

# COMPLIANCE AUDIT

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## East Nottingham Township Non-Uniformed 401(a) Pension Plan

Chester County, Pennsylvania  
For the Period  
January 1, 2018 to December 31, 2022

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January 2024



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  
East Nottingham Township  
Chester County  
Oxford, PA 19363

We have conducted a compliance audit of the East Nottingham Township Non-Uniformed 401(a) 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was to determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objective identified above. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit. State aid allocations that were deposited into the pension plan for the years ended December 31, 2017 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.

- 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. Employer contributions that were deposited into the pension plan for the years ended December 31, 2017 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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 plan members who separated employment and received lump-sum distributions during the current audit period 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 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, 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.
- We determined whether the terms of the plan's allocated and unallocated insurance contracts, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contracts with the plan's provisions, investment policies, and state regulations.

The township has elected to purchase allocated insurance contracts to fund a portion of the benefits provided by the pension plan at retirement. 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. 67 of the Governmental Accounting Standards Board, allocated insurance contracts are excluded from the pension plan's assets.

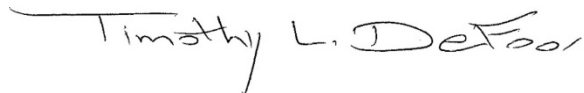
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the East Nottingham Township Non-Uniformed 401(a) Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objective.

The results of our procedures indicated that, in all significant respects, the East Nottingham Township Non-Uniformed 401(a) 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 finding further discussed later in this report:

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Finding No. 2 – Failure To Properly Fund Members' Accounts

The contents of this report were discussed with officials of East Nottingham 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor  
Auditor General  
January 9, 2024

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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 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 East Nottingham Township Non-Uniformed 401(a) 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.

The East Nottingham Township Non-Uniformed 401(a) Pension Plan is a single-employer defined contribution (*at the sole discretion of the township*) pension plan locally controlled by the provisions of Resolution 2022-19, and a separately executed plan agreement, effective January 1, 2022. Prior to January 1, 2022, the plan was locally controlled by the provisions of Resolution 2019-19 and an agreement effective January 1, 2020, and Resolution No. 4-1998, as amended, prior to January 1, 2020. The plan was established November 12, 1998. Active members are not required to contribute to the plan. The municipality was required to contribute \$2,000 for each employee during 2018 and 2019, \$4,500 for each employee in 2020 and 2021, \$4,533 for each employee in 2022 and \$6,166 for each employee in 2023. As of December 31, 2022, the plan had six active members.

EAST NOTTINGHAM TOWNSHIP NON-UNIFORMED 401(a) PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In A Net Underpayment Of State Aid**

Condition: The township certified an ineligible non-uniformed employee and overstated payroll by \$36,228 on the Certification Form AG 385 filed in 2021. Conversely, the township failed to certify an eligible non-uniformed employee and understated payroll by \$32,325 on the Certification Form AG 385 filed in 2022. Further, the township certified an ineligible non-uniformed employee, failed to certify an eligible non-uniformed employee, and overstated total eligible payroll by \$5,812 on the Certification Form AG 385 filed in 2023. The data contained on these certification forms is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), an employee who has been employed on a full-time basis for at least six consecutive months and has been participating in a pension plan during the certification year is eligible for certification.

Cause: Plan officials failed to establish adequate internal control procedures, such as having another individual review the data certified, to ensure the accuracy of the data reported prior to submission.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. The township’s state aid for 2022 was based on the plan’s unit value in the amount of \$36,263 (*seven units at \$5,180.45*). However, based on the corrected information, the township was entitled to an allocation based on the plan’s pension costs in the amount of \$39,170. Therefore, the township received an underpayment of state aid in the amount of \$2,907 in 2022. Additionally, because the township’s state aid allocations for 2021 and 2023 were based on pension costs, the township received a total overpayment of state aid during 2021 and 2023, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2021	3.519%	\$ 36,228	\$ 1,275
2023	8.653%	\$ 5,812	<u>503</u>
		Overpayment of State Aid	<u><u>\$ 1,778</u></u>

Therefore, as a result of the certification errors, the township received a total net underpayment of state aid in the amount of \$1,129. Although the township will be reimbursed for the total net underpayment of state aid due to the certification errors, the full amount of the state aid was not available to be deposited timely and therefore not available to fund member benefits, pay operating expenses or for investment.

EAST NOTTINGHAM TOWNSHIP NON-UNIFORMED 401(a) PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two people review the data certified, to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

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.

**Finding No. 2 – Failure To Properly Fund Members’ Accounts**

Condition: The township failed to properly fund members’ accounts in the years 2020 and 2022. The township deposited excess municipal contributions into the accounts of two members during 2020 and a member in 2022, but underfunded the accounts of seven other members during 2022, as illustrated below:

<u>Employee Entry Date</u>	<u>2020 Actual Contributions</u>	<u>2020 Required Contributions</u>	<u>Contributions In Excess</u>
1/1/2021	\$ 4,500	\$ -	\$ 4,500
1/1/2007	4,500	-	4,500
<u>Employee Entry Date</u>	<u>2022 Actual Contributions</u>	<u>2022 Required Contributions</u>	<u>Contributions In Excess (Due)</u>
1/1/2023	\$ 4,533	\$ -	\$ 4,533
1/1/2007	4,533	5,180	(648)
1/1/2019	4,533	5,180	(648)
1/1/2021	4,533	5,180	(648)
7/1/2021	4,533	5,180	(648)
7/1/2021	4,533	5,180	(648)
7/1/2022	4,533	5,180	(648)
7/1/2022	4,533	5,180	(648)



EAST NOTTINGHAM TOWNSHIP NON-UNIFORMED 401(a) PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Criteria: Sections 6-2(a), 6-3(a) and 6-5(e) of the plan's adoption agreement in effect January 1, 2020, and Sections 6-2(a), 6-3(a) and 6-6(e), of the plan's adoption agreement effective January 1, 2022, state, the following:

Section 6-2(a) Discretionary contribution. The Employer will determine in its sole discretion how much, if any, it will make as an Employer Contribution.

Section 6-3(a) Pro rata allocation. The discretionary Employer Contribution under ...Section 6-2(a) will be allocated as a uniform dollar amount.

Section 6-5(e) and 6-6(e) An Employee must be employed on September 30<sup>th</sup> of a given Plan Year to share in the allocation.

Additionally for 2022, in accordance with Section 6-2(a) of the plan agreement, the required employer contributions were set by carried motion in the Board of Supervisors meeting minutes equally contributing the money received from the state into the employees' pension funds.

Cause: During 2020, the township allocated employer contributions to a member who retired prior to September 30, 2020, and therefore, was not entitled to an allocation, and another employee who was not yet a member of the plan during 2020. Similarly, during 2022, the township allocated contributions to an employee who was not yet a member of the plan, which caused the reduction in employer contribution amounts allocable to all other members. The township lacked adequate internal control procedures to ensure that the plan members' accounts were properly funded in accordance with the plan documents.

Effect: The failure to properly allocate contributions to the members' accounts resulted in certain plan members receiving benefits in excess of those to which they are entitled, and other members being denied benefits to which they are entitled in accordance with the plan's governing document.

Recommendation: We recommend that the township review the applicable members' accounts and make the adjustments deemed necessary to ensure that they are funded in accordance with the provisions contained in the plan's governing documents.

We also recommend that the township implement adequate internal control procedures to ensure that in the future, members' accounts are properly funded 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.

EAST NOTTINGHAM TOWNSHIP NON-UNIFORMED 401(a) PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2017	\$ 14,000	None
2018	12,000	None
2019	12,930	\$ 3,070
2020	16,829	23,671
2021	15,845	7,591
2022	36,263	None

Note: In 2021, the township met the plan's \$31,500 funding requirement through the deposit of \$15,845 in state aid and \$7,591 in employer contributions and the allocation of \$8,064 in terminated employee forfeitures.

EAST NOTTINGHAM TOWNSHIP NON-UNIFORMED 401(a) PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Joshua D. Shapiro**  
Governor  
Commonwealth of Pennsylvania

**Mr. Samuel Goodley, Jr.**  
Chairman, Board of Township Supervisors

**Ms. Suzanne Hamlin**  
Chief Administrative Officer

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).