

COMPLIANCE AUDIT

Apollo Borough Police Pension Plan Armstrong County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

March 2022



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
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, 2017 to December 31, 2020. 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 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 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 finding 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 that there were no employee contributions required by the plan's governing document and applicable laws and regulations for the years covered by our audit period.
- We determined that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, respectively, 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 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 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 Apollo 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.

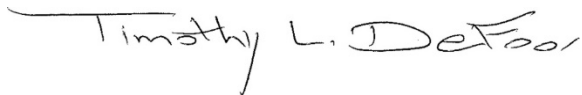
The results of our procedures indicated that, in all significant respects, the Apollo Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings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

Finding No. 1 – Partial Compliance With Prior Recommendation – Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Finding No. 2 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

Finding No. 3 – Ordinance Improperly Amended By Resolution

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 that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
February 18, 2022

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 Apollo 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 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 Police Pension Plan is a single-employer cash balance pension plan. The plan is locally controlled by the provisions of Resolution 04-2021, effective April 1, 2020, and a separately executed plan agreement with the Pennsylvania Municipal Retirement System (PMRS), adopted pursuant to Act 15. Prior to April 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 256-2012 (*refer to Finding No. 3 contained in this report*) and an agreement with PMRS adopted pursuant to Act 15. The plan was also affected by the provisions of collective bargaining agreements between the borough and its police employees. The plan was established May 5, 1948. Active members are not required to contribute to the plan. As of December 31, 2020, the plan had one active member.

APOLLO BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

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

- Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

During the current audit period, the borough reimbursed \$2,910 to the Commonwealth for excess state aid received during 2014, 2015 and 2016 and refunded \$3,195 to the general fund for municipal funds deposited in excess of prior pension costs. However, the borough again received state aid in excess of entitlement and deposited general municipal funds in excess of contributions required to fund the plan as further disclosed in Finding No. 1 contained in this report.

APOLLO BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Recommendation – Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Condition: As disclosed in the Status of Prior Finding section of this report, the borough partially complied with the prior recommendation by reimbursing the Commonwealth for the excess state aid received during 2014, 2015 and 2016 and the general fund for the excess contributions made by the borough during prior audit periods. However, the borough again failed to properly liquidate the remaining unallocated municipal reserve funds, received additional state aid in excess of the police pension plan’s pension costs and made municipal contributions in excess of those required to fund the plan during the audit period, as illustrated below:

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Actual municipal pension costs	\$ 2,570	\$ 2,719	\$ 1,960	\$ 2,014
Employee forfeitures available	<u>(16,331)</u>	<u>(17,177)</u>	<u>(9,870)</u>	<u>(11,031)</u>
Adjusted actual municipal pension Costs	\$ -	\$ -	\$ -	\$ -
State aid allocated	<u>2,570</u>	<u>645</u>	<u>2,601</u>	<u>-</u>
Excess state aid received	<u>\$ 2,570</u>	<u>\$ 645</u>	<u>\$ 2,601</u>	<u>\$ -</u>
Actual municipal contributions Made	-	-	-	1,995
Municipal contributions required to the fund	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Excess municipal contributions	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,995</u>

APOLLO BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

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.

In addition, Section 3.01 of the plan agreement states:

Required municipal contribution of 5% per calendar quarter.

Furthermore, Section 11.3(a) of the plan document effective January 1, 2012 thru April 1, 2020 states in part:

Forfeitures under this clause or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this act.

Cause: Plan officials indicated that the borough has had 3 different secretaries since 2012 and the forfeiture from 2013 was not applied until 2017, because the borough wanted to make sure there was no legal recourse for the terminated participant prior to liquidating the forfeiture. The untimeliness of the forfeiture application and lack of knowledge of those formerly responsible for the pension plan resulted in the condition noted above.

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 2017, 2018, and 2019, in the total amount of \$5,816, must be returned to the Commonwealth for redistribution.

APOLLO BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, as a result of the borough not using available reserve funds towards its pension plan costs, an unallocated reserve fund remains in the amount of \$11,030 as of December 31, 2020 as illustrated by the following:

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Unallocated reserve fund at January 1	\$ 16,331	\$ 17,178	\$ 9,870	\$ 11,030
Forfeitures	-	-	-	-
Excess State Aid deposited	2,570	645	2,601	-
Excess municipal contributions	-	-	-	1,995
Interest on reserve funds	847	870	540	-
Administrative expenses	(20)	(20)	(20)	-
Excess State Aid returned to Commonwealth	-	(2,910)	-	-
Excess State Aid returned to municipality	-	(3,195)	-	-
Transfer to member accounts	<u>(2,550)</u>	<u>(2,698)</u>	<u>(1,961)</u>	<u>(1,995)</u>
Unallocated reserve fund at December 31	<u>\$ 17,178</u>	<u>\$ 9,870</u>	<u>\$ 11,030</u>	<u>\$ 11,030</u>

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

Recommendation: We recommend that the municipality return the \$5,816 of excess state aid received in the years 2017, 2018, and 2019 to the Commonwealth from the police pension plan. 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.

APOLLO BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

We also recommend that the borough liquidate the remaining unallocated reserve fund maintained by the pension plan by applying such reserve funds towards future contributions required to fund the plan before any additional state aid and/or municipal contributions are deposited into the police pension plan account.

Furthermore, we again recommend that plan officials reconcile the amount of state aid allocated to the borough, available forfeitures and municipal contributions made to the pension plan, with the plan's annual pension costs and reimburse any excess state aid received to the Commonwealth. In addition, if subsequent forfeitures become available, plan officials should consult with PMRS to determine whether additional municipal contributions are needed to meet the plan's funding obligations.

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. 2 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

Condition: The borough's record-keeping system did not provide effective control over the transactional activity of the police pension plan during 2020. Municipal officials were unable to furnish annual financial statements or custodial account transaction statements for the police pension plan. These annual financial and account statements have historically been provided by the plan's custodian, PMRS. However, as of the date of this report, annual financial and accounting statements summarizing the pension account activity have not been provided for the year 2020.

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.

APOLLO BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Cause: Municipal officials indicated that the plan’s custodian, PMRS, failed to provide copies of the custodial account transaction statements summarizing activity of the pension plan account for the year 2020. In addition, 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.

Effect: Although we were able to obtain alternate documentation from the municipality to evidence the propriety of the individual transactions tested during performance of the audit for the year 2020, the failure to maintain annual financial and/or account transaction statements prohibits municipal officials from effectively monitoring the plan’s financial operations. Additionally, inadequate monitoring of the pension plan account could lead to undetected errors or improprieties in account transactions as well as deficiencies in authorizing and implementing pension plan policies and procedures.

Recommendation: We recommend that municipal officials contact the plan custodian and obtain annual financial statements of the custodial account of the police pension plan for the year 2020 to ensure the accuracy and propriety of the transaction activity. In addition, we recommend that municipal officials establish and maintain a financial record-keeping 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.

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

Auditor’s Conclusion: It was noted that PMRS 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. PMRS officials have taken active measures to resolve these issues and anticipate distribution of the 2020 reports and statements for their plans the last week of March and anticipate completing 2020 financial reporting this summer. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

APOLLO BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Ordinance Improperly Amended By Resolution

Condition: The pension plan’s governing document, Ordinance No. 256-2012, was restated in its entirety by Resolution No. 04-2021.

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 were not aware that a resolution cannot amend an ordinance.

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.

APOLLO BOROUGH POLICE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

Finding No. 1 contained in this audit report cites an overpayment of state aid to the borough in the amount of \$5,816, plus interest. 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, 321 Finance Building, Harrisburg, PA 17120.

APOLLO BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

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	\$ 20	\$ 20	\$ -	\$ -	\$ -
2015	1,601	1,601	-	31,620	5.06%
2016	1,808	1,808	-	35,768	5.05%
2017	2,570	2,570	-	50,994	5.04%
2018	2,718	(5,459)	8,177	53,957	(10.12%)
2019	1,981	2,601	(620)	39,217	6.63%
2020	1,994	1,995	(1)		

* 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 PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account (*refer to Finding No. 1*).

*** Due to the timing of this audit, covered-employee payroll for 2020 was not provided in this schedule.

APOLLO BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. John Steele
Council President

Ms. Jennifer Mullins
Council Member

Ms. Deanna Shupe
Secretary

Ms. Cynthia Cranmer, CPA
Pennsylvania Municipal Retirement System

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.