

# COMPLIANCE AUDIT

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## Lansdale Borough Non-Uniformed Secondary Union (AFSCME) Defined Contribution Money Purchase Plan Montgomery County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

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May 2024



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  
Lansdale Borough  
Montgomery County  
Lansdale, PA 19446

We have conducted a compliance audit of the Lansdale Borough Non-Uniformed Secondary Union (AFSCME) Defined Contribution Money Purchase Plan for the period January 1, 2019 to December 31, 2022. 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.
- 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, 2017 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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 \$19,452, \$20,654, \$19,601, and \$20,362, for the years 2019, 2020, 2021, and 2022, respectively, made during the 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, 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 comparing the distributed amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Lansdale Borough Non-Uniformed Secondary Union (AFSCME) Defined Contribution Money Purchase Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances

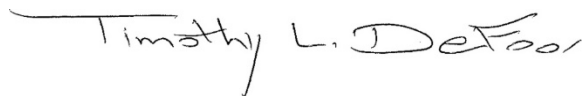
and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, 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 Lansdale Borough Non-Uniformed Secondary Union (AFSCME) Defined Contribution Money Purchase 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 – Noncompliance With Prior Audit Recommendation - Improper Loan Provision Contained In The Plan's Money Purchase Adoption Agreement
- Finding No. 2 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid
- Finding No. 3 – Failure To Properly Allocate Forfeitures

Finding Nos. 1 and 2 contained in this audit report repeat conditions that were cited in our previous report that have not been corrected by borough officials. We are concerned by the borough's failure to correct these previously reported findings and strongly encourage timely implementation of the recommendations noted in this audit report.

The contents of this report were discussed with officials of Lansdale 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  
March 18, 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 Lansdale Borough Non-Uniformed Secondary Union (AFSCME) Defined Contribution Money Purchase 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 Lansdale Borough Non-Uniformed Secondary Union (AFSCME) Defined Contribution Money Purchase Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 1590 and a separately executed plan agreement with the plan's custodian effective January 1, 2012. The plan is a supplementary defined contribution plan for the borough's non-uniformed union employees who are members of AFSCME District Council 88, AFL-CIO. The plan is also affected by the provisions of collective bargaining agreements between the borough and AFSCME District Council 88, AFL-CIO. The plan was established January 1, 1970. Active members are required to contribute 1 percent of wages to the plan. The municipality is required to contribute 5 percent of each members wages. As of December 31, 2022, the plan had 20 active members, 6 terminated members eligible for vested benefits in the future, and 1 retiree receiving pension benefits from the plan.

LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME) DEFINED  
CONTRIBUTION MONEY PURCHASE PLAN  
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Recommendation

Lansdale Borough has partially complied with the prior recommendation concerning the following:

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

During the current audit period, the borough reimbursed \$66,699 to the Commonwealth for the net overpayment of state aid received in 2016, 2017, and 2018; 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 further discussed in the Findings and Recommendations section of this report.

Noncompliance With Prior Recommendation

Lansdale Borough has not complied with the prior recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

· Improper Loan Provision Contained In The Plan's Money Purchase Adoption Agreement

LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME)  
DEFINED CONTRIBUTION MONEY PURCHASE PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Improper Loan Provision Contained In The Plan’s Money Purchase Adoption Agreement**

Condition: As disclosed in the two prior audits, Section XI of the pension plan’s money purchase plan agreement, adopted January 11, 2012, improperly contains a provision that allows for loans to active plan members. As of the date of this report, no corrective action has been taken relative to this issue.

Criteria: Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” 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.

Therefore, Act 205 funding (state aid) is intended to provide retirement benefit payments, not for loans to be made to active plan members.

Cause: Due to turnover of plan officials, current plan officials were unaware of the loan provision and that it was a condition of noncompliance.

Effect: The unauthorized loan provision violates the intent of Act 205 to only provide distributions to plan members upon their retirement or termination of employment with the municipality.

Recommendation: We again recommend that municipal officials take appropriate action to eliminate the unauthorized loan provision from the plan’s governing document and to limit future distributions to those benefits authorized under Act 205.

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

The plan has a loan provision for that [*sic*] was established and it has been discussed during union negotiations but not agreed upon in last CBA.

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



LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME)  
 DEFINED CONTRIBUTION MONEY PURCHASE PLAN  
 FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid**

Condition: As disclosed in the Status of Prior Findings section of this report, the borough partially complied with the prior recommendation by reimbursing the Commonwealth for the overpayment of state aid received in 2016, 2017, and 2018. 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 in the years 2022 and 2023. The borough failed to certify an eligible non-uniformed secondary union (AFSCME) employee (1 unit) and understated payroll by \$18,309 and \$41,115, respectively, on the Certification Forms AG 385 filed in 2022 and 2023. The data contained on these certification forms is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), an employee who has been employed on a full-time basis for at least six consecutive months and has been participating in a pension plan during the certification year is eligible for certification.

Cause: Plan officials failed to establish adequate internal control procedures, such as having another individual review the data certified, to ensure the accuracy of the reported data prior to submission and to ensure full compliance with the prior audit recommendation.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the borough’s state aid allocations were based on unit value, the borough received an underpayment of state aid in the amount of \$11,008 as identified below:

<u>Year</u>	<u>Type of Plan</u>	<u>Units Understated</u>	<u>Unit Value</u>	<u>State Aid Underpayment</u>
2022	Non-Uniformed Secondary Union (AFSCME)	1	\$5,180	\$ 5,180
2023	Non-Uniformed Secondary Union (AFSCME)	1	\$5,828	\$ 5,828
Total Underpayment of State Aid				<u>\$ 11,008</u>

Although the additional state aid will be allocated to the borough, the full amount of the 2022 and 2023 state aid allocations were not available to be deposited timely and therefore were not available to pay operating expenses or for investment.

LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME)  
DEFINED CONTRIBUTION MONEY PURCHASE PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Recommendation: We again recommend that 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 were notified of this finding on March 20, 2024 and a management response was requested; however, as of May 9, 2024, no such response has been provided.

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

**Finding No. 3 – Failure To Properly Allocate Forfeitures**

Condition: The borough has not properly applied plan forfeitures resulting from the non-vested portion of terminated employees' accounts in accordance with the provisions of the retirement plan administered by Mission Square Retirement Investments.

Criteria: Section 6.2 of the plan document as amended & restated January 1, 1987 states, in part:

Any portion of a Former Participant's Account which is not vested in accordance with the foregoing shall be credited to the Employer's Deposit Account.

In addition, Article 9 of the plan document states, in part:

Funds held in the Deposit Account...shall be applied to offset future Employer Contributions under the Plan.

Cause: Municipal 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.

Effect: As a result of not properly applying forfeitures in accordance with the governing document, the borough was required to contribute additional funds from the general fund. As of December 31, 2022, funds amounting to \$15,409 were available for use in the unallocated forfeiture account.

LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME)  
DEFINED CONTRIBUTION MONEY PURCHASE PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

Recommendation: We recommend that the borough contact the plan administrator to arrange for the unallocated account balance to be applied against the borough'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: The borough provided the following response:

Forfeiture money will be allocated to current payments due or refunded to the General Fund in 2024.

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

**LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME)**  
**DEFINED CONTRIBUTION MONEY PURCHASE PLAN**  
**SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS**

Year Ended December 31	State Aid	Employer Contributions
2017	None	\$ 42,138
2018	None	42,908
2019	None	50,968
2020	None	56,760
2021	None	52,355
2022	None	58,716

LANSDALE BOROUGH NON-UNIFORMED SECONDARY UNION (AFSCME)  
DEFINED CONTRIBUTION MONEY PURCHASE PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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Governor  
Commonwealth of Pennsylvania

**The Honorable Garry Herbert**  
Mayor

**Ms. Mary Fuller**  
Borough Council President

**Mr. John J. Ernst**  
Borough Manager

**Mr. Glenn Dickerson**  
Finance Director

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