COMPLIANCE AUDIT

Elk Township
Non-Uniformed Pension Plan
Warren County, Pennsylvania
For the Period
January 1, 2018 to December 31, 2022

June 2023

Commonwealth of Pennsylvania
Department of the Auditor General
Timothy L. DeFoor • Auditor General

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TIMOTHY L. DEFOOR
AUDITOR GENERAL

Board of Township Supervisors
Elk Township
Warren County
Russell, PA 16345

We have conducted a compliance audit of the Elk Township Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2022. 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 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 plan member who elected to vest during the current audit period represent payments to all (and only) those entitled to receive them and were properly determined in accordance with the plan's governing document, applicable laws, and regulations by recalculating the amount of the monthly pension benefit due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and payable to the recipient.

- We determined whether the January 1, 2019, and January 1, 2021, actuarial valuation reports were prepared and submitted by March 31, 2020, and 2022, 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 Elk Township 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Elk Township 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 Elk Township 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 – Partial Compliance With Prior Recommendation – Receipt Of State Aid In Excess Of Entitlement

Finding No. 2 – Partial Compliance With Prior Recommendation – Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Finding No. 3 – Inadequate Accounting/Reporting Over Activity Of The Pension Plan

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 Elk Township and, where appropriate, their responses have been included in the report. We would like to thank township officials for the cooperation extended to us during the conduct of the audit.

Timothy L. DeFoor

Timothy L. DeFoor
Auditor General
May 25, 2023

CONTENTS

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 Elk Township 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 Elk Township Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 73, and a separately executed plan agreement with PMRS effective January 1, 2020, adopted pursuant to Act 15. Prior to January 1, 2020, the pension plan was locally controlled by the provisions of Ordinance No. 68, and a plan agreement adopted pursuant to Act 15. The plan was established January 1, 1998. Active members are not required to contribute to the plan. The municipality is required to contribute five (5.0) percent of each member's compensation. As of December 31, 2022, the plan had two active members, two terminated members eligible for vested benefits in the future, and two retirees receiving pension benefits.

ELK TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Recommendations

Elk Township has partially complied with the prior recommendations concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

  During the current audit period, the township reimbursed $1,951 to the Commonwealth for the excess state aid received in 2016. However, plan officials again failed to reconcile the amount of state aid allocated to the pension plan, along with forfeitures available to reduce municipal contributions, with the pension costs attributable to full-time employees, as further discussed in the Findings and Recommendations section of this report.

- Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

  During the current audit period, the township transferred the excess contribution made in 2017 to the township's general fund. However, the township again failed to liquidate the unallocated reserve fund maintained by the non-uniformed pension plan and/or reconcile the amount of state aid allocated and municipal contributions made to the pension plan with the pension plan's annual pension costs, as further discussed in the Findings and Recommendations section of this report.

Finding No. 1 – Partial Compliance With Prior Recommendation – Receipt Of State Aid In Excess Of Entitlement

Condition: As disclosed in the Status of Prior Findings section of this report, the township partially complied with the prior recommendation by reimbursing the Commonwealth for the overpayment of state aid received in 2016. However, plan officials again failed to reconcile the amount of state aid allocated to the pension plan along with forfeitures available to reduce municipal contributions with the pension costs attributable to full-time employees for 2018, 2019, 2020, 2021 and 2022, as illustrated below:

	2018	2019	2020	2021	2022
Actual municipal full-time pension costs	$ 2,265	$ 3,215	$ 3,201	$ 2,123	$ 801
Forfeitures available	(2,622)	(2,657)	-	(879)	(1,282)
Adjusted actual municipal full-time pension costs	$ -	$ 558	$ 3,201	$ 1,244	$ -
State aid received	(2,784)	(1,452)	(3,253)	(3,081)	(2,243)
Excess state aid	$ 2,784	$ 894	$ 52	$ 1,837	$ 2,243

Criteria: As previously disclosed, 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.

Cause: Plan officials again failed to implement adequate and/or consistent internal control procedures to reconcile the township's state aid allocations and forfeitures available to reduce municipal contributions with the plan's full-time pension costs and ensure full compliance with the prior recommendation.

Finding No. 1 – (Continued)

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 overpayments of state aid in the years 2018, 2019, 2020, 2021 and 2022 must be returned to the Commonwealth for redistribution.

Furthermore, the township's future state aid allocations may be withheld until the township complies with the finding recommendation.

Recommendation: We recommend that the municipality return the $7,810 of excess state aid received during the years 2018, 2019, 2020, 2021 and 2022 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.

In addition, we again recommend that, in the future, municipal officials annually reconcile the township's state aid allocation and any available employee forfeitures with the plan's annual full-time pension costs and reimburse any excess state aid received to the Commonwealth.

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

Auditor's Conclusion: Due to the potential withhold of state aid, the township'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 – Partial Compliance With Prior Recommendation – 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 township partially complied with the prior recommendation by transferring the excess contributions made during 2017 to the township's general fund. However, a similar condition occurred during the current audit period. The township again made contributions to the non-uniformed pension plan in excess of contributions required to fund the pension plan, as illustrated below:

	2018	2021
Actual municipal pension costs *(all employees)*	$ 2,622	$ 2,558
Forfeitures available	(2,622)	(879)
Adjusted actual municipal pension costs	$ -	$ 1,679
State aid allocated *(see Finding No. 1)*	(2,784)	(3,081)
Municipal contributions required to fund plan	$ -	$ -
Actual municipal contributions made	280	1,607
Excess municipal contributions	$ 280	$ 1,607

In addition, although the township partially liquidated the unallocated reserve fund by returning 2017's excess municipal contributions to the general fund, there remained unallocated reserve funds in the pension plan due to excess municipal contributions as identified above and excess state aid as identified in *Finding No. 1*.

Criteria: Section 9.1(a) of the pension plan adoption agreement, effective October 1, 2014, *(adopted by Ordinance No. 68)*, and Section 3.01 of Article III of the revised plan agreement, effective January 1, 2020, *(adopted by Ordinance No. 73)*, indicates that the municipal contribution rate shall be five (5.0) percent of each member's compensation.

Since state aid allocated to a pension plan must be expended on pension costs, it is the opinion of this department that where municipal contributions and state aid are both deposited into a pension plan, the state aid is expended first to fund pension costs.

Finding No. 2 – (Continued)

Cause: The township again failed to implement adequate or consistent procedures to ensure that municipal contributions were limited to required contributions outlined in the plan's governing document.

Effect: As a result of the township making contributions in excess of contributions required to fund the pension plan *(along with the excess state aid deposited as disclosed in Finding No. 1),* the unallocated reserve fund increased $9,697 to a balance of $13,857 as of December 31, 2021.

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

Recommendation: We again recommend, *after return of excess state aid to the Commonwealth as disclosed in Finding No. 1*, the township liquidate the unallocated reserve fund maintained by the non-uniformed pension plan by transferring the assets which represent nonstate aid funds, to the township's general fund. In addition, any interest income earned on assets held in the reserve fund to the date of transfer should also be transferred to the general fund.

We also again recommend that, in the future, plan officials annually reconcile the amount of state aid allocated to the non-uniformed pension plan, along with available plan forfeitures, and municipal contributions made to the pension plan with the pension plan's annual defined contribution pension costs.

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

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

Finding No. 3 – Inadequate Accounting/Reporting Over Activity Of The Pension Plan

Condition: The municipality's accounting/reporting system did not provide effective control over the transactional activity of the pension plan during the year 2022. Municipal officials were unable to furnish annual financial statements or custodial account statements summarizing the financial activity of its pension plan.

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.

Cause: 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. Additionally, municipal officials indicated that the plan's custodian failed to provide copies of the custodial account transaction statements summarizing activity of the pension plan account for the year 2022.

Effect: Although we were able to obtain alternate documentation from the municipality to evidence the propriety of individual transactions tested during performance of the audit, the failure to maintain annual financial and/or account transaction statements prohibits municipal officials from effectively monitoring the plan's financial operations and could lead to undetected errors or improprieties in account transactions.

Recommendation: We recommend that municipal officials establish and maintain a financial accounting and reporting 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. In addition, we recommend that municipal officials contact the plan custodian and obtain annual financial statements of the custodial account for its pension plan for the year 2022 to ensure the accuracy and propriety of the transaction activity.

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

Auditor's Conclusion: It was noted that the plan custodian 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. The custodian expects 2022 financial reports to be distributed before the end of 2023. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

ELK TOWNSHIP 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 township in the amount of $7,810, 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.

ELK TOWNSHIP 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
2014	$ 1,686	$ 1,838	$ (152)	$ 8,527	21.6%
2015	2,943	461	2,482	57,271	0.8%
2016	3,051	2,891	160	58,603	4.9%
2017	3,242	3,085	157	62,427	4.9%
2018	2,621	3,064	(443)	50,036	6.1%
2019	3,517	(1,374)	4,891	67,555	(2.0%)
2020	3,617	3,617	-	69,934	5.2%
2021	2,578	3,306	(728)	48,752	6.8%
2022	1,282	3,525	(2,243)		

* 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 2021 SRC includes $20 of administrative expense.

** The SRC and the actual Contributions in Relation to the SRC were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve. These amounts were unaudited and shown above as reported by the custodian. *(It was noted that reported 2020 contributions do not include $52 of excess state aid deposited into the plan while the reported excesses for 2021 and 2022 represent excess state aid deposited into the plan as referenced in Finding No. 1).*

*** Due to the timing of this audit, covered-employee payroll for 2022 was not provided in this schedule.

ELK TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Kelly VanCise
Chairman, Board of Township Supervisors

Ms. Sherry M. Moore
Secretary

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.