

# COMPLIANCE AUDIT

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## Liberty Township Non-Uniformed Employees Pension Plan Adams County, Pennsylvania For the Period January 1, 2013 to December 31, 2016

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December 2017



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

Board of Township Supervisors  
Liberty Township  
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Fairfield, PA 17320

We have conducted a compliance audit of the Liberty Township Non-Uniformed Employees Pension Plan for the period January 1, 2013 to December 31, 2016. 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 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. 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2011 to December 31, 2016, 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, 2011 to December 31, 2016, 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 that there were no benefit calculations prepared for the years covered by our audit period.
- Whether the January 1, 2011, January 1, 2013 and January 1, 2015 actuarial valuation reports were prepared and submitted to the former Public Employee Retirement Commission (PERC) by March 31, 2012, 2014 and 2016, 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.
- During the course of the audit, it came to our attention that the township had contracted with an independent CPA firm to perform an agreed-upon procedures engagement to recalculate the payroll of a township employee suspected of inflating her compensation during the period January 1, 2012 through September 30, 2016 and to determine how much the employee may have been overpaid during the same time frame. We determined through review of the CPA firm's agreed-upon procedures report to pursue use of the CPA firm's work, as permitted by *Government Auditing Standards*, to avoid duplication of effort. In addition to reviewing the CPA firm's engagement report, we reviewed the related audit documentation and obtained evidence of the CPA firm's independence. The CPA firm's agreed-upon procedures results contributed to our audit conclusions and to the results reported in Finding Nos. 3 and 4 discussed later in this report.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Liberty Township Non-Uniformed Employees 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 Liberty Township Non-Uniformed Employees 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 - Employer Contribution Rate Changes Not Properly Adopted By Resolution
- Finding No. 2 – Noncompliance With Prior Audit Recommendation - Undocumented Transfer Of Pension Plan Funds
- Finding No. 3 – Excess Employer Contributions Made To Member's Account
- Finding No. 4 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Finding Nos. 1 and 2 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 these previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this report.

The contents of this report were discussed with officials of Liberty 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.

November 16, 2017

  
EUGENE A. DEPASQUALE  
Auditor General

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## BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The Act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the Liberty Township Non-Uniformed Employees Pension Plan is also governed by implementing regulations adopted by the former Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

The Liberty Township Non-Uniformed Employees Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of a resolution dated April 3, 2007. The plan was established January 1, 2007. Active members are not required to contribute to the plan. The municipality is required to contribute 7 percent of each participant's compensation. As of December 31, 2016, the plan had 1 active member.

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendation

Liberty Township has complied with the prior audit recommendation concerning the following:

- Allocation Of State Aid In Excess Of Entitlement

Township officials withdrew the excess state aid from the pension plan and deposited it into the police pension plan.

Noncompliance With Prior Audit Recommendations

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

- Employer Contribution Rate Changes Not Properly Adopted By Resolution

- Undocumented Transfer Of Pension Plan Funds

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Employer Contribution Rate Changes Not Properly Adopted By Resolution**

Condition: As disclosed in the prior audit report, employer contribution rate changes were not formally adopted by the township. The non-uniformed employees pension plan is currently controlled by the provisions of a Resolution dated April 3, 2007, which establishes the employer's contribution rate equal to 1.0% of each participant's compensation. However, in 2010, the township contributed 2.5% of each participant's compensation and since 2011, the township has contributed 7.0% of each participant's compensation. These amended rate changes have yet to be formally adopted by a resolution.

Criteria: As previously disclosed, the plan's governing document should contain the current employer contribution rate that has been formally approved by township officials to prevent improper or inconsistent funding of the pension plan.

Cause: Plan officials failed to adopt adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The continued failure to properly amend the employer contribution rate in the plan document could result in improper or inconsistent funding of the pension plan in relation to current practices.

Recommendation: We again recommend that municipal officials take appropriate action to formally adopt the annual employer contribution rate through a properly executed resolution.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: We are concerned that the municipality has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so. Compliance will be evaluated during our next audit of the plan.

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Noncompliance With Prior Audit Recommendation – Undocumented Transfer Of Pension Plan Funds**

Condition: As disclosed in the prior audit report, the assets of the pension plan were transferred from the original custodian to another custodian during 2011; however, there was no record of the transfer of funds being authorized by the Board of Township Supervisors in the minutes of any board meeting nor were there any resolutions or ordinances amending the plan to change the plan's custodian. In addition, the required procedures for the procurement of professional services outlined in Act 205 were not followed.

Criteria: Act 205 was amended on September 18, 2009, through the adoption of Act 44 of 2009. Among several provisions relating to municipal pension plans, Chapter 7-A of the act outlines procedures that municipalities must follow regarding the procurement of professional services contracts.

Section 702-A. Procurement for professional services contracts, states:

(a) Procedures. Each municipal pension system, including the Pennsylvania Municipal Retirement 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.

Furthermore, sound internal control procedures dictate that transfers of pension plan funds must be properly authorized and documented.

Cause: Plan officials failed to adopt adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The failure to document the authorization of fund transfers could lead to inaccuracies or improprieties in account transactions.

Recommendation: We again recommend that the township review the plan's asset transfer with their municipal solicitor and establish the required procedures pursuant to Act 205, as amended by Act 44 of 2009, to ensure the asset transfer is properly documented and that any future procurements of professional services are done pursuant to Act 205 provisions.

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.

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – Excess Employer Contributions Made To Member’s Account**

Condition: Excess employer contributions were made to a plan member’s account during the years 2013 through 2016, as illustrated below:

<u>Year</u>	<u>Actual Contributions</u>	<u>Required Contributions</u>	<u>Excess Contributions Made</u>
2013	\$ 3,123	\$ 2,666	\$ 457
2014	3,294	2,820	474
2015	3,303	2,806	497
2016	2,444	2,393	51
<u>Total</u>			<u>\$ 1,479</u>

Criteria: Township officials approved the plan’s annual minimum municipal obligation which established the municipal contribution rate at 7 percent of each participant’s authorized compensation as referred to in Finding No. 1 contained in this report.

Cause: An employee’s compensation was overstated; consequently, employer contributions were made to the employee’s account in excess of the required contributions. In addition, plan officials failed to establish adequate internal control procedures to ensure the contributions made to this member’s account were limited to authorized amounts.

Effect: Excess municipal contributions in the amount of \$1,479 were allocated to this member’s account. By making excess municipal contributions, the plan member could receive additional benefits beyond those outlined in the plan’s governing document.

Recommendation: We recommend the township review the improper contributions made to the account of this former plan member with their municipal solicitor and plan consultant, and determine whether the township can be reimbursed for the excess employer contributions made.

We also recommend that township officials establish adequate internal control procedures to ensure future employer contributions made to member accounts are in accordance with the rate of each employee’s compensation approved by the township.

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.

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid**

Condition: An employee’s payroll was overstated by \$6,518, \$6,779 and \$7,097 on the Certification Forms AG 385 filed during 2014, 2015 and 2016, respectively. The data contained on these certification forms is based on prior calendar year information. A similar condition occurred subsequent to the audit period. An employee’s payroll was overstated by \$738 on the Certification Form AG 385 submitted during 2017.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year and pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: Although W-2 earnings were certified, it was subsequently determined that one employee’s payroll was overstated. In addition, plan officials failed to establish adequate internal control procedures to ensure the accuracy of reported payroll amounts on the Certification Form AG 385.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the township’s 2014 and 2015 state aid allocations were based on unit value, the overstated payroll has no effect on state aid. However, because the township’s 2016 and 2017 state aid allocations were based on pension costs, the incorrect certification of pension data affected the township’s state aid allocations, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2016	7.0%	\$ 7,097	\$ 497
2017	7.0%	738	<u>52</u>
Total Overpayment of State Aid			<u><u>\$ 549</u></u>

In addition, the township used the overpayments of state aid to pay the minimum municipal obligations (MMOs) due to the non-uniformed pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMOs will not be fully paid.

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

Recommendation: We recommend that the total excess state aid, in the amount of \$549, be returned to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

We also recommend that in the future, plan officials establish adequate internal control procedures, such as having at least 2 people review the data certified, to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

In addition, if the reimbursement to the Commonwealth is made from non-uniformed pension plan funds, we recommend that any resulting MMO deficiencies be paid to the pension plan with interest, at a rate earned by the pension plan.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: Compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

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

Year Ended December 31	State Aid	Employer Contributions
2011	\$ 2,236	\$ 3,133
2012	1,783	4,173
2013	2,557	3,439
2014	357	6,293
2015	None	6,784
2016	6,942	None

LIBERTY TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

**Mr. John Bostek**  
Chairman, Board of Township Supervisors

**Mr. Robert Jackson**  
Vice-Chairman, Board of Township Supervisors

**Mr. Walter Barlow**  
Township Supervisor

**Ms. Wendy Peck**  
Chief Administrative Officer

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