

# COMPLIANCE AUDIT

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## Donegal Township Non-Uniformed Union Pension Plan

Washington County, Pennsylvania  
For the Period  
January 1, 2017 to December 31, 2020

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March 2022



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  
Donegal Township  
Washington County  
West Alexander, PA 15376

We have conducted a compliance audit of the Donegal Township Non-Uniformed Union Pension Plan for the period January 1, 2017 to December 31, 2020. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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, 2015 to December 31, 2020, 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, 2015 to December 31, 2020, 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.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, 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 payments made to the multi-employer union pension plan were in accordance with the provisions contained in the collective bargaining agreement for the periods January 1, 2015 to December 31, 2018 and July 1, 2017 to December 31, 2022.

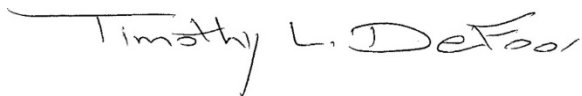
The township's non-uniformed union employees participate in the International Union of Operating Engineers Local No. 66 affiliated with the AFL-CIO, a Taft-Hartley Act collectively bargained, jointly trustee, multi-employer pension plan, which is governed primarily by the Federal Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides for substantial federal government oversight of the operating and reporting practices of employee benefit plans subject to its provisions. Accordingly, the scope of our audit was restricted to the activities of the ~ Pension Plan and did not extend to the activities of the multi-employer pension plan.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Donegal Township Non-Uniformed Union 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 objective.

The results of our procedures indicated that, in all significant respects, the Donegal Township Non-Uniformed Union 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 – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid
- Finding No. 3 – Late Filing Of Actuarial Valuation Reports

The contents of this report were discussed with officials of Donegal 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  
Auditor General  
February 23, 2022

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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 Donegal Township Non-Uniformed Union 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.

As further described in the Letter from the Auditor General included in this report, the township's non-uniformed union employees participate in the International Union of Operating Engineers Local No. 66 affiliated with The AFL-CIO. The Donegal Township Non-Uniformed Union Pension Plan is also locally controlled by the provisions of the agreement between Donegal Township and International Union of Operating Engineers Local 66 affiliated with the AFL-CIO. The plan was established January 1, 2000. Active members are not required to contribute to the plan. The municipality is required to contribute 100 percent of the maximum amount of state reimbursement per Act 205, plus an additional fifty cents. As of December 31, 2020, the plan had 4 active members.

DONEGAL TOWNSHIP NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan**

Condition: The municipality did not fully deposit its state aid allocations into an eligible pension plan in accordance with Act 205. The municipality received its state aid allocations in the amounts of \$40,023, \$36,576, \$42,599, and \$45,234, on September 20, 2018, September 18, 2019, March 2, 2021, and September 28, 2021, respectively; however, as of the date of this report, only state aid totaling \$119,220 was actually deposited into the township’s pension plans.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension funds or the alternate funding mechanisms applicable to the respective pension plans.

Cause: The township experienced turnover in administrative personnel responsible for the pension plan and as such, plan officials assuming plan responsibilities were unaware of applicable Act 205 provisions regarding the deposit of the state aid.

Effect: When state aid is not deposited into a pension plan account, the funds are not available to fund pension obligations, expenses or for investment and the risk of misapplication is increased.

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

Recommendation: We recommend that the municipality deposit its remaining state aid allocation of \$44,835 (*\$45,212 outstanding less the \$377 required to be returned to the Commonwealth disclosed in Finding No. 2*), plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually into an eligible pension plan. A copy of the interest calculation must be maintained by the township for examination during our next audit of the plan.

We also recommend that plan officials develop and implement procedures to ensure that future state aid is deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer in accordance with Act 205.

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

Auditor’s Conclusion: 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.

DONEGAL TOWNSHIP NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid**

Condition: The township failed to certify an eligible police officer (2 units) and understated total payroll by \$32,013 on the Certification Form AG 385 filed in 2018. In addition, the township certified an ineligible police officer (2 units) and overstated police payroll by \$14,257 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), 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. . In addition, 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: As indicated earlier in this report, the township experienced turnover in administrative personnel responsible for the pension plan and additionally, the township lacked adequate internal control procedures, such as having another individual review the accuracy of the data certified, to ensure compliance with Act 205.

Effect: The data submitted on this certification form 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 allocation was based on pension costs in 2018, the township was entitled to an allocation of \$41,704. As a result, the township received an underpayment of state aid in the amount of \$1,681 in 2018. Conversely, the township's state aid allocation for 2021 was originally based on pension costs in the amount of \$45,234. However, based on the corrected information, the township was entitled to an allocation based on unit value of \$43,176. As a result, the township received a total net overpayment of state aid in the amount of \$2,058 in 2021.

Recommendation: We recommend that the net overpayment of state aid, in the amount of \$377, plus interest, 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 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.



DONEGAL TOWNSHIP NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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

Auditor’s Conclusion: 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 pension plan.

**Finding No. 3 – Late Filing Of Actuarial Valuation Reports**

Condition: Actuarial valuation reports, Form Type A, for the non-uniformed union plan with valuation dates of January 1, 2017 and January 1, 2019 were not submitted to the Municipal Pension Reporting Program (MPRP) by the March 31, 2018 and March 31, 2020, deadline, as required by Act 205. The actuarial valuation reports were not received by MPRP until May 21, 2018 and December 11, 2020, respectively.

Criteria: Section 201(a) of Act 205 states, in part:

Each municipality which has established or maintains a pension plan for its employees, including any municipality which participates in the Pennsylvania Municipal Retirement System, shall cause to be made actuarial valuation reports. Actuarial valuation reports shall be made biennially, unless the applicable municipality is applying or has previously applied for supplemental State assistance pursuant to Section 603, whereupon actuarial valuation reports shall be made annually.

Furthermore, Section 201(b) of Act 205 states, in part:

The biennial actuarial valuation report required pursuant to subsection (a) shall be made as of the beginning of each plan year occurring in an odd-numbered calendar year and shall be filed with the executive director of the commission no later than the last business day of March occurring in the following calendar year.

In addition, Section 204 of Act 205 provides:

If a complete actuarial valuation report or experience investigation is not filed in a timely fashion, any and all financing which is provided to the municipality by the Commonwealth and is dedicated for pension plan purposes shall be withheld until the report or investigation is filed.

DONEGAL TOWNSHIP NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

Finally, Section 402(e)(7) of Act 205 states, in part:

Any municipality which has not filed with the commission on a timely basis, pursuant to the applicable municipal pension plan actuarial reporting law, an actuarial report for each of the municipal pension plans which it has established or maintains shall be entitled to receive as general municipal pension system State aid, at such time as compliance with the actuarial reporting requirement occurs, the adjusted amount of general municipal pension system State aid per unit . . . .

Cause: Due to turnover in administrative personnel responsible for the pension plan, the actuarial valuation reports were not submitted timely because new plan officials were not familiar with Act 205 filing deadlines.

Effect: Due to the late filing of the 2019 actuarial valuation report, the municipality's 2020 state aid was withheld until the necessary report was filed and state aid, in the amount of \$42,599, was not released until March 2, 2021, 154 days after the release of state aid to those municipalities who submitted their reports by the filing deadline. Consequently, for 154 days, the municipality did not have its state aid available to use for operating expenses and investment opportunities.

Recommendation: To ensure that future actuarial filing deadlines are met in a timely manner and to improve pension plan administration, we recommend that plan officials develop and implement internal control procedures, such as a calendar listing the various reporting and filing deadlines required by Act 205, including the actuarial valuation report filing date.

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.

DONEGAL TOWNSHIP NON-UNIFORMED UNION PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by Finding No. 1 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

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

Year Ended December 31	State Aid	Employer Contributions
2015	\$ 9,079	\$ 5,682
2016	2,108	14,255
2017	20,444	None
2018	18,368	None
2019	22,329	None
2020	25,650	None

DONEGAL TOWNSHIP NON-UNIFORMED UNION PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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

**Mr. Jim Bauer**  
Chairman, Board of Township Supervisors

**Ms. Heather Wood**  
Secretary

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).