

COMPLIANCE AUDIT

New Wilmington Borough Non-Uniformed Pension Plan Lawrence County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

December 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
New Wilmington Borough
Lawrence County
New Wilmington, PA 16142

We have conducted a compliance audit of the New Wilmington 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 retired during the current audit period 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, 2015, January 1, 2017, and January 1, 2019 actuarial valuation reports 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.

New Wilmington Borough contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, 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 New Wilmington 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 New Wilmington 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 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 2 – Receipt Of State Aid In Excess Of Entitlement
- Finding No. 3 – Failure To Properly Fund Members' Accounts

The contents of this report were discussed with officials of New Wilmington 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.

November 20, 2020



EUGENE A. DEPASQUALE
Auditor General

CONTENTS

	<u>Page</u>
Background.....	1
Findings and Recommendations:	
Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid.....	2
Finding No. 2 – Receipt Of State Aid In Excess Of Entitlement.....	3
Finding No. 3 – Failure To Properly Fund Members’ Accounts	5
Summary of Deposited State Aid and Employer Contributions.....	7
Report Distribution List	8

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 New Wilmington 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 New Wilmington Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 236, as amended. The plan was established May 1, 1977. Active members are not required to contribute to the plan. The municipality is required to contribute 15 percent of each participant's compensation for the plan year. As of December 31, 2019, the plan had eight active members.

NEW WILMINGTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The borough certified one ineligible non-uniformed employee and overstated payroll by \$37,254 on the Certification Form AG 385 filed in 2018. The data contained on this 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 been participating in a pension plan during the certification year.

Additionally, the plan’s governing document prescribes additional provisions regarding an employee’s eligibility to participate in the pension plan. Section 2.1 of the plan’s governing document states, in part:

Participation. Each Employee shall become a Participant on the Entry Date coinciding with or immediately following the date on which he completes a Year of Service.

Cause: Plan officials certified an employee who was hired in 2017 but did not become a plan member until 2018 pursuant to the plan’s eligibility requirements for plan participation. Additionally, the borough 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 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 allocation was based on pension costs, the incorrect certification of pension data affected the borough’s state aid allocation, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2018	15.0%	\$ 37,254	\$ 5,588

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

NEW WILMINGTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$5,588, 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 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.

In addition, if the reimbursement to the Commonwealth is made from non-uniformed pension plan funds, we recommend that any resulting MMO deficiency 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 pension plan.

Finding No. 2 – Receipt Of State Aid In Excess Of Entitlement

Condition: The borough received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the years 2017 and 2018, as illustrated below:

	<u>2017</u>	<u>2018</u>
State aid allocation	\$ 64,236	\$ 66,924
Forfeitures applied	16,297	14,455
Actual municipal pension costs	<u>(77,005)</u>	<u>(77,419)</u>
Excess state aid	<u>\$ 3,528</u>	<u>\$ 3,960</u>

NEW WILMINGTON 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: Plan officials failed to establish adequate internal control procedures to reconcile the borough's state aid allocation and employee forfeitures available to reduce municipal contributions with the plan's actual defined contribution pension costs.

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 years 2017 and 2018 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$3,528 of excess state aid received in the year 2017 to the Commonwealth. *(Note: Since Finding No. 1 recommends the return of excess state aid received in 2018 due to a certification error, no additional return of 2018 state aid is required in this finding.)* 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, plan officials reconcile the borough's annual state aid allocation and any available employee forfeitures 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 pension plan.

NEW WILMINGTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Failure To Properly Fund Members’ Accounts

Condition: The borough paid excess municipal contributions to the account of one member in 2017 and one member in 2018, as illustrated below:

<u>Employee Plan Entry Date</u>	<u>Actual Contributions</u>	<u>Required Contributions</u>	<u>Excess Contributions</u>
02-01-2017	\$ 7,503	\$ 6,875	\$ 628
01-12-2018	\$ 6,502	\$ 6,252	\$ 250

Criteria: Section 3.1(a) of the plan’s governing document states, in part:

... the Employer shall, for each Plan Year, pay to the Trustee ... an amount equal to fifteen (15%) percent of the Participant’s Compensation for the Plan Year.

Furthermore, section 1.12 of the plan’s governing document states, in part:

A Participant’s Compensation shall not include any amount paid prior to the Participant’s entry date.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that contributions to members’ account were not made on compensation earned prior to the participants’ respective entry dates.

Effect: The failure to properly allocate contributions to the members’ accounts has resulted in certain plan members receiving benefits in excess of those to which they are entitled in accordance with the plan’s governing document.

Recommendation: We recommend that the borough review the applicable members’ accounts and make the adjustments deemed necessary to ensure that they are funded in accordance with the provisions contained in the plan’s governing document.

We also recommend that plan officials implement adequate internal control procedures to ensure that the members’ accounts are properly funded in accordance with the provisions contained in the plan’s governing document.

NEW WILMINGTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

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.

NEW WILMINGTON BOROUGH NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 70,976	\$ 3,082
2015	74,058	1,143
2016	74,369	3,787
2017	64,236	2,597
2018	66,924	250
2019	61,274	1,367

Note: In 2017, the borough met the plan's \$77,005 funding requirement through the deposit of \$64,236 in state aid and \$2,597 in employer contributions and the allocation of \$16,297 in terminated employee forfeitures.

In 2018, the borough met the plan's \$77,419 funding requirement through the deposit of \$66,924 in state aid and \$250 in employer contributions and the allocation of \$14,455 in terminated employee forfeitures.

In 2019, the borough met the plan's \$81,000 funding requirement through the deposit of \$61,274 in state aid and \$1,367 in employer contributions and the allocation of \$18,359 in terminated employee forfeitures.

NEW WILMINGTON 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 Sherie E. Babb
Mayor

Mr. Jon Welker
Council President

Ms. Sharonn Edmiston
Council Administrator/Treasurer

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