

COMPLIANCE AUDIT

Apollo Borough Non-Uniformed 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



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania 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 Non-Uniformed 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 our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings 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 finding contained in our prior audit 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. 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. Employer contributions 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 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 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.
- Whether the terms of the allocated insurance contracts, including ownership and any restrictions, are in compliance with plan provisions, investment policies and state regulations.

The Apollo 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 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.

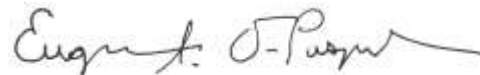
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Apollo Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances 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 objectives, 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 objectives.

The results of our tests indicated that, in all significant respects, the Apollo 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 – Partial Compliance With Prior Audit Recommendation - Failure To Properly Fund Member's Account
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid
- Finding No. 3 – Receipt Of State Aid In Excess Of Entitlement
- Finding No. 4 – Municipal Contributions Made In Excess Of Contributions Required To Fund The 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.

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 Non-Uniformed 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.

The Apollo Borough Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 255-2012, effective January 1, 2012, adopted pursuant to Act 15. From January 1, 2011 to December 31, 2011, the plan was governed by Ordinance No. 248-2010, adopted pursuant to Act 15. Prior to January 1, 2011, the plan was governed by Resolution No. 05-2007. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established September 1, 1978. Active members are not required to contribute to the plan. As of January 1, 2012, the municipality is required to contribute 15 percent of the compensation earned and paid to the member in 2011 for members hired prior to January 1, 2011 and 5 percent of each member's compensation for members hired after January 1, 2011. For the fiscal year 2011, the municipality was required to contribute 15 percent of each member's compensation for members hired prior to January 1, 2011 and 5 percent of each member's compensation for members hired after January 1, 2011. For the fiscal year 2010, the municipality was required to contribute 12 percent of the secretary's annual salary and \$90 per week for each employee covered under the collective bargaining agreement. As of December 31, 2012, the plan had 1 active member, 1 terminated member eligible for vested benefits in the future and no retirees receiving pension benefits.

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Audit Recommendation

Apollo Borough has partially complied with the prior audit recommendation concerning the following:

- Failure To Properly Fund Member Accounts

The borough properly funded the member's account that was not funded for the years 2008 and 2009, with interest. Borough officials also withdrew excess contributions from the other member's account and reimbursed the borough via the surrender of the allocated insurance policy. However, plan officials failed to deposit the remaining balance from the surrendered insurance policy into the member's new vested account as further discussed in the Findings and Recommendations section of this report.

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Audit Recommendation - Failure To Properly Fund Member’s Account

Condition: In 2011, the borough elected to establish a municipal pension plan with the Pennsylvania Municipal Retirement System (PMRS). At this time, the borough cash surrendered an existing allocated insurance contract held on behalf of a vested member in the amount of \$18,602. Of this amount, \$10,276 was transferred to the borough’s general fund as recommended in our prior audit report. Plan officials then deposited \$4,667 into the vested member’s account with PMRS, which left an unapplied balance of \$3,659 which should be deposited into the vested member’s account with PMRS.

Criteria: Section 2 of Resolution No. 05 of 2007 states:

The Apollo Borough Non-Uniform Pension Ordinance and Program shall be amended retroactive to January 1, 2007, to include the Borough Secretary’s defined contribution which shall be 12% of the Borough Secretary’s annual salary.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that the eligible plan member’s account was properly funded in accordance with the provisions contained in the plan’s governing document.

Effect: The failure to properly fund plan members’ accounts could result in plan members being denied benefits to which they are entitled in accordance with the plan’s governing document and collective bargaining agreement.

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

Recommendation: We recommend that the borough deposit the remaining \$3,659 into the vested member’s account with PMRS, with interest.

Management’s Response: Municipal officials 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.

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The borough failed to certify 1 eligible non-uniformed employee and understated payroll by \$32,615 on the Certification Form AG 385 filed in 2011. 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: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data certified.

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 borough received an underpayment of state aid of \$4,445 as identified below:

<u>Normal Cost</u>	<u>Payroll Understated</u>	<u>State Aid Underpayment</u>
13.63%	\$ 32,615	\$ 4,445

Although the borough will be reimbursed for the underpayment of state aid due to the borough's certification error, the full amount of the 2011 state aid allocation was not available to be deposited timely and therefore resulted in the borough having to make additional municipal contributions in order to meet the plan's funding obligation.

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least 2 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.

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.

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Receipt Of State Aid In Excess Of Entitlement

Condition: The borough received state aid in excess of the non-uniformed pension plan’s annual pension costs in the year 2012, as illustrated below:

State aid allocation deposited to plan	\$ 9,399
State aid allocation in general fund	<u>700</u>
Total state aid allocation	\$ 10,099
Actual municipal pension costs	<u>(7,725)</u>
Excess state aid	<u><u>\$ 2,374</u></u>

Of the \$2,374 of excess state aid, \$700 remains in the borough’s general fund, while \$1,674 was improperly deposited into a member’s account with PMRS (See Finding No. 4).

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.

Cause: Plan officials failed to establish adequate internal control procedures to reconcile the borough’s state aid allocation with the plan’s actual pension costs.

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 received in one year to offset pension costs in other years. Consequently, the overpayment of state aid received in the year 2012 must be returned to the Commonwealth for redistribution.

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

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We recommend that the municipality return the \$2,374 of excess state aid received in the year 2012 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 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.

Furthermore, we recommend that in the future, plan officials reconcile the borough’s annual state aid allocation with the plan’s annual 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: 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. 4 – Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Condition: The municipality made excess contributions to the account of 1 member in 2012 in the amount of \$1,674, as illustrated below:

<u>Required Contributions</u>	<u>Actual Contributions</u>	<u>Excess Contributions</u>
\$ 2,514	\$ 4,188	\$ 1,674

As noted in Finding No. 3, the \$1,674 of excess contributions consists of state aid.

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Criteria: In 2012, the plan’s governing document, Ordinance No. 255-2012, which adopted a separately executed plan agreement with PMRS effective January 1, 2012, established the municipal contribution rate at 15 percent of the compensation earned and paid to the member in 2011 for all members hired prior to January 1, 2011. For members hired after January 1, 2011, the municipality was required to contribute 5 percent of each member’s compensation. For members who do not earn credited service for the full quarter, the municipality shall contribute an amount equal to a proportion of the member’s actual credited service earned during the quarter.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that plan members’ accounts were properly funded in accordance with the provisions contained in the plan’s governing document.

Effect: The failure to properly fund the member’s account will result in the plan member receiving excess pension benefits upon retirement eligibility.

Recommendation: We recommend that plan officials review the excess contributions made to the referenced member’s account in 2012 with PMRS to determine whether the excess contributions should be withdrawn from the member’s account and reimbursed to the borough. We note in Finding No. 3 that the \$1,674 of excess contributions consists of state aid that the borough deposited to the member’s account which must be returned to the Commonwealth.

We also recommend that plan officials implement adequate internal control procedures to ensure that the members’ accounts are properly funded in accordance with the provisions contained in the plan’s governing document.

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.

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

A condition of a repeat finding such as that reported by Finding No. 1 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is 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 & VFRA Audits, 316-D Finance Building, Harrisburg, PA 17120.

In addition, Finding No. 3 contained in this audit report cites an overpayment of state aid to the borough in the amount of \$2,374. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, 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.

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

Year Ended December 31	State Aid	Employer Contributions
2007	\$ 7,470	\$ 390
2008	5,905	2,492
2009	6,515	1,492
2010	8,615	None
2011	4,492	5,691
2012	9,399	None

APOLLO BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Apollo Borough Non-Uniformed 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.