

COMPLIANCE AUDIT

Guilford Township Non-Uniformed Pension Plan Franklin County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

August 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**

Board of Township Supervisors
Guilford Township
Franklin County
Chambersburg, PA 17202

We have conducted a compliance audit of the Guilford Township Non-Uniformed Pension Plan for the period January 1, 2016 to December 31, 2019. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding 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, 2014 to December 31, 2019, 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, 2014 to December 31, 2019, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined that there were no employee contributions required by the plan’s governing document and applicable laws and regulations for the years covered by our audit period.
- We determined whether retirement benefits calculated for the plan members who separated employment and received a lump-sum distribution during the current audit period represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan’s governing document, applicable laws, and regulations by recalculating the amount of the pension benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- 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 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Guilford Township Non-Uniformed 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 Guilford Township 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 – Improper In-Service Distribution Provision Contained In The Plan’s Money Purchase Adoption Agreement Resulting In Withdrawal Of Plan Assets Prior To Retirement

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

July 29, 2020

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

EUGENE A. DEPASQUALE
Auditor General

CONTENTS

	<u>Page</u>
Background.....	1
Finding And Recommendation:	
Finding – Improper In-Service Distribution Provision Contained In The Plan’s Money Purchase Adoption Agreement Resulting In Withdrawal Of Plan Assets Prior To Retirement.....	2
Summary Of Deposited State Aid And Employer Contributions.....	4
Report Distribution List	5

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 Guilford Township Non-Uniformed 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 69 - The Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended, 53 P.S. § 65101 et seq.

The Guilford Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of a resolution dated November 17, 1994, as amended, and a separately executed money purchase plan agreement, amended and restated, effective January 1, 2016. The plan was established January 1, 1994. Active members are not required to contribute to the plan. The municipality is required to contribute 12 percent of each participant's compensation. As of December 31, 2019, the plan had 11 active members.

GUILFORD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Improper In-Service Distribution Provision Contained In The Plan’s Money Purchase Adoption Agreement Resulting In Withdrawal Of Plan Assets Prior To Retirement

Condition: The pension plan’s money purchase plan agreement, effective January 1, 2016, improperly contains a provision that allows for in-service distributions to active plan members. Section 36 of the agreement provides that in-service distributions may be made to a participant who has not separated from service provided the participant has reached Normal Retirement Age. Section 19 of the agreement sets the Normal Retirement Age as the date a participant attains age 62.

During 2017, \$173,817 was withdrawn and distributed to an active member of the pension plan after their normal retirement age. In addition, during 2018, \$136,305 was improperly withdrawn and distributed to an active member of the pension plan prior to their normal retirement age. Although the plan members were fully vested in their account balances, they had yet to terminate their employment with the township as of the date of this audit report.

Criteria: Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Therefore, Act 205 funding (state aid) is intended to provide retirement benefit payments, not for in-service distributions to be made to active plan members.

Cause: Plan officials were unaware that in-service distributions to active plan members are not allowed by Act 205.

Effect: The in-service distribution provision violates the intent of Act 205 to only provide distributions to plan members upon their retirement or termination of employment with the municipality.

GUILFORD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that municipal officials take appropriate action to eliminate the unauthorized in-service distribution provision from the plan’s governing document and to limit future distributions to those benefits authorized under Act 205.

Management Response: In-service distributions are permitted as part of our policy. Therefore, we do not agree with the finding.

Auditor’s Conclusion: It may be the township’s policy to provide in-service distributions, but such distributions are in violation of Act 205. Based on the criteria cited above, the finding remains as stated. Compliance will be evaluated during our next audit of the plan.

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

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 42,599	\$ 49,045
2015	47,050	31,780
2016	48,121	25,743
2017	50,471	34,924
2018	56,213	14,063
2019	56,325	29,200

GUILFORD TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. Donald Clapper
Chairman, Board of Township Supervisors

Mr. Theodore Bittinger
Vice-Chairman, Board of Township Supervisors

Mr. Michael Ferguson
Township Supervisor

Ms. Shannon Malott
Secretary/Treasurer

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.