COMPLIANCE AUDIT

Avondale Borough
Non-Uniformed Pension Plan
Chester County, Pennsylvania

November 2025

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 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:

- For the period January 1, 2020 to December 31, 2024, 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 the period January 1, 2020 to December 31, 2024, 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 actually budgeted and deposited into the pension plan as evidenced by supporting documentation.

- For the period January 1, 2023 to December 31, 2024, we determined that there were no employee contributions required by the plan's governing document and applicable laws and regulations.

- For the period January 1, 2023 to December 31, 2024, we determined that there were no benefit calculations prepared.

- We determined whether the January 1, 2023 actuarial valuation report was prepared and submitted by March 31, 2024 in accordance with Act 205 and whether selected information provided on this report 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 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 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 objectives.

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 for the periods noted above, 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 – Noncompliance With Prior Recommendation – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Finding No. 3 – Eligible Employees Not Participating In Pension Plan

Finding Nos. 1 and 2 contained in this audit report repeat conditions that were cited in our previous report that have not been corrected by borough officials. We are concerned by the borough's failure to correct those previously reported findings and strongly encourage timely implementation of the recommendations 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 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

Timothy L. DeFoor
Auditor General
August 21, 2025

CONTENTS

Page

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 two 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. 268 and a separately executed plan agreement with the plan's custodian effective January 1, 2021, adopted pursuant to Act 15. Prior to January 1, 2021, the plan was locally controlled by the provisions of Ordinance No. 245 and a separately executed plan agreement with the plan's custodian effective January 1, 2014, also 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 4.5 percent of each member's compensation to the plan. As of December 31, 2024, the plan had no active members and 4 retirees receiving pension benefits.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendations

Avondale Borough has complied with the prior recommendations concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

  On August 3, 2022, the borough reimbursed $928 to the Commonwealth for the overpayment of state aid received in 2020, plus interest.

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

  For the period subject to audit, the borough provided annual financial statements of transactions of the custodial account of the pension plan.

Partial Compliance With Prior Recommendation

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

- Receipt Of State Aid In Excess Of Entitlement

  On August 3, 2022, the borough reimbursed $1,801 to the Commonwealth for the overpayment of state aid received in 2018, plus interest. However, plan officials again failed to reconcile the state aid allocated to the borough with the plan's annual pension costs which is further discussed in the Findings and Recommendations section of this report.

Noncompliance With Prior Recommendation

- Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

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 Findings section of this report, the borough partially complied with the prior recommendation by reimbursing $1,801, plus interest, to the Commonwealth for the excess state aid received in 2018; however, a similar condition occurred during the current period subject to audit. The borough again failed to reconcile its annual state aid allocation with the plan's annual pension costs for full-time plan members in the year 2022 and also made municipal contributions in excess of those required to fund the plan in the years 2020 and 2021, as illustrated below:

	2020	2021	2022
State aid allocated	$ 2,801	$ 1,962	$ 3,009
Less state aid already returned to the Commonwealth (*refer to Status of Prior Findings*)	(928)	-	-
Municipal pension costs for full-time plan member and administrative expense	(2,042)	(2,943)	(846)
Excess state aid	$ -	$ -	$ 2,163
Actual municipal contributions made	$ 6,564	$ 7,738	$ 2,207
Municipal contributions required to fund plan	$ 3,741	$ 5,630	$ 1,937
Excess municipal contributions	$ 2,823	$ 2,108	$ 270

The 2022 excess state aid was split between the pension plan and the general fund. The amount of $1,361 was deposited into the pension plan's municipal reserve account and $802 remained in the borough's general fund.

Excess municipal contributions of $2,823 in 2020 and $1,962 in 2021 also remained in the pension plan's municipal reserve account. The account of one member, who has since retired, was errantly credited for the remaining amount of excess municipal contributions in 2021 and 2022.

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 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 township or any home rule municipality formerly classified as a city, borough, incorporated town or township which employs one or more full-time municipal employees. . . .

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

In addition, Section 1.23 of the plan's separately executed plan agreement, effective January 1, 2021, defines compensation specifically to exclude overtime and unused leave payments from members' compensation.

Further, Section 3.01 requires municipal contributions in an amount equal to 4.5 percent of each member's compensation.

Cause: The borough used compensation figures that were not adjusted to exclude overtime and unused leave payments. In addition, the borough failed to reconcile the required employer contributions with the actual deposits into the fund. Furthermore. the lack of adequate internal control procedures prevented timely identification and correction of these errors.

Effect: The borough's excess contributions in the years 2020 and 2021 remained in the unallocated reserve fund. The combined excess state aid, municipal contributions, and accumulated interest have resulted in a $5,888 balance in the unallocated reserve fund as of December 31, 2024. The excess contributions deposited into a member's account in 2022 were subsequently transferred to the retiree reserve account.

Finding No. 1 – (Continued)

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 overpayment of state aid in the year 2022, in the total amount of $2,163, must be returned to the Commonwealth for redistribution.

Additionally, it is the opinion of this department that the borough's failure to withdraw excess municipal contributions made in prior years does not preclude the borough from withdrawing the municipal contributions maintained in the unallocated reserve fund at this time.

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 $2,163 overpayment of state aid received in 2022 to the Commonwealth from the unallocated reserve fund and borough's general fund, as applicable. 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 the borough review the excess contributions made to the full-time employee with the plan's consultant to determine if the borough can be reimbursed for the unauthorized contributions.

In addition, we recommend that the borough liquidate the plan's unallocated reserve fund maintained by the pension plan by transferring the assets which represent excess municipal contributions, including interest, to the borough's general fund.

Furthermore, we recommend that, in the future, plan officials reconcile the amount of state aid allocated to the borough with the plan's annual 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 the two excess contributions of $146 and $295 for the full-time employee mentioned in the finding have been forgiven. The employee retired in 2022, and because her account has since been converted to an annuity, the borough has determined to forgive these excess amounts. Municipal officials also indicated they have reviewed and updated the borough's procedures to prevent the recurrence of this issue.

Finding No. 1 – (Continued)

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 – Noncompliance With Prior Recommendation – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Condition: As noted in the prior audit report, 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 for custodial services for the pension plan during 2014; however, no documentation has been provided to support that the contracting for these professional services was conducted and awarded in accordance with provisions of Act 205. The prior audit recommended 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 Act 205. During the current period subject to audit, the borough again failed to adopt such mandatory provisions.

Criteria: Section 701-A of Act 205 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.

Finding No. 2 – (Continued)

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 processional 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 the 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: The borough failed to implement adequate internal control procedures to demonstrate compliance with the provisions of Act 205 regarding professional services contracts for the pension plan due to personnel changes within the borough since our prior audit.

Effect: By failing to maintain appropriate substantive supporting documentation evidencing adherence with Act 205 for the professional services contracts, a general lack of transparency exists.

Finding No. 2 – (Continued)

Recommendation: We again recommend that municipal officials obtain a comprehensive understanding of Act 205 for the procurement of professional services. Municipal officials should develop and implement formal written procedures to ensure compliance with Act 205. Procedures should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan, including authorization/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 any future professional services contracts for the pension plan.

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

Auditor's Conclusion: We are concerned that the municipality has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

Finding No. 3 – Eligible Employees Not Participating In Pension Plan

Condition: The pension plan was established by Ordinance No. 245 effective January 1, 2014, and restated by Ordinance No. 268 effective January 1, 2021. In 2022, two full-time employees expressed their desire to opt out of participation in the plan. At its July 19, 2022 borough council meeting, council voted unanimously to honor their request and allow these employees to decline participation in the pension plan.

Criteria: Section 1.35 of the separately executed plan agreement effective January 1, 2021, adopted by Ordinance No. 268, states that eligible employees for mandatory membership include all non-uniformed municipal employees who are full-time, defined as those regularly scheduled to perform at least thirty (30) hours of service per week.

Accordingly, borough council's decision conflicts with the provisions contained in the plan's governing document.

In Wynne v. Lower Merion Twp., 181 Pa. Super. 524, 529, 124 A.2d 487, 490 (1956), the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution or a motion in a council meeting.

Cause: Municipal officials were unaware that a motion in the borough council meeting minutes could not legally amend an ordinance.

Finding No. 3 – (Continued)

Effect: The failure to properly amend the plan's governing document could result in the denial of benefits to which eligible employees are entitled under provisions of the plan document.

Recommendation: We recommend that the borough enroll all eligible full-time employees in the plan and properly fund their accounts or amend the plan's governing document regarding mandatory membership for full-time employees through a properly enacted ordinance.

Management's Response: Municipal officials agreed with the finding without exception and indicated the borough will enact an ordinance to confirm the borough's intended actions to withdraw from the pension plan effective July 19, 2022.

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

AVONDALE BOROUGH NON-UNIFORMED 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 $2,163, 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.

AVONDALE BOROUGH NON-UNIFORMED 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
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	-	114,697	3.07%
2020	3,741	3,741	-	122,034	3.07%
2021	5,776	10,538	(4,762)	126,568	8.33%
2022	2,232	2,232	-	47,816	4.67%
2023	80	80	-	-	N/A
2024	80	80	-	-	N/A

N/A – Not applicable

* 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 2021, the borough met the plan's $5,776 funding requirement through the deposit of $4,762 in state aid and $5,776 in employer contributions.

AVONDALE BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Susan Rzucidlo
Mayor

Mr. Paul Morgan
Council President

Ms. Sharon Norris
Borough Administrator

Ms. Joan N. McVaugh
Borough Treasurer

Mr. Richard Cardamone, CPA, CGMA
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.