

COMPLIANCE AUDIT

Mount Joy Borough Police Pension Plan Lancaster County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

April 2021



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
Mount Joy Borough
Lancaster County
Mount Joy, PA 17552

We have conducted a compliance audit of the Mount Joy 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 findings 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 findings 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 for the years covered by our audit period due to the fact that employee contributions were appropriately waived by the municipality.
- We determined whether retirement benefits calculated for the plan members who retired during the current audit period, and through the completion of our fieldwork procedures, 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 individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- 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.

Mount Joy Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ending December 31, 2018 and 2017, which are available at the borough's offices. Those 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 Mount Joy 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 Mount Joy 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:

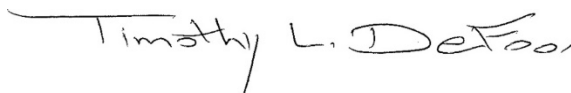
Finding No. 1 – Noncompliance with Prior Audit Recommendation –
Inconsistent Pension Benefits

Finding No. 2 – Failure To Implement Mandatory Act 44 Procedures For The
Procurement Of Professional Services

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by borough officials. We are concerned by the borough's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation noted in this audit report.

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 Mount Joy 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

April 15, 2021

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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.

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 Mount Joy 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Mount Joy Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2-18, as amended, and a separately executed plan agreement with the plan's custodian adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established February 1, 1965. Active members are required to contribute 5 percent of compensation to the plan; however, member contributions were eliminated during the audit period. As of December 31, 2020, the plan had 10 active members, 1 terminated member eligible for vested benefits in the future, and 10 retirees receiving pension benefits.

MOUNT JOY BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendations

Mount Joy Borough has complied with the prior recommendations concerning the following:

- Restated Plan Document Not Adopted By Ordinance

On April 2, 2018, the borough properly adopted the plan's governing document by executing Ordinance No. 2-18.

Noncompliance With Prior Recommendation

Mount Joy Borough has not complied with the prior recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Noncompliance With Prior Audit Recommendation - Inconsistent Pension Benefits

MOUNT JOY BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance with Prior Audit Recommendation – Inconsistent Pension Benefits

Condition: As disclosed in the 3 most recent audit reports, the borough’s separately executed plan agreement (*adopted through Ordinance No 2-18*) contains benefit provisions that conflict with the collective bargaining agreement (CBA) between the police officers and the borough as follows:

<u>Benefit Provision</u>	<u>Adoption Agreement</u>	<u>Collective Bargaining Agreement</u>
Definition of Salary	Earnings as used in this definition includes base pay, longevity pay, night differential pay, overtime pay and other remuneration with the following exclusions: unused sick pay unused vacation pay	Gross wages as reported on the W-2 for the last thirty-six (36) months of employment.
Survivor’s Eligibility	The survivor annuity shall be paid to the Participant’s spouse until the date of the spouse’s death.	Pension...shall be paid to spouse of the deceased member until his or her death or remarriage.

In addition, the aforementioned remarriage clause contained in the collective bargaining agreement is not in accordance with Act 600. Act 600 affords a lifetime survivor’s benefit to the surviving spouse (or if no spouse survives or if he or she subsequently dies, the child or children under 18 years of age or if attending college, under or attaining the age of 23).

Criteria: A governing document which contains clearly defined and updated benefit provisions including those adopted through the collective bargaining process, is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the pension plan’s benefit structure should be in compliance with the provisions of Act 600.

Cause: Municipal officials were unsuccessful in bringing provisions into alignment within the varying plan documents an in accordance with Act 600 through the collective bargaining process.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan. During the current audit period, two retirees’ and one vested member’s benefit calculations were prepared in accordance with the plan’s adoption agreement.

MOUNT JOY BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that municipal officials take appropriate action to ensure the plan’s governing document and the collective bargaining agreement contain consistent benefit provisions and that such provisions comply with Act 600 upon the renewal, extension, or renegotiation of the collective bargaining agreement.

Management’s Response: Municipal officials agreed with the finding and indicated the following:

The collective bargaining agreement beginning January 1, 2018 could not be negotiated to match the Pension Plan document, as the borough hoped. If the borough cannot correct the error by changing the CBA during the next negotiations for the 2022 CBA, the Pension Plan document will have to be changed to match the CBA.

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

Finding No. 2 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

Condition: During the prior audit, a verbal observation was issued to plan officials notifying them of the passage of Act 44 of 2009, which effectively amended Act 205 for the procurement of professional services contracts, and recommending that the borough adopt the mandatory provisions, accordingly. However, during the current engagement period, the municipality again failed to adopt such mandatory provisions.

Criteria: Section 701-A of Act 205, as amended by Act 44 of 2009, 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.

MOUNT JOY BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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.

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.

Cause: Plan officials failed to establish adequate internal controls procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: The borough's failure to comply in all respects with the previous recommendation and the provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the borough's pension plan could result in a general lack of overall transparency of the actions taken by plan officials relative to the awarding of investment and advisory services contracts for the borough's pension plan.

MOUNT JOY BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We again recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions while maintaining appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan, including authorizations/approvals of borough officials in the official minutes of formal board meetings and the required notifications and disclosure responsibilities to ensure the transparency of the actions taken by plan officials relative to the awarding of such professional services contracts.

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

Auditor's Conclusion: Compliance will be evaluated during our next engagement of the plan.

MOUNT JOY BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2015, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-15	\$ 4,446,697	\$ 4,754,409	\$ 307,712	93.5%
01-01-17	5,190,520	5,123,123	(67,397)	101.3%
01-01-19	5,697,814	5,694,019	(3,795)	100.1%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses over a 5- year averaging period, which will be limited to a maximum of 120 percent and a minimum of 80 percent of the market value of the plans assets. These methods will lower contributions in years of less than expected returns and increase the contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

MOUNT JOY BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

MOUNT JOY BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2011	\$ 247,748	\$ 247,748	\$ -	\$ 893,409	27.7%
2012	251,627	251,627	-	912,745	27.6%
2013	239,317	239,317	-	845,148	28.3%
2014	263,302	263,302	-	827,540	31.8%
2015	289,882	289,882	-	973,669	29.8%
2016	219,560	219,560	-	928,410	23.6%
2017	225,953	225,953	-	964,184	23.4%
2018	142,768	142,768	-	922,496	15.5%
2019	160,945	160,945	-	1,039,241	15.5%
2020	192,367	192,367	-	1,066,010	18.0%

MOUNT JOY BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 NOTES TO SUPPLEMENTARY SCHEDULES
 (UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2019
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	5-year smoothing – the actuarial value of assets will be limited to a maximum of 120% and a minimum of 80% the fair market value of assets.
Actuarial assumptions:	
Investment rate of return	7.75%
Projected salary increases	5.00%
Cost-of-living adjustments	Related to the Consumer Price Index (up to 3% in such year) with overall benefit limit of 130% of normal retirement benefit.

MOUNT JOY BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Timothy D. Bradley
Mayor

Mr. William A. Hall
Council President

Ms. Jill Frey
Interim Borough Manager

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.