

COMPLIANCE AUDIT

East Cocalico Township Non-Uniformed Pension Plan Lancaster County, Pennsylvania

November 2024



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Supervisors
East Cocalico Township
Lancaster County
Denver, PA 17517

We have conducted a compliance audit of the East Cocalico Township Non-Uniformed Pension Plan 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 whether 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 area 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:

- For the period January 1, 2023 to December 31, 2023, we determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the deposit date of state aid and determining whether deposits were made within 30 days of receipt. State aid allocations 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.

- For the period January 1, 2022 to December 31, 2023, 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.
- For the period January 1, 2023 to December 31, 2023, we determined that there were no employee contributions required by the plan's governing document and applicable laws and regulations.
- For the period January 1, 2023 to December 31, 2023, we determined whether retirement benefits calculated for plan members separated employment and received a lump-sum distribution during the period noted 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, 2023 actuarial valuation report was prepared and submitted by March 31, 2024 in accordance with Act 205 and whether selected information provided on this report 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.

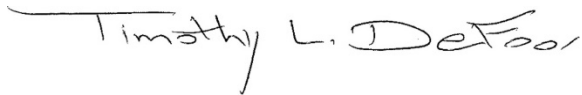
East Cocalico Township contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, which are available at the 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 Cocalico Township 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 East Cocalico Township Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, 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 – Failure To Fund Member’s Account
- Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System
- Finding No. 4 – Ordinance Improperly Amended By Resolution

The contents of this report were discussed with officials of East Cocalico 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
Auditor General
September 30, 2024

CONTENTS

	<u>Page</u>
Background.....	1
Findings and Recommendations:	
Finding No. 1 – Incorrect Date On Certification Form AG 385 Resulting In An Overpayment Of State Aid.....	2
Finding No. 2 – Failure To Fund Member’s Account.....	4
Finding No. 3 – Failure To Maintain An Adequate Record-Keeping-System.....	5
Finding No. 4 – Ordinance Improperly Amended By Resolution	6
Potential Withhold of State Aid.....	7
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 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 Cocalico Township 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 East Cocalico Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 2021-08 (*see Finding No. 4*) and a separately executed plan agreement with the plan's custodian, effective January 1, 2021. Prior to January 1, 2021, the plan was locally controlled by the provisions of Ordinance No. 2019-05 and a separately executed plan agreement. The plan was established January 1, 1985. Active members are not required to contribute to the plan. The municipality is required to contribute \$4,000 for each active plan member. As of December 31, 2023, the plan had five active members and one terminated member eligible for vested benefits in the future.

EAST COCALICO TOWNSHIP 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 township certified an ineligible non-uniformed employee (1 unit) and overstated payroll by \$38,074 on the Certification Form AG 385 filed in 2020. The township certified two ineligible non-uniformed employees (2 units) and overstated payroll by \$152,533 on the Certification Form AG 385 filed in 2021. The township certified four ineligible non-uniformed employees (4 units) and overstated payroll by \$278,080 on the Certification Form AG 385 filed in 2022. The township certified an ineligible non-uniformed employee (1 unit) and overstated payroll by \$70,500 on the Certification Form AG 385 filed in 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), 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. The applicable number of units attributable to each eligible recipient city, borough, incorporated town, and township shall be two units for each police officer and firefighter and one unit for each employee other than police officer or firefighter.

In addition, Section 2.01(a) of the separately executed plan agreement effective January 1, 2019 states:

An Employee shall first become an Active Participant (begin participation in the Plan) on the earliest Semi-yearly Date on which he is an Eligible Employee and has met the eligibility requirement set forth below. This is his Entry Date.

- (1) He has been continuously employed by the Employer for one year before his Entry Date.

Section 13 of the separately executed plan agreement effective January 1, 2021 sets the Eligibility Requirements as “1 Year of Service”, and Section 14 of the agreement states:

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data certified. In addition, plan officials were unaware of the eligibility requirements to become a member of the township’s pension plan.

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

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 in 2020, 2021, and 2022, and based on pension costs in 2023, the incorrect certification of pension data affected the township’s state aid allocations, as identified below:

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2020	1	\$ 4,924	N/A	N/A	\$ 4,924
2021	2	\$ 4,797	N/A	N/A	9,594
2022	4	\$ 5,180	N/A	N/A	20,720
2023	N/A	N/A	4.57%	\$ 70,500	<u>3,222</u>
Total Overpayment of State Aid					<u>\$ 38,460</u>

N/A – Not applicable to this year’s overpayment calculation

In addition, the township used the overpayments of state aid to pay the minimum municipal obligations (MMOs) due to its pension plans; therefore, if the reimbursement to the Commonwealth is made from the pension plans, the plans’ MMOs will not be fully paid.

Recommendation: We recommend that the total overpayment of state aid, in the amount of \$38,460, 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.

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, if the reimbursement to the Commonwealth is made from pension plan funds, we recommend that any resulting MMO deficiencies be paid to the pension plan with interest, at a rate earned by the pension plan.

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

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

Finding No. 2 – Failure To Fund Member's Account

Condition: In 2023, the township did not fund the account of a plan member who was a full-time employee that terminated on May 19, 2023.

Criteria: The plan's governing document sets the municipal contribution rate at \$4,000 per full-time employee.

Furthermore, Section 25 of the separately executed plan agreement effective January 1, 2021 states:

All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year.

Cause: When making the 2023 contributions, the township failed to fulfill its obligation to make a contribution for the full-time employee.

Effect: The failure to properly fund the plan could result in plan members being denied benefits to which they are entitled in accordance with the plan's governing document.

Due to township's failure to properly fund the referenced member's account, who was 20 percent vested at the time of separation, the township must now pay 20 percent of the \$4,000 municipal contribution, plus interest on the delinquent contribution, to the member's account.

Recommendation: We recommend that the township deposit the contribution due to the member's account for the year 2023, with interest, from the date of deposit of the municipal contributions which were made in that year to the date of deposit of the amount in arrears. A copy of the interest calculation must be maintained by the township for examination during our next audit of the plan.

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

We also recommend that, in the future, township officials properly fund the accounts of all eligible plan members.

Management’s Response: Municipal officials agreed with finding and have agreed to pay the terminated member her vested contributions.

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

Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System

Condition: Municipal officials did not provide or maintain pension plan records for examination during the course of the audit. The deficiencies are as follows:

- The 2020 and 2021 individual member account statements were not provided.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of pension plans.

Cause: Plan officials were unaware of their various record-keeping responsibilities.

Effect: The failure of plan officials to maintain adequate records prohibits municipal officials from effectively monitoring the plan’s financial operations.

Recommendation: We recommend that plan officials establish accounting procedures, including record-keeping procedures, necessary to allow management to maintain effective awareness of and control over the activity of the plan. Plan officials should refer to the Auditor General’s Bulletin No. 2-88 entitled “Preparation, Maintenance and Auditability of Financial Records,” for further guidance in establishing adequate accounting procedures.

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

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

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – Ordinance Improperly Amended By Resolution

Condition: The pension plan governing document, Ordinance No. 2019-05, was restated in its entirety by Resolution No. 2021-08. Plan provisions adopted by ordinance must be amended by ordinance, not by a resolution.

Criteria: In Wynne v. Lower Merion Twp., 181 Pa. Super. 524, 529, 124 A.2d 487, 490 (1956), the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Municipal officials were not aware that a resolution cannot amend an ordinance.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that the township amend the plan's governing document with a properly executed ordinance.

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

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

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

Finding No. 1 contained in this audit report cites an overpayment of state aid to the township in the amount of \$38,460, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, 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.

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS
(UNAUDITED)

Year Ended December 31	State Aid	Employer Contributions
2018	\$ 29,777	None
2019	21,000	\$ 3,000
2020	21,000	3,500
2021	None	16,045
2022	None	None
2023	None	22,761

In 2018, the township met the plan's \$30,000 funding requirement through the deposit of \$29,777 in state aid and \$223 in terminated employee forfeitures. In 2021, the township met the plan's \$26,655 funding requirement through the deposit of \$16,045 in employer contributions and the allocation of \$10,610 in terminated employee forfeitures. In 2022, the township met the plan's \$32,000 funding requirement through the allocation of \$32,000 in terminated employee forfeitures. In 2023, the township met the plan's \$28,000 funding requirement through the deposit of \$22,761 in employer contributions and the allocation of \$5,239 in terminated employee forfeitures.

EAST COCALICO TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Lorenzo Bonura
Chair, Board of Township Supervisors

Mr. Jeff Mitchell
Vice Chair, Board of Township Supervisors

Mr. Daniel Burton, Jr.
Township Supervisor

Mr. Tommy Ryan
Township Manager

Ms. Deb Beury
Finance Director

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.