

# COMPLIANCE AUDIT

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## Chester Hill Borough Non-Uniformed Pension Plan Clearfield County, Pennsylvania For the Period January 1, 2019 to December 31, 2021

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January 2023



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Chester Hill Borough  
Clearfield County  
Philipsburg, PA 16866

We have conducted a compliance audit of the Chester Hill Borough Non-Uniformed Pension Plan for the period January 1, 2019 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 retirement benefits calculated for the plan member who elected to vest subsequent to 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 individual and comparing these amounts to supporting documentation evidencing amounts determined and payable to the recipient.
- 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 allocated insurance contracts, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contracts 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 and through the completion of our fieldwork procedures.

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

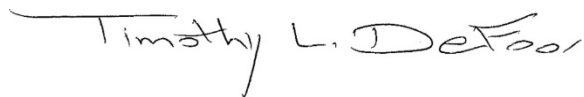
The results of our procedures indicated that, in all significant respects, the Chester Hill Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following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

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

Finding No. 2 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Finding No. 3 – Ordinance Improperly Amended By Resolution

The contents of this report were discussed with officials of Chester Hill 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.



Timothy L. DeFoor  
Auditor General  
December 29, 2022

## CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Findings .....	2
Findings and Recommendations:	
Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement.....	3
Finding No. 2 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205.....	4
Finding No. 3 – Ordinance Improperly Amended By Resolution .....	6
Summary of Deposited State Aid and Employer Contributions.....	8
Report Distribution List .....	9

### ABBREVIATION

PSABMRT - Pennsylvania State Association of Boroughs Municipal Retirement Trust

## 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 Chester Hill 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.

The Chester Hill Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 2020-11, and a separately executed money purchase plan joinder agreement with PSABMRT (*refer to Finding No. 3*), effective January 1, 2021. Prior to January 1, 2021, the plan was controlled by the provisions of Ordinance No. 02-27-2018/1. The plan was established January 1, 2008. Active members are not required to contribute to the plan. The municipality is required to contribute seven percent of employee's salary. As of December 31, 2021, the plan had two active members.

CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendations

Chester Hill Borough has complied with the prior recommendations concerning the following:

- Failure To Properly Fund Member's Account

On November 15, 2019, borough officials deposited the outstanding contribution to the individual member's account.

- Questionable Funding Mechanism Under Act 205

Effective January 1, 2021, the plan joined the Pennsylvania State Association of Boroughs Municipal Retirement Trust (PSABMRT) and transferred the funds from the investment contracts into the account with PSABMRT. See also Finding No. 3.

CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

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

Condition: The borough received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the year 2019, as illustrated below:

State aid allocation	\$ 3,384
Actual municipal pension costs	<u>(3,180)</u>
Excess state aid	<u><u>\$ 204</u></u>

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 borough’s state aid allocation with the plan’s actual defined contribution pension costs due to a turnover in municipal officials.

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 year 2019 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$204 of excess state aid received in the year 2019 to the Commonwealth from the non-uniformed pension plan. 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 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.



CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

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

Auditor’s Conclusion: The borough’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 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205**

Condition: In 2019, the borough adopted the mandatory provisions of Act 205 regarding the procurement of professional services contracts relative to its pension plan via Resolution No. 9-10-2019/1. The borough subsequently changed investment contractors for its non-uniformed pension plan through the execution of a joinder agreement with PSABMRT with an effective date of January 1, 2021 (*see also Finding No. 3*). However, there was no substantive evidence provided to support that the change in service provider was conducted in accordance with provisions of Act 205 and/or Resolution No. 9-10-2019/1.

Criteria: Section 701-A of Act 205, 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.

CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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.

**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.

Furthermore, Section 703-A (c) states, in part:

Upon the advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Resolution No. 9-10-2019/1 adopted by the borough to adhere to Act 44 of 2009, which amended Act 205, contains similar provisions to those cited above, establishing procedures for the procurement of professional services for the borough’s pension plans in accordance with Act 205 provisions.

Cause: Plan officials failed to establish adequate procedures to properly follow and document adherence with each requirement prescribed under the provisions of Act 205 and the borough’s own procurement procedures in the awarding of the professional services contract for investment services for the non-uniformed pension plan.

CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Effect: We were unable to determine whether the borough complied in all respects with the provisions stipulated in Act 205 and its own governing policies and procedures for the procuring of professional investment services for the non-uniformed pension plan. Also, by failing to maintain appropriate substantive supporting documentation evidencing adherence with each requirement prescribed under Act 205 and the borough’s own procedures in the awarding of the professional services contract, it denotes a general lack of overall transparency of the actions taken by plan officials relative to the awarding of the investment services contract for the borough’s pension plans.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions, as adopted in Resolution No. 9-10-2019/1, 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 audit of the plan.

**Finding No. 3 – Ordinance Improperly Amended By Resolution**

Condition: The pension plan’s governing document, Ordinance No. 02-27-2018/1, was amended by Resolution No. 2020-11 with an effective date of November 10, 2020, and a separately executed money purchase plan joinder agreement with Pennsylvania State Association of Boroughs Municipal Retirement Trust (PSABMRT) with an effective date of January 1, 2021.

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.

Cause: Borough officials were not aware that a resolution could not amend an ordinance.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

Recommendation: We recommend that the borough amend the plan's governing document with a properly executed ordinance.

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.

CHESTER HILL BOROUGH NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2016	\$ 1,187	\$ 600
2017	596	1,510
2018	3,365	None
2019	3,384	None
2020	3,180	406
2021	3,586	1,752

CHESTER HILL 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 Billy A. Carpenter**  
Mayor

**Dr. Pierce Sanute**  
Council President

**Mr. Josh Woods**  
Council Vice-President

**Ms. Diann Turner**  
Secretary

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