

COMPLIANCE AUDIT

Delaware Township Non-Uniformed Pension Plan Northumberland County, Pennsylvania For the Period January 1, 2019 to December 31, 2023

June 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
Delaware Township
Northumberland County
Watsontown, PA 17777

We have conducted a compliance audit of the Delaware Township Non-Uniformed Pension Plan for the period January 1, 2019 to December 31, 2023. 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 finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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 finding 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 finding 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, 2018 to December 31, 2023, 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, 2018 to December 31, 2023, 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 retired and received a lump-sum distribution during the current audit period 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 actually paid to the recipient.
- We determined whether the January 1, 2019, January 1, 2021, and January 1, 2023 actuarial valuation reports were prepared and submitted by March 31, 2020, 2022, and 2024, 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.

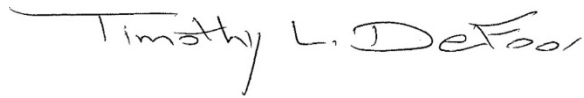
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Delaware Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local 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 objectives.

The results of our procedures indicated that, in all significant respects, the Delaware 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 finding further discussed later in this report:

Finding – Noncompliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment of State Aid

The finding contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by township officials. We are concerned by the township'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 Delaware 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
May 15, 2024

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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 Delaware 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 including, but not limited to, the following:

Act 69 - The Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended, 53 P.S. § 65101 et seq.

The Delaware Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of an ordinance dated August 1, 1995, as amended. The plan was established January 1, 1986. Active members are not required to contribute to the plan. The municipality is required to contribute 13 percent of members' compensation. As of December 31, 2023, the plan had five active members, two terminated members eligible for vested benefits in the future, and two retirees receiving pension benefits.

DELAWARE TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Recommendation

Delaware Township has not complied with the prior recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment of State Aid

DELAWARE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: Our prior audit report disclosed that the township certified an ineligible non-uniformed employee (1 unit) on the Certification Forms AG 385 filed in 2015, 2016, 2017, and 2018, resulting in an overpayment of state aid to the township in the amount of \$17,568. The ineligible employee began receiving a monthly pension benefit from the township's non-uniformed pension plan beginning March 2014, but continued working full-time for the township until eventual retirement during December 2017. Although the monthly pension benefit was authorized by the plan's governing document, which requires a plan member who attains age 70½ to begin receiving a distribution that equals or exceeds the required minimum distribution (RMD), the employee's monthly pension benefit exceeded the normal RMD and thus, this individual was ineligible for certification purposes. It was previously recommended that the township returns the state aid overpayment, with interest, to the Commonwealth; however, as of the date of our current audit completion, the township had not returned the overpayment.

A similar condition occurred during the current audit period. The township certified an ineligible non-uniformed employee (1 unit) and overstated payroll by \$29,306 on the Certification Form AG 385 filed in 2022. The individual was hired May 4, 2021 but did not enter the pension plan until January 1, 2022, and therefore was not eligible for certification on the AG 385 filed in 2022 according to Act 205. The data contained on the 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 participated in a pension plan during the certification year. Section 1.5 of the plan's governing document contains a plan entry date for participation in the plan as follows:

Entry Date – The first day of the Plan Year following the date of hire.

However, it is the opinion of this department that a member cannot be both active and retired at the same time. Since the employee cited in the prior audit was receiving monthly pension benefits in excess of RMD amounts prescribed by the federal government during the certification years, this individual was considered retired for pension purposes and therefore not eligible for certification purposes.

DELAWARE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Cause: The township disagreed with the department that they should return the alleged state aid overpayment of \$17,568 attributable to the individual previously certified as disclosed in the prior audit period. For the current period, the township’s internal control procedures were not adequate to timely identify the certification error prior to submission during 2022 and ensure compliance with the prior recommendation.

Effect: The data submitted on the certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plan. As disclosed in the prior audit report, the township received a total overpayment of state aid in the amount of \$17,568 during 2015 through 2018. In 2022, because the township’s state aid allocation was based on unit value, the township received an additional overpayment of state aid as identified below:

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2022	1	\$ 5,180	<u>\$ 5,180</u>

In addition, the township used the overpayments of state aid to pay the minimum municipal obligations (MMOs) due to the non-uniformed pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMOs will not be fully paid.

Furthermore, the township’s future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the total overpayment of state aid, in the amount of \$22,748, plus interest, 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, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

We also again recommend that in the future, the township ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

In addition, if the reimbursement to the Commonwealth is made from non-uniformed pension plan funds, we recommend that any resulting MMO deficiencies be paid to the pension plan with interest, at a rate earned by the pension plan.

DELAWARE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Management’s Response: The township provided the following response:

With respect [sic] alleged overpayment to *[name omitted, referring to the overpayment in 2022]*, the Township does not dispute the Finding. With respect to the alleged overpayments *[name omitted, referring to the overpayments in 2015 through 2018]*, the Township is not aware of any published rulemaking or guidance from the State or the Office of the Auditor General that supports the finding that an active employee participating in a pension plan such as the Township’s is ineligible to be listed on Form AG 385 for receipt of State Aid merely due to the fact that said employee also concurrently receives distributions from the Plan (be they required minimum distributions or otherwise). As such, the Township does not believe it should have to refund the alleged overpayments to the State, as it did not fail to comply with any rules or guidance related to the Plan or its application for State Aid related thereto.

Auditor’s Conclusion: Based on the management response, the department acknowledges the township’s position regarding this issue.

In 1984, the Commonwealth enacted Act 205, the Municipal Pension Plan Funding Standard & Recovery Act that developed funding standards for all municipal pension systems. Additionally, the General Municipal Pension System State Aid Program was established pursuant to Section 402 of the act to assist municipalities in funding their required obligations under the act. Moreover, according to Section 102 of Act 205, a defined contribution pension plan is described as 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.

Section 402(j) of Act 205 provides that the Auditor General may promulgate rules and regulations necessary for the efficient administration of this program. In addition, it is the role of this department to determine whether state aid is utilized in accordance with Act 205, accordingly. Since state aid allocated under Act 205 is intended to assist municipalities in funding of pension plans to provide future retirement benefit payments to individuals upon retirement, and not for distributions prior to such retirement, it has been the position of the department that a participant cannot be both active and retired at the same time for state aid certification purposes. Moreover, the department does not take exception to an individual’s receiving a RMD from a pension plan as mandated under federal statute, merely, the department disqualifies, for state aid certification purposes, an individual who elects to receive periodic benefit payments more than the RMD

DELAWARE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

because of eligibility to draw benefits based on age and service but continues working full-time. *(This position is comparable to the stipulation set forth in Act 205 regarding Deferred Retirement Option Plan (DROP) participants. A DROP participant is an individual who receives a periodic benefit payment while continuing full-time employment with their respective municipality. Section 402(e)(2) of Act 205 prescribes that for the purpose of computing and reporting the applicable number of units, a DROP participant shall not be reported to the Auditor General as an active employee.)* Therefore, the finding and recommendation remain as stated and compliance will be monitored subsequent to the release of the report and through our next audit of the plan.

DELAWARE TOWNSHIP NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

The finding contained in this audit report cites an overpayment of state aid to the township in the amount of \$22,748, plus interest. A condition of a repeat finding 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, 321 Finance Building, Harrisburg, PA 17120.

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

Year Ended December 31	State Aid	Employer Contributions
2018	\$ 28,106	\$ 5,492
2019	25,602	9,117
2020	24,619	7,688
2021	23,986	3,945
2022	25,902	8,860
2023	29,139	5,500

DELAWARE 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. Gary E. Truckenmiller
Chairman, Board of Township Supervisors

Mr. Mark L. Burrows
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.