

COMPLIANCE AUDIT

Warminster Township Police Pension Plan Bucks County, Pennsylvania For the Period January 1, 2013 to December 31, 2014

November 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Board of Township Supervisors
Warminster Township Police
Bucks County
Warminster, PA 18974

We have conducted a compliance audit of the Warminster Township Police Pension Plan for the period January 1, 2013 to December 31, 2014. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our 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 audit 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 audit 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 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, 2011 and January 1, 2013 actuarial valuation reports were prepared and submitted to the Public Employee Retirement Commission (PERC) by March 31, 2012 and 2014, 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.
- × We determined whether provisions of the Deferred Retirement Option Plan (DROP) were in accordance with the provisions of Act 205 by examining provisions stated in the plan's governing documents.

Warminster Township contracted with an independent certified public accounting firm for an audit of its basic financial statements for the year ending December 31, 2013 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 Warminster Township Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 Warminster Township Police 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 – Noncompliance With Prior Audit Recommendation –
Inconsistent And Unauthorized Pension Benefits

Finding No. 2 – Unauthorized Provision For A Killed In Service Benefit

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous audit report that has not been corrected by township officials. We are concerned by the township's failure to correct this previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this audit report.

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 Warminster Township and, where appropriate, their responses have been included in the report.

November 16, 2015


EUGENE A. DEPASQUALE
Auditor General

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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. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

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 Warminster Township Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

Act 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Warminster Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 631, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers. The plan was established December 2, 1957. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2014, the plan had 43 active members, 3 terminated members eligible for vested benefits in the future, and 46 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2014, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement For participants hired on or after January 1, 2005, age 50 and 25 years of service

For participants hired before January 1, 2005, age 50 and 25 years of service, or age 55 and 20 years of service

Early Retirement 20 years of service

Vesting A member is 100% vested after 12 years of service.

Retirement Benefit:

Benefit equals 50% of final 36 months average compensation.

Survivor Benefit:

Before Retirement Eligibility Refund of member contributions plus interest.

After Retirement Eligibility A monthly benefit equal to 50% of the pension the member was receiving or was entitled to receive on the day of the member's death.

Service Related Disability Benefit:

Greater of 50% of final average 36 months of compensation, or 50% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

Warminster Township Police has not complied with the prior audit recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Inconsistent and Unauthorized Pension Benefits

WARMINSTER TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 - Noncompliance With Prior Audit Recommendation – Inconsistent and Unauthorized Pension Benefits

Condition: As disclosed in our prior 3 audit reports, the pension plan’s governing document contains a service-related disability benefit provision that conflicts with the collective bargaining agreement (CBA) between the police officers and the township. Additionally, the provision contained in the CBA is not in accordance with Act 600, as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600</u>
Service-related disability	If a member retires because of a total and permanent disability, he shall be entitled to receive a pension benefit equal to the greater of fifty percent (50%) of his average applicable compensation, or fifty percent (50%) of his salary at the time the disability was incurred, offset by any Social Security disability benefits received by the member for the same injury.	A monthly pension benefit will be payable to a police employee who sustains a “Total Disability” giving rise to his or her eligibility for a “service-related” disability retirement which benefit will be equal to fifty percent (50%) of the police employee’s “Final Average Monthly Compensation” as is herein defined. The police employee who is placed on retirement by reason of a service-related disability shall not have his or her monthly benefit offset or reduced by the amount of any Social Security benefits.	The benefit must be in conformity with a uniform scale and fixed by the plan’s governing document at no less than 50% of the member’s salary at the time the disability was incurred, reduced by the amount of Social Security disability benefits received for the same injury.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, the CBA between the police officers and the township provides a vesting benefit provision that conflicts with the plan’s governing document and is not in accordance with Act 600. Pursuant to the provision in the CBA and due to the unauthorized inclusion of severance pay, the township has granted vested pension benefits to two police officers in excess of Act 600 provisions. The provision in the CBA that conflicts with Act 600 and the plan’s governing document is as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600</u>
Vesting benefit	A member who has completed 12 or more years of service may elect to receive a vested pension benefit. The amount of the vested pension benefit shall be (x) divided by (y) where (x) is the number of years of service at the date of termination and (y) is the number of years of service which the member would have had if he worked until normal retirement date.	The basic pension benefit described above computed at 50% of his final average monthly earnings, compensation and wages will be reduced <i>pro tanto</i> to a proportion that is equal to the ratio determined by dividing the total number of years of full-time service rendered by the police employee with the township (numerator) by twenty-five (25) years, the minimum years of service required for a normal pension benefit (denominator).	The ordinance or resolution establishing the police pension fund may provide for a vested benefit. Upon reaching the date which would have been his superannuation retirement date if he had continued to be employed as a full-time police officer he shall be paid a partial superannuation retirement allowance determined by applying the percentage his years of service bears to the years of service which he would have rendered had he continued to work until his superannuation retirement date to the gross pension, using however the monthly average salary during the appropriate period prior to his termination of employment.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Furthermore, the definition of average applicable compensation contained in the plan’s governing document and the CBA could result in pension benefit determinations that are not authorized by Act 600.

Section 4.01 of Article IV of the plan’s governing document, states, in part:

The monthly pension to which such retired member shall be entitled to under this plan shall be equal to fifty percent (50%) of such member’s average applicable compensation.

Section 1.03 of Article I defines average applicable compensation as follows:

Average Applicable Compensation shall mean the average monthly earnings of the member at any time of reference computed over the last thirty-six (36) months of his continuous employment by the township.... For purposes of computing Average Applicable Compensation, actual monthly earnings shall include base wage pay or salary, overtime pay, vacation pay, longevity increment pay, shift differential, holiday pay, educational increment pay, sick pay, incentive pay, court time and on-call pay as well as any other direct monetary compensation, excluding however, reimbursed expenses, non-monetary compensation such as fringe benefits paid by the township.... (Emphasis added)

In addition, the CBA contains a similar definition of compensation.

Although Act 600 does not define “salary”, the department has concluded, based on a line of court opinions, that the term does not encompass lump-sum severance payments or payments for accumulated leave earned outside the pension averaging period.

Criteria: Section 5(c) of Act 600 states, in part:

Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment.

In addition, the plan’s governing document and the CBA should contain consistent benefit provisions that are in compliance with Act 600.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Cause: Plan officials have failed to adopt adequate internal control procedures to ensure compliance with this department’s prior audit recommendation.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Providing unauthorized pension benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. In addition, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We again recommend that municipal officials take appropriate action to ensure the plan’s governing document and the collective bargaining agreement contain consistent benefit provisions that are in compliance with Act 600 at their earliest opportunity to do so.

Management’s Response: Municipal officials agreed with the finding and will attempt to negotiate the benefit provisions at the next negotiation of the collective bargaining agreement with the police association.

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

Finding No. 2 – Unauthorized Provision For A Killed In Service Benefit

Condition: Warminster Township maintains a police pension plan governed by the provisions of Act 600, as amended. Prior to the adoption of Act 51 of 2009, Act 600 contained a mandatory killed in service benefit provision; however, Act 51 specifically repealed the section of Act 600 that referenced the mandatory killed in service benefit. During the prior audit period, a verbal observation was given to plan officials notifying them of the passage of Act 51. It was recommended that plan officials review the act’s implications for the police pension plan and the collective bargaining agreement in effect for the period February 1, 2009 to January 31, 2013 with their municipal solicitor. During the current audit period, we determined that the pension plan’s governing document, and the most recent collective bargaining agreement for the period February 1, 2013 to January 31, 2015 provide for a killed in service benefit that is no longer authorized by Act 600. As of the date of this report, the next collective bargaining agreement has not yet been negotiated.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Section 5.03 of Ordinance No. 631 states:

In the event that a member is killed in service the member’s family shall receive a pension calculated at one-hundred percent (100%) of the member’s salary at the time of death.

In addition, the township continues to fund a killed in service benefit due to its inclusion in the plan’s January 1, 2013, actuarial valuation report.

Criteria: Section 1(a) of Act 51 of 2009 states, in part:

In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head, within 90 days from the date of death, shall submit certification of such death to the Commonwealth.

In addition, Section 1(d) of Act 51 of 2009 states, in part:

. . . the Commonwealth shall, from moneys payable out of the General Fund, pay to the surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section, and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers’ compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term “eligible beneficiary” means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. (Emphasis added)

WARMINSTER TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Furthermore, Section 2 of Act 51 of 2009 states:

Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.
- (2) The following parts of acts are repealed:
 - (i) Section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No. 600), referred to as the Municipal Police Pension Law.
 - (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of December 18, 1984 (P.L.1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

Therefore, since Act 51 specifically repealed the killed in service provision of Act 600 and the funding provisions for the killed in service benefit that were contained in Act 205, the provision of a killed in service benefit is no longer authorized.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the plan's governing document is in compliance with Act 600, as amended.

Effect: Since Section 1 of Act 51 provides that the Commonwealth is obligated to pay the killed in service benefit less any pension or retirement benefits paid to eligible survivors, the continued provision of a killed in service benefit could result in the pension plan being obligated to pay a benefit that is no longer authorized by Act 600 and would have been paid entirely by the Commonwealth absent such provision.

Recommendation: We recommend that the municipality review the plan's killed in service benefit with its solicitor in conjunction with Act 51 of 2009 and eliminate this unauthorized benefit provision at its earliest opportunity to do so.

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.

WARMINSTER TOWNSHIP POLICE 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, 2009, 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)
01-01-09	\$ 23,853,083	\$ 24,303,059	\$ 449,976	98.1%
01-01-11	23,335,615	26,913,137	3,577,522	86.7%
01-01-13	22,955,924	28,084,649	5,128,725	81.7%

Note: The market values of the plan's assets at 01-01-09, 01-01-11, and 01-01-13 have been adjusted to reflect the smoothing of gains and/or losses subject to a ceiling of 130 percent, 120 percent, and 120 percent of the market value of assets, respectively. 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.

WARMINSTER TOWNSHIP POLICE 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.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
 AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	\$ 65,794	113.3%
2010	76,868	110.7%
2011	547,410	100.0%
2012	587,624	100.0%
2013	803,455	100.0%
2014	1,008,293	100.0%

WARMINSTER TOWNSHIP POLICE 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, 2013
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	13 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205 subject to a ceiling of 120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0%
Projected salary increases	5.0%
Cost-of-living adjustments	In accordance with Act 600, however, not to exceed 5% in any one year.

WARMINSTER TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Warminster Township Police Pension Plan
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401 Gibson Avenue
Warminster, PA 18974

Mr. Daniel McPhillips	Chairman, Board of Township Supervisors
Mr. Jason Croley	Vice-Chairman, Board of Township Supervisors
Mr. Steven Wiesner	Interim Manager

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