

COMPLIANCE AUDIT

West York Borough Non-Uniformed Pension Plan York County, Pennsylvania For the Period January 1, 2019 to December 31, 2023

June 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
West York Borough
York County
York, PA 17404

We have conducted a compliance audit of the West York Borough Non-Uniformed 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 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.
- 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.
- 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 determined that there were no benefit calculations prepared for the years covered by our audit period.
- 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, 2021, and 2023, 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 West York 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 West York 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 finding further discussed later in this report:

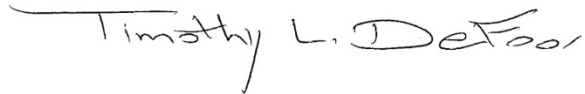
Finding No. 1 – Failure To Deposit State Aid Into An Eligible Pension Plan

Finding No. 2 – Failure To Pay The Minimum Municipal Obligation Of The Plan

The accompanying supplementary information is presented for purposes of additional analysis.

We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of West York 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Timothy L. DeFoor
Auditor General
May 13, 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 West York 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 West York Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. 09192022-1 and a separately executed plan joinder agreement with the plan custodian effective August 15, 2022. Prior to August 15, 2022, the pension plan was locally controlled by the provisions of Resolution No. 070113A, as amended, and an agreement with the custodian effective July 1, 2013. The plan was established January 1, 1966. Prior to August 15, 2022, active members were not required to contribute to the plan. Beginning on August 15, 2022, active members are required to contribute two percent of compensation to the plan. As of December 31, 2023, the plan had seven active members, no terminated members eligible for vested benefits in the future, and one retiree receiving pension benefits from the plan.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

West York Borough has complied with the prior recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In A Net Underpayment Of State Aid

During the current audit period, municipal officials complied with the instructions that accompany Certification Form AG 385 and accurately reported the required pension data.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Failure To Deposit State Aid Into An Eligible Pension Plan

Condition: The municipality did not deposit its 2023 state aid allocation into an eligible pension plan in accordance with Act 205. The municipality received its 2023 state aid allocation in the amount of \$186,492 on September 27, 2023, but, as of the date of this report, none of the state aid allocation was deposited into an eligible pension plan. Additionally, it was noted that the state aid allocations received during 2020, 2021 and 2022 on September 29, 2020, September 28, 2021, and September 28, 2022, respectively, were also not deposited in accordance with Act 205 (*i.e., within 30 days of receipt*) but included interest when subsequently deposited on April 19, 2021, November 23, 2021, and May 1, 2023, respectively.

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 funds or the alternate funding mechanisms applicable to the respective pension plans.

Cause: The borough cited operational difficulties for its noncompliance (*refer to the Management Response below*).

Effect: When state aid is not deposited into a pension plan account, the funds are not available to fund benefits (*refer to Finding No. 2*), pay operating expenses, or for investment and the risk of misapplication is increased. Additionally, the failure to timely deposit the annual state aid into an eligible plan results in an additional undue burden placed on already strained municipal resources that could have been utilized towards other general municipal government purposes to pay the interest on the late deposit of state aid.

Furthermore, the borough’s future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the municipality immediately deposit the borough’s state aid allocation of \$186,492, plus interest earned during the period beyond the 30-day grace period allowed by Act 205, compounded annually, into an eligible pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

We also recommend that plan officials ensure that future state aid is deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Management’s Response: Borough officials acknowledged the finding and provided the following response:

1. The Borough is recovering from the lost revenue utilized from funds offset from the operations fund from its sanitary sewer program. That system was sold in December of 2016 and ratified in early 2017 to York Water Company. Taxes were cut to also spend down the borough’s fund balance. Expenses were not reduced in 2017 or 2018 and the board did not do enough to make changes during the budget process in 2018 for 2019. This ultimately created a problem that took a long-term solution(s). The borough is continually since 2019 to “do right” to cure this structural deficit.

Since then, I have worked to reduce the operational deficit and address structural problems with all 3 joinder agreements for employee pensions. Modifying the employee contributions from 0 to 2% in the non-bargaining unit, 6% to 8% in the police plan and 0 to 4% in the fire plan. We also cut fulltime positions in 2019 and 2020, and 2022.

The Borough also changed actuarial providers within PSAB’s plan to reduce cost while getting better service.

2. In 2023 public safety expenses were higher in both the fire and police departments than projected and due to not having a standing fund balance the borough had to make adjustments as it has done in 2019-2023. Every year the borough has completed catch-up payments. The 2023 MMO will be paid in the end of May 2024.

West York Borough has continually made efforts to address structural problems and has made progress and takes seriously to continue to make progress to ensure funds are made timely and to rebuild a fund balance to shield the borough from unknown financial shifts in the economy and local impacts. We have made a commitment to make revenue adjustments through modest tax increases to balance the budget and address long-term issues.

Auditor’s Conclusion: Due to the potential withhold of state aid, the borough’s compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Failure To Pay The Minimum Municipal Obligation Of The Plan

Condition: Plan officials did not pay the minimum municipal obligation (MMO) of the plan for the year 2023, as required by Act 205. The municipality had an unpaid MMO balance of \$9,192 for the year 2023. Additionally, it was noted that the MMOs due the pension plan during 2020, 2021 and 2022 were also not deposited in accordance with Act 205 (*i.e., by December 31 of the respective year*) but included interest when subsequently deposited.

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.

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

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

Cause: The borough cited operational difficulties for its noncompliance (*refer to the Management Response below*). In addition, the borough's failure to timely deposit its state aid allocation for 2023 also contributed to the unpaid obligation (*refer to Finding No. 1*).

Effect: The failure to timely and/or fully pay the MMO could result in the plan not having adequate resources to meet current and future benefit obligations to its members and results in an additional undue burden placed on municipal resources that could have been used for other general municipal government purposes to pay the interest on the late MMO payments.

Due to the municipality's failure to fully pay the 2023 MMO by the December 31, 2023 deadline, the municipality must include interest on the payment, as required by Act 205.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We recommend that the municipality pay the MMO due to the pension plan for the year 2023, with interest, 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.

We also recommend that, in the future, the borough pay the annual MMO due the plan in accordance with Act 205 and avoid any future undue burden on the municipality's resources.

Management's Response: Borough officials acknowledged the finding and provided the response as disclosed above in Finding No. 1.

Auditor's Conclusion: Due to the potential withhold of state aid, the borough's compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by Finding No. 1 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2019, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-19	\$ 579,439	\$ 352,744	\$ (226,695)	164.3%
01-01-21	628,172	396,409	(231,763)	158.5%
01-01-23	686,556	308,299	(378,257)	222.7%

Note: The market values of the plan's assets at 01-01-19 and 01-01-23 have been adjusted to reflect the smoothing of gains and/or losses over a four-year averaging period, which will be limited to a maximum of 120 percent and a minimum of 80 percent of the fair market value of assets. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2014	\$ 26,418	\$ 26,418	\$ -	\$ 211,194	12.51%
2015	29,222	29,222	-	229,000	12.76%
2016	33,010	33,010	-	238,000	13.87%
2017	20,788	20,788	-	93,982	22.12%
2018	24,923	24,923	-	142,701	17.47%
2019	-	-	-	-	0.00%
2020	9,587	9,587	-	320,000	3.00%
2021	13,496	13,496	-	376,000	3.59%
2022	10,521	10,521	-	370,000	2.84%
2023	9,192	-	9,192	490,212	0.00%

Note: Refer to Finding No. 2 contained in this audit report relative to the 2023 contribution deficiency noted above.

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2023
Actuarial cost method	Entry age normal
Amortization method	Not applicable
Remaining amortization period	Not applicable
Asset valuation method	4-year smoothing subject to a corridor between 80-120% of market value.
Actuarial assumptions:	
Investment rate of return	6.75%
Projected salary increases	4.75%
Cost-of-living adjustments	None assumed

WEST YORK BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Bruce Vick
Mayor

Ms. Shelley Metzler
Council President

Mr. Shawn Mauck
Borough Manager

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