 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, 2021 actuarial valuation report was prepared and submitted by March 31, 2022, 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.

Midland Borough contracted with an independent certified public accounting firm for audits of its basic financial statements for the years ended December 31, 2020 and 2021, 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 Midland Borough Police 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.

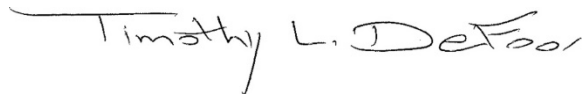
The results of our procedures indicated that, in all significant respects, the Midland Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings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

- Finding No. 1 – Partial Compliance With Prior Recommendation – Failure To Fully Pay The Minimum Municipal Obligation Of The Plan
- Finding No. 2 – Noncompliance With Prior Recommendation – Unsupported Pension Benefit Determination
- Finding No. 3 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Finding Nos. 1 and 2 contained in this audit report repeat conditions that were cited in our previous released report that have not been corrected by borough officials. We are concerned by the borough's failure to correct these previously reported findings and strongly encourage timely implementation of the recommendations noted in these pension plan reports.

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 Midland 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
February 16, 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 Midland Borough Police 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Midland Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. 9149, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established December 18, 1957. Active members are required to contribute up to the maximum permitted by law to the plan. During the current audit period, members contributed eight percent during 2018 and 2019 and then reduced to five percent of compensation in 2020, 2021 and 2022. As of December 31, 2022, the plan had three active members, no terminated members eligible for vested benefits in the future, and six retirees receiving pension benefits from the plan.

MIDLAND BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Recommendation

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

- Failure To Fully Pay The Minimum Municipal Obligation (MMO) Of The Plan

The borough paid the outstanding 2020 MMO balance due to the pension plan with interest; however, a similar condition occurred during the current audit period as further discussed in the Findings and Recommendations section of this report.

Noncompliance With Prior Recommendation

Midland Borough has not complied with the prior recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Unsupported Pension Benefit Determination

MIDLAND BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Recommendation – Failure To Fully Pay The Minimum Municipal Obligation Of The Plan

Condition: As disclosed in the Status of Prior Findings section of this report, the municipality partially complied with the prior recommendation by depositing the outstanding 2020 MMO balance due to the pension plan and included interest. However, a similar condition occurred during the current audit period. The municipality did not fully pay the 2021 MMO as required by Act 205. Based upon an estimate provided by the borough, there was an unpaid 2021 MMO balance remaining in the amount of \$53,748 (*It was noted that the municipality made a payment (\$7,264) towards the original outstanding 2021 MMO balance (\$61,012 as of December 31, 2022) during 2023 which did not include interest.*).

Criteria: As previously disclosed, regarding the MMO, Section 302(c) of Act 205 states, in part:

Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year.

Section 302(d) of Act 205 states:

Annually, the municipality shall provide for the full amount of the minimum obligation of the municipality in the budget of the municipality. The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality. Payment of the minimum obligation of the municipality shall be made by the municipality prior to December 31.

Furthermore, Section 302(e) of Act 205 states:

Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Cause: The borough again failed to ensure timely payment of the plan's MMO in accordance with Act 205 during 2021 and compliance with the prior audit recommendation.

MIDLAND BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Effect: The failure to fully pay the MMO could result in the plan not having adequate resources to meet current and future benefit obligations to its members. Due to the municipality's failure to pay the 2021 MMO by the December 31, deadline, the municipality must add the outstanding 2021 MMO balance to the current year's MMO and include interest, as required by Act 205.

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

Recommendation: We recommend that the municipality pay the outstanding MMO due to the police pension plan for the year 2021, with interest in accordance with Section 302(e) of Act 205. A copy of the interest calculations must be maintained by the borough for examination during our next audit of the plan. Furthermore, we recommend that, in the future, plan officials timely and fully pay the MMO of the plan.

Management's Response: Municipal officials agreed with the finding without exception and indicated that they are working to make installment payments in order to fully pay the MMOs.

Auditor's Conclusion: 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.

Finding No. 2 – Noncompliance With Prior Recommendation – Unsupported Pension Benefit Determination

Condition: As disclosed in our prior audit report, the borough calculated a monthly pension benefit for a plan member who retired April 4, 2017, which was to begin effective May 1, 2017. The benefit did not immediately commence and during the audit covering the period January 1, 2014, to December 31, 2017, municipal officials indicated that the benefit calculation was in litigation. Subsequently, a lump sum benefit payment in the amount of \$56,639 was distributed to the retiree in July 2018, representing 16 months of retroactive pension benefit payments, and additionally, a monthly pension benefit of \$3,540 commenced. It was recommended the borough provide appropriate documentation evidencing that the litigation was resolved as well as documentation supporting the wage amounts used in the pension calculation to ensure the propriety of the benefits paid. However, as of completion of fieldwork, the borough had not provided the requested documentation, accordingly.

MIDLAND BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Criteria: Section 5(c) of Act 600 states, in part:

Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment. Although Act 600 does not define “salary,” the department has concluded, based on a line of court opinions, that the term does not encompass retirement incentive bonuses.

Cause: The borough again failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The borough was again unable to ensure the propriety and accuracy of pension benefits distributed from the police pension plan.

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

Recommendation: We again recommend the borough provide appropriate documentation evidencing the litigation was resolved, as well as substantive documentation to support the wages used in the pension calculation to support the propriety of the benefits paid.

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

Auditor’s Conclusion: 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.

MIDLAND BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The borough certified an ineligible police officer and overstated payroll by \$53,369 on Certification Form AG 385 filed in 2023. The borough included an individual who was employed part-time and did not become a full-time employee until October 1, 2022. The data contained on this certification form is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year. Additionally, the instructions accompanying Certification Form AG 385 prescribe the following criteria for certification purposes:

Each Police Officer **MUST** meet each of these conditions anytime between January 1st and December 31st of the *prior calendar year*:

- a. Be an active, full-time non-uniformed employee employed by the municipality.
- b. Be employed for any six (6) consecutive months during the *prior calendar year*.
- c. Work not less than 35 hours per week.
- d. Be a member of a police pension plan and meet all of its requirements.

Cause: Due to a recent turnover in personnel responsible for the administration of the plan, current plan officials did not have a thorough understanding of the certification form instructions and the borough lacked adequate procedures to timely identify the overstatement 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 pension costs, the incorrect certification of pension data affected the borough’s state aid allocation, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2023	15.03752%	\$ 53,369	\$ 8,025

In addition, the borough used the overpayment of state aid to pay the minimum municipal obligation (MMO) due to the police pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMO will not be fully paid.

MIDLAND BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$8,025, 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, the borough 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 police pension plan funds, we recommend that any resulting MMO deficiency 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: 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.

MIDLAND BOROUGH POLICE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

Conditions of repeat findings such as those reported by Finding Nos. 1 and 2 contained in this audit report may lead to a total withholding of state aid in the future unless those findings are corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

MIDLAND BOROUGH POLICE 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, 2017, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-17	\$ 1,843,634	\$ 2,164,374	\$ 320,740	85.2%
01-01-19	1,877,552	2,340,127	462,575	80.2%
01-01-21	1,998,388	1,993,102	(5,286)	100.3%

Note: The market values of the plan’s assets at 01-01-17, 01-01-19, and 01-01-21 have been adjusted to reflect the smoothing of gains and/or losses over a 4-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.

MIDLAND BOROUGH POLICE 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.

MIDLAND BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
 AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2017	\$ 103,056	100.0%
2018	86,826	100.0%
2019	93,086	100.0%
2020	109,406	100.0%
2021	99,390	46.0%
2022	43,908	100.0%

MIDLAND BOROUGH POLICE 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, 2021
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	Market value, 4-year smoothing.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases *	4.0%

* Includes inflation at 2.5%

MIDLAND BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Angela M. Adkins
Mayor

Mr. David Trevino
Council President

Mr. David F. Tye
Manager

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