

COMPLIANCE AUDIT

East Petersburg Borough Non-Uniformed Pension Plan Lancaster County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

July 2021



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
East Petersburg Borough
Lancaster County
East Petersburg, PA 17520

We have conducted a compliance audit of the East Petersburg Borough Non-Uniformed Pension Plan for the period January 1, 2017 to December 31, 2020. 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 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, 2015 to December 31, 2020, 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, 2015 to December 31, 2020, 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 separated employment and received lump-sum distributions 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 individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- We determined whether the January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018, and 2020, 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.

East Petersburg Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ending December 31, 2019, 2018, and 2017, 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the East Petersburg 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,

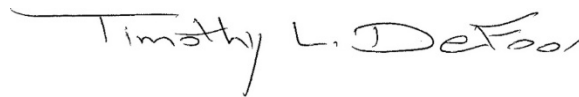
interviewed selected officials, and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

The results of our procedures indicated that, in all significant respects, the East Petersburg 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 – Partial Compliance With Prior Audit Recommendation –
Incorrect Data On Certification Form AG 385 Resulting In An
Overpayment Of State Aid

Finding No. 2 – Allocation Of State Aid In Excess Of Pension Costs

The contents of this report were discussed with officials of East Petersburg 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

June 24, 2021

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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 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 East Petersburg 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 East Petersburg Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 268, as amended. The plan was established January 1, 1997. Active members are not required to contribute to the plan but may voluntarily contribute in accordance with nondiscriminatory procedures set by the plan administrator. The municipality is required to contribute 8 percent of annual compensation. As of December 31, 2020, the plan had 7 active members, 1 terminated member eligible for vested benefits in the future, and no retirees receiving pension benefits.

EAST PETERSBURG BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

East Petersburg Borough has partially complied with the prior recommendation concerning the following:

· Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

During the current audit period, the borough reimbursed \$827 to the Commonwealth for the overpayment of state aid in 2014; however, plan officials again failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data as disclosed further in the Findings and Recommendations section of this report.

EAST PETERSBURG BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: As disclosed in the Status of Prior Finding section of this report, the borough partially complied with the prior recommendation by reimbursing the Commonwealth for the overpayment of state aid received in 2014. However, a similar condition occurred during the current audit period. The borough certified an ineligible non-uniformed employees (1 unit) and overstated payroll by \$56,479 on the Certification Form AG 385 filed in 2018. In addition, the borough certified an ineligible non-uniformed employees (1 unit) and overstated payroll by \$33,472 on the Certification Form AG 385 filed in 2020. The data contained on these certification forms 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 inadvertently included newly hired employees prior to their eligibility on the AG 385s submitted during 2018 and 2020 due to oversight and the borough lacked adequate internal control procedures, such as having another individual review the data prior to submission to timely detect the errors and ensure the accuracy of the data certified.

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. Because the borough’s state aid allocations were based on pension costs, the incorrect certification of pension data affected the borough’s state aid allocations, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2018	8.0%	\$ 56,479	\$ 4,518
2020	8.0%	33,472	<u>2,678</u>
		Total state aid overpayment	\$ 7,196
		<i>Less 2018 state aid previously returned to the Commonwealth</i>	<u>(3,061)</u>
		Total remaining state aid overpayment	<u>\$ 4,135</u>

EAST PETERSBURG BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, the borough used the overpayment of state aid to pay the minimum municipal obligation (MMO) due to the pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMO will not be fully paid.

Recommendation: We recommend that the total excess state aid, in the amount of \$3,975 (*\$4,135 above less \$160 state aid requested in Finding No. 2*) 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 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.

In addition, if the reimbursement to the Commonwealth is made from 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.

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 plan.

Finding No. 2 – Allocation Of State Aid In Excess Of Pension Costs

Condition: The borough allocated state aid in excess of its non-uniformed pension plan’s defined contribution pension costs in the year 2018, as illustrated below:

State aid allocated	\$ 30,986
Actual municipal pension costs	<u>(30,826)</u>
Excess state aid	<u><u>\$ 160</u></u>

EAST PETERSBURG BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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: The borough lacked adequate oversight procedures during reconciliation of the state aid allocated to the pension plan with the plan's actual defined contribution pension costs during 2018.

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 2018 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$160 of excess state aid received in the year 2018, with interest, to the Commonwealth from the 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, the borough implement adequate oversight procedures during reconciliation of the borough's annual state aid allocated to the pension plan with the plan's annual defined contribution 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: 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 plan.

EAST PETERSBURG BOROUGH NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2015	\$ 23,525	None
2016	22,600	\$ 4,211
2017	29,655	614
2018	30,986	None
2019	28,533	\$ 1,714
2020	28,189	None

EAST PETERSBURG 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 James Malone
Mayor

Mr. John Wolf
Council President

Ms. Karen St. Clair
Borough Manager

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.