

COMPLIANCE AUDIT

City of Warren Municipal Employee Pension Plan Warren County, Pennsylvania For the Period January 1, 2012 to December 31, 2013

February 2015



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 City Council
City of Warren
Warren County
Warren, PA 16365

We have conducted a compliance audit of the City of Warren Municipal Employee Pension Plan for the period January 1, 2012 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 the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

The objective of the audit was 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 objective 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 benefit payments have only been made to living recipients, based on the Social Security numbers found in the pension records for retirees and beneficiaries.

The City of Warren contracted with an independent certified public accounting firm for annual audits of its basic financial statements which are available at the city's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

City officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the City of Warren Municipal Employee 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 city's internal controls as they relate to the city's compliance with those requirements and that we considered to be significant within the context of our audit objective, 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 objective.

The results of our tests indicated that, in all significant respects, the City of Warren Municipal Employee Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

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 the City of Warren and, where appropriate, their responses have been included in the report. We would like to thank city officials for the cooperation extended to us during the conduct of the audit.



EUGENE A. DEPASQUALE
Auditor General

February 2, 2015

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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 City of Warren Municipal Employee 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 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 317 - The Third Class City Code, Act of June 23, 1931 (P.L. 932, No. 317), as amended, 53 P.S. § 35101 et seq.

The City of Warren Municipal Employee Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1670, as amended. The plan is also affected by the provisions of collective bargaining agreements between the city and its non-uniformed employees. The plan was established August 15, 1966. Active members are required to contribute 2 percent of base wages to the plan. As of December 31, 2013, the plan had 25 active members, 5 terminated members eligible for vested benefits in the future, and 22 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	Age 62 and 10 years of service.
Early Retirement	Age 57 and 12 years of service or age 62 and 5 years of service.
Vesting	Vesting is 50% after 5 years of service, increasing by 10% for each additional year, up to a maximum of 100% after the completion of 10 years of service.

Retirement Benefit:

Benefit equals 1.2% of final 60 months average salary (base pay), plus 1.0% of final 60 months average monthly salary in excess of \$550, multiplied by years of service.

Survivor Benefit:

Before 10 years of service	Refund of member contributions plus interest.
After 10 years of service	Benefit is 50% of accrued benefit.
After Retirement Eligibility	The normal form of benefit is a monthly pension for life; however, the member may elect an actuarially reduced benefit form in order to provide a survivor benefit.

Service Related Disability Benefit:

Accrued benefit at the date of disability, payable 5 months after disablement.

CITY OF WARREN MUNICIPAL EMPLOYEE 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	\$ 2,997,482	\$ 3,618,059	\$ 620,577	82.8%	\$ 1,136,096	54.6%
01-01-11	3,510,531	4,151,305	640,774	84.6%	1,239,358	51.7%
01-01-13	4,148,734	4,607,336	458,602	90.0%	1,120,583	40.9%

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 over a 4-year averaging period. 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.

CITY OF WARREN MUNICIPAL EMPLOYEE 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.

CITY OF WARREN MUNICIPAL EMPLOYEE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2008	\$ 137,975	100.8%
2009	149,285	103.9%
2010	156,819	133.3%
2011	227,145	106.7%
2012	238,199	100.0%
2013	211,217	100.0%

CITY OF WARREN MUNICIPAL EMPLOYEE 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, closed
Remaining amortization period	9 years
Asset valuation method	Fair value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return	7.5%
Projected salary increases *	5.0%
Cost-of-living adjustments	None assumed

* Includes inflation at 3.0%

CITY OF WARREN MUNICIPAL EMPLOYEE PENSION PLAN
COMMENT

The city 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.). The 5 prior audits for the city's municipal employee pension plan covering the years 1997 through 2007, disclosed that the pension plan's governing document includes provisions which are not in compliance with the Third Class City Code. It was noted in the prior audit reports that certain provisions are in excess of Third Class City Code requirements, and certain provisions provide for lesser benefits than mandated by the Third Class City Code. The prior audit report for the period January 1, 2006, to December 31, 2007, recommended that the city restrict pension benefits to those authorized by the Third Class City Code for all employees who began full-time employment on or after January 24, 2001 (the date *Municipality of Monroeville v. Monroeville Police Department Wage Policy Committee* was issued) upon the renewal, extension, or renegotiation of the collective bargaining agreement. To the extent that the city is not in compliance with the Third Class City Code and/or is contractually obligated to provide benefits in excess of those authorized by the Third Class City Code to employees who began employment on or after January 24, 2001, 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, to the extent that the city has failed to provide benefits which are mandated by the Third Class City Code, it was recommended that the city increase those benefits for all active plan members to the levels prescribed by the code at its earliest opportunity to do so.

The City of Warren has maintained that pension benefits are subject to collective bargaining and interest arbitration processes. In addition, the city has argued that these matters have been the subject of litigation, which included an appeal and Memorandum Opinion issued by the Commonwealth Court. In particular, certain retired firefighters and the International Association of Firefighters appealed the fact that retired firefighters were receiving benefits below the levels established by the Third Class City Code. In concluding that the pension benefits below those required by the Third Class City Code were not void as against public policy, the Court concluded that the retirees and the Union, "through collective bargaining, bargained away their pension rights." This is particularly true, according to the Court when the parties, as here, negotiated the issue of compliance with the Third Class City Code and, ultimately agreed to lesser benefits which cost less than if the plan were entirely Third Class City Code compliant.

During the current audit period, the city negotiated a new collective bargaining agreement with its non-uniformed employees covering the period January 1, 2015, to December 31, 2017, and the plan's governing document remains not in compliance with the Third Class City Code, as noted in the prior audit reports.

CITY OF WARREN MUNICIPAL EMPLOYEE PENSION PLAN
COMMENT

The Department recognizes that the city is unable to make any unilateral changes to its pension plans due to collective bargaining agreements that have been negotiated. In addition, the Department also recognizes that all of the benefit provisions that deviate from the Third Class City Code do not result in increased pension costs and, to the extent that the city has provided pension benefits which are less than those mandated by the Third Class City Code, it has consequently resulted in lower annual pension costs for the city. However, it remains the Department's position that the city restrict pension benefits to those authorized by the Third Class City Code for all employees who began full-time employment on or after January 24, 2001 (the date *Monroeville* was issued) upon the renewal, extension, or renegotiation of the collective bargaining agreement and to the extent that the city has failed to provide benefits which are mandated by the Third Class City Code, we again recommend that the city increase those benefits for all active plan members to the levels prescribed by the code at its earliest opportunity to do so. Since the city received its state aid allocations based on unit value during the current audit period, the city did not receive any state aid attributable to pension benefits that deviate from the Third Class City Code. We will continue to monitor the city's compliance with the prior audit recommendations and the effect of providing pension benefits not in compliance with the Third Class City Code on the city's state aid allocations during future audits of the plan.

CITY OF WARREN MUNICIPAL EMPLOYEE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

City of Warren Municipal Employee Pension Plan
Warren County
318 West Third Avenue
Warren, PA 16365

The Honorable Maurice Cashman	Mayor
Ms. Nancy K. Freenock	City Manager
Ms. Donna M. Risinger	Finance Officer

This report is a matter of public record and is available online at www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.