COMPLIANCE AUDIT

Wayne Township
Non-Uniformed Pension Plan

Erie County, Pennsylvania

For the Period
January 1, 2018 to December 31, 2021

September 2022

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
Wayne Township
Erie County
Corry, PA 16407

We have conducted a compliance audit of the Wayne Township Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2021. 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2016 to December 31, 2021, 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, 2016 to December 31, 2021, 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 the plan member who retired, and 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 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 or payable 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 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Wayne 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 Wayne 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 – Failure To Properly Fund Members' Accounts

The contents of this report were discussed with officials of Wayne 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
August 22, 2022

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 Wayne 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 Wayne Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by Resolution No. 1903, effective January 1, 2019. Prior to that, the plan was controlled by Resolution No. 1603. The plan was established January 1, 2005. Active members are not required to contribute to the plan. For the year 2018, the municipality was annually required to contribute $1 for each $1 a member contributes into a separate deferred compensation plan, up to a maximum contribution of $2,000 per member. Effective January 1, 2019, the municipality is annually required to contribute $2,000 per plan member, per year. As of December 31, 2021, the plan had three active members, two terminated members eligible for vested benefits in the future, and one retiree receiving pension benefits.

WAYNE TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendation

Wayne Township has complied with the prior recommendation concerning the following:

- Improper Distributions From The Plan

  Municipal officials ensured that distributions made from the plan during the audit period were in accordance with the plan's governing document.

Partial Compliance With Prior Recommendations

Wayne 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 returned $4,749 to the Commonwealth for the excess state aid received in 2015 and 2017; however, plan officials again failed to annually reconcile state aid allocated to the township, along with plan forfeitures, with the plan's annual defined contribution pension costs as further discussed in the Findings and Recommendations section of this report; and

- Failure To Properly Fund Members' Accounts

  During the current audit period, the township determined that the excess municipal contribution made to the account of a terminated-vested employee during 2017 should be returned to the municipal general fund. However, a similar condition occurred during the current audit period 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 returning $4,749 to the Commonwealth for the state aid overpayments received in 2015 and 2017; however, a similar condition occurred during the current audit period. The township received state aid in excess of the non-uniformed pension plan's full-time defined contribution pension costs in the years 2019, 2020 and 2021, as illustrated below:

	2019	2020	2021
Municipal pension costs for full-time members	$ 4,000	$ 4,000	$ 4,000
Forfeitures available	-	(4,000)	(2,077)
Adjusted municipal pension costs for full-time members	4,000	-	1,923
State aid allocation	5,038	4,956	3,507
Excess state aid	$ 1,038	$ 4,956	$ 1,584

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….

Finding No. 1 – (Continued)

Furthermore, Section 402(e)(2) of Act 205 states, in part:

> The applicable number of units shall be attributable to each active employee who was employed on a full-time basis for a minimum of six consecutive months …

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

Cause: Plan officials again failed to establish adequate internal control procedures to annually reconcile the township's state aid allocation and employee forfeitures available to reduce municipal contributions with the plan's actual full-time defined contribution pension costs.

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

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

Recommendation: We recommend that the municipality return the $7,578 of excess state aid received in the years 2019, 2020 and 2021 to the Commonwealth from the general fund. 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.

Furthermore, we again recommend that, in the future, plan officials reconcile the township's annual state aid allocation, along with any available forfeitures, with the plan's annual defined contribution 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.

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 - Failure To Properly Fund Members' Accounts

Condition: As disclosed in the Status Of Prior Findings section of this report, the township partially complied with the prior recommendation and determined that excess municipal contributions to a terminated-vested employee made during 2017 should be returned to the municipality's general fund. However, a similar situation occurred during the current audit period. The township overfunded the accounts of two ineligible members, in the amount of $840 each, in the year 2021, and underfunded the account of an eligible terminated-vested member by $908 in that same year. The two members who were overfunded did not work the required 1,000 hours of service to be eligible for a contribution; whereas the member who was underfunded had satisfied the requirements for a contribution according to the plan document.

Criteria: During 2019, the township enacted Resolution No. 1903, which adopted a separately executed plan agreement, effective January 1, 2019, with the plan's custodian. Section G (3)(a)ii of the agreement states that employer contributions will be a discretionary amount equal to $2,000 on behalf of each Participant per plan year.

In addition, Section E (2)(b)(ii), states;

> Year of Service means the applicable computation period during which an employee has completed 1,000 hours of service.

Furthermore, Section G (6)(c), states;

> A Participant must be employed on the last day of the Plan Year in order to share in the allocation, unless such Participant worked at least 1,000 Hours of Service during such year.

Cause: The township was following provisions of the prior plan document, which set employer matching contributions based on elective deferral (pre-tax) contributions to the Wayne Township Deferred Compensation Plan, up to $2,000. In addition, plan officials did not take into consideration the required minimum service hours needed to receive a contribution for new and terminating employees in the year of hire and termination.

Effect: The failure to properly fund the plan could result in plan members being denied benefits or receiving benefits in excess of entitlement in accordance with the plan's governing document.

Due to the township's failure to properly fund the referenced members' accounts, the township must now pay interest on any delinquent contributions.

Finding No. 2 – (Continued)

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

We also again recommend that plan officials implement adequate internal control procedures to ensure that the 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: 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.

WAYNE 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 $7,578, 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.

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

Year Ended December 31	State Aid	Employer Contributions
2016	$ 3,248	$ 5,368
2017	3,396	4,000
2018	3,389	4,611
2019	4,000	2,000
2020	None	349
2021	1,923	1,780

Note: In 2020, the township met the plan's funding requirement through the deposit of $349 in employer contributions and the allocation of $4,653 in terminated employee forfeitures.

Note: In 2021, the township met the plan's funding requirement through the deposit of $1,923 in state aid, $1,780 in employer contributions and allocation of $2,077 in terminated employee forfeitures.

WAYNE 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. Richard A. Warner
Chairman, Board of Township Supervisors

Ms. Erin E. Bisbee
Secretary

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.