

**MAHANoy CITY BOROUGH NONUNIFORMED PENSION PLAN**

**SCHUYLKILL COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2009, TO DECEMBER 31, 2011**





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## CONTENTS

	<u>Page</u>
Background.....	1
Letter from the Auditor General .....	3
Status of Prior Findings .....	7
Finding and Recommendation:	
Finding – Noncompliance With Prior Audit Recommendation – Withdrawal Of Plan Assets Prior To Superannuation Retirement Date.....	8
Supplementary Information .....	10
Report Distribution List .....	11



## **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.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 Mahanoy City Borough Nonuniformed 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.

The Mahanoy City Borough Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 96-4, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its nonuniformed employees. Active members are not required to contribute to the plan. The municipality was required to contribute 16 percent of each member's compensation for the year 2009, and 11 percent of each member's compensation for the years 2010 and 2011.





The Honorable Mayor and Borough Council  
Mahanoy City Borough  
Schuylkill County  
Mahanoy City, PA 17948

We have conducted a compliance audit of the Mahanoy City Borough Nonuniformed Pension Plan for the period January 1, 2009, to December 31, 2011. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits 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 finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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 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.
- 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 unallocated insurance contract, including ownership and any restrictions, are in compliance with plan provisions, investment policies and state regulations.
- Whether benefit payments have only been made to living recipients, based on the Social Security numbers found in the pension records for retirees and beneficiaries.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Mahanoy City Borough Nonuniformed 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 Mahanoy City Borough Nonuniformed 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 – Noncompliance With Prior Audit Recommendation – Withdrawal  
Of Plan Assets Prior To Superannuation Retirement Date

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 Mahanoy City Borough and, where appropriate, their responses have been included in the report.

October 11, 2012

JACK WAGNER  
Auditor General



MAHANOEY CITY BOROUGH NONUNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Mahanoy City Borough has complied with the prior audit recommendations concerning the following:

- Failure To Fund Members' Accounts

The borough deposited \$1,262 of contributions due to the members' accounts for the year 2006; and

- Receipt Of State Aid In Excess Of Entitlement

The borough reimbursed \$936 to the Commonwealth for the excess state aid received in the year 2006.

Noncompliance With Prior Audit Recommendation

Mahanoy City Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Withdrawal Of Plan Assets Prior To Superannuation Retirement Date

MAHANOEY CITY BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Audit Recommendation – Withdrawal Of Plan Assets Prior To Superannuation Retirement Date

Condition: As disclosed in the prior audit report, 4 active plan members improperly received withdrawals from their retirement accounts prior to reaching the required superannuation retirement age of 65. Furthermore, during the current audit period, 2 active plan members improperly received withdrawals from their retirement accounts prior to reaching the required superannuation retirement age of 65.

Criteria: Article IV of Ordinance 96-4, as amended, states, in part:

An employee shall be entitled to full benefits only after the requisite years of service with the Borough as established by the Plan Documents and attaining the age of 65 years.

In addition, Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Therefore, Act 205 funding (state aid) is intended to provide benefit payments upon eligibility for retirement, not for distributions prior to retirement benefit eligibility.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that only authorized distributions were made to plan members based on their retirement benefit eligibility to ensure compliance with the prior audit recommendation.

Effect: Allowing distributions from member accounts prior to their eligibility to receive retirement benefits violates the purpose for which state aid was allocated to the municipality, adversely affects the retirement income of an annuitant and undermines the integrity of the pension plan.

MAHANoy CITY BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We again recommend that plan officials establish adequate internal control procedures to ensure that all distributions from the pension plan are made in accordance with the provisions contained in the plan’s governing document. In addition, municipal officials should ensure that the insurance contract is amended to specifically prohibit any withdrawals prior to retirement benefit eligibility.

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

Auditor’s Conclusion: Compliance with the finding recommendation will be evaluated during our next audit of the plan. A condition of a repeat finding of this nature may lead to a total withholding of state aid in the future.

MAHANoy CITY BOROUGH NONUNIFORMED PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF STATE AID  
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2006	\$ 20,978	\$ 1,204
2007	23,238	5,226
2008	25,765	9,105
2009	29,797	2,283
2010	25,919	None
2011	22,080	None



MAHANOEY CITY BOROUGH NONUNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Mahanoy City Borough Nonuniformed Pension Plan  
Schuylkill County  
239 East Pine Street  
Mahanoy City, PA 17948

The Honorable Nancy A. Petritsch	Mayor
Mr. Thomas E. Oblas	Council President
Mr. Daniel L. Lynch	Borough Manager

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).