

COMPLIANCE AUDIT

Frackville Borough Police Pension Plan Schuylkill County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

August 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Frackville Borough
Schuylkill County
Frackville, PA 17931

We have conducted a compliance audit of the Frackville Borough Police 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 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 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 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 that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017 and 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Frackville Borough Police 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 Frackville Borough 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 – Partial Compliance With Prior Recommendation –
Inconsistent and Unauthorized Pension Benefits

Finding No. 2 – Noncompliance With Prior Recommendation –
Untimely Deposit Of State Aid

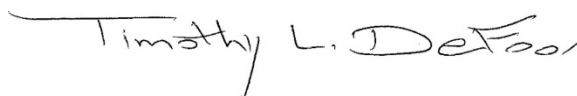
The findings contained in this audit report repeat conditions that were cited in our previous report that have not been corrected by borough officials. We are concerned by the borough's failure to correct those previously reported findings and strongly encourage timely implementation of the recommendations noted in this audit report.

As previously noted, one of the objectives of our audit of the Frackville Borough Police Pension Plan was to determine compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Act 205 was amended on September 18, 2009, through the adoption of Act 44 of 2009. Among several provisions relating to municipal pension plans, the act provides for the implementation of a distress recovery program. Three levels of distress have been established:

<u>Level</u>	<u>Indication</u>	<u>Funding Criteria</u>
I	Minimal distress	70-89%
II	Moderate distress	50-69%
III	Severe distress	Less than 50%

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. However, **we are extremely concerned about the funded status of the plan contained in the schedule of funding progress included in this report which indicates the plan's funded ratio is 62.8% as of January 1, 2019, which is the most recent data available. Based on this information, the Municipal Pension Reporting Program issued a notification that the borough is currently in Level II moderate distress status.** We encourage borough officials to monitor the funding of the police pension plan to ensure its long-term financial stability.

The contents of this report were discussed with officials of Frackville 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.



Timothy L. DeFoor
Auditor General

July 20, 2021

CONTENTS

	<u>Page</u>
Background	1
Status of Prior Findings	2
Findings and Recommendations	
Finding No. 1 – Partial Compliance With Prior Recommendation – Inconsistent And Unauthorized Pension Benefits	3
Finding No. 2 – Noncompliance With Prior Recommendation – Untimely Deposit Of State Aid	6
Supplementary Information	8
Report Distribution List	12

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 Frackville Borough Police 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Frackville Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 76-1, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established April 7, 1964. Active members were required to contribute 5 percent of compensation for 2017 and 2018, 6 percent of compensation for 2019, and 6.5 percent of compensation for 2020 to the plan. As of December 31, 2020, the plan had 5 active members, 1 terminated member eligible for vested benefits in the future, and 8 retirees receiving pension benefits from the plan.

FRACKVILLE BOROUGH POLICE PENSION PLAN STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

Frackville Borough has partially complied with the prior recommendation concerning the following:

- Inconsistent And Unauthorized Pension Benefits

In 2020, the municipality adopted Ordinance No. 3 that addressed the inconsistency with the service-related disability benefit and removed the killed in service benefit language. Benefit provisions were also revised through collective bargaining; however, the current collective bargaining agreement between the borough and members of its police department for the period January 1, 2019 to December 31, 2021 continues to contain benefit provisions that conflict with the governing document and/or are not in accordance with Act 600 with regard to normal retirement age and survivor benefits, as further discussed in the Findings and Recommendations section of this report.

Noncompliance With Prior Recommendation

Frackville Borough has not complied with the prior recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Untimely Deposit Of State Aid

FRACKVILLE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Partial Compliance With Prior Recommendation – Inconsistent And
Unauthorized Pension Benefits**

Condition: As disclosed in the Status of Prior Findings section of this report, the collective bargaining agreement (CBA) between the police officers and the borough continues to contain benefit provisions that conflict with the governing document and/or are not in accordance with Act 600, as noted below:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Normal retirement age	A member who has served on the police force for an aggregate of at least 25 years and has attained the age of 51 years in 2019; 52 years in 2020; and 53 years in 2021 or, if an actuarial study for the costs shows that such reduction age is feasible, the age requirement may be reduced to 50 years.	A member who has served on the police force for an aggregate of at least 25 years and has attained the age of 51 years in 2019; 52 years in 2020; 53 years in 2021 or, if an actuarial study for the costs shows that such reduction age is feasible, the age requirement may be reduced to 50 years.	Each ordinance or resolution establishing a police pension fund shall prescribe a minimum period of total service in the aggregate of twenty-five years in the same borough, town, township or regional police department and shall fix the age of the members of the force at fifty-five years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at fifty years.

FRACKVILLE BOROUGH POLICE PENSION PLAN FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Survivor's benefit	A lifetime survivor's benefit must be provided to the surviving spouse (or if no spouse survives or if he or she subsequently dies, the child or children under 18 years of age or if attending college, under or attaining the age of 23) of no less than 50% of the pension the member was receiving or would have been entitled to receive had he been retired at the time of death.	Payable to the surviving spouse until death or remarriage. Upon the death or remarriage of the surviving spouse, or if there is no surviving spouse, the benefit is payable to the surviving child or children until age 18.	A lifetime survivor's benefit must be provided to the surviving spouse (or if no spouse survives or if he or she subsequently dies, the child or children under 18 years of age or if attending college, under or attaining the age of 23) of no less than 50% of the pension the member was receiving or would have been entitled to receive had he been retired at the time of death. ("Attending college" shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of 7 credit hours per semester.)

Criteria: The pension plan's benefit structure should be in compliance with the provisions of Act 600. In addition, the plan's governing document and the CBA should contain consistent benefit provisions to ensure the sound administration of retirement benefits.

Cause: Plan officials adopted Ordinance No. 3 and adopted the 2019-2021 CBA in an attempt to bring the benefit provisions into compliance with Act 600. However, plan officials failed to correct all of the inconsistent benefits.

FRACKVILLE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

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. Since the borough received state aid based on unit value for its pension plans during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We again recommend that municipal officials take appropriate action to ensure the plan's governing document and the collective bargaining agreement contain consistent benefit provisions that are in compliance with Act 600 at their earliest opportunity to do so.

Management's Response: The borough solicitor provided the following response:

Municipal officials do not dispute the Finding but are addressing same during negotiations with the Police Department presently, in that the current Collective Bargaining Agreement expires December 31, 2021, and negotiations are ongoing.

Auditor's Conclusion: We are concerned that the municipality has not fully complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so. Compliance will be evaluated during our next audit of the plan.

FRACKVILLE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Noncompliance With Prior Recommendation – Untimely Deposit Of State Aid

Condition: As disclosed in the three most recent prior audit reports, municipal officials did not deposit its 2007, 2008, 2009, 2013, and 2014 state aid allocations into the pension plan within the 30 day grace period allowed by Act 205. It was previously recommended that the borough pay the pension plan the interest earned during the period beyond the 30 day grace period allowed by Act 205. However, as of our fieldwork completion date, the interest remains outstanding. The amounts and dates of the allocations are as follows:

<u>Year</u>	<u>State Aid Allocation Amount</u>	<u>Date of Allocation to Borough</u>	<u>Date Deposited to Plan</u>
2007	\$54,509	09/24/07	12/03/07
2008	\$44,609	09/28/08	12/19/08
2009	\$43,792	09/21/09	12/31/09
2013	\$46,612	09/23/13	10/31/13
2014	\$45,084	10/22/14	12/10/14

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: Plan officials failed to adopt adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: Although the state aid was eventually deposited into the pension plan, the interest earned beyond the 30 day grace period was not deposited into the pension plan. When state aid is not deposited into a pension plan account in a timely manner, the funds are not available to fund benefits, pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We again recommend that the municipality deposit the interest due to the pension plan for the untimely deposit of the state aid allocations. A copy of the interest calculation must be maintained by the borough for examination during our next audit period of the plan.

FRACKVILLE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Management's Response: Municipal officials agreed with the finding and indicated they intend to locate the account statements for those years and will contact their actuary to calculate the interest owed on the late deposits of the 2007, 2008, 2009, 2013, and 2014 state aid allocations, and will deposit the interest into the police pension plan.

Auditor's Conclusion: Based on the management response, it appears municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

FRACKVILLE BOROUGH POLICE 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, 2015, 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)
01-01-15	\$ 1,350,577	\$ 2,542,032	\$ 1,191,455	53.1%
01-01-17	1,472,736	2,596,517	1,123,781	56.7%
01-01-19	1,706,005	2,716,340	1,010,335	62.8%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses over a 5-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.

FRACKVILLE BOROUGH POLICE 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.

FRACKVILLE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2015	\$ 165,699	100.0%
2016	172,009	100.0%
2017	210,185	100.0%
2018	215,497	100.0%
2019	225,498	100.0%
2020	225,445	100.0%

FRACKVILLE BOROUGH 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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	8 years
Asset valuation method	Fair value, 5-year smoothing
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%
Cost-of-living adjustments	3.0% per year postretirement

FRACKVILLE BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Kim Phillips
Mayor

Mr. Ronald Jordan
Council President

Ms. Brenda Deeter
Chief Administrative Officer

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