

# COMPLIANCE AUDIT

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## Williamsburg Borough Non-Uniformed Pension Plan Blair County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

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November 2014



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Williamsburg Borough  
Blair County  
Williamsburg, PA 16693

We have conducted a compliance audit of the Williamsburg Borough Non-Uniformed Pension Plan for the period January 1, 2011 to December 31, 2013. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our 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 audit 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements. State aid allocations that were deposited into the pension plan for the years ended December 31, 2008 to December 31, 2013, are presented on the Summary of Deposited State Aid and Employer Contributions.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations.
- Whether employee contributions are required and, if so, are determined, deducted, and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.

- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.
- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the terms of the allocated insurance contracts, including ownership and any restrictions, are in compliance with plan provisions, investment policies, and state regulations.

Williamsburg Borough contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, 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.

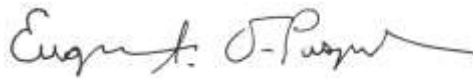
The borough has elected to purchase allocated insurance contracts to fund the pension benefits for plan members. Under an allocated funding arrangement, the insurer receives and retains consideration in exchange for a legally enforceable obligation to pay future benefits. In accordance with Statement No. 25 of the Governmental Accounting Standards Board, allocated insurance contracts are excluded from the pension plan's assets.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Williamsburg Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the borough's internal controls as they relate to the borough's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 tests indicated that, in all significant respects, the Williamsburg 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 – Partial Compliance With Prior Audit Recommendation –  
Receipt Of State Aid In Excess Of Entitlement
- Finding No. 2 – Partial Compliance With Prior Audit Recommendations –  
Failure To Maintain An Adequate Record-Keeping System  
And Effectively Monitor The Activity Of The Pension Plan
- Finding No. 3 – Withdrawal Of Plan Assets Prior To Retirement Eligibility

The contents of this report were discussed with officials of Williamsburg 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.



EUGENE A. DEPASQUALE  
Auditor General

September 22, 2014

## CONTENTS

	<u>Page</u>
Background .....	1
Status of Prior Findings .....	2
Findings and Recommendations:	
Finding No. 1 – Partial Compliance With Prior Audit Recommendation – Receipt Of State Aid In Excess Of Entitlement .....	4
Finding No. 2 – Partial Compliance With Prior Audit Recommendations – Failure To Maintain An Adequate Record-Keeping System And Effectively Monitor The Activity Of The Pension Plan .....	6
Finding No. 3 – Withdrawal Of Plan Assets Prior To Retirement Eligibility .....	8
Potential Withhold of State Aid .....	10
Summary of Deposited State Aid and Employer Contributions .....	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 plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

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 Williamsburg Borough Non-Uniformed Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

The Williamsburg Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 306, as amended. The plan was established October 6, 1952. Active members are not required to contribute to the plan. The municipality is required to contribute 15 percent of each member's wages. As of December 31, 2013, the plan had 3 active members and 1 terminated member eligible for vested benefits in the future.

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendation

Williamsburg Borough has complied with the prior audit recommendation concerning the following:

- Failure To Fund Members' Accounts

The borough deposited the contributions due for 2009 to two plan members' accounts totaling \$780. In addition, the borough deposited \$2,905 and \$6,191 for two members hired October 18, 2010 and October 11, 2011, respectively, which represented the contributions due from their dates of hire to June 30, 2012.

Partial Compliance With Prior Audit Recommendations

Williamsburg Borough has partially complied with the prior audit recommendations concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

During the current audit period, the borough reimbursed \$6,688 to the Commonwealth for excess state aid received in 2009, 2010, and 2011; however, municipal officials failed to reconcile the amount of state aid allocated to the non-uniformed pension plan with the plan's defined contribution pension costs for the years 2012 and 2013, as further discussed in the Findings and Recommendations section of this report;

- Failure To Maintain An Adequate Record-Keeping System

During the current audit period, the borough maintained employee W-2's and the Certification Forms AG 385; however, municipal officials failed to establish all of the accounting procedures necessary to meet the minimum record-keeping requirements of this Department, as further discussed in the Findings and Recommendations section of this report; and

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Audit Recommendations – (Continued)

· Pension Plan Account Transactions Not Adequately Monitored By The Municipality

During the current audit period, the borough transferred \$6,440 from the non-uniformed pension plan that was due to the police pension plan. In addition, the non-uniformed plan's checking account was reconciled during the current audit period; however, municipal officials failed to reconcile the borough's ledgers to the pension plan accounts to ensure proper pension plan obligations were paid, failed to reconcile the annual contributions due to the members' accounts to the actual payments made, and failed to reconcile the annual state aid allocations to the plan's annual defined contribution pension costs, as further discussed in the Findings and Recommendations section of this report.



WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

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

Condition: As disclosed in the prior audit report, the borough received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the years 2009, 2010, and 2011. During the current audit period, the borough reimbursed \$6,688 to the Commonwealth for the excess state aid received; however, the borough failed to reconcile the amount of state aid allocated to the non-uniformed pension plan with the plan’s defined contribution costs after the application of available employee forfeitures in the years 2012 and 2013.

The borough received state aid in excess of the plan’s annual pension costs after the application of available employee forfeitures in the years 2012 and 2013, as illustrated below:

	<u>2012</u>	<u>2013</u>
Actual municipal pension costs	\$ 19,198	\$ 19,954
Employee forfeitures available*	<u>(21,107)</u>	<u>(1,909)</u>
Adjusted municipal pension costs	-	18,045
State aid allocated	<u>(14,010)</u>	<u>(23,306)</u>
Excess state aid	14,010	5,261
Less certification error addressed in police pension plan audit report, Finding No. 2	<u>(1,187)</u>	<u>-</u>
Excess state aid	<u><u>\$ 12,823</u></u>	<u><u>\$ 5,261</u></u>

\* Employee forfeitures in the amount of \$21,107 became available in 2012. These forfeitures were applied to the plan’s pension costs in the amounts of \$19,198 in 2012 and \$1,909 in 2013.

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.

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Furthermore, Ordinance No. 306, Article III, at Section 3.05, states:

Any forfeitures arising from death or termination shall be considered a credit to the Employer and shall be used as a suspense account without income from investments to offset future Employer Contributions under the plan.

Cause: Plan officials failed to adopt internal control procedures to ensure compliance with the prior audit recommendation.

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 received in one year to offset pension costs in other years. Consequently, the overpayments of state aid received in the years 2012 and 2013, in the total amount of \$18,084, 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 \$18,084 of excess state aid received in the years 2012 and 2013 to the Commonwealth from the non-uniformed pension plan. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 320 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

Furthermore, we again recommend that in the future, plan officials reconcile the amount of state aid allocated to the borough and any available employee forfeitures with the plan's annual 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: Compliance will be monitored subsequent to the release of the audit report and through our next audit of the plan.

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Partial Compliance With Prior Audit Recommendations – Failure To Maintain An Adequate Record-Keeping System And Effectively Monitor The Activity Of The Pension Plan**

Condition: As disclosed in our prior audit report, the pension plan's record-keeping system did not provide effective control over assets, revenues and expenses and does not meet the minimum requirements of financial record keeping recommended by this Department. In addition, plan officials did not effectively monitor the activity of the pension plan accounts.

During the current audit period, plan officials maintained employee W-2's, Certification Forms AG 385, and reconciled the plan's checking account; however, the following deficiencies were not addressed:

- Annual state aid allocations were not reconciled to the plan's annual defined contribution pension costs;
- Annual contributions due to the members' accounts were not reconciled to actual payments made;
- Five allocated insurance contracts were not available for examination at the municipality;
- An active members' roster was not maintained;
- A terminated vested participant roster was not maintained;
- An allocated insurance roster was not maintained;
- Retirement election forms were not maintained for new hires, and terminated or retired employees;
- The actuarial valuation report as of January 1, 2013, which was required to be submitted to the Public Employee Retirement Commission by March 31, 2014, was not submitted until May 19, 2014; and
- There were no internal control procedures in place to ensure an effective transition of duties.

Criteria: The fiduciary responsibility for the assets held in a pension account remains with the municipality. In addition, an adequate system of accounting and record keeping is a prerequisite for the sound administration of pension plans.

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Cause: Plan officials have failed to develop adequate internal control procedures to ensure full compliance with the prior audit recommendations.

Effect: The failure of plan officials to maintain adequate records prohibits municipal officials from effectively monitoring the plan’s financial operations and 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 again recommend that plan officials establish adequate accounting procedures which meet the minimum record-keeping requirements of this Department. Plan 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 procedures.

In addition, we again recommend that plan officials monitor the pension plan’s accounts to ensure the accuracy and propriety of the transactions. The minimum steps that should be applied by a municipality to adequately monitor the plan’s accounts are:

- Verify the mathematical accuracy of the account statements;
- Reconcile the Commonwealth and municipal contributions shown on the account statements to the municipality’s records;
- Review investment income for accuracy and reasonableness;
- Reconcile any large or material receipt, other than contributions, shown on the account statements to the municipality’s records; and
- Reconcile any large or material disbursement, shown on the account statements to the municipality’s records.

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

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

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – Withdrawal Of Plan Assets Prior To Retirement Eligibility**

Condition: In 2012, a plan member that terminated employment in 1999 who was age 57 and 100 percent vested received ownership of his allocated insurance contract prior to his eligibility to receive a retirement benefit. In 2014, a second plan member that terminated employment in 2006 who was age 54 and 40 percent vested received his vested share from an allocated insurance contract that was improperly surrendered prior to his eligibility to receive a retirement benefit.

Criteria: Section 9.01 of Ordinance No. 306, as amended, provides a vesting schedule, and section 9.03 states:

Deferred Vested Participant - A Participant who shall terminate Employment with a vested Account balance under section 9.01 prior to attainment of Normal Retirement Age shall be eligible to commence receipt of a retirement benefit hereunder only after the Participant attains Normal Retirement Age, is then living, and has made application for such benefit under section 8.01. (Emphasis added)

Furthermore, Section 1.16 of Ordinance No. 306, in effect at the time of the members' terminations from employment, states:

“Normal Retirement Age” shall mean the date on which a Participant attains age sixty-five (65).

In addition, Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Therefore, Act 205 funding (state aid) is intended to provide retirement benefit payments and not to be used for distributions prior to retirement benefit eligibility.

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

Cause: Plan officials were unaware that plan assets should not be distributed to members prior to their normal retirement age.

Effect: Two former employees received ownership of two allocated insurance contracts that had a cash surrender value of \$26,526 prior to their eligibility to receive a plan distribution.

Recommendation: We recommend that plan officials establish adequate internal control procedures to ensure that all distributions from the pension plan are made in accordance with the provisions contained in the plan's governing document.

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

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

WILLIAMSBURG 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 \$18,084. 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, 320 Finance Building, Harrisburg, PA 17120.

WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2008	\$ 13,270	None
2009	13,217	None
2010	14,092	None
2011	14,627	None
2012	14,010	None
2013	23,306	None

Note: In 2012, the borough met the plan's \$19,198 funding requirement through \$19,198 in terminated employee forfeitures. The borough received excess state aid of \$14,010 (see Finding No. 1).

Note: In 2013, the borough met the plan's \$19,954 funding requirement through the deposit of \$18,045 in state aid and \$1,909 in terminated employee forfeitures. The borough received excess state aid of \$5,261 (see Finding No. 1).



WILLIAMSBURG BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Williamsburg Borough Non-Uniformed Pension Plan  
Blair County  
305 East Second Street  
Williamsburg, PA 16693

The Honorable Theodore R. Hyle	Mayor
Ms. Rebecca Mingle	Council President
Mr. Joseph L. Lansberry	Borough Manager
Ms. Amyjo White	Borough Secretary

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