

COMPLIANCE AUDIT

West Pennsboro Township Non-Uniformed Pension Plan Cumberland County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

April 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
West Pennsboro Township
Cumberland County
Carlisle, PA 17015

We have conducted a compliance audit of the West Pennsboro 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 plan members who retired during the current audit period and through the completion of our fieldwork procedures 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, 2017, January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2018, 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 West Pennsboro 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 West Pennsboro 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.

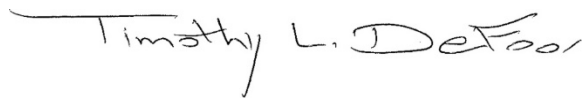
The results of our procedures indicated that, in all significant respects, the West Pennsboro Township Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following 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 – Incorrect Data On Certification Form AG-385 Resulting In An Underpayment Of State Aid
- Finding No. 3 – Failure To Properly Fund Member Accounts
- Finding No. 4 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

Finding No. 1 and No. 2 contained in this audit report repeat conditions that were cited in our previous report that have not been corrected by township officials. We are concerned by the township's failure to correct those previously reported findings and strongly encourage timely implementation of the recommendations noted in this audit report.

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 West Pennsboro 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
Auditor General
March 20, 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 West Pennsboro 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 West Pennsboro Township Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance 2019-02, effective January 1, 2020, and a separately executed plan agreement with the plan's custodian, adopted pursuant to Act 15. Prior to September 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 2001-03 and an agreement adopted pursuant to Act 15. The plan was established January 1, 1995. Active members are not required to contribute to the plan. The municipality is required to contribute seven percent of each member's compensation to the plan. As of December 31, 2022, the plan had seven active members, four terminated members eligible for vested benefits in the future, and three retirees receiving pension benefits.

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Recommendations

West Pennsboro Township has partially complied with the prior recommendations concerning the following:

· Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

During the current audit period, the township reimbursed \$1,511 to the Commonwealth for the overpayment of state aid received in 2016; however, the township did not include interest as recommended. In addition, plan officials again failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data, as further discussed in the Findings and Recommendations section of this report; and

· Receipt Of State Aid In Excess Of Entitlement

During the current audit period, the township reimbursed \$748 to the Commonwealth for the overpayments of state aid received in 2015 and 2017 but failed to include interest on repayment as also recommended. Similarly, the township again received state aid in excess of the plan's pension costs, as further discussed in the Findings and Recommendations section of this report.

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

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

Condition: As disclosed in the Status of Prior Finding section of this report, the township partially complied with the prior recommendation by reimbursing the Commonwealth for the overpayment of state aid received during 2015 and 2017. However, the township failed to include interest, an interest calculation, or an explanation as to why interest was not included on the reimbursement and a similar condition occurred during the current audit period. The township received state aid in excess of its non-uniformed pension plan’s defined contribution pension costs in the years 2018 and 2023, as illustrated below:

	<u>2018</u>	<u>2023</u>
State aid allocation	\$ 25,012	\$ 30,552
Actual municipal pension costs	(24,738)	(29,900)
Excess state aid	\$ 274	\$ 652

As of the date of this report, the excess state aid remained in the township’s general fund.

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.

Cause: Plan officials again failed to reconcile the township’s state aid allocation with the plan’s actual defined contribution pension costs and ensure compliance with the prior 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 in one year to offset pension costs in other years.

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Consequently, the total overpayment of state aid must be returned to the Commonwealth for redistribution. *(Since the township will be reimbursed for an underpayment of state aid due to the township's certification errors disclosed in Finding No. 2, the total state aid underpayment will be reduced, accordingly, by the amount of the overpayment.)*

Recommendation: We recommend the township calculate the interest due on the excess state aid received during 2015 and 2017 (\$748), that was omitted from the original reimbursement to the Commonwealth. A check in this amount, with the interest compounded from the dates of receipt to date of repayment, at the 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. A copy of the interest calculation must be submitted along with evidence of payment.

In addition, we again recommend that, in the future, plan officials reconcile the township's annual state aid allocation with the plan's annual defined contribution 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: 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. 2 – Partial Compliance With Prior Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: As disclosed in the Status of Prior Finding section of this report, the township partially complied with the prior recommendation by reimbursing the Commonwealth for the overpayment of state aid received during 2016. However, the township failed to include interest, an interest calculation, or an explanation as to why interest was not included on the reimbursement, and again failed to comply with the instructions that accompany Certification Forms AG 385 in accurately reporting the required pension data in the years 2019, 2020, 2021, 2022 and 2023. The township understated payroll by \$8,349, \$36,965, \$38,759, \$7,438, and \$41,668 on the Certification Form AG 385 filed in 2019, 2020, 2021, 2022, and 2023, respectively. The data contained on these certification forms are based on prior calendar years' information.

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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. In addition, pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Further, Section 1.23 of Article I of the plan’s governing document, restated January 1, 2020, states the following:

COMPENSATION.

The total amount of all payments, direct or indirect, made by the Municipality to an *[sic]* Member for services rendered to the Municipality, for a calendar year which ends within a Plan Year, as defined in Code Section 3401(a) for purposes of tax withholding at the source (as reported to the Employee on Form W-2 for such year). Compensation shall include before tax or salary deferral contributions made to this Plan or any other plan of the Municipality, under a Code Section 132(1)(4) qualified transportation plan or under Code Sections 125, 402(g)(3), 457 or 4 I 4(h), on behalf of a Member for such Plan Year. *(Provision does not contain any exclusions from compensation.)*

Cause: Plan officials again failed to establish adequate internal control procedures to ensure the accuracy of the reported data and compliance with the prior recommendation, including ensuring that the amount of W-2 compensation earned by the employees representing IRC Section 125 payroll deductions was included in the total payroll certified.

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 allocations were based on pension costs for 2019, 2020, 2021, 2022 and 2023, the township received a total underpayment of state aid, as identified below:

Year	Normal Cost	Payroll Understated	State Aid Underpayment
2019	7.0%	\$ 8,349	\$ 584
2020	7.0%	36,965	2,588
2021	7.0%	38,759	2,713
2022	7.0%	7,438	521
2023	7.0%	41,668	2,917
Total Underpayment			\$ 9,323

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Although the township will be reimbursed for the underpayment of state aid due to the certification errors, the full amount of the state aid allocations was not available to be deposited timely and therefore were not available to fund benefits, pay operating expenses or for investment. As disclosed in Finding No. 1, since the township received excess state aid amounting to \$926, the total state aid underpayment will be reduced to \$8,397, accordingly.

Recommendation: We recommend the township calculate the interest due on the 2016 overpayment of state aid (\$1,511) that was originally omitted from the township’s reimbursement to the Commonwealth. A check in this amount, with the additional interest compounded from the date of receipt of the 2016 state aid to the date of repayment, at the 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. A copy of the interest calculation must be submitted along with evidence of payment.

In addition, we again recommend that in the future, the township 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 and compliance with Act 205.

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. Compliance will be evaluated during our next audit of the plan.

Finding No. 3 – Failure To Properly Fund Member Accounts

Condition: The township improperly funded the accounts of two members in 2018 as illustrated below:

<u>Employee</u>	<u>Required Contributions</u>	<u>Actual Contributions</u>	<u>Contributions Excess/(Due)</u>
1	\$ 1,304	\$ 1,808	\$ 504
2	914	661	(253)

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

The compensation used to calculate the contributions for the first employee included wages earned while the employee was in probationary status and not a plan member and therefore was not entitled to contributions. The second employee retired on January 2, 2018, and earned compensation that should have been used to determine required contributions that the member was entitled for 2018.

Criteria: In 2001, the plan’s governing document, Ordinance No. 2001-03, which adopted a separately executed plan agreement with the plan’s custodian, established the municipal contribution rate at 7 percent of each member’s compensation.

In addition, the township requires a six-month waiting period before employees are eligible for enrollment in the municipality’s retirement program.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that members’ accounts were properly funded in accordance with the plan document (*i.e., correct compensation amounts were used to calculate required municipal contributions*).

Effect: The failure to properly fund members’ accounts could result in plan members receiving excess benefits or 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 they are funded in accordance with the provisions contained in the plan’s governing document.

We also 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: Compliance will be evaluated during the next audit period.

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

Condition: During the two most recent audits, a verbal observation was issued to plan officials notifying them of the provisions of Act 205 for the procurement of professional services contracts, and recommending that the municipality adopt the mandatory provisions, accordingly. However, during the current audit period, the municipality again failed to adopt such mandatory provisions.

Criteria: Section 701-A of Act 205, as amended by Act 44 of 2009, defines a “Professional Services Contract”, as follows:

“Professional services contract.” A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
- (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states in part:

Each municipal pension system ... shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

Additionally, Section 702-A (c), (e), (f) and (h) state, in part:

Review. Procedures to select the most qualified person shall include a review of the person’s qualifications, experience and expertise and the compensation to be charged.

Conflict of interest. The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract.

Public information. Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

WEST PENNSBORO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Notice and summary. The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applications and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Cause: Plan officials failed to establish adequate internal controls procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: The township's failure to comply in all respects with the previous recommendation and the provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the township's pension plan could result in a lack of overall transparency of the actions taken by plan officials relative to the awarding of the investment and advisory services contract for the township's pension plan.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions which should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process to ensure the transparency of the actions taken by plan officials relative to the awarding of any future professional services contracts for its pension plan.

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

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

WEST PENNSBORO 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	\$ 25,764	\$ 25,972	\$ (208)	\$ 364,898	7.12%
2015	24,887	25,045	(158)	354,054	7.07%
2016	26,325	26,325	-	370,989	7.10%
2017	25,417	25,416	1	359,662	7.07%
2018	24,698	17,657	7,041	353,018	5.00%
2019	28,016	35,568	(7,552)	396,792	8.96%
2020	28,955	28,955	-	409,934	7.06%
2021	32,913	32,913	-	474,307	6.94%
2022	33,729	33,729	-	478,126	7.05%

* 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 SRC and the actual Contributions in Relation to the SRC were provided by the custodian. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account.

WEST PENNSBORO 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. Donald Agar
Chairman, Board of Township Supervisors

Ms. Evelyn Swartz
Chief Administrative Officer

Mr. Richard Cardamone, CPA, CGMA
Pennsylvania Municipal Retirement System

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