

**NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN**

**BERKS COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2011, TO DECEMBER 31, 2011**





**NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN**

**BERKS COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2011, TO DECEMBER 31, 2011**



## CONTENTS

|  | <u>Page</u> |
|--|-------------|
| Background .....   | 1           |
| Letter from the Auditor General .....                                      | 3           |
| Findings and Recommendations:  |             |
| Finding No. 1 – Improper Receipt Of State Aid .....                        | 7           |
| Finding No. 2 – Plan Document Not Adopted By Ordinance Or Resolution ..... | 8           |
| Potential Withhold Of State Aid .....                                      | 9           |
| Supplementary Information .....  | 10          |
| Report Distribution List .....   | 11          |



## **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.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 New Morgan Borough Nonuniformed Defined Contribution 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.

The New Morgan Borough Nonuniformed Defined Contribution Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of the Borough of New Morgan Nonuniformed Employees Money Purchase Pension Plan document. This plan was established to provide pension benefits for all nonuniformed employees of the borough with the exception of the borough manager. Active members are required to contribute 4 percent of compensation to the plan and may contribute up to 8 percent of compensation. The municipality is required to match contributions made by the employee.





The Honorable Mayor and Borough Council  
New Morgan Borough  
Berks County  
Morgantown, PA 19543

We have conducted a compliance audit of the New Morgan Borough Nonuniformed Defined Contribution Pension Plan for the period January 1, 2011, to December 31, 2011. 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 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. 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the New Morgan Borough Nonuniformed Defined Contribution 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 objective, 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 objective.

The results of our tests indicated that, in all significant respects, the New Morgan Borough Nonuniformed Defined Contribution 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 – Improper Receipt Of State Aid

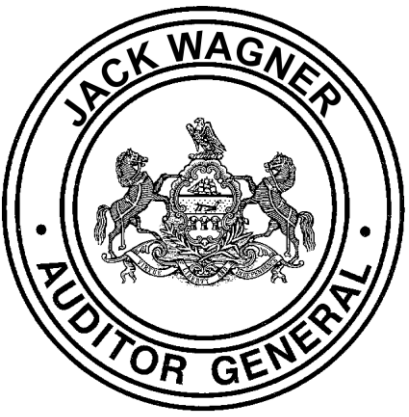
Finding No. 2 – Plan Document Not Adopted By Ordinance Or Resolution

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 New Morgan Borough and, where appropriate, their responses have been included in the report.

October 31, 2012

JACK WAGNER  
Auditor General



NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Improper Receipt Of State Aid

Condition: The borough improperly received a \$5,596 allocation of state aid in 2011 that was attributable to its nonuniformed defined contribution pension plan. Since the nonuniformed defined contribution pension plan was only funded beginning on January 1, 2009, pursuant to Act 205 provisions it was not eligible for a state aid allocation until 2012.

Criteria: Section 402(d) of Act 205 states that pension plans established subsequent to December 18, 1984, must be maintained for at least three plan years before becoming eligible for state aid. Furthermore, Section 102 of Act 205 defines plan year as “a calendar year commencing on January 1 and ending on December 31.”

Cause: Plan officials indicated that the plan was established January 1, 2008, on the Certification Form AG 385 that was filed in 2011; however, the borough did not begin funding the pension plan until January 1, 2009.

Effect: The borough received an overpayment of state aid in 2011 that was used to fund its other nonuniformed pension plan. Since the borough used the overpayment of state aid to pay the minimum municipal obligation (MMO) due to its other nonuniformed pension plan, if the reimbursement to the Commonwealth is made from that pension plan, that plan’s MMO will not be fully paid.

Recommendation: We recommend that the borough return the excess 2011 state aid allocation in the amount of \$5,596 to the Commonwealth from its 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, 11 Stanwix Street, Suite 1450, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with evidence of payment.

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

NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Plan Document Not Adopted By Ordinance Or Resolution

Condition: The terms, provisions and conditions of the nonuniformed defined contribution pension plan were stated in the Borough of New Morgan Nonuniformed Employees Money Purchase Pension Plan document effective January 1, 2008; however, the plan document has not been adopted by ordinance or resolution.

Criteria: Sound internal control dictates that the municipality should adopt the pension plan's benefit provisions through a municipal ordinance or resolution.

Cause: Plan officials were unaware that the borough should formally adopt the provisions of the plan agreement through a properly executed ordinance or resolution.

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 plan document through a properly executed ordinance or resolution.

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

NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

Finding No. 1 contained in this audit report cites an overpayment of state aid to the borough in the amount of \$5,596. 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, 11 Stanwix Street, Suite 1450, Pittsburgh, PA 15222.

NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF STATE AID  
AND EMPLOYER CONTRIBUTIONS

| Year Ended December 31 | State Aid Deposited | Employer Contributions |
|------------------------|---------------------|------------------------|
| 2009                   | None                | \$ 3,171               |
| 2010                   | None                | 4,871                  |
| 2011                   | None                | 1,636                  |



NEW MORGAN BOROUGH NONUNIFORMED DEFINED CONTRIBUTION  
PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

New Morgan Borough Nonuniformed Defined Contribution Pension Plan  
Berks County  
75 Grace Boulevard, Building D  
Morgantown, PA 19543

|                           |                              |
|---------------------------|------------------------------|
| The Honorable Dena Geunes | Mayor                        |
| Mr. Richard Venezia       | Council President            |
| Ms. Carolyn Williams      | Chief Administrative Officer |

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).