

COMPLIANCE AUDIT

Ligonier Township Non-Uniformed Pension Plan Westmoreland County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

July 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Supervisors
Ligonier Township
Westmoreland County
Ligonier, PA 15658

We have conducted a compliance audit of the Ligonier Township Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2022. 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 finding 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 finding 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2017 to December 31, 2022, 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, 2017 to December 31, 2022, 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 plan members who separated employment and received lump-sum distributions 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 benefits due to the individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- We determined whether the January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2020, and 2022, 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 the terms of all of the plan's allocated insurance contracts, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contracts with the plan's provisions, investment policies, and state regulations.

Ligonier Township contracted with an independent certified public accounting firm for annual audits 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.

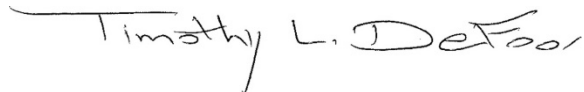
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Ligonier Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local 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 objectives.

The results of our procedures indicated that, in all significant respects, the Ligonier 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 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 – Receipt Of State Aid In Excess Of Entitlement

The contents of this report were discussed with officials of Ligonier 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
June 12, 2023

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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 Ligonier 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.

The Ligonier Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of a Money Purchase Plan document dated January 1, 1997, as amended. The plan is also affected by the provisions of collective bargaining agreements between the township and its non-uniformed employees. The plan was established March 13, 1974. Active members are not required to contribute to the plan. The municipality is required to contribute 10 percent of compensation. As of December 31, 2021, the plan had seven active members.

LIGONIER TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

Ligonier Township has complied with the prior recommendation concerning the following:

- Improper Distribution From Active Plan Member's Investment Account

During the current audit period, the township properly limited distributions to members who met the pension plan provisions pertaining to separation, vesting and retirement.

LIGONIER TOWNSHIP NON-UNIFORMED 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 deposit the full amount of its 2018 state aid allocation into an eligible pension plan. The municipality received its 2018 state aid allocation in the amount of \$74,262, on September 20, 2018, but, as of the date of this report, only state aid totaling \$57,911 was deposited into its eligible 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 full amount of the 2018 state aid was not deposited into an eligible pension plan because after funding the initial former defined benefit pension obligation and the non-uniformed defined contribution requirements for 2018, the township failed to ensure the remainder of the state aid received during 2018 was deposited into the former defined benefit pension plan prior to transferring the former defined benefit plan assets to the *Ligonier Valley Police Pension Plan* in 2019 as noted in the Background section of the Ligonier Township Police Pension Plan report.

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

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

Recommendation: Since the township's non-uniformed pension plan is a defined contribution plan and the annual pension costs were met for 2018, we recommend that the municipality forward the township's remaining state aid allocation of \$16,351, plus interest earned during the period beyond the 30-day grace period allowed by Act 205, compounded annually, to the *Ligonier Valley Police 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 the township ensure that future state aid is deposited into the pension plan in accordance with Act 205.

Management's Response: The township provided the following response, dated June 7, 2023:

The township agrees with most of this finding. We will deposit the township's remaining state aid allocation of \$16,351 into the Ligonier Valley Regional Police Plan.

LIGONIER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

However, as the funds have been in our general fund, no interest has been accrued. The Township does not have a defined benefit plan with an annual assumed rate of return. The interest earnings in our general fund are 0%. Only \$16,351 will be transferred to the Ligonier Valley Regional Police Plan.

Auditor’s Conclusion: Based on the management response, it appears the township intends to comply with the recommendation. 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.

Finding No. 2 – Receipt Of State Aid In Excess Of Entitlement

Condition: The township received state aid in excess of the pension plan’s defined contribution pension costs in the year 2022, as illustrated below:

State aid allocation	\$ 46,596
Actual municipal pension costs	<u>40,027</u>
Excess state aid	<u>\$ 6,569</u>

The excess state aid remained in the general fund as of the completion of fieldwork.

Criteria: Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Cause: The township lacked consistent internal control procedures to annually reconcile the amount of state aid allocated to the pension plan with the plan’s actual defined contribution pension costs and reimburse any difference to the Commonwealth.

Effect: It is this department’s opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Consequently, the overpayment of state aid in the year 2022, must be returned to the Commonwealth for redistribution.

LIGONIER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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

Recommendation: We recommend that the municipality return the \$6,569 of excess state aid received in the year 2022 to the Commonwealth from the township’s general fund. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the 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 evidence of payment.

Furthermore, we also recommend that plan officials develop and implement adequate internal control procedures to ensure that future state aid allocations are deposited timely in accordance with Act 205 requirements.

Management’s Response: The township provided the following response, dated June 7, 2023:

The Township agrees with most of this finding and has taken steps to ensure it does not happen again.

The Township will return the excess state aid in the amount of \$6,569 to the Commonwealth. We request guidance on where exactly to send the funds to. However, as the funds have been in our general fund, no interest has been accrued. The Township does not have a defined benefit plan with an annual assumed rate of return. The interest earnings in our general fund are 0%. Only \$6,569 will be returned to the state.

Our pension plan will be amended from “an amount equal to 10% of employee’s hourly rate” to “an amount equal to or greater than 10% of employee’s hourly rate”.

Auditor’s Conclusion: It should be noted that a change in the contribution provision as noted in the response above would alter the plan’s structure from a defined contribution plan to a discretionary plan which would impact the municipality’s reporting structure as well as state aid. It is recommended that any considered modifications to the plan should be made with assistance of the township solicitor. 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.

LIGONIER TOWNSHIP NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

Finding No. 2 contained in this audit report cites an overpayment of state aid to the township in the amount of \$6,569, plus interest. Conditions such as those reported by Finding Nos. 1 and 2 contained in this audit report may lead to a total withholding of state aid in the future unless those findings are 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.

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

Year Ended December 31	State Aid	Employer Contributions
2017	\$ 51,276	None
2018	45,204	None
2019	38,617	\$ 6,040
2020	44,314	670
2021	43,176	2,320
2022	46,596	None

LIGONIER TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Dan Resenic
Chairman, Board of Township Supervisors

Mr. Michael Strelie
Township Manager

Ms. Bethany Caldwell
Finance Director

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.