COMPLIANCE AUDIT

East Whiteland Township Non-Uniformed Defined Contribution Pension Plan

Chester County, Pennsylvania

For the Period

January 1, 2019 to December 31, 2023

July 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
East Whiteland Township
Chester County
Frazer, PA 19355

We have conducted a compliance audit of the East Whiteland Township Non-Uniformed Defined Contribution 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 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. 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.

- 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 documents covering benefits for the Township Manager and the Director of Finance positions. For all other administrative employees, we determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan. We also tested individual employee contributions for all 19 active employees employed during the audit period amounting to $19,887, $22,903, $27,072, $32,293, and $39,730, for the years 2019, 2020, 2021, 2022, and 2023, respectively, made during the audit period.

- We determined whether retirement benefits calculated for plan members who elected to vest and members who separated employment 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 individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.

- 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.

East Whiteland Township contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ended December 31, 2019, 2020, 2021, and 2022, which are available at the township's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the East Whiteland Township Non-Uniformed Defined Contribution 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 objective.

The results of our procedures indicated that, in all significant respects, the East Whiteland Township Non-Uniformed 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 – Incorrect Data On Certification Form AG 385 Resulting In A Net Underpayment Of State Aid

Finding No. 2 – Failure To Include Eligible Employees In The Correct Pension Plans

Finding No. 3 – Failure To Properly Allocate Forfeitures

Finding No. 4 – Improper Vesting Distribution

The contents of this report were discussed with officials of East Whiteland 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.

Timothy L. DeFoor

Timothy L. DeFoor
Auditor General
July 1, 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 East Whiteland Township Non-Uniformed Defined Contribution 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 Whiteland Township Non-Uniformed Defined Contribution Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of a motion in the August 10, 2022 board of township supervisors' minutes and separately executed plan agreements with the plan's custodian signed July 28, 2022. Prior to July 28, 2022, the plan was locally controlled by the provisions of Resolution No. 26 of 2016, as amended, and separately executed plan agreements with the plan's custodian effective January 1, 2017, January 1, 2019, and January 1, 2019, respectively. The plan was established January 1, 2017. Active members are required to contribute a choice of 2, 3, or 4 percent of compensation to the plan; however, for benefit provisions pertaining specifically to the positions of Township Manager and Director of Finance, member contributions are not required. The municipality is required to contribute two times the member contributions, 4, 6, or 8 percent of compensation; however, for benefit provisions pertaining specifically to the positions of Township Manager and Director of Finance, the municipality is required to contribute 15 percent and 10 percent, respectively, of compensation to the plan. As of December 31, 2023, the plan had 11 active members, 3 terminated members eligible for vested benefits in the future, and no retirees receiving pension benefits from the plan.

EAST WHITELAND TOWNSHIP NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In A Net Underpayment Of State Aid

Condition: The township certified incorrect data on the Certification Forms AG 385 filed in 2021, 2022, and 2023 resulting in a net underpayment of state aid. The data contained on these certification forms is based on prior calendar year information. The errors were as follows:

- For the non-uniformed defined benefit pension plan, the township certified two ineligible non-uniformed employees (2 units) on the Certification Form AG 385 filed in 2022. The ineligible employees retired effective October 1, 2019 and October 31, 2019 and entered the Deferred Retirement Option Program (DROP).

- For the non-uniformed defined contribution pension plan, the township failed to certify ten eligible non-uniformed employees (10 units) on the Certification Form AG 385 filed in 2022 and failed to certify nine eligible non-uniformed employees (9 units) on the Certification Form AG 385 filed in 2023.

- The township certified two ineligible police officers (4 units) on the Certification Forms AG 385 filed in 2022 and 2023. The ineligible members retired effective January 15, 2021 and February 1, 2021 and entered the DROP.

- The township certified an ineligible firefighter (2 units) on the Certification Forms AG 385 filed in 2021, 2022, and 2023. The ineligible member for the year 2021 terminated employment March 18, 2020, and the ineligible member for the years 2022 and 2023 retired effective October 1, 2019 and entered the DROP.

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.

Furthermore, Act 205 at Section 402(e)(2) states, in part:

> 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.

Finding No. 1 – (Continued)

Cause: Based on recent change in management preparing the Certification Form AG 385, the township failed to recognize that members of the non-uniformed defined contribution plan were eligible for certification. Furthermore, management was unaware that DROP participants are not eligible for certification. Additionally, the township lacked adequate internal control procedures, such as having another individual review the data certified to ensure compliance with the instructions that accompanied Certification Form AG 385 prior to submission.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the township's state aid allocations were based on unit value, the township received an underpayment of state aid as identified below:

Year	Type of Plan	Units Overstated (Understated)	Unit Value	State Aid Overpayment (Underpayment)
2021	Firefighters'	2	$4,797	$ 9,594
2022	Police	4	$5,180	$ 20,720
	Non-Uniformed	(8)	$5,180	(41,440)
	Firefighters'	2	$5,180	10,360
				$ (10,360)
2023	Police	4	$5,828	$ 23,312
	Non-Uniformed	(9)	$5,828	(52,452)
	Firefighters'	2	$5,828	11,656
				$ (17,484)
		Net Underpayment of State Aid		$ (18,250)

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two 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 evaluated during the next audit of the plan.

Finding No. 2 – Failure To Include Eligible Employees In The Correct Pension Plans

Condition: East Whiteland Township failed to include two employees in the money purchase plans designated for their respective job titles. In 2017, the Board of Township Supervisors adopted a non-uniformed employees defined contribution pension plan, moving the management and administrative employees, not covered by the collective bargaining agreement, and hired on or after January 1, 2017, from an existing non-uniformed pension plan to a new defined contribution money purchase pension plan. The job titles of Township Manager and Township Finance Manager had specific plan documents with increased contribution rates and 100% vesting of all contributions.

The Township Manager promoted in January 2023 and the Township Finance Director hired in 2020 were eligible for these specific plans but were incorrectly enrolled as members of the plan designated for general management and administrative positions, with lower contribution rates and a longer time frame for full vesting of benefits.

Criteria: The pension plan adoption agreements approved by Resolution on August 14, 2018, and effective January 1, 2019, as amended, define plan eligibility. The plans are referred to as Plan 100055 and 100056, respectively.

Plan 100055 states in Section V. Eligibility Requirement, Item 1:

> The following group or groups of Employees are eligible to participate in the Plan:
> - Other Employees (Specify the group(s) of eligible employees below. Do not specify employees by name. Specific positions are acceptable): Director of Finance.

Plan 100056 states in Section V. Eligibility Requirement, Item 1:

> The following group or groups of Employees are eligible to participate in the Plan:
> - Other Employees (Specify the group(s) of eligible employees below. Do not specify employees by name. Specific positions are acceptable): Township Manager.

Cause: At the time the plan adoption agreements were executed, the incumbent Township Manager and Director of Finance participated in the plans adopted by the township for those specific positions. When the incumbents left employment with the township, the new hires replacing the incumbents were not made aware of the specific pension plans nor were they enrolled in those plans. A lack of internal controls, including pension related policies and procedures, and including a lack of communication with the plan custodian, resulted in incorrect plan membership enrollments.

Finding No. 2 – (Continued)

Effect: As a result of being enrolled in the incorrect pension plan, the Director of Finance hired in 2020 and the Township Manager promoted in 2023 have been subject to lower rates of employer contributions than prescribed by the correct plans for their positions (8% vs. 10% for the Director of Finance; 8% vs. 15% for the Township Manager), have been making employee contributions which are not required in the correct plans, and have been subject to different vesting schedules than prescribed under the correct plans.

Recommendation: We recommend that township officials consult the plan's custodian and take appropriate action to ensure that the employees are enrolled in the correct pension plans and credited all benefits due in accordance with the plan's governing document.

We also recommend that township officials implement adequate internal controls to ensure that future employees are enrolled in the correct pension plan.

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

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

Finding No. 3 – Failure To Properly Allocate Forfeitures

Condition: The township has not properly applied plan forfeitures resulting from the non-vested portion of terminated employees' accounts in accordance with the provisions of the plan adoption agreement. Forfeitures of $10,595 deposited in 2021 and $6,248 deposited in 2022 remain in a forfeiture account.

Criteria: Section 4.02 of the Governmental Money Purchase Plan and Trust agreement states:

> Forfeitures. All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be used no later than the end of the next Plan Year. Forfeitures will be used to reduce dollar for dollar Employer Contributions otherwise required under the Plan. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions.

Cause: Township officials were unaware of the existence of the unallocated account which holds the previously forfeited amounts. Municipal officials were also unaware of the procedure for disposing of the assets in the account.

Finding No. 3 – (Continued)

Effect: As a result of not properly applying forfeitures in accordance with the plan document, the township was required to contribute additional funds from the general fund. As of December 31, 2023, funds amounting to $17,674 were available in the forfeiture account to pay employer contributions and administrative expenses of the pension plan.

Recommendation: We recommend that the township contact the plan administrator to arrange for the unallocated forfeiture account balance to be applied against the township's future obligations to the plan. We also recommend that the municipality review the forfeiture policy with the plan administrator to ensure that, in the future, all available unused assets are properly used to meet plan obligations.

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. 4 – Improper Vesting Distribution

Condition: An employee who terminated in 2022, with 2 years of credited service and 40 percent vested, improperly received a distribution of 100 percent of his account balance. This resulted in an overpayment to the employee and an understatement of forfeitures.

Criteria: Resolution No. 2016-26 adopted a money purchase plan. The adoption agreement effective January 1, 2017, and subsequent amended agreements included in Section X. VESTING PROVISIONS:

> The Employer hereby specifies the following vesting schedule, subject to (1) the minimum requirements and (2) the concurrence of the Plan Administrator.

Period of Service Completed	Percent Vested
Zero	0%
One	20%
Two	40%
Three	60%
Four	80%
Five	100%

Finding No. 4 – (Continued)

Pursuant to the above schedule, the terminated employee was only entitled to a distribution in the amount of 40 percent of his account balance.

In addition, Section 4.02 of the Governmental Money Purchase Plan and Trust agreement states:

> Forfeitures. All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be used no later than the end of the next Plan Year. Forfeitures will be used to reduce dollar for dollar Employer Contributions otherwise required under the Plan. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions.

Cause: Township officials failed to establish adequate internal control procedures to ensure the plan's custodian remitted the correct payment to the terminated employee.

Effect: The terminated employee received an overpayment in the amount of $9,290. In addition, because the distribution was made, forfeitures were not determined and utilized to reduce future municipal contributions to the plan pursuant to the provisions contained in the plan's governing document.

Recommendation: We recommend that the pension plan be reimbursed $9,290 for the improper distribution and that this amount be utilized pursuant to the provisions contained in the plan's governing document regarding forfeitures.

We also recommend that municipal officials ensure the correct vesting percentage is utilized in future distributions 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.

EAST WHITELAND TOWNSHIP NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2018	None	$ 29,022
2019	None	77,169
2020	None	71,185
2021	None	83,655
2022	None	90,130
2023	None	93,517

EAST WHITELAND TOWNSHIP NON-UNIFORMED DEFINED CONTRIBUTION PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Scott Lambert
Chairman, Board of Township Supervisors

Mr. Steven Brown
Township 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.