

COMPLIANCE AUDIT

Upper Darby Township Police Pension Plan Delaware County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

October 2014



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and Township Council
Upper Darby Township
Delaware County
Upper Darby, PA 19082

We have conducted a compliance audit of the Upper Darby Township Police Pension Plan for the period January 1, 2011 to December 31, 2013. 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 findings 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations.
- Whether employee contributions are required and, if so, are determined, deducted, and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.

- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.
- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the special ad hoc postretirement adjustment granted to eligible pensioners is in accordance with applicable laws and regulations and whether the ad hoc reimbursement received by the municipality was treated in accordance with applicable laws and regulations.
- Whether benefit payments have only been made to living recipients, based on the Social Security numbers found in the pension records for retirees and beneficiaries.

Upper Darby Township contracted with an independent certified public accounting firm for annual audits of the Upper Darby Township Police Pension Plan's financial statements 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 Upper Darby 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, 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 tests indicated that, in all significant respects, the Upper Darby 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:

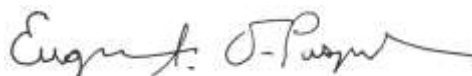
Finding No. 1 – Noncompliance With Prior Audit Recommendation –
Provision Of Benefits In Excess Of Act 600

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Failure
To Adopt Benefit Provisions Mandated By Act 30

The findings contained in this audit report repeat conditions that were cited in our previous audit report that have not been corrected by township officials. We are concerned by the township's failure to correct those 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 Upper Darby 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.



EUGENE A. DEPASQUALE
Auditor General

September 5, 2014

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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 Upper Darby 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 177 - General Local Government Code, Act of December 19, 1996 (P.L. 1158, No. 177), as amended, 53 Pa.C.S. § 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 Upper Darby Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2619, 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 January 1, 1958. Active members hired prior to January 1, 2001 are required to contribute 6.5 percent of compensation to the plan. Active members hired after January 1, 2001 are required to contribute 5 percent of compensation to the plan. As of December 31, 2013, the plan had 128 active members, no terminated members eligible for vested benefits in the future, and 143 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2013, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement	Members hired prior to January 1, 2001 may retire upon attaining a combination of age and service of at least equal to 77. Members hired after January 1, 2001 may retire upon the attainment of age 50 and completion of 25 years of service.
Early Retirement	None
Vesting	A member is 100% vested after 12 years of service.

Retirement Benefit:

For members hired prior to January 1, 2001, each pension is to be equal to 62% of the individual's average compensation during the highest 24 consecutive months during the final 60 months of service, at a minimum of \$400 per month. For members hired after January 1, 2001, normal retirement shall be equal to 50% of final 36 months average salary, at a minimum of \$400 per month.

Survivor Benefit:

Before Retirement Eligibility	Should an officer die before being eligible for retirement, the surviving spouse shall receive \$1,200 per month for life and each surviving child will receive \$800 per month until age 18 or 23 if full time student.
After Retirement Eligibility	A surviving spouse will receive the balance of 120 payments of a benefit equal to 50% of the pension the member was receiving or 120 payments the member would have received and was entitled to receive on the day of the member's death.

Disability Benefit:

Service Related	Benefit is 70% of the average of the highest 12 months of compensation.
Nonservice Related	Benefit is 50% of his highest 12 months of compensation for an active member with at least 3 years of service.

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

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

- Provision Of Benefits In Excess Of Act 600
- Failure To Adopt Benefit Provisions Mandated By Act 600

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Provision Of Benefits
In Excess Of Act 600**

Condition: As disclosed in the last 6 prior audit reports, Upper Darby Township adopted a home rule charter pursuant to the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2901 et seq. (previously 53 P.S. § 1-101 et seq.) and has provided retirement benefits in the plan’s governing document and the collective bargaining agreement that are in excess of Act 600 provisions, as noted below:

<u>Provision</u>	<u>Ordinance No. 2619</u>	<u>Act 600, as amended</u>	<u>2012-2016 Collective Bargaining Agreement</u>
Survivor benefit - prior to eligibility for retirement, regardless of cause of death	\$300 per month for spouse and \$75 per month for each dependent child.	Not authorized	\$1,200 per month for spouse and \$800 per month for each dependent child.
Nonservice-related disability benefit	50% of the average monthly earnings based on last 60 months of employment, regardless of the years of service; upon reaching normal retirement date, recalculated as 50% of average monthly earnings based on last 36 months prior to disability.	Not authorized	Before 3 years of service, not provided. After 3 years of service, 50% of the highest 12 months of earnings.

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Criteria: On January 24, 2001, the Commonwealth Court of Pennsylvania issued its opinion in *Municipality of Monroeville v. Monroeville Police Department Wage Policy Committee*. Therein, the court held that section 2962(c)(5) of the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2962(c)(5), “clearly precludes home rule municipalities from providing pension benefits different from those prescribed in general law including Act 600.” The court’s holding was in accord with the position taken by this Department since at least January 1995.

Cause: Municipal officials were unable to amend the excess benefit provisions through the collective bargaining process.

Effect: The provision of unauthorized benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or 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, in the future, the increased costs to the pension plan as a result of the excess pension benefits could increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards and may result in the receipt of state aid in excess of the township’s entitlement. Additionally, during the current audit period, one plan member, who was hired after January 24, 2001, was granted a nonservice-related disability pension benefit.

Recommendation: We again recommend that the township comply with Act 600 at its earliest opportunity to do so. To the extent that the township is not in compliance with Act 600 and/or is contractually obligated to provide benefits in excess of those authorized by Act 600 for employees who began full-time employment on or after January 24, 2001 (the date Monroeville was issued), the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, the excess 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 plan’s future state aid allocations and submit this information to the department.

Management’s Response: Management indicated that they would provide a written response to this finding within 10 days; however, no such response has been provided.

Auditor’s Conclusion: Due to the fact that this finding has been included in the prior 6 audits of the plan, we encourage municipal officials to comply with the recommendation at their earliest opportunity to do so. Compliance will be evaluated during our next audit of the plan.

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Failure To Adopt Benefit Provisions Mandated By Act 30

Condition: On April 17, 2002, Act 600 was amended by Act 30, which made significant changes to the statutorily prescribed benefit structure of the police pension plans subject to Act 600. As disclosed in the last 5 prior audit reports, municipal officials have not amended the police pension plan’s benefit structure to adopt all of the changes mandated by Act 30. The specific inconsistencies are as follows:

<u>Provision</u>	<u>Ordinance No. 2619</u>	<u>Act 600, as amended</u>	<u>2012-2016 Collective Bargaining Agreement</u>
Survivor benefit – after normal retirement date or after member’s retirement	100%, 10-year certain; then reduced to 50% for life or until remarriage.	A lifetime survivor’s benefit must be provided to the surviving spouse (or if no spouse survives or if he or she subsequently dies, the child or children under 18 years of age or attaining the age of 23) of no less than 50% of the pension the member was receiving or would have been entitled to receive had he been retired at the time of death. (“Attending college” shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of 7 credit hours per semester).	100%, 10-year certain; then reduced to 50% for life or until remarriage.

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

<u>Provision</u>	<u>Ordinance No. 2619</u>	<u>Act 600, as amended</u>	<u>2012-2016 Collective Bargaining Agreement</u>
Service-related disability benefit	70% of final average monthly earnings.	A service-related disability benefit in conformity with a uniform scale and fixed by the plan’s governing document, to be at least 50% of the member’s salary at the time of disability, provided that if the member receives Social Security disability benefits for the same injury his disability benefit is reduced by the amount of the Social Security benefit.	70% of average of highest 12 monthly earnings.

Criteria: The police pension plan’s benefit structure should be in compliance with Act 600, as amended by Act 30.

Cause: Municipal officials were unable to implement all of the Act 30 provisions through the collective bargaining process.

Effect: Maintaining a benefit structure which is not in compliance with Act 600, as amended by Act 30, could result in plan members or their beneficiaries receiving incorrect benefit amounts or being denied benefits to which they are statutorily entitled.

Recommendation: We again recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to bring the police pension plan’s benefit structure into compliance with Act 600, as amended by Act 30, at their earliest opportunity to do so.

Management’s Response: Management indicated that they would provide a written response to this finding within 10 days; however, no such response has been provided.

Auditor’s Conclusion: Due to the fact that this finding has been included in the prior 5 audits of the plan, we encourage municipal officials to comply with the recommendation at their earliest opportunity to do so. Compliance will be evaluated during our next audit of the plan.

UPPER DARBY 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)	(5)	(6)
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)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-09	\$ 37,596,410	\$ 64,960,950	\$ 27,364,540	57.9%	\$ 11,374,290	240.6%
01-01-11	44,364,642	66,616,427	22,251,785	66.6%	11,847,920	187.8%
01-01-13	52,869,749	72,634,640	19,764,891	72.8%	12,171,676	162.4%

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 corridor between 70 to 130 percent of the 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.

UPPER DARBY 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.

Trends in unfunded (assets in excess of) actuarial accrued liability and annual covered payroll are both affected by inflation. Expressing the unfunded (assets in excess of) actuarial accrued liability as a percentage of annual covered payroll (Column 6) approximately adjusts for the effects of inflation and aids analysis of the plan's progress made in accumulating sufficient assets to pay benefits when due. Generally, where there is an unfunded actuarial accrued liability, the smaller this percentage, the stronger the plan. When assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

UPPER DARBY 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
2008	\$ 2,756,075	125.2%
2009	3,720,809	100.0%
2010	3,746,842	100.0%
2011	4,731,466	100.0%
2012	4,414,043	100.0%
2013	4,949,013	100.0%

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the required 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	10 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 70-130% 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

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Upper Darby Township Police Pension Plan
Delaware County
100 Garrett Road
Upper Darby, PA 19082

The Honorable Thomas Micozzie	Mayor
Mr. Donald P. Bonnett	Council President
Mr. Thomas J. Judge, Jr.	Chief Administrative Officer
Mr. Francis J. Catania	Chairman, Police Pension Plan
Ms. Beverly Nurmela	Secretary, Police Pension Plan
Mr. Richard Nolan	Chief Municipal Clerk

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