

# COMPLIANCE AUDIT

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## Evans City Borough Non-Uniformed Pension Plan Butler County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

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January 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  
Evans City Borough  
Butler County  
Evans City, PA 16033

We have conducted a compliance audit of the Evans City Borough Non-Uniformed Pension Plan for the period January 1, 2016 to December 31, 2019. 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2014 to December 31, 2019, 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, 2014 to December 31, 2019, 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 plan 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, 2015, January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2016, 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.

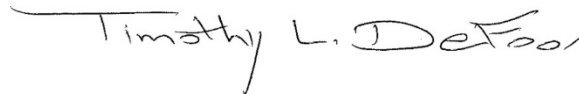
Evans City Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ended December 31, 2016, 2017 and 2018, which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, 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 Evans City 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 objective.

The results of our procedures indicated that, in all significant respects, the Evans City 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 – Allocation Of State Aid In Excess Of Entitlement
- Finding No. 2 – Untimely Deposit Of State Aid
- Finding No. 3 – Untimely Payment Of The Minimum Municipal Obligation Of The Plan
- Finding No. 4 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

The contents of this report were discussed with officials of Evans City 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

January 12, 2021

## CONTENTS

	<u>Page</u>
Background.....	1
Findings and Recommendations:	
Finding No. 1 – Allocation Of State Aid In Excess Of Entitlement .....	2
Finding No. 2 – Untimely Deposit Of State Aid.....	3
Finding No. 3 – Untimely Payment Of The Minimum Municipal Obligation Of The Plan .....	4
Finding No. 4 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services.....	5
Summary of Deposited State Aid and Employer Contributions.....	8
Report Distribution List .....	9

## **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 Evans City 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 Evans City Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Chapter 18 of Article II of the borough's codified ordinances. The plan was established January 1, 1978. Active members are not required to contribute to the plan. The municipality is required to contribute 7.5 percent of compensation. As of December 31, 2019, the plan had one active member.

EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

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

Condition: In 2016 and 2018, the borough allocated state aid to the non-uniformed pension plan in excess of the plan’s defined contribution pension costs under Act 205, as illustrated below:

	<u>2016</u>	<u>2018</u>
State aid allocation	\$20,579	\$13,530
Less: Actual municipal pension costs	(16,868)	(13,311)
Less: Transfer to regional police pension plan	<u>(2,387)</u>	<u>-</u>
Excess state aid	<u>\$ 1,324</u>	<u>\$ 219</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 plan 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 failed to implement adequate internal control procedures to effectively reconcile the full amount of annual state aid received and allocated to the pension plan with the plan’s actual defined contribution pension costs during 2016 and 2018.

Effect: It is this department’s opinion that, since 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; however, the borough does have the option to allocate the excess state aid to its regional police defined benefit pension plan.

Recommendation: We recommend that the municipality return the \$1,543 of excess state aid received in the years 2016 and 2018 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.

EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

In addition, we recommend that, in the future, plan officials annually reconcile the amount of state aid allocated to the non-uniformed pension plan with the pension plan’s annual defined contribution pension costs.

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. 2 – Untimely Deposit Of State Aid**

Condition: The municipality did not deposit its 2019 state aid allocation into the pension plan within the 30-day grace period allowed by Act 205. The municipality received its 2019 state aid allocation in the amount of \$14,705 on September 18, 2019 but failed to deposit the funds into the non-uniformed pension plan until June 1, 2020.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension fund or the alternate funding mechanism applicable to the pension plan.

Cause: Due to a recent turnover in plan officials responsible for administration of the pension plan, state aid received during 2019 was not deposited into the pension plan until June 2020 when the plan consultant notified plan officials of the oversight.

Effect: Although the state aid was eventually deposited into the plan, the interest earned beyond the 30-day grace period was not deposited into the plan. When state aid is not deposited into a pension plan account in a timely manner, the funds are not available to fund the borough’s minimum municipal obligation (MMO) (*refer to Finding No. 3*), pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We recommend that the municipality pay the non-uniformed pension plan the interest earned during the period beyond the 30-day grace period allowed by Act 205, compounded annually. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.



EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

We also recommend that plan officials develop and implement adequate internal control procedures to ensure that future state aid allocations are deposited timely and consistently in accordance with Act 205 requirements.

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 – Untimely Payment Of The Minimum Municipal Obligation Of The Plan**

Condition: The municipality did not timely pay the minimum municipal obligation (MMO) that was due to the non-uniformed pension plan for the year 2019, as required by Act 205.

Criteria: With regard to the MMO, Section 302(c) of Act 205 states, in part:

Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year.

Additionally, Section 302(d) of Act 205 states, in part:

The minimum obligation of the municipality shall be payable to the pension plan from revenue of the municipality.

Furthermore, Section 302(e) of Act 205 states:

Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

Cause: Plan officials did not comply with the Act 205 requirements because there was a recent turnover in plan officials responsible for administration of the pension plan. As a result, the MMO was not paid until June 2020 when the plan consultant notified plan officials of the oversight.

Effect: The failure to pay the MMO timely could result in the plan not having adequate resources to meet current and future benefit obligations to its members.

Due to the municipality’s failure to pay the 2019 MMO by the December 31, 2019 deadline, the municipality must pay interest, as required by Act 205.

Recommendation: We recommend that the municipality pay interest on the MMO paid to the non-uniformed pension plan for the year 2019, in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Furthermore, we recommend that, in the future, plan officials pay the full MMO due the plan in a timely manner.

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 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services**

Condition: As disclosed as a verbal observation during the prior engagement, municipal officials failed to adopt the mandatory provisions of Act 205 regarding professional services contracts.

Criteria: Section 701-A of Act 205, as amended by Act 44 of 2009, 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.

EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

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.

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.

Cause: Plan officials failed to establish adequate internal controls procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: The borough's failure to comply in all respects with the previous recommendation and the provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the borough's pension plan could result in a general lack of overall transparency of the actions taken by plan officials relative to the awarding of the investment and advisory services contract for the borough's pension plan.

EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions while maintaining appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan, including authorizations/approvals of borough officials in the official minutes of formal council meetings and the required notifications and disclosure responsibilities to ensure the transparency of the actions taken by plan officials relative to the awarding of future professional services contracts.

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.

EVANS CITY BOROUGH NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 14,959	\$ 4,178
2015	11,781	8,778
2016	18,192	N/A
2017	11,088	N/A
2018	13,530	N/A
2019	5,234	N/A

EVANS CITY 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 Dean Zinkham**  
Mayor

**Ms. Cheri Deener**  
Council President

**Ms. Elizabeth Crowley**  
Secretary

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