

COMPLIANCE AUDIT

Spring Garden Township Non-Uniformed Pension Plan York County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

June 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

Board of Township Commissioners
Spring Garden Township
York County
York, PA 17403

We have conducted a compliance audit of the Spring Garden Township Non-Uniformed Pension Plan for the period January 1, 2016 to December 31, 2019. 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, 2014 to December 31, 2019, 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, 2014 to December 31, 2019, 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 all eight plan members who terminated employment and/or retired and elected a lump-sum form of pension benefit 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 comparing the distributed amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- We determined whether the January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, respectively, in accordance with Act 205 and whether selected information provided on these reports is accurate, complete, and in accordance with plan provisions to ensure compliance for participation in the state aid program by comparing selected information to supporting source documentation.
- We determined whether the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

Spring Garden Township 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 for the years ended December 31, 2018, 2017 and 2016, which are available at the township's offices. Those 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 Spring Garden 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 objective.

The results of our procedures indicated that, in all significant respects, the Spring Garden 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 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Finding No. 2 – Withdrawal Of Plan Assets Prior To Retirement

The contents of this report were discussed with officials of Spring Garden 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.

June 3, 2020



EUGENE A. DEPASQUALE
Auditor General

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BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The Act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the Spring Garden 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.

The Spring Garden Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 2014-07. The plan is also affected by the provisions of collective bargaining agreements between the township and its non-uniformed employees. The plan was established January 1, 1988. Active members are not required to contribute to the plan. The municipality is required to contribute 10 percent of members' compensation, excluding overtime. As of December 31, 2019, the plan had 23 active members, and 4 terminated members eligible for vested benefits in the future.

SPRING GARDEN TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

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

Condition: The Township failed to certify an eligible non-uniformed employee (1 unit) and understated payroll by \$51,716 on the Certification Form AG 385 filed in 2019. Plan officials inadvertently failed to include a member who had previously been employed part-time, but began working full-time during 2017, and therefore, eligible for certification purposes. Plan officials also made a typographical error entering another member’s wages; however, this error did not affect the overall state aid allocation. The data contained on this certification form 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. Additionally, the instructions accompanying Certification Form AG 385 prescribes the following criteria for certification purposes:

Each Non-Uniformed Employee MUST meet each of these conditions anytime between January 1st and December 31st of the *prior calendar year*:

- a. Be an active, full-time non-uniformed employee employed by the municipality.
- b. Be employed for any six (6) consecutive months during the *prior calendar year*.
- c. Work not less than 35 hours per week.
- d. Be a member of a non-uniformed employee pension plan and meet all of its requirements.

Cause: Plan officials responsible for preparing the form inadvertently overlooked the eligible individual when submitting the AG 385 form filed for 2019. Additionally, the township lacked adequate procedures, such as having another individual review the accuracy of the data reported on the certification form, to timely identify the omission prior to submission.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the township’s state aid allocation was based on unit value, the township received an underpayment of state aid as identified below:

<u>Year</u>	<u>Units Understated</u>	<u>Unit Value</u>	<u>State Aid Underpayment</u>
2019	1	\$ 5,120	\$ 5,120

SPRING GARDEN TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding No 1 - (Continued)

Although the township will be reimbursed for the underpayment of state aid due to the township's certification error, the full amount of the 2019 state aid allocation was not available to be deposited timely and therefore resulted in the township having to make additional municipal contributions in order to meet the plan's funding obligation.

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least 2 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 - Withdrawal Of Plan Assets Prior To Retirement

Condition: During 2019, pension plan assets in the amount of \$128,000 maintained in the plan's unallocated insurance contract were improperly withdrawn and distributed to an active member of the pension plan without the approval of township officials. Although the plan member was fully vested in the accumulated account balance maintained for the benefit of the plan member for retirement purposes, the individual had not terminated employment with the township or made an election to retire in accordance with the plan document prior to the distribution.

Criteria: Section 1.02 of Article I of the plan's separately executed agreement with the plan's custodian dated January 1, 2013, states in part:

Unless otherwise provided in this plan, a Participant's retirement benefits shall begin on his Normal Retirement Date if he has had a Severance from Employment on such date and has a Vested Account.

In addition, regarding election procedures for the withdrawal of plan benefits, Section 6.03 of Article VI of the plan agreement further states:

The participant or beneficiary may make any election under this section in writing. The Plan Administrator (*defined in Section 1.02 as the person or persons responsible for the administration of the plan*) may require such individual to complete and sign any necessary documents as to the provisions to be made.

SPRING GARDEN TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding No. 2 - (Continued)

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 benefit payments upon eligibility for retirement, not for distributions prior to retirement benefit eligibility.

Cause: The active member contacted the plan custodian directly, initiating the withdrawal of pension plan funds; however, plan officials were neither aware that such a request was made nor notified of the request by the plan custodian for pre-approval of the withdrawal prior to distribution of the funds.

Effect: Allowing distributions from the pension plan prior to a member’s eligibility to receive retirement benefits under the current provisions of the plan violates the intent for which state aid was allocated to the municipality, adversely affects the retirement income of an annuitant and undermines the integrity of the pension plan.

Recommendation: We recommend that plan officials contact the plan custodian and establish appropriate internal control procedures to ensure that future distributions from the pension plan are in accordance with the provisions contained in the plan’s governing document only after receiving express written approval from township officials responsible for administering the pension plan prior to such distribution.

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.

SPRING GARDEN TOWNSHIP NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 96,816	\$ 35,033
2015	98,021	33,667
2016	100,617	33,937
2017	105,530	24,824
2018	103,056	31,344
2019	None	124,908

SPRING GARDEN TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. Daniel E. Rooney
President, Board of Township Commissioner

Mr. John J. Luciani
Vice President, Board of Township Commissioners

Mr. Michael L. Thomas
Township Commissioner

Ms. Annett Clark
Township Commissioner

Mr. Thomas Gwilt
Township Commissioner

Ms. Marcy Krum-Tinsley
Township Manager

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