COMPLIANCE AUDIT

Derry Township Police Pension Plan

Dauphin County, Pennsylvania For the Period January 1, 2015 to December 31, 2018

December 2019



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 Derry Township Dauphin County Hershey, PA 17033

We have conducted a compliance audit of the Derry Township Police Pension Plan for the period January 1, 2015 to December 31, 2018. 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.

- 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 whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan.
- We determined whether retirement benefits calculated for all seven of the plan members who retired 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 monthly pension benefit due to retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- We determined whether the January 1, 2015 and January 1, 2017 actuarial valuation reports were prepared and submitted by March 31, 2016 and 2018, 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 all annual special ad hoc postretirement reimbursements received by the municipality were authorized and appropriately deposited in accordance with Act 147 by tracing information to supporting documentation maintained by plan officials.
- · We determined whether provisions of the Deferred Retirement Option Plan (DROP) were in accordance with the provisions of Act 205 by examining provisions stated in the plan's governing documents.

Derry Township contracted with an independent certified public accounting firm for annual audits of its basic financial statements 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 Derry Township Police 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 Derry Township Police 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 Plan's Governing Document Fails To Contain An Intervening Military Service Credit Provision
- Finding No. 2 Noncompliance With Prior Audit Recommendation In-Service Retirement Option Plan Not Adopted By Ordinance
- Finding No. 3 Noncompliance With Prior Audit Recommendation Unauthorized Provision For A Killed In Service Benefit

The findings 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 those previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this audit report.

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 Derry 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.

EUGENE A. DEPASQUALE

Eugust: O-Pager

Auditor General

December 3, 2019

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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 Derry Township Police 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 including, but not limited to, the following:

- Act 147 Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.
- Act 600 Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Derry Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 180, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers. The plan was established October 1, 1977. Active members are required to contribute 2 percent of compensation to the plan. As of December 31, 2018, the plan had 36 active members, 2 terminated members eligible for vested benefits in the future, and 27 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2018, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement Available upon age 50 and 25 years of service.

Early Retirement Eligible with 20 years of service.

Vesting A member is 100% after 12 years of service.

Retirement Benefit:

Benefit equals 50% of average monthly compensation based on last 36 months of service.

Survivor Benefit:

Before Retirement Eligibility Refund of member contributions plus interest.

After Retirement Eligibility Benefit equal to 50% of benefit to surviving spouse or

eligible child.

Service Related Disability Benefit:

Benefit equals 50% of the member's monthly compensation at the time of the disability.

DERRY TOWNSHIP POLICE PENSION PLAN STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

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

- Pension Benefits Not In Compliance With Act 600 Provisions;
- · In-Service Retirement Option Plan Not Adopted By Ordinance; and
- · Unauthorized Provision For A Killed In Service Benefit.

Finding No. 1 - Noncompliance With Prior Audit Recommendation - Plan's Governing Document Fails To Contain An Intervening Military Service Credit Provision

<u>Condition</u>: As disclosed in our five prior audit reports, the pension plan's governing document does not contain an intervening military service credit provision, as required by Act 600.

Criteria: Section 4(a) of Act 600 states:

Any member of the police force employed by a borough, town, township or regional police department, who has been a regularly appointed employee of any such political subdivision or regional police department for a period of at least six months and who thereafter shall enter into military service of the United States, shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment within six months after his separation from the service.

<u>Cause</u>: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

<u>Effect</u>: The failure to include an intervening military service credit provision could result in a potential unfunded liability to the plan or the denial of benefits to which plan members are entitled under Act 600.

<u>Recommendation</u>: We again recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to bring the police pension plan's benefit structure into compliance with Act 600, as amended, at their earliest opportunity to do so.

<u>Management's Response</u>: Derry Township shall, in consultation with its Solicitor, take the necessary action to amend the Police Pension Plan Benefit Structure and bring it into compliance with Act 600, as amended.

<u>Auditor's Conclusion</u>: We are concerned that the township has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

<u>Finding No. 2 – Noncompliance With Prior Audit Recommendation – In-Service Retirement</u> Option Plan Not Adopted By Ordinance

<u>Condition</u>: As disclosed in our prior three audit reports, the terms, provisions and conditions of the In-Service Retirement Option Plan (IROP) were adopted in an addendum to collective bargaining between Derry Township and the Derry Township Police Association, dated February 27, 2007, effective January 1, 2007. However, the terms and conditions of the IROP have not been formally adopted by an ordinance that would properly amend the plan's benefit structure.

Criteria: Act 600 at Section 1(a)(1) states, in part:

Each borough, town and township of this Commonwealth maintaining a police force of three or more full-time members and each regional police department shall, and all other boroughs, towns or townships may, establish, by ordinance or resolution, a police pension fund. . . .

Furthermore, in <u>Wynne v. Lower Merion Township</u>, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

<u>Cause</u>: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

<u>Effect</u>: The failure to include the IROP benefit provisions in the plan's governing document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

<u>Recommendation</u>: We again recommend that municipal officials take appropriate action to formally adopt the IROP through a properly executed ordinance.

<u>Management's Response</u>: Derry Township shall, in consultation with its Solicitor, take the appropriate actions to formally adopt the IROP through a properly executed ordinance.

<u>Auditor's Conclusion</u>: We are concerned that the township has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

<u>Finding No. 3 – Noncompliance With Prior Audit Recommendation – Unauthorized Provision For A Killed In Service Benefit</u>

Condition: Derry Township maintains a police pension plan governed by the provisions of Act 600, as amended. Prior to the adoption of Act 51 of 2009, Act 600 contained a mandatory killed in service benefit provision; however, Act 51 specifically repealed the section of Act 600 that referenced the mandatory killed in service benefit, as disclosed in our two prior audit reports. During the current audit period, it has been determined that the pension plan's governing document continues to provide for a killed in service benefit that is no longer authorized by Act 600.

Section 4.2(a) of Ordinance No. 551 states:

Service-Connected Death Benefit – If an active participant dies on or after April 17, 2002, while performing police services for the employer, the participant's surviving spouse or eligible child (if any) shall receive a monthly benefit equal to 100% of the participant's monthly salary at the time of death.

<u>Criteria</u>: Section 1(a) of Act 51 of 2009 states, in part:

In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head, within 90 days from the date of death, shall submit certification of such death to the Commonwealth.

In addition, Section 1(d) of Act 51 of 2009 states, in part:

... the Commonwealth shall, from moneys payable out of the General Fund, pay to the surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section, and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection,

Finding No. 3 – (Continued)

the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. [Emphasis added.]

Furthermore, Section 2 of Act 51 of 2009 states:

Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.
- (2) The following parts of acts are repealed:
 - (i) Section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No. 600), referred to as the Municipal Police Pension Law.
 - (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of December 18, 1984 (P.L.1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

Therefore, since Act 51 specifically repealed the killed in service provision of Act 600 and the funding provisions for the killed in service benefit that were contained in Act 205, the provision of a killed in service benefit is no longer authorized.

<u>Cause</u>: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

<u>Effect</u>: Since Section 1 of Act 51 provides that the Commonwealth is obligated to pay the killed in-service benefit less any pension or retirement benefits paid to eligible survivors, the continued provision of a killed in service benefit could result in the pension plan being obligated to pay a benefit that is no longer authorized by Act 600, and would have been paid entirely by the Commonwealth absent such provision.

<u>Recommendation</u>: We again recommend that the municipality review the plan's killed in service benefit with its solicitor in conjunction with Act 51 of 2009 and eliminate this unauthorized benefit provision at its earliest opportunity to do so.

Finding No. 3 – (Continued)

<u>Management's Response</u>: Derry Township shall, in consultation with its Solicitor, take the necessary actions to amend the Police Pension Plan Benefit Structure and bring it into compliance with Act 600, as amended, to remove the Killed In Service benefit as detailed in Act 51 of 2009.

<u>Auditor's Conclusion</u>: We are concerned that the township has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

The supplementary information contained on Pages 9 and 10 reflects the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans*. The objective of this statement is to improve financial reporting by state and local governmental pension plans.

SCHEDULE OF CHANGES IN THE NET PENSION LIABILITY AND RELATED RATIOS FOR THE YEARS ENDED DECEMBER 31, 2015, 2016, 2017, AND 2018

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Pension Liability				
Service cost	\$ 529,673	\$ 558,805	\$ 590,154	\$ 622,612
Interest	1,357,661	1,454,441	1,579,711	1,679,393
Difference between expected and actual experience	-	-	(199,801)	-
Changes of assumptions	-	-	582,970	-
Benefit payments, including refunds of member contributions	(625,317)	(674,167)	(840,143)	(719,132)
Net Change in Total Pension Liability	1,262,017	1,339,079	1,712,891	1,582,873
Total Pension Liability – Beginning	17,972,656	19,234,673	20,573,752	22,286,643
Total Pension Liability – Ending (a)	\$ 19,234,673	\$ 20,573,752	\$ 22,286,643	\$ 23,869,516
Plan Fiduciary Net Position				
Contributions – employer	\$ 1,111,782	\$ 959,589	\$ 987,226	\$ 987,638
Contributions – member	104.011	110,174	111,072	110,615
Net investment income	352,508	1,164,094	2,148,013	(545,831)
Benefit payments, including refunds of member contributions	(625,317)	(674,167)	(840,143)	(719,132)
Administrative expense	(6,300)	(4,000)	(17,307)	(12,038)
Net Change in Plan Fiduciary Net Position	936,684	1,555,690	2,388,861	(178,748)
Plan Fiduciary Net Position – Beginning	15,209,392	16,146,076	17,701,766	20,090,627
Plan Fiduciary Net Position – Ending (b)	\$ 16,146,076	\$ 17,701,766	\$ 20,090,627	\$ 19,911,879
Train Fiduciary Net Fosition – Ending (b)	\$ 10,140,070	\$ 17,701,700	\$ 20,090,027	\$ 19,911,079
Net Pension Liability – Ending (a-b)	\$ 3,088,597	\$ 2,871,986	\$ 2,196,016	\$ 3,957,637
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	83.94%	86.04%	90.15%	83.42%
Estimated Covered Employee Payroll	\$ 3,748,331	\$ 3,839,792	\$ 3,782,543	\$ 3,813,166
Net Pension Liability as a Percentage of Covered Employee Payroll	82.40%	74.80%	58.06%	103.79%

Sensitivity Of The Net Pension Liability To Changes In The Discount Rate

The following presents the net pension liability of the township as of December 31, 2015, 2016, 2017, and 2018, calculated using the discount rate of 7.50%, as well as what the township's net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	1% Decrease (6.50%)		Current Discount Rate (7.50%)		1% Increase (8.50%)	
Net Pension Liability – 12/31/15	\$	5,449,285	\$	3,088,597	\$	1,106,845
Net Pension Liability – 12/31/16	\$	5,346,648	\$	2,871,986	\$	793,167
Net Pension Liability – 12/31/17	\$	4,934,132	\$	2,196,016	\$	(94,938)
Net Pension Liability – 12/31/18	\$	6,823,201	\$	3,957,637	\$	1,559,038

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, 2013, is as follows:

	(1)	(2)	(3)	(4)
			Unfunded	
		Actuarial	(Assets in	
		Accrued	Excess of)	
	Actuarial	Liability	Actuarial	
Actuarial	Value of	(AAL) -	Accrued	Funded
Valuation	Assets	Entry Age	Liability	Ratio
Date	(a)	(b)	(b) - (a)	(a)/(b)
01-01-13	\$ 11,105,463	\$ 15,973,499	\$ 4,868,036	69.5%
01-01-15	15,209,392	17,972,656	2,763,264	84.6%
01-01-17	17,701,766	20,956,921	3,255,155	84.5%

Note: The market value of the plan's assets at 01-01-13 has been adjusted to reflect the smoothing of gains and/or losses over a five-year averaging period subject to a corridor between 80 to 120 percent of market value of assets. 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.

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.

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2013	\$ 969,383	100.0%
2014	1,003,748	100.0%
2015	1,111,782	100.0%
2016	959,589	100.0%
2017	987,226	100.0%
2018	987,638	100.0%

DERRY TOWNSHIP POLICE PENSION PLAN SUPPLEMENTARY INFORMATION NOTES TO SUPPLEMENTARY SCHEDULES (UNAUDITED)

The information presented in the 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, 2017

Actuarial cost method Entry age normal

Amortization method Level dollar

Remaining amortization period 9 years

Asset valuation method Market value

Actuarial assumptions:

Investment rate of return 7.50%

Projected salary increases 5.50%

Cost-of-living adjustments None assumed

DERRY TOWNSHIP POLICE PENSION PLAN REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf

Governor Commonwealth of Pennsylvania

Ms. Susan Cort

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