

# COMPLIANCE AUDIT

---

## Tinicum Township Police Pension Plan Delaware 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



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

EUGENE A. DePASQUALE  
AUDITOR GENERAL

Board of Township Commissioners  
Tinicum Township  
Delaware County  
Essington, PA 19029

We have conducted a compliance audit of the Tinicum 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 findings 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 whether retirement benefits calculated for the plan member who retired 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 monthly pension benefit due to the retired individual and comparing this amount to supporting documentation evidencing the amount determined and actually paid to the recipient.
- × 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 all annual special ad hoc postretirement reimbursements received by the municipality were authorized and appropriately deposited in accordance with Act 147 by tracing information to supporting documentation maintained by plan officials.
- × We determined whether transfers were properly authorized, timely, and appropriately recorded by plan officials by examining supporting documentation for all of the transfers made during the audit period and through the completion of our fieldwork procedures.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Tinicum 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 Tincum 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 - Pension Benefits Not Authorized By Act 600

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

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

November 5, 2015



EUGENE A. DEPASQUALE  
Auditor General

# CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Finding.....	3
Findings and Recommendations:	
Finding No. 1 – Noncompliance With Prior Audit Recommendation - Pension Benefits Not Authorized By Act 600.....	4
Finding No. 2 – Unauthorized Provision For A Killed In Service Benefit.....	6
Supplementary Information.....	9
Report Distribution List.....	15

## 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 Tincum 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 147 - Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.
- 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 Tincum Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2004-775, 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 February 27, 1957. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2014, the plan had 15 active members, no terminated members eligible for vested benefits in the future, and 9 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	Age 54 and 25 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 salary, plus a service increment of \$100 per month upon completion of 26 years of service.

### 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:

Officers hired prior to September 1, 1997, benefit equals 100% of salary. Officers hired after September 1, 1997, benefit equals 70% of salary, and in both cases, payable for life, offset by social security disability benefits.

TINICUM TOWNSHIP POLICE PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

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

- Pension Benefits Not Authorized By Act 600

TINICUM TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation - Pension Benefits Not Authorized By Act 600**

Condition: As disclosed in the prior 3 audit reports, plan officials provided pension benefits to 3 police officers in excess of those authorized by Act 600 by including accumulated unused sick and vacation leave that was not earned during the pension computation period in the determination of the final average monthly salary used to recalculate their original monthly pension benefits. The township then further increased the pension benefits for these same 3 officers by including special duty pay which was specifically prohibited as part of the definition of “average monthly earnings” contained in the plan’s governing document. Furthermore, a police officer who retired on January 31, 2010, had his pension benefit determined based on a final average monthly salary which included severance pay in the amount of \$19,872.

Similar conditions occurred during the current audit period. A police officer who was granted a service-related disability pension benefit on October 5, 2012, had his pension benefit determined based on a final average monthly salary which included severance pay in the amount of \$15,768. In addition, plan officials provided pension benefits to another police officer in excess of those authorized by Act 600 by including accumulated unused compensatory time and severance pay that was not earned during the pension computation period in the amount of \$23,552 in the determination of the final average salary used to calculate monthly pension benefits for a police officer who retired on October 1, 2014.

Section 4.2(a) of the plan’s governing document, Ordinance No. 2004-775, states, in part:

The monthly retirement pension benefit for a policeman retiring under Section 4 shall be determined as: 50% of the average monthly salary which he was paid during his last 36 months of service...

The township has interpreted this provision to authorize the inclusion of lump-sum payments for leave earned outside the pension computation period.

Furthermore, Ordinance No. 554 of 1981 defines salary as follows:

Average monthly earnings shall mean those earnings reported to the Internal Revenue Service, except Special Duty Pay as described in Section 3.

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.

TINICUM TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

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 payments for leave that was not earned during the pension computation period or severance payments.

Cause: Plan officials determined the first 3 referenced retirees’ pension benefits in accordance with arbitration rulings which were issued in 2005 and 2009. The township felt that it was contractually obligated to continue to calculate pension benefits in the same manner for police officers who retired in 2010, 2012, and 2014.

Effect: The plan is paying pension benefits to 6 retirees in excess of those authorized by Act 600. The police officers who retired in 2010, 2012, and 2014 are receiving excess benefits in the amounts of \$276 per month, \$219 per month, and \$654 per month, respectively.

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. Since the township received state aid based on unit value during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, 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 all pension benefits be determined in accordance with Act 600 provisions. To the extent that the township is not in compliance with Act 600 and/or is contractually obligated to pay benefits to existing retirees in excess of those authorized by Act 600, the excess must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, the plan’s actuary may be required to determine the impact, if any, of the excess benefits on the township’s future state aid allocations and submit this information to the department. If it is determined the excess benefits had an impact on the township’s future state aid allocations after the submission of this information, the plan’s actuary would then be required to contact the department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

We further recommend that future pension benefits be calculated and paid in accordance with the applicable provisions contained in the plan’s governing document in effect at the time of a plan member’s retirement.

TINICUM TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Management's Response: Municipal officials agreed with the finding as stated but have stated concern with the definition of salary and are contractually obligated to include this form of compensation in calculating benefits. The township will continue to negotiate in good faith to comply with the audit recommendations during the next bargaining period.

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

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

Condition: Tincum 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 with their municipal solicitor. During the current audit period, it has been determined that the pension plan's governing document continues to provide for a killed in service benefit that is no longer authorized by Act 600.

Section 4.4 of Ordinance No. 2004-775 states, in part:

In the case of an officer who is killed in the performance of police duties with the Township, the surviving spouse of the officer shall receive a benefit of one hundred percent (100%) of the officer's salary at the time of his or her death until the surviving spouse dies.

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.

TINICUM TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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)

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.

TINICUM TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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.

TINICUM TOWNSHIP POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

The supplementary information contained on Pages 9 and 10 reflect the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans*. The objective of this statement is to improve financial reporting by state and local governmental pension plans.

SCHEDULE OF CHANGES IN THE NET PENSION  
 LIABILITY AND RELATED RATIOS  
 FOR THE YEAR ENDED DECEMBER 31, 2014

Total Pension Liability	
Service cost	\$ 173,671
Interest	514,418
Benefit payments, including refunds of member contributions	(350,365)
	337,724
Net Change in Total Pension Liability	337,724
Total Pension Liability - Beginning	6,431,735
Total Pension Liability – Ending (a)	\$ 6,769,459
Plan Fiduciary Net Position	
Contribution - Employer	27,713
Contribution – state aid	201,379
Contribution - member	79,656
Net investment income	451,319
Benefit payments, including refunds of member contributions	(350,365)
Administrative expense	(4,300)
	405,402
Net Change in Plan Fiduciary Net Position	405,402
Plan Fiduciary Net Position - Beginning	5,781,650
Plan Fiduciary Net Position – Ending (b)	\$ 6,187,052
Net Pension Liability - Ending (a-b)	\$ 582,407
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	91.4%
Estimated Covered Employee Payroll	\$ 1,509,998
Net Pension Liability as a Percentage of Covered Employee Payroll	38.6%

TINICUM TOWNSHIP POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the township, calculated using the discount rate of 8.00%, as well as what the township's net pension liability would be if it were calculated using a discount rate that is 1 percentage point lower or 1 percentage-point higher than the current rate:

	1% Decrease (7.00%)	Current Discount Rate (8.00%)	1% Increase (9.00%)
Net Pension Liability	\$ 1,308,868	\$ 582,407	\$ (37,722)

SCHEDULE OF INVESTMENT RETURN

Annual Money-Weighted Rate of Return, Net of Investment Expense:

2014	7.27%
------	-------

TINICUM 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	\$ 4,008,506	\$ 4,897,376	\$ 888,870	81.9%
01-01-11	4,621,844	5,388,920	767,076	85.8%
01-01-13	5,242,769	6,112,104	869,335	85.8%

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

TINICUM 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.

TINICUM 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	\$ 214,258	100.0%
2010	215,341	100.0%
2011	194,083	100.0%
2012	198,010	100.0%
2013	202,536	100.0%
2014	229,092	100.0%

TINICUM 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	9 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, 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	None assumed

TINICUM TOWNSHIP POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf  
Governor  
Commonwealth of Pennsylvania

Tinicum Township Police Pension Plan  
Delaware County  
629 North Governor Printz Boulevard  
Essington, PA 19029

Mr. Thomas J. Giancristoforo, Jr.    President, Board of Township Commissioners

Mr. David D. Schreiber                Township Manager

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).