

COMPLIANCE AUDIT

Williamsburg Borough Police Pension Plan Blair County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

November 2014



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Williamsburg Borough
Blair County
Williamsburg, PA 16693

We have conducted a compliance audit of the Williamsburg Borough Police Pension Plan for the period January 1, 2011 to December 31, 2013. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our 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 audit 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations.
- Whether employee contributions are required and, if so, are determined, deducted, and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.

- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.
- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the terms of the allocated insurance contracts, including ownership and any restrictions, are in compliance with plan provisions, investment policies, and state regulations.
- Whether benefit payments have only been made to living recipients.

Williamsburg Borough 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, which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

The borough has elected to purchase allocated insurance contracts to fund the pension benefits for plan members. Under an allocated funding arrangement, the insurer receives and retains consideration in exchange for a legally enforceable obligation to pay future benefits. In accordance with Statement No. 25 of the Governmental Accounting Standards Board, allocated insurance contracts are excluded from the pension plan's assets.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Williamsburg Borough Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the borough's internal controls as they relate to the borough's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 tests indicated that, in all significant respects, the Williamsburg Borough Police 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 Audit Recommendations – Failure To Maintain An Adequate Record-Keeping System And Effectively Monitor The Activity Of The Pension Plan
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 3 – Withdrawal Of Plan Assets Prior To Retirement Eligibility

The contents of this report were discussed with officials of Williamsburg Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.

September 21, 2014



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. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

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 Williamsburg Borough Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission 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 120 - Foreign Casualty Insurance Premium Tax Allocation Law, Act of May 12, 1943 (P.L. 259, No. 120), as amended, 72 P.S. § 2263.1 et seq.

The Williamsburg Borough Police Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 304, as amended, adopted pursuant to Act 120. The plan was established January 1, 1972. Active members are not required to contribute to the plan. The municipality is required to contribute 15 percent of each member's wages. As of December 31, 2013, the plan had 1 active member and 1 member eligible for vested benefits in the future.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Audit Recommendations

Williamsburg Borough has partially complied with the prior audit recommendations concerning the following:

- Failure To Maintain An Adequate Record-Keeping System

During the current audit period, the borough maintained employee W-2's and the Certification Forms AG 385; however, municipal officials failed to establish all of the accounting procedures necessary to meet the minimum record-keeping requirements of this Department, as further discussed in the Findings and Recommendations section of this report; and

- Pension Plan Account Transactions Not Adequately Monitored By The Municipality

During the current audit period, the borough transferred \$6,440 from the non-uniformed pension plan that was due to the police pension plan. In addition, the police plan's checking account was reconciled during the current audit period; however, municipal officials failed to reconcile the borough's ledgers to determine that the plan's obligations were paid from the irrevocably committed funds, and annual contributions due to the members' accounts were not reconciled to the actual payments made, as further discussed in the Findings and Recommendations section of this report.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Audit Recommendations – Failure To Maintain An Adequate Record-Keeping System And Effectively Monitor The Activity Of The Pension Plan

Condition: As disclosed in our prior audit report, the pension plan’s record-keeping system did not provide effective control over assets, revenues and expenses and does not meet the minimum requirements of financial record keeping recommended by this Department. In addition, plan officials did not effectively monitor the activity of the pension plan accounts.

During the current audit period, plan officials maintained employee W-2’s, Certification Forms AG 385, and reconciled the plan’s checking account; however, the following deficiencies were not addressed:

- Investment rosters or ledgers were not maintained and reconciled to ensure that plan’s obligations were paid from the plan’s irrevocably committed funds (See Comment section of this report);
- Annual contributions due to the members’ accounts were not reconciled to actual payments made;
- Three allocated insurance contracts were not available for examination at the municipality;
- An active members’ roster was not maintained;
- A terminated vested participant roster was not maintained;
- An allocated insurance roster was not maintained;
- Retirement election forms were not maintained for terminated vested or retired employees, as required at Article VIII of the plan document;
- The actuarial valuation report as of January 1, 2013, which was required to be submitted to the Public Employee Retirement Commission by March 31, 2014, was not submitted until May 19, 2014; and
- There were no internal control procedures in place to ensure an effective transition of duties.

Criteria: The fiduciary responsibility for the assets held in a pension account remains with the municipality. In addition, an adequate system of accounting and record keeping is a prerequisite for the sound administration of pension plans.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Cause: Plan officials have failed to develop adequate internal control procedures to ensure full compliance with the prior audit recommendations.

Effect: The failure of plan officials to maintain adequate records prohibits municipal officials from effectively monitoring the plan's financial operations and could lead to undetected errors or improprieties in account transactions as well as deficiencies in authorizing and implementing pension plan policies and procedures.

Recommendation: We again recommend that plan officials establish adequate accounting procedures which meet the minimum record-keeping requirements of this Department. Plan officials should refer to the Auditor General's Bulletin No. 2-88 entitled "Preparation, Maintenance and Auditability of Financial Records," for further guidance in establishing adequate accounting procedures.

In addition, we again recommend that plan officials monitor the pension plan's accounts to ensure the accuracy and propriety of the transactions. The minimum steps that should be applied by a municipality to adequately monitor the plan's accounts are:

- Verify the mathematical accuracy of the account statements;
- Reconcile the Commonwealth and municipal contributions shown on the account statements to the municipality's records;
- Review investment income for accuracy and reasonableness;
- Reconcile any large or significant receipts, other than contributions, shown on the account statements to the municipality's records; and
- Reconcile any large or significant disbursements, shown on the account statements to the municipality's records.

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

Auditor's Conclusion: Compliance will be evaluated through our next audit of the plan.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

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

Condition: The borough overstated police payroll by \$7,911 on the Certification Form AG 385 filed in 2012. The data contained on this certification form is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data 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 borough's state aid allocation was based on pension costs, the incorrect certification of pension data affected the borough's state aid allocation, as identified below:

<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
15.0%	\$ 7,911	\$ 1,187

Recommendation: We recommend that the total excess state aid, in the amount of \$1,187, be returned 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 pension plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 320 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

We also 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 monitored subsequent to the release of the audit report and through our next audit of the pension plan.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Withdrawal Of Plan Assets Prior To Retirement Eligibility

Condition: A terminated police officer who was age 61 and 100 percent vested received ownership of two allocated insurance contracts that were improperly surrendered prior to the former officer’s eligibility to receive a retirement benefit.

Criteria: Section 9.01 of Ordinance No. 304, as amended, provides a vesting schedule, and section 9.03 states:

Deferred Vested Participant - A Participant who shall terminate Employment with a vested Account balance under section 9.01 prior to attainment of Normal Retirement Age shall be eligible to commence receipt of a retirement benefit hereunder only after the Participant attains Normal Retirement Age, is then living, and has made application for such benefit under section 8.01. (Emphasis added)

Furthermore, Section 1.16 of Ordinance No. 304, in effect at the time of the member’s termination from employment, states:

“Normal Retirement Age” shall mean the date on which a Participant attains age sixty-five (65).

In addition, 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 retirement benefit payments and not to be used for distributions prior to retirement benefit eligibility.

Cause: Plan officials were unaware that plan assets should not be distributed to terminated vested members prior to their normal retirement age.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Effect: A former police officer received ownership of two allocated insurance contracts that had a cash surrender value of \$5,973 prior to his eligibility to receive a plan distribution.

Recommendation: We recommend that plan officials establish adequate internal control procedures to ensure that all distributions from the pension plan are made 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 our next audit of the plan.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2008	None	None
2009	None	None
2010	None	None
2011	None	None
2012	None	None
2013	None	None

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
COMMENT

On December 2, 1985, the municipality passed Ordinance No. 287 providing for the irrevocable commitment of certain state funds payable to Williamsburg Borough for the use of their police pension plan. This ordinance was established in accordance with Act 205, Section 403(a), which states in part:

Any funds paid to a municipality pursuant to the act of May 12, 1943 (P.L. 259, No. 120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, prior to the effective date of this act, and which have been either actually expended or, by action of the municipality, are irrevocably committed to be expended only in accordance with Foreign Casualty Insurance Premium Tax Allocation Law, shall not be returned for redistribution pursuant to section 1.2 of the Foreign Casualty Insurance Premium Tax Allocation Law.

Because the pension plan has an irrevocably committed asset balance, state aid and municipal contributions cannot be allocated to this plan until the asset balance is depleted.

At December 31, 2013, the police pension plan had an asset balance of \$405,583 that was not earmarked for an individual member of the municipality's defined contribution police pension plan.

WILLIAMSBURG BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Williamsburg Borough Police Pension Plan
Blair County
305 East Second Street
Williamsburg, PA 16693

The Honorable Theodore R. Hyle	Mayor
Ms. Rebecca Mingle	Council President
Mr. Joseph L. Lansberry	Borough Manager
Ms. Amyjo White	Borough Secretary

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