

# COMPLIANCE AUDIT

---

## Avondale Borough Non-Uniformed Pension Plan Chester County, Pennsylvania For the Period January 1, 2018 to December 31, 2019

---

February 2021



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
Facebook: Pennsylvania Auditor General  
Twitter: @PAAuditorGen  
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Avondale Borough  
Chester County  
Avondale, PA 19311

We have conducted a compliance audit of the Avondale Borough Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2019. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings 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. 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 whether retirement benefits calculated for the lone plan member who retired represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws, and regulations by recalculating the amount of the monthly pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- We determined whether the January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018, and 2020, 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 Avondale 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 Plan. 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 Avondale Borough Non-Uniformed 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 objective.

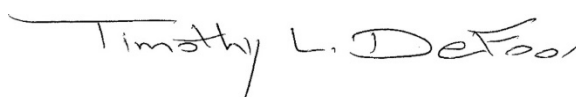
The results of our procedures indicated that, in all significant respects, the Avondale Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following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

- Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 3 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205
- Finding No. 4 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

Findings No. 1 and 2 contained in this audit report cite a total overpayment of state aid to the borough in the amount of \$2,729, plus interest. Conditions of this nature may lead to a total withholding of state aid in the future unless those findings are corrected.

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 Avondale 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

January 15, 2021

## CONTENTS

	<u>Page</u>
Background.....	1
Findings and Recommendations:	
Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement.....	2
Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid.....	4
Finding No. 3 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205.....	6
Finding No. 4 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan .....	8
Potential Withhold of State Aid.....	10
Supplementary Information .....	11
Report Distribution List .....	12

## 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 Plan.

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 Avondale Borough Non-Uniformed 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 Avondale Borough Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 245, and a separately executed plan agreement with the Pennsylvania Municipal Retirement System (PMRS), adopted pursuant to Act 15. The plan was established January 1, 2014. Active members are not required to contribute to the plan; however, members may optionally contribute up to, but no more than 20 percent of their compensation to the plan. The municipality is required to contribute 3 percent of each member's compensation to the plan. As of December 31, 2019, the plan had 3 active members, and 1 retiree receiving pension benefits.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement**

Condition: The borough received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs for full-time plan members in the year 2018, as illustrated below:

Municipal pension costs for full-time plan members	\$	1,927
Forfeitures available		(3,324)
Adjusted municipal pension costs for full-time plan members		-
State aid		1,801
Excess state aid*	\$	1,801

*\* It was noted that the excess state aid allocation remained in the borough’s general fund as of the date of this report.*

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 402(d) of Act 205 states, in part:

Eligible recipients of general municipal pension system State aid. Any county of the second class which, prior to the effective date of this chapter, received allocations for its police pension fund pursuant to the act of May 12, 1943 (P.L. 259, No. 120), or any city, borough, incorporated town or Borough or any home rule municipality formerly classified as a city, borough, incorporated town or Borough which employs one or more full-time municipal employees. . . .

Furthermore, Section 402(e)(2) of Act 205 states, in part:

The applicable number of units shall be attributable to each active employee who was employed on a full-time basis for a minimum of six consecutive months. . . .

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Therefore, Act 205 state aid funding may only be used to fund the pension costs attributable to full-time employees.

Cause: Plan officials failed to reconcile the borough's allocations of state aid to the plan's annual defined contribution pension costs attributable to full-time plan members.

Effect: It is this department's opinion that since 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 overpayments of state aid in the years 2018, in the total amount of \$1,801, 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.

Recommendation: We recommend that the municipality return the \$1,801 overpayment of state aid received in the year 2018 to the Commonwealth from the borough's general fund. 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.

Furthermore, we recommend that, in the future, plan officials reconcile the amount of state aid allocated to the Borough with the plan's annual defined contribution pension costs attributable to full-time members and reimburse any excess state aid received to the Commonwealth.

Management's Response: Municipal officials agreed with the finding without exception and indicated that they will take appropriate action to comply with the recommendation upon receipt of the audit report.

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.



AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

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

Condition: The borough failed to certify an eligible non-uniformed employee and understated payroll by \$25,275 on the Certification Form AG 385 filed in 2018. In addition, the borough certified an ineligible part-time employee (1 unit) and overstated payroll by \$30,933 on Certification Form AG 385 filed in 2020. The data contained on these certification forms 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. Additionally, the instructions accompanying Certification Form AG 385 prescribes the following criteria for certification purposes:

Each Non-Uniformed Employee 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 non-uniformed employee pension plan and meet all of its requirements.

Cause: Plan officials inadvertently failed to include a full-time employee who separated from employment with the borough on July 17, 2017 but was eligible for certification during 2018. In addition, the borough failed to establish adequate internal control procedures, such as having another individual review the data certified, to ensure compliance with the instructions that accompany Certification Form AG 385 and the accuracy of the required pension data reported.

Effect: The data submitted on these certification forms are used, in part, to calculate the state aid due to the municipality for distribution to its pension plan. Because the borough's 2018 state aid allocation was based on pension costs, the incorrect certification of pension data resulted an underpayment of state aid amounting to \$758 ( $\$25,275 * 3.0$  percent). However, since the borough's 2018 pension costs were satisfied by available plan forfeitures as indicated in Finding No. 1 above, the borough will not receive any additional state aid allocation resulting from the certification error made during 2018.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

For 2020, the borough’s state aid allocation was also based on pension costs. Since 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:

Year	Normal Cost	Payroll Overstated	State Aid Overpayment
2020	3%	\$ 30,933	\$ 928

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 total excess state aid, in the amount of \$928, plus interest, received in the year 2020 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, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

We also 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.

In addition, if the reimbursement to the Commonwealth is made from non-uniformed 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 and indicated that they will take appropriate action to comply with the recommendation upon receipt of the audit report.

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.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – Awarding Of Professional Services Contract Inconsistent With Provisions  
Of Act 205**

Condition: The borough failed to adopt mandatory provisions of Act 205 regarding professional services contracts. The borough entered into an agreement with the Pennsylvania Municipal Retirement System (PMRS) for custodial services for the pension plan during 2014; however, there was no evidence provided to support that the contracting for these professional services was conducted and awarded in accordance with provisions of Act 205.

Criteria: Section 701-A of Act 205, as amended by Act 44, defines a “Professional Services Contract”, as follows:

“Professional services contract.” A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
- (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states, in part:

Each municipal pension system ... shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

Additionally, Section 702-A (c), (e), (f) and (h) state, in part:

**Review.** Procedures to select the most qualified person shall include a review of the person’s qualifications, experience and expertise and the compensation to be charged.

**Conflict of interest.** The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract.

**Public information.** Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

**Notice and summary.** The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applications and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Section 703-A (c) states in part:

Upon advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Cause: Plan officials failed to establish adequate internal control procedures to evidence compliance with provisions of Act 205 relative to professional services contracts for the pension plan.

Effect: The borough's failure to comply with the provisions stipulated in Act 205 for the procurement of professional custodial services for the pension plan denotes a general lack of overall transparency of the actions taken by plan officials relative to the contracting for custodial services for the pension plan.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions, which should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process to ensure the transparency of the actions taken by plan officials relative to the awarding of any future professional services contracts for the pension plan.

Management's Response: Municipal officials agreed with the finding without exception and indicated that they will take appropriate action to comply with the recommendation upon receipt of the audit report.

Auditor's Conclusion: Based on the management response, it appears municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – 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 non-uniformed pension plan during 2019. Municipal officials were unable to furnish annual financial statements or custodial account transaction statements for the non-uniformed 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 2019.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of Pension Plan. 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.

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 2019. 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 2019, 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 non-uniformed pension plan for the year 2019 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.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

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

Auditor's Conclusion: PMRS has indicated that they are in the process of preparing 2019 Year-End Financial Activity Reports and Annual Member Statements for all municipalities. PMRS has also indicated that they recently went through a substantial upgrade to the plan administration software and implemented a new accounting system. This transition in addition to disruptions in normal government operation due to COVID-19 has resulted in a three to four month delay in the 2019 year-end reporting process. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

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

Findings No. 1 and 2 contained in this audit report cite an overpayment of state aid to the borough in the amount of \$2,729, plus interest. Conditions of this nature may lead to a total withholding of state aid in the future unless these findings are 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.

AVONDALE BOROUGH 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	\$ 4,409	\$ 4,409	\$ -	\$ 143,630	3.07%
2015	5,890	5,888	2	192,992	3.05%
2016	4,488	4,488	-	147,200	3.05%
2017	4,194	3,423	771	135,524	2.53%
2018	3,475	-	3,475	112,491	0.00%
2019	3,521	3,521	-		

\* The Statutorily Required Contribution (SRC) is a contribution amount based upon the payroll and contribution rate as outlined under the terms of the cash balance pension plan.

\*\* The Statutorily Required Contribution (SRC) and the Actual Contributions were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account.

In 2015, the borough met the plan's \$5,890 funding requirement through the deposit of \$5,888 in employer contributions and \$2 transferred from the municipal reserve account.

In 2017, the borough met the plan's \$4,194 funding requirement through the deposit of \$3,423 in employer contributions and the allocation of \$771 in terminated employee forfeitures.

In 2018, the borough met the plan's \$3,475 funding requirement through the deposit of \$151 in employer contributions and the allocation of \$3,324 in terminated employee forfeitures.

\*\*\* Due to the timing of this audit, covered-employee payroll for 2019 was not provided in this schedule.



AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

**Mr. Steve Cummings**  
Mayor

**Mr. William Shore**  
Council President

**Mr. David Basselman**  
Council Vice-President

**Mr. Robert McCue**  
Council Member

**Ms. Rebecca Schlinme**  
Council Member

**Mr. Paul Morgan**  
Council Member

**Ms. Rebecca McAleer Brownback**  
Borough Secretary

**Ms. Charity Rosenberry, CPA**  
Pennsylvania Municipal Retirement System

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).