COMPLIANCE AUDIT

Clinton Township Non-Uniformed Employees Pension Plan

Lycoming County, Pennsylvania

For the Period
January 1, 2018 to December 31, 2022

June 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
Clinton Township
Lycoming County
Montgomery, PA 17752

We have conducted a compliance audit of the Clinton Township Non-Uniformed Employees Pension Plan for the period January 1, 2018 to December 31, 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 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. 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 the plan member who retired and the plan member who separated employment and received a lump-sum distribution 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 pension benefits due to the retired individual 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.

Clinton Township contracted with an independent certified public accounting firm for an audit of its financial statements for the year ended December 31, 2022, prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, which is 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 it.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Clinton Township Non-Uniformed Employees 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 Clinton 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 finding further discussed later in this report:

Finding – Incorrect Data Certified On Actuarial Valuation Report Resulting In An Overpayment Of State Aid

The contents of this report were discussed with officials of Clinton 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
May 5, 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 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 Clinton Township Non-Uniformed Employee's 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 Clinton Township Non-Uniformed Employee's Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 94-2, as amended, and a separately executed plan agreement with the plan's custodian restated January 1, 2013. The plan was established April 1, 1987. Active members are not required to contribute to the plan. The municipality was required to contribute 10 percent of each member's compensation for years 2018 and 2019, and 14 percent of each member's compensation for years 2020, 2021 and 2022. As of December 31, 2022, the plan had one active member.

CLINTON TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

Clinton Township has complied with the prior recommendation concerning the following:

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

  During the current audit period, municipal officials complied with the instructions that accompany Certification Form AG 385 and accurately reported the required pension data.

Finding – Incorrect Data Certified On Actuarial Valuation Report Resulting In An Overpayment Of State Aid

Condition: Actuarial valuation report form Type A for the non-uniformed employee's pension plan, with a valuation date January 1, 2019, submitted to the Municipal Pension Reporting Program (MPRP), contained incorrect information. The township reported a municipal contribution rate of 14 percent when the actual municipal contribution rate in effect as of the January 1, 2019, valuation date was 10 percent according to the plan's governing document.

Criteria: Section 201(d) of Act 205 states:

> Responsibility for preparation and filing of reports and investigations. The actuarial valuation report or experience investigation required pursuant to subsection (a) shall be prepared under the supervision and at the discretion of the chief administrative officer of the municipality, who shall be responsible for the filing of the document. The actuarial valuation report or experience investigation shall be signed by the chief administrative officer, indicating that to the extent of the understanding and knowledge of the officer, the report or investigation represents a true and accurate portrayal of the actuarial, financial, and demographic condition of the pension plan of the municipality.

In addition, Section 202(a) of Act 205, states in part, that the actuarial valuation report shall contain actuarial exhibits, financial exhibits and demographic exhibits…. The financial and demographic exhibits shall be prepared as of the end of the prior year.

Cause: Due to recent turnover in personnel responsible for the administration of the plan, current officials were unaware what information was provided to the consultant, at the time of completion of the actuarial valuation report but believed that the new contribution rate, modified and effective 7/22/2019, was accurately reported on the report *(refer to Management Response below)*.

Effect: Because the municipality's state aid allocations are determined, in part, by the information contained in the actuarial valuation report, the submission of incorrect data resulted in the municipality receiving state aid for the years 2020 and 2021 incorrectly based on a normal cost percentage of 14%, instead of 10%. As a result, the township received excess state aid, as follows:

Year	Normal Cost	Payroll	State Aid Entitlement	State Aid Received	Excess State Aid
2020	10.00%	$ 58,174	$ 5,817	$ 8,144	$ 2,327
2021	10.00%	60,586	6,059	7,990*	1,931
		Total	$ 11,876	$ 16,134	$ 4,258

** The amount has been adjusted to reflect the remaining 2021 excess state aid (i.e., $492 was previously reimbursed to the Commonwealth on January 25, 2022).*

Finding – (Continued)

In addition, the township used the state aid overpayments to pay the minimum municipal obligations (MMOs) due 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.

Furthermore, the township's future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the total excess state aid, in the amount of $4,258, 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 evidence of payment.

In addition, if the reimbursement to the Commonwealth is made from non-uniformed employee's 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.

We also recommend that, in the future, plan officials review and verify all information submitted to the Municipal Pension Reporting Program so that future actuarial valuation reports properly reflect the status of the pension plan as of the respective valuation date.

Management's Response: The municipality provided the following response:

> Regarding the recent finding, the Township requests the Auditor General's office please take time to review and meet with the Township and their 3rd Party Administrator. We along with the 3rd Party Administrator feel that an in-person meeting would benefit both parties and help explain why the Act 205 Valuation Report was filed in the manner it was.
>
> In a prior communication, it was stated by Management of the Auditor General that:
>
> > **"Act 205 Reports are used for the state aid allocations for the two subsequent years. The 2019 Act 205 Report is used for the 2020 and 2021 State Aid calculations…"**
>
> Our disagreement, as the Third-Party Administrator for the Township, remains the same. The Township passed the change prior to the [*sic*] filing the Act 205 report knowing they were going to be contributing more towards their employee's retirement accounts. Knowing that the intent was to increase the contribution percentage and applying the logic from the above statement the Township projected the State Aid calculations needed for 2020 and 2021 where they ultimately contributed on the 14% rate and not the 10% rate.

Finding – (Continued)

> The concept applied to this plan change is the same as that of an interest assumption change in a Defined Benefit plan. If a Defined Benefit plan were to adjust the interest assumption positively or negatively in an Act 205 Report, it would directly impact their Normal Cost Percentage. Which in turn, would affect how they received their state funding.
>
> The Township adjusted their Contribution Percentage i.e., their "Normal Cost", to allow the Township to receive the appropriate funding for future contributions they were going to make to their plan.
>
> We feel that proper procedures were followed, and all changes were made prior to filing of the report. We don't feel this is a fair interpretation by the AG's office and therefore we are requesting the finding be rescinded.
>
> Prior to filing the Final Audit Report, we would like to present our case in person or via a zoom interview with the Formal Reviewer. We are optimistic that a resolution can be achieved and look forward to hearing from you.

Auditor's Conclusion: On May 5, 2023, the Regional Manager for the Bureau of Municipal Pension Audits held a phone discussion with the CAO and plan consultant reiterating the bureau's position on the matter. Although municipal officials requested an additional discussion with the Bureau Reviewer, the following explanation has been included for clarification purposes.

The department acknowledges but disagrees with the township's position based on provisions of Act 205. The general municipal pension state aid program is a reimbursement-based allocation methodology based on costs already incurred by a municipality in funding its municipal pension plans. The pension costs, which are reported biennially on an actuarial valuation report, along with the annual certification of prior year's payroll on the Certification Form AG 385, are used as determining factors in the calculation and allocation of a municipality's current year state aid to reimburse such municipality for costs previously incurred which may be used to fund its current municipal funding obligation. It is not a system to "match up" a municipality's subsequent pension costs before these costs are even incurred, Therefore, reporting a contribution rate that is not in effect at the valuation date *(i.e., 1-1-2019, in this case)* in order to receive a reimbursement before the cost is incurred is not authorized under the general municipal pension state aid program and does not represent a "true and accurate portrayal" *(see Criteria section above)* of the municipality's contributory requirements as of the valuation date. Therefore, the issue remains as stated. Due to the potential withhold of state aid, the township's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the plan.

CLINTON TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

The finding contained in this audit report cites an overpayment of state aid to the township in the amount of $4,258, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, 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.

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

Year Ended December 31	State Aid	Employer Contributions
2017	$ 3,501	$ 3,083
2018	6,584	2,424
2019	7,048	1,779
2020	8,144	2,328
2021	7,990	None
2022	5,180	3,305

CLINTON TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Patrick Deitrick
Chairman, Board of Township Supervisors

Ms. Holly Wertz
Secretary/Treasurer

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.