

COMPLIANCE AUDIT

Apollo Borough Police Pension Plan Armstrong County, Pennsylvania For the Period January 1, 2010 to December 31, 2012

September 2014



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Apollo Borough
Armstrong County
Apollo, PA 15613

We have conducted a compliance audit of the Apollo Borough Police Pension Plan for the period January 1, 2010 to December 31, 2012. 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements. State aid allocations that were deposited into the pension plan for the years ended December 31, 2007 to December 31, 2012, are presented on the Summary of Deposited State Aid and Employer Contributions.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations.
- Whether employee contributions are required and, if so, are determined, deducted and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.
- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.

- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the terms of the allocated insurance contract, including ownership and any restrictions, are in compliance with plan provisions, investment policies and state regulations.
- Whether the terms of the contractual agreement with the Pennsylvania Municipal Retirement System are in accordance with the plan's governing document, if separately stated, and applicable laws and regulations.

The Apollo Borough Police 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 Comprehensive Annual 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 Apollo Borough Police 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, 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 tests indicated that, in all significant respects, the Apollo 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 finding further discussed later in this report:

Finding - Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

The contents of this report were discussed with officials of Apollo 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, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

January 23, 2014

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 Apollo Borough Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission 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.
- Act 120 - Foreign Casualty Insurance Premium Tax Allocation Law, Act of May 12, 1943 (P.L. 259, No. 120), as amended, 72 P.S. § 2263.1 et seq.
- Act 140 - Public Employee Pension Forfeiture Act, Act of July 8, 1978 (P.L. 752, No. 140), as amended, 43 P.S. § 1311 et seq.

The Apollo Borough Police Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 256, effective January 1, 2012, adopted pursuant to Act 15. From January 1, 2011 to December 31, 2011, the plan was governed by Ordinance No. 247-2010, adopted pursuant to Act 15. Prior to January 1, 2011, the plan was operating pursuant to Act 120 with no defined contributions and variable pension or retirement benefits provided, usually through discretionary purchases of insurance or annuity contracts. Active members are not required to contribute to the plan. The municipality was required to contribute 15 percent of compensation for each member hired prior to January 1, 2011. As of December 31, 2012, the plan had no active members, no terminated members eligible for vested benefits in the future and no retirees receiving pension benefits.

APOLLO BOROUGH POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

Condition: The municipality did not deposit the full amount of its 2010 and 2012 state aid allocations into the pension plan. The municipality received its 2010 and 2012 state aid allocations in the amounts of \$12,939 and \$14,304, on September 24, 2010, and September 21, 2012, respectively; however, only \$26,059 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 mechanisms applicable to the respective pension plan.

Cause: The full amounts of the 2010 and 2012 state aid allocations were not deposited into an eligible pension plan because internal control procedures were not in effect to ensure the deposit of the full amount of state aid.

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

Since the borough satisfied the contribution requirements due to their non-uniformed pension plan, the balance of the borough's 2010 and 2012 state aid allocations in the amounts of \$389 and \$795, respectively, ordinarily should have been deposited to the police plan; however, the police pension plan had only 1 eligible participant who is no longer employed by the borough and was subsequently convicted of offenses that are covered by Act 140, the pension forfeiture act, therefore no additional funds are due to the former police chief.

Recommendation: We recommend that the balance of the 2010 and 2012 state aid allocations in the amount of \$1,184 that were not deposited into the pension plan be reimbursed 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, 320 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

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

Auditor's Conclusion: 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.

APOLLO BOROUGH POLICE PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2007	\$ 3,830	None
2008	5,905	None
2009	6,515	None
2010	3,935	None
2011	4,856	None
2012	3,410	None

APOLLO BOROUGH POLICE PENSION PLAN
COMMENT

Distribution From Allocated Insurance Contract

During the current audit period, on September 28, 2012, Apollo Borough cash surrendered an allocated insurance contract that was maintained for the former police chief prior to the borough's enrollment in PMRS and the proceeds, totaling \$23,043, were distributed to the former police chief who at the time of the distribution was 52 years of age with 5 years of service. The surrender of the insurance contract was pursuant to an agreement between the Apollo Borough and the former police chief dated August 16, 2012, which stipulated the borough would distribute the proceeds of the contract to the police chief in exchange for the termination of pending litigation between the parties and the waiver of any and all rights to the police chief receiving continued Heart and Lung benefits from the borough. Subsequent to this agreement and the distribution of funds, the former police chief's employment with the borough was terminated and he was subsequently convicted of offenses subject to the Pension Forfeiture Act and sentenced to 9 to 27 months in county prison on July 18, 2013. PMRS subsequently took action to forfeit the former police chief's PMRS account balance.

APOLLO BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Apollo Borough Police Pension Plan
Armstrong County
P.O. Box 306
Apollo, PA 15613

The Honorable Jeffrey Held	Mayor
Ms. Cynthia Virostek	Council President
Ms. Cynthia McDermott	Borough Manager
Ms. Kristine M. Cline	Pennsylvania Municipal Retirement System

This report is a matter of public record and is available online at www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.