COMPLIANCE AUDIT

Franklin Township Non-Uniformed Pension Plan

Adams County, Pennsylvania

For the Period

January 1, 2018 to December 21, 2022

September 2023

Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General

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TIMOTHY L. DEFOOR
AUDITOR GENERAL

Board of Township Supervisors
Franklin Township
Adams County
Cashtown, PA 17310

We have conducted a compliance audit of the Franklin Township Non-Uniformed Pension Plan for the period January 1, 2018 to December 21, 2022. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit 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 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 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2017 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.

- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation. Employer contributions that were deposited into the pension plan for the years ended December 31, 2017 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.

- We determined that there were no employee contributions required by the plan's governing document and applicable laws and regulations for the years covered by our audit period.

- We determined whether retirement benefits calculated for plan members who separated employment and received a lump-sum distribution during the current audit period and through the completion of our fieldwork procedures 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 pension benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.

- We determined whether the January 1, 2017, January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2018, 2020, and 2022, 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 the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

Franklin Township contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, which are available at the township's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Franklin Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

The results of our procedures indicated that, in all significant respects, the Franklin Township Non-Uniformed 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 Recommendation – Failure To Properly Fund Members' Accounts

Finding No. 2 – Incorrect Pension Benefit Distribution

Finding No. 3 – Improper Vesting Distribution

Finding No. 4 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

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

The contents of this report were discussed with officials of Franklin Township and, where appropriate, their responses have been included in the report. We would like to thank township officials for the cooperation extended to us during the conduct of the audit.

Timothy L. DeFoor

Timothy L. DeFoor
Auditor General
August 7, 2023

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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.

Annual state aid allocations are provided from a two (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 Franklin Township Non-Uniformed Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

The Franklin Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 2022-02, effective January 1, 2022. Prior to January 1, 2022, the plan was locally controlled by the provisions of Resolution No. 2011-07, effective January 1, 2011. The plan was established January 1, 1994. Active members are not required to contribute to the plan. The municipality was required to contribute eight (8) percent of compensation for the years 2018 through 2021. Effective January 1, 2022, the municipality is required to contribute ten (10) percent of compensation. As of December 31, 2022, the plan had three active members and one terminated member eligible for vested benefits in the future.

FRANKLIN TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Recommendation

Franklin Township has not complied with the prior recommendation concerning the following as further discussed in Finding No. 1 in the Findings and Recommendations section of this report:

- Failure To Properly Fund Member's Account

FRANKLIN TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Recommendation – Failure To Properly Fund Members' Accounts

Condition: As disclosed in our prior report, the township deposited excess contributions into the account of a plan member in 2015 in the amount of $310 as illustrated below:

Required Contributions	Actual Contributions	Excess Contributions
$ 1,650	$ 1,960	$ 310

During the current audit period, no adjustments were made to the member's account. In addition, the township deposited excess contributions into the account of another plan member in 2020 in the amount of $391 as illustrated below:

Required Contributions	Actual Contributions	Excess Contributions
$ 2,807	$ 3,198	$ 391

Criteria: In 2011, the plan's governing document then in effect, Resolution No. 2011-07, which adopted a separately executed plan agreement with the plan's custodian, established the employer contribution rate at eight (8) percent of the compensation of each participant who is credited with a year of service for the plan year.

In addition, Section 1.36 of the plan's governing document, states:

> "Year of service" shall mean any Plan Year during which a Participant works at least 35 hours per week for any (6) consecutive months.

Furthermore, Section 3.1 of the plan's governing document states the following regarding eligibility for participation in the pension plan:

> Any other full-time Employee is eligible on the first of the month next following his completion of six (6) months of full-time employment.

Cause: Plan officials again failed to establish adequate internal control procedures to ensure that only eligible wages were used to calculate the required contribution to the members' accounts in accordance with the provisions contained in the plan's governing document. For both employees, plan officials incorrectly contributed to the plan prior to the employee becoming a plan member.

Finding No. 1 – (Continued)

Effect: The failure to properly fund the members' accounts results in plan members receiving excess benefits in violation of the plan's governing document.

Recommendation: We again recommend that the township review the applicable members' accounts and make the adjustments deemed necessary to ensure the accounts are funded in accordance with the provisions contained in the plan's governing document then in effect.

We also again recommend that plan officials implement adequate internal control procedures to ensure that members' accounts are properly funded in the future in accordance with the provisions contained in the plan's governing document.

Management's Response: Municipal officials agreed with the finding without exception and indicated the plan document will be updated to clarify eligible compensation to avoid excess contributions.

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

Finding No. 2 – Incorrect Pension Benefit Distribution

Condition: A member of the pension plan who retired on April 26, 2018 received an incorrect pension benefit distribution because municipal officials added an employer contribution for the year 2018 to the member's account balance that he was not entitled to receive. The member did not meet the service requirements in 2018 to be eligible to receive an employer contribution for that year.

Criteria: In 2011, the plan's governing document then in effect, Resolution No. 2011-07, which adopted a separately executed plan agreement with the plan's custodian, established the employer contribution rate at eight (8) percent of the compensation of each participant who is credited with a year of service for the plan year.

In addition, Section 1.36 of the plan's governing document, states:

> "Year of service" shall mean any Plan Year during which a Participant works at least 35 hours per week for any (6) consecutive months.

Cause: Municipal officials were unaware that the employee was not entitled to the employer contribution in 2018 since he did not work for six consecutive months in that year.

Finding No. 2 – (Continued)

Effect: The township paid excess pension benefits in the amount of $1,407 to a retiree in excess of those authorized by the plan's governing document.

Recommendation: We recommend that municipal officials limit future distributions to retired or terminated members in accordance with the provisions contained in the plan's governing document.

Management's Response: Municipal officials agreed with the finding without exception and provided the following response:

> The Chief Administrative Officer will work to try and resolve and recover the excess distributions. Since they have already been accounted for in the valuation and the monies have already been received by the participant and they don't affect any other member accounts, and if the recovery causes the participant a hardship and they cannot be recovered - it will be written off by the plan.

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

Finding No. 3 – Improper Vesting Distribution

Condition: An employee that terminated in 2022, with 3 years of credited service and 60 percent vested, improperly received a distribution of 80 percent of his account balance. This resulted in an overpayment to the employee and an understatement of forfeitures.

Criteria: The plan's governing document, Resolution No. 2022-02, at Section 5.5(a) states:

> A Participant shall have a vested interest in the contributions made on his behalf by the Township, together with all earnings/losses thereon, based upon his years of service, according to the following schedule:

Years of Service	Percentage of Vested Interest in Account
1	20%
2	40%
3	60%
4	80%
5	100%

Finding No. 3 – (Continued)

In addition, Section 1.36 of the plan's governing document, states:

> "Year of Service" shall mean any Plan Year during which a Participant works at least 35 hours per week for any six (6) consecutive months.

Pursuant to the above schedule and provisions, the terminated employee was only entitled to a distribution in the amount of 60 percent of his account balance.

Finally, Section 4.1(c) of the plan's governing document, states:

> Forfeitures will be applied as follows in the year following the year of the Forfeiture:
> 1st - towards any refund due to the State for excess State Aid;
> 2nd - towards any plan administration expenses;
> 3rd - allocated to accounts of Participants eligible for contributions in the year of the Forfeiture, in the same manner as the contribution is allocated.

Cause: Township officials failed to establish adequate internal control procedures to ensure the plan's custodian remitted the correct payment to the terminated employee.

Effect: The terminated employee received an overpayment in the amount of $2,160, and the forfeiture determined by plan officials was understated by $2,160.

Recommendation: We recommend that the township utilize the correct forfeiture amount pursuant to the provisions contained in the plan's governing document.

We also recommend that municipal officials ensure the correct vesting percentage is utilized in future distributions in accordance with the provisions contained in the plan's governing document.

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.

Finding No. 4 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Condition: During the prior two audits, a verbal observation was issued to plan officials notifying them of the amendments to Act 205 regarding the procurement of professional services contracts, and recommending that the municipality adopt the mandatory provisions, accordingly. However, during the current audit period, the municipality again failed to adopt such mandatory provisions. Furthermore, in 2018 and 2020, the township changed custodians and entered into an agreement with a provider for custodial services for the pension plan, and in 2021, the township changed its pension plan administrator. However, there was no evidence provided to support that the changes in providers were conducted and awarded in accordance with provisions of Act 205.

Criteria: Section 701-A of Act 205 defines a "Professional Services Contract" as follows:

> "Professional services contract." A contract to which the municipal pension system is a party that is:
> (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
> (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states, in part:

> Each municipal pension system … shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

Additionally, Section 702-A (c), (e), (f), and (h) state, in part:

> **Review.** Procedures to select the most qualified person shall include a review of the person's qualifications, experience and expertise and the compensation to be charged.
>
> **Conflict of interest.** The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract.

Finding No. 4 – (Continued)

> **Public information.** Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.
>
> **Notice and summary.** The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the processional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applications and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Section 703-A (c) states, in part:

> Upon advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Cause: Township officials failed to establish adequate internal control procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: We were unable to determine whether the township complied in all respects with the provisions stipulated in Act 205 for the procuring of professional services for the township's non-uniformed pension plan. Also, by failing to maintain appropriate substantive supporting documentation evidencing adherence with Act 205 for the professional services contracts, a general lack of transparency exists.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions which should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan, including authorizations/approvals of township officials in the official minutes of formal board meetings and the required notifications and disclosure responsibilities to ensure the transparency of the actions taken by plan officials relative to the awarding of any future professional services contracts for the pension plan.

Finding No. 4 – (Continued)

Management's Response: Municipal officials agreed with the finding without exception and indicated they are in the process of drafting a resolution to cover the Act 44 procedures and requirements. *Auditor's Note: Act 44 amended Act 205 for the procurement of professional services contracts.*

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

FRANKLIN TOWNSHIP NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2017	$ 11,663	$ 1,154
2018	10,751	216
2019	11,303	137
2020	10,444	4,190
2021	14,634	74
2022	14,425	8,448

FRANKLIN TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Matthew Williams
Chairman, Board of Township Supervisors

Mr. Henry Crushong
Vice-Chairman, Board of Township Supervisors

Mr. Christopher Santay
Township Supervisor

Ms. Susan Plank
Chief Administrative Officer

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.