

COMPLIANCE AUDIT

Woodward Township Non-Uniformed Pension Plan Clinton County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

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
Woodward Township
Clinton County
Lock Haven, PA 17745

We have conducted a compliance audit of the Woodward 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 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.

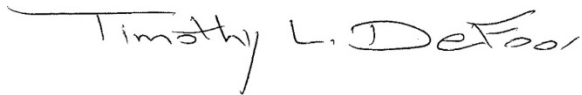
- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing 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 that there were no benefit calculations prepared for the years covered by our audit period.
- 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.
- We determined whether transfers were properly authorized, timely, and appropriately recorded by plan officials by examining supporting documentation for all of the transfers made during the audit period.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Woodward 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 Woodward 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 – 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. 3 – Withdrawal Of Plan Assets Prior To Retirement
- Finding No. 4 – Restated Plan Document Not Adopted By Ordinance

The contents of this report were discussed with officials of Woodward 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
December 8, 2023

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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 Woodward 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 Woodward Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of a Resolution effective March 1, 2020, and a separately executed adopted plan agreement. Prior to March 1, 2020, the plan was governed by Ordinance No. 4-6-2015 A, and a separately executed plan agreement adopted pursuant to Act 15. The plan was established January 1, 1990. Active members are not required to contribute to the plan. The municipality is required to contribute six percent of compensation. As of December 31, 2022, the plan had six active members.

WOODWARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Condition: The township received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs during the years 2021 and 2022, as illustrated below:

	<u>2021</u>	<u>2022</u>
Actual municipal pension costs	\$ 14,377	\$ 13,340
Less: Forfeitures available	7,502	-
Adjusted municipal pension costs	6,875	13,340
State aid allocation	14,753	14,383
Excess state aid	\$ 7,878	\$ 1,043

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 failed to reconcile the township’s state aid allocation, along with available non-vested forfeitures, with the plan’s actual pension costs. *(Auditor Note: It was noted in Section 8-7 of the recently adopted plan agreement, the township failed to make an election as to how forfeitures would be treated. In the absence of such an election and since the township did not maintain documentation noting that non-vested funds represented unused municipal contributions, forfeitures must be used towards subsequent employer contributions due to the plan in the year they become readily available and known).*

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 2021 and 2022 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.

WOODWARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the municipality return the \$8,921 of excess state aid received in the years 2021 and 2022 to the Commonwealth. 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 recommend that, in the future, plan officials reconcile the township's annual state aid allocation along with available plan forfeitures and municipal contributions made to the pension plan with the plan's annual 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: 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 pension plan.

Finding No. 2 – 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 and understated payroll by \$18,495 on the Certification Form AG 385 filed in 2019. The employee was hired in June 2017 and participated in the plan prior to terminating employment in July 2018 and therefore, eligible for certification on Form AG 385 submitted in 2019 according to Act 205. 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 include the individual on the AG 385 and the township lacked establish adequate internal control procedures 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 pension costs the township received an underpayment of state aid in 2019 as identified below:

WOODWARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Normal Cost	Payroll Understated	State Aid Underpayment
6.0%	\$ 18,495	\$ 1,110

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 was not available to fund benefits, pay operating expenses, or for investment.

Recommendation: We 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.

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. 3 – Withdrawal Of Plan Assets Prior To Retirement

Condition: During 2022, plan assets amounting to \$24,616 maintained in an unallocated custodial account were improperly withdrawn and distributed to two active members of the pension plan. Although the plan members were fully vested in their account balances, neither member was separated from employment with the township when the in-service distribution occurred.

Criteria: 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.

WOODWARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Cause: Plan officials relied on the adopted plan agreement, effective March 1, 2020, that allows in-service distributions for active members of the pension plan. Section 10-1 of the newly executed plan agreement with the custodian states, in part:

A Participant may withdraw all or any portion of his/her vested Account Balance, to the extent designated, upon the occurrence of any of the event(s) selected under this AA§10-1.

(b) Attainment of age 59 1/2.

Effect: Allowing distributions from member accounts prior to their eligibility to receive retirement benefits violates the purpose for which state aid was allocated to the municipality, adversely affects the retirement income of plan participants, and undermines the integrity of the pension plan.

Recommendation: We recommend the township limit all future distributions from the pension plan to individuals who terminate service with the municipality due to retirement, disability, or termination in accordance with Act 205 and amend the plan’s governing document to eliminate in-service distributions at its earliest opportunity to do so.

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. 4 – Restated Plan Document Not Adopted By Ordinance

Condition: Prior to 2020, the non-uniformed pension plan was governed by the provisions of Ordinance No. 2002-12-16-A, as amended, and a separately executed plan agreement, adopted pursuant to Act 15. The township enacted Ordinance No. 7-21-2020, effectively terminating its pension plan with the prior custodian July 21, 2020. The township adopted the new terms, provisions, and conditions of the pension plan in a separately executed restated plan agreement with another plan custodian, by resolution effective March 1, 2020

It was noted that previous amendments to the pension plan were executed by proper ordinance.

Criteria: In Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

WOODWARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Cause: The township was unaware they should formally adopt the provisions of the restated plan agreement through a properly executed ordinance repealing other ordinances.

Effect: The failure to properly adopt the plan agreement could result in improper or inconsistent benefit payments to plan members and their beneficiaries.

Recommendation: We recommend that municipal officials take appropriate action to formally adopt the restated plan document through a properly executed ordinance which repeals other preceding ordinances, accordingly.

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

Auditor's Conclusion: Compliance with the finding recommendation will be evaluated during our next audit of the plan.

WOODWARD 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 \$8,921, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless this 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.

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

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Year Ended December 31	State Aid	Employer Contributions
2017	\$ 4,359	None
2018	6,361	None
2019	6,773	\$ 2,737
2020	9,370	5,355
2021	14,753	None
2022	14,383	None

Note: In 2018, the township met the plan's \$8,003 funding requirement through the deposit of \$6,361 in state aid and the allocation of \$1,642 in terminated employee forfeitures.

In 2021, the township overfunded the plan's \$14,377 funding requirement through the deposit of \$14,753 in state aid and the allocation of \$7,502 in terminated employee forfeitures (*refer to Finding No. 1 contained in this report*).

WOODWARD TOWNSHIP 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. Kyle Coleman
Chairman, Board of Township Supervisors

Ms. Jackie Bartlett
Secretary/Treasurer

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.