

COMPLIANCE AUDIT

Dunmore Borough Non-Uniformed Pension Plan

Lackawanna County, Pennsylvania

For the Period

January 1, 2017 to December 31, 2018

April 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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

**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Dunmore Borough
Lackawanna County
Dunmore, PA 18512

We have conducted a compliance audit of the Dunmore Borough Non-Uniformed Pension Plan for the period January 1, 2017 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 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 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 finding 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 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 benefit due to the retired individual and comparing this amount to supporting documentation evidencing the amount determined and actually paid to the recipient.
- We determined whether the January 1, 2017 actuarial valuation report was prepared and submitted in accordance with Act 205 and whether selected information provided on this report 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 and methodologies of the issuance of pension obligation bonds by the municipality, and any restrictions were in compliance with plan provisions and Act 205 through inquiry of plan officials and examination of supporting documentation.

Dunmore Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements, which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Dunmore Borough Non-Uniformed 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 borough's internal controls as they relate to the borough'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 Dunmore Borough 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 – Noncompliance With Prior Audit Recommendation – Unauthorized
Pension Benefit

The finding contained in this audit report repeats a condition that was cited in our previous audit report that has not been corrected by borough officials. We are concerned by the borough's failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendation 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 Dunmore Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.

March 16, 2020



EUGENE A. DEPASQUALE
Auditor General

CONTENTS

	<u>Page</u>
Background	1
Status of Prior Finding	3
Finding and Recommendation:	
Finding – Noncompliance With Prior Audit Recommendation – Unauthorized Pension Benefit	4
Supplementary Information	6
Comments	10
Report Distribution List	11

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 Dunmore Borough Non-Uniformed 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 Dunmore Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 9 of 1972, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established September 9, 1972. Active members are required to contribute 3 percent of compensation to the plan. As of December 31, 2018, the plan had 8 active members, 1 terminated member eligible for vested benefits in the future, and 8 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	Age 55 and 15 years of service.
Early Retirement	None
Vesting	100% vesting available after 5 years of service.

Retirement Benefit:

Benefit equal to one-half of the average monthly salary of the participant during the last 12 months of employment.

Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Retirement Eligibility	None

Service Related Disability Benefit:

None

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

Dunmore Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Unauthorized Pension Benefit

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding - Noncompliance With Prior Audit Recommendation – Unauthorized Pension Benefit

Condition: As disclosed in the two prior audit reports, a plan member terminated employment with the borough previously on December 24, 2014 and was eligible for a vested pension benefit payable beginning in August 2017. However, borough officials improperly calculated a normal retirement benefit for the member and began making payments to the member in January 2015.

Criteria: An ordinance dated November 29, 1995, at Section 6 states, in part:

A vested benefit is payable on the member's superannuation retirement date (date when both age and service requirements would have been met). The vested benefit is calculated as follows: 50% of the member's average salary over the last 12 months of employment multiplied by a fraction, the numerator of which is the number of full years from entry into the plan to the date on which the determination is made and denominator of which is the years from entry into the plan to normal retirement date.

Cause: Municipal officials were aware that this individual was 32 months short of a full retirement benefit; however, they agreed to pay an unreduced normal retirement in lieu of making continued post-retirement health care benefit payments for the member and member's spouse for the contractually obligated 36 months. Additionally, the municipality disclosed its disagreement with the department's position regarding this issue in the prior audit report and, as such, took no further corrective action to comply with the recommendation.

Effect: By receiving a normal retirement benefit, the pensioner began receiving a benefit of \$1,779 per month on January 1, 2015; instead of a reduced vested benefit of \$1,423 beginning on the member's superannuation retirement date of August 28, 2017.

Providing unauthorized pension benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. In the future, the unauthorized pension benefit may result in the receipt of excess state aid and will increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that the pension benefit of the aforementioned retiree be adjusted to the authorized vested benefit the retiree is eligible to receive.

Furthermore, to the extent that the borough continues to pay pension benefits in excess of those authorized by the plan's governing document, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the excess benefits on the borough's future state aid allocations and submit this information to the department. If it is determined, the excess benefits had an impact on the borough's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

Management's Response: Municipal officials indicated that the borough's intention is not to reduce the retirement incentive benefit. Moving forward, the borough may consider amending the governing document to include an early retirement clause.

Auditor's Conclusion: Based on the criteria cited above, the finding remains as stated. Compliance will be evaluated during our next audit of the plan.

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

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)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-13	\$ 890,653	\$ 1,985,941	\$ 1,095,288	44.8%
01-01-15	1,854,681	2,193,132	338,451	84.6%
01-01-17	2,220,399	2,205,289	(15,110)	100.7%

Note: The market values of the plan's assets at 01-01-13 and 01-01-15 have been adjusted to reflect the smoothing of gains and/or losses over a five-year averaging period. 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.

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

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.

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2013	\$ 172,364	100.0%
2014	187,870	100.0%
2015	179,607	100.0%
2016	173,827	100.0%
2017	70,680	100.0%
2018	17,791	100.0%

DUNMORE BOROUGH NON-UNIFORMED 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	Not applicable
Remaining amortization period	None
Asset valuation method	Fair value
Actuarial assumptions:	
Investment rate of return	8.0%
Projected salary increases	6.0%

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
COMMENTS

Debt Service Obligations

In 2004, the borough issued General Obligation Pension Funding Bonds - Series of 2004 in the amount of \$4,115,000 for the purpose of providing money to fund a portion of the borough's unfunded actuarial accrued pension liability for its pension plans and for the cost of issuance. The borough made payments toward the debt service (principal and interest) on these bonds in the amounts of \$384,160 and \$398,485 for the years 2017 and 2018, respectively, and a final payment of \$407,947 in subsequent year 2019.

In addition, during the year ended December 31, 2013, the borough obtained a General Obligation Note – Series A of 2013 in the amount of \$5,000,000 for the purpose of making contributions to its pension plans. A portion of the proceeds from the note in the amount of \$723,021 was deposited into the non-uniformed pension plan to fund the past due 2012 minimum municipal obligation (MMO) payment and to fully pay the 2013 MMO due to the plan. The borough made monthly payments of \$35,724 towards the principal and interest totaling \$466,194 and \$398,318 in 2017 and 2018, respectively, and an additional \$428,683 in subsequent year 2019. The monthly payments for this note are due until February 2, 2028.

Finally, during the year ended December 31, 2016, the borough obtained a General Obligation Note – Series A of 2016 in the amount of \$5,000,000 for the purpose of making contributions to its pension plans. A portion of the proceeds from the note in the amount of \$619,897 was deposited into the non-uniformed pension plan to fund the outstanding 2014 and 2015 MMO balances due to the plan, and to fully pay the 2016 MMO balance due to the plan. During the current audit period, the borough began making monthly payments in the amount of \$36,012 towards the outstanding principal and interest on the note, which totaled \$432,144 for each of the years 2017 and 2018, and subsequent year 2019. The monthly payments for this note are due until December 16, 2031.

The following schedule summarizes the total amounts paid by the borough towards its debt service obligations for the benefit of its pension plans during and subsequent to the current audit period:

<u>Years Paid</u>	<u>Series of 2004 Payments</u>	<u>Series of 2013 Payments</u>	<u>Series of 2016 Payments</u>	<u>Total</u>
2017	\$ 384,160	\$ 466,194	\$ 432,144	\$ 1,282,498
2018	398,485	398,318	432,144	1,228,947
2019	407,947	428,683	432,144	1,268,774
Totals	<u>\$ 1,190,592</u>	<u>\$ 1,293,195</u>	<u>\$ 1,296,432</u>	<u>\$ 3,780,219</u>

DUNMORE BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Timothy M. Burke
Mayor

Mr. Michael A. Dempsey, Esq.
Council President

Mr. Thomas J. Hallinan
Council Vice President

Mr. Vincent Amico
Council Member

Ms. Janet Brier
Council Member

Mr. Thomas Ehnnot
Council Member

Ms. Carol Scrimalli
Council Member

Ms. Elizabeth Zangardi
Council Member

Mr. Vito P. Ruggiero
Municipal Administrator

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.