

COMPLIANCE AUDIT

Black Creek Township Non-Uniformed Pension Plan Luzerne County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

February 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Supervisors
Black Creek Township
Luzerne County
Bloomsburg, PA 17815

We have conducted a compliance audit of the Black Creek Township Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2021. 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 finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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.
- 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 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 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 benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- 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.

The Black Creek Township Non-Uniformed Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Annual Comprehensive Financial Report, copies of which are available from the PMRS accounting office. PMRS's 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 Black Creek 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 Black Creek 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 finding further discussed later in this report:

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

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 Black Creek 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
January 13, 2023

CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Finding.....	2
Finding and Recommendation:	
Finding – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid	3
Supplementary Information	5
Report Distribution List	6

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 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 Black Creek 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 including, but not limited to, the following:

Act 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974 (P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

Act 69 - The Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended, 53 P.S. § 65101 et seq.

The Black Creek Township Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 1 of June 3, 2021 and a separately executed plan agreement with the plan's custodian, effective April 1, 2020, adopted pursuant to Act 15. Prior to April 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 5 of 2012 and a separately executed plan agreement with the plan's custodian, effective October 1, 2012, adopted pursuant to Act 15. The plan was established January 10, 1986. Active members are not required to contribute to the plan, but may optionally contribute up to, but no more than 20 percent of compensation to the plan. The municipality is required to contribute 5 percent of each member's compensation. As of December 31, 2021, the plan had 2 active members.

BLACK CREEK TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

Black Creek Township has complied with the prior recommendation concerning the following:

· Receipt Of State Aid In Excess Of Entitlement

During the current audit period, the township reimbursed \$2,970 to the Commonwealth for the interest due on the state aid overpayments received in the years 2012 and 2013 which were previously reimbursed.

BLACK CREEK TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The township failed to certify an eligible non-uniformed employee and understated payroll by \$42,608 on the Certification Form AG 385 filed in 2020. In addition, the township failed to certify an eligible non-uniformed employee and understated payroll by \$17,190 on the Certification Form AG 385 filed in 2021. The data contained on these certification forms is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), an employee who has been employed on a full-time basis for at least six consecutive months and has been participating in a pension plan during the certification year is eligible for certification.

Furthermore, Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Cause: Due to recent turnover in personnel responsible for the administration of the plan, current plan officials did not have a thorough understanding of the Certification Form AG 385 instructions or the limitations on earnings eligible for certification purposes. In addition, the township lacked adequate oversight procedures to ensure the accuracy of the data certified.

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 state aid allocations were based on pension costs, the township received an underpayment of state aid of \$2,990 as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Understated</u>	<u>State Aid Underpayment</u>
2020	5.0%	\$ 42,608	\$ 2,130
2021	5.0%	\$ 17,190	\$ 860
Total Underpayment of State Aid			<u>\$ 2,990</u>

BLACK CREEK TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Pursuant to Section 402(f)(2) of Act 205 cited in the Criteria above, the township's annual state aid allocations are limited to the plan's actual annual pension costs. Accordingly, the additional state aid to which the township is eligible is limited to \$180 in 2020 and \$464 in 2021, totaling \$644. Although the additional state aid will be allocated to the township, the full amount of the 2020 and 2021 state aid allocations were not available to be deposited timely and therefore resulted in the township having to make additional municipal contributions in order to meet the plan's funding obligation.

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two 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.

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.

BLACK CREEK TOWNSHIP NON-UNIFORMED PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Statutorily Required Contribution (SRC)*	Contributions in Relation to the SRC*	Contribution Deficiency (Excess)**	Covered- Employee Payroll***	Contributions as a Percentage of Covered- Employee Payroll
2014	\$ 6,957	\$ 6,957	\$ -	\$ 135,034	5.15%
2015	7,071	7,071	-	137,424	5.15%
2016	6,944	6,944	-	134,882	5.15%
2017	7,260	7,416	(156)	141,193	5.25%
2018	4,758	220	4,538	91,166	0.24%
2019	5,937	2,701	3,236	114,340	2.36%
2020	5,020	5,020	-	95,198	5.27%
2021	4,075	4,075	-		

* The Statutorily Required Contribution (SRC) is a contribution amount based upon the payroll and the contribution rate as outlined under the terms of the cash balance pension plan.

** The Statutorily Required Contribution and the actual Contribution were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account.

*** Due to the timing of this audit, covered-employee payroll for 2021 was not provided in this schedule.

Note: In 2018, the township met the plan's \$4,758 funding requirement through the deposit of \$200 in employer contributions and the allocation of \$4,558 in terminated employee forfeitures. In 2019, the township met the plan's \$5,937 funding requirement through the deposit of \$1,176 in state aid, the allocation of \$4,747 in terminated employee forfeitures, and a \$20 transfer from the municipal reserve account.

BLACK CREEK 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

Dr. Saura Rohrbach
Chairwoman, Board of Township Supervisors

Ms. Rachel Lipski
Township Secretary

Mr. Richard Cardamone, CPA, CGMA
Pennsylvania Municipal Retirement System

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.