

COMPLIANCE AUDIT

Wind Gap Borough Non-Uniformed Pension Plan Northampton County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

January 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Wind Gap Borough
Northampton County
Wind Gap, PA 18091

We have conducted a compliance audit of the Wind Gap Borough 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 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.
- We determined whether all payments made to the multi-employer union pension plan were in accordance with the provisions contained in the collective bargaining agreement for the period January 1, 2018 to December 31, 2021.

The borough's non-uniformed union employees participate in the Central Pennsylvania Teamsters Pension Fund, a Taft-Hartley Act collectively bargained, jointly trustee, multi-employer pension plan, which is governed primarily by the Federal Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides for substantial federal government oversight of the operating and reporting practices of employee benefit plans subject to its provisions. Accordingly, the scope of our audit was restricted to the activities of the Wind Gap Borough Non-Uniformed Pension Plan and did not extend to the activities of the multi-employer pension plan.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Wind Gap Borough 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.

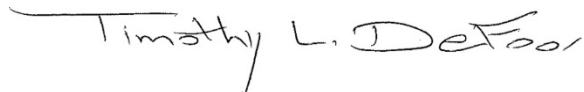
The results of our procedures indicated that, in all significant respects, the Wind Gap Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

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

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous report that has not been fully corrected by borough officials. We are concerned by the borough's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation noted in this audit report.

The contents of this report were discussed with officials of Wind Gap Borough and, where appropriate, their responses have been included in the report.



Timothy L. DeFoor
Auditor General
December 15, 2022

CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Findings	2
Findings and Recommendations:	
Finding No. 1 – Partial Compliance With Prior Recommendation – Receipt Of State Aid In Excess Of Entitlement	3
Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid.....	4
Summary of Deposited State Aid and Employer Contributions.....	6
Report Distribution List	7

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 Wind Gap Borough 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.

As further described in the Letter from the Auditor General included in this report, the borough's non-uniformed union employees participate in the Central Pennsylvania Teamsters Pension Fund. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established January 1, 1974. Active members are not required to contribute to the plan. The municipality was required to contribute \$289.94 per month for new hires after January 1, 2018 and \$400 monthly per Street Laborer for years 2018, 2019, 2020 and 2021. Additionally, the municipality was required to contribute \$418.58, \$431.14, \$444.08, and \$454.07 monthly per Street Leader for the years 2018, 2019, 2020, and 2021, respectively. As of December 31, 2021, the plan had three active members.

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendations

Wind Gap Borough has complied with the prior recommendation concerning the following:

- Participation Agreement Not Adopted By Ordinance Or Resolution

During the current audit period, borough officials adopted the Central Pennsylvania Teamsters Amended and Restated Defined Benefit Plan document including amendments via Resolution No. 2018-13.

Partial Compliance With Prior Recommendation

Wind Gap Borough has partially complied with the prior recommendation concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

During the current audit period, the borough reimbursed \$882 to the Commonwealth for the overpayment of state aid in 2017; however, plan officials again failed to reconcile state aid allocated to the non-uniformed pension plan with the pension plan's defined contribution pension costs, as further discussed in the Findings and Recommendations section of this report.

WIND GAP BOROUGH 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 Findings section of this report, the borough partially complied with the prior recommendation by reimbursing the Commonwealth for the overpayment of state aid received in 2017. However, a similar condition occurred during the current audit period. The borough again received state aid in excess of the plan’s defined contribution pension costs in the year 2020, as illustrated below:

State aid allocation	\$ 14,771
Less: Actual municipal pension costs	<u>(11,869)</u>
Excess state aid	<u>\$ 2,902</u>

The excess state aid remained in the general fund as of the date of this report.

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 plan 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 implement consistent procedures to annually reconcile the borough’s state aid allocation with the plan’s actual defined contribution pension costs.

Effect: It is this department’s opinion that, since 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 year 2020 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return \$2,902 of excess state aid received in during 2020 to the Commonwealth from the borough’s 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: 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.

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Additionally, we again recommend that, in the future, plan officials reconcile the borough’s annual state aid allocation and municipal contributions made to the pension plan 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: Compliance will be evaluated during our next audit of the plan.

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The borough failed to certify an eligible non-uniformed employee (1 unit) and understated payroll by \$23,858 on the Certification Form AG 385 filed in 2021. 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.

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 reported data 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 borough’s state aid allocation was based on unit value, the borough received an underpayment of state aid as identified below:

<u>Units</u> <u>Understated</u>	<u>Unit</u> <u>Value</u>	<u>State Aid</u> <u>Allocation</u>
1	\$ 4,797	\$ 4,797

Although the borough will be reimbursed for the underpayment of state aid due to the borough’s certification error, the full amount of the 2021 state aid allocation was not available to be deposited timely and therefore resulted in the borough having to make additional municipal contributions in order to meet the plan’s funding obligation. However, the borough will only receive additional state aid amounting to \$2,904 based on the plan’s actual pension costs for 2021 (*\$12,499 less state aid already received in the amount of \$9,595*).

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (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

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

Year Ended December 31	State Aid	Employer Contributions
2016	\$ 9,211	\$ 389
2017	8,000	None
2018	4,684	6,588
2019	10,241	3,212
2020	11,869	None
2021	9,595	2,904

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Wesley J. Smith
Mayor

Mr. George Hinton
Council President

Ms. Louise Firestone
Borough Manager

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.