

# COMPLIANCE AUDIT

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## Maxatawny Township Governmental Non-Uniformed Pension Plan

Berks County, Pennsylvania  
For the Period  
January 1, 2018 to December 31, 2021

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August 2022



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  
Maxatawny Township  
Berks County  
Kutztown, PA 19530

We have conducted a compliance audit of the Maxatawny Township Governmental Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2021. 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.

- 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 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 member who retired and the plan member who elected to vest 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 benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually payable to the recipient.
- We determined whether the January 1, 2017, January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2018, 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 the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

Maxatawny Township contracted with an independent certified public accounting firm for annual audits of its basic financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, 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 Maxatawny Township Governmental 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.

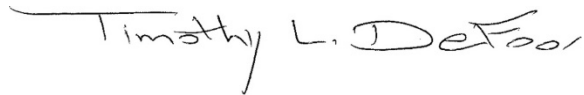
The results of our procedures indicated that, in all significant respects, the Maxatawny Township Governmental Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Finding No. 2 – Incorrect Pension Benefit Calculation

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 Maxatawny 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  
July 29, 2022

# CONTENTS

	<u>Page</u>
Background.....	1
Findings and Recommendations:	
Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid.....	2
Finding No. 2 – Incorrect Pension Benefit Calculation .....	4
Supplementary Information .....	6
Report Distribution List .....	10

## 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 Maxatawny Township Governmental 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 Maxatawny Township Governmental Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2014-03 and a separately executed plan agreement effective April 27, 2012, adopted pursuant to Act 69. The plan was established March 8, 1976. Active members are not required to contribute to the plan. As of December 31, 2021, the plan had seven active members, four terminated members eligible for vested benefits in the future, and four retirees receiving pension benefits from the plan.

MAXATAWNY TOWNSHIP GOVERNMENTAL NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid**

Condition: The township certified an ineligible non-uniformed employee (1 unit) and overstated payroll by \$27,887 on the Certification Form AG 385 filed in 2021. The data contained on this certification form 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. Additionally, the instructions accompanying Certification Form AG 385 prescribe the following criteria for certification purposes:

Each Non-Uniformed Employee MUST meet each of these conditions anytime between January 1st and December 31st of the prior calendar year:

- a. Be an active, full-time non-uniformed employee employed by the municipality.
- b. Be employed for any six (6) consecutive months during the prior calendar year.
- c. Work not less than 35 hours per week.
- d. Be a member of a non-uniformed employee pension plan and meet all of its requirements.

Cause: Plan officials thought the employee worked enough hours to be considered full-time but after further review, the employee only worked on average 30-32 hours per week. Therefore, the employee did not meet the eligibility requirements for certification. In addition, the township lacked adequate procedures such as having another individual review the accuracy of the data reported on the certification form prior to submission.

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 plan. Because the township’s state aid allocation was based on unit value, the incorrect certification of pension data affected the township’s state aid allocation, as identified below:

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2021	1	\$ 4,797	\$ 4,797

MAXATAWNY TOWNSHIP GOVERNMENTAL NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

In addition, the township used the overpayment of state aid to pay the minimum municipal obligation (MMO) due to the non-uniformed pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan's MMO will not be fully paid.

Recommendation: We recommend that the state aid, in the amount of \$4,797, 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.

In addition, if the reimbursement to the Commonwealth is made from non-uniformed pension plan funds, we recommend that any resulting MMO deficiency be paid to the pension plan with interest, at a rate earned by the pension plan.

Management's Response: Municipal officials agreed with the finding without exception. Municipal officials intend to return the overpayment of state aid once they receive the audit report.

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.



MAXATAWNY TOWNSHIP GOVERNMENTAL NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Incorrect Pension Benefit Calculation**

Condition: The pension benefit of a plan member who terminated employment and vested on March 26, 2019 was incorrectly determined because municipal officials failed to accurately calculate the member's final monthly average salary in accordance with the plan's governing document.

Criteria: Section 5.1 of the plan document states, in part:

Normal retirement benefit. The amount of monthly retirement benefit to be provided for each Participant who retires on the Participant's Normal Retirement Date shall be equal to the Participant's Accrued Benefit (herein called the Participant's Normal Retirement Benefit). A Participant's Accrued Benefit is based on a retirement formula equal to 1.5% of such Participant's Average Monthly Compensation multiplied by the Participant's total number of Years of Service for benefit accrual purposes, computed to the nearest cent.

In addition, Section 1.8 of the plan document states:

“Average Monthly Compensation” means the average monthly Compensation paid to a Participant for services performed within the most recent three Plan Years or all Plan Years if less than three. Also, if as of the time of computation the Participant has received Compensation in fewer than 12 months in a Plan Year, his Compensation for each such year shall be annualized for this purpose.

Cause: The member's 2019 compensation was annualized for the pension benefit calculation; however, unused sick leave and vacation payouts were included in the compensation used to annualize the 2019 compensation, resulting in an inflated compensation amount for that year. Furthermore, the township did not have adequate internal control procedures in place to detect the error.

Effect: At the member's normal retirement date on November 1, 2025, the plan would begin paying pension benefits to a retiree in excess of those authorized by the plan's governing document.

Recommendation: We recommend that municipal officials recalculate the vested member's pension benefit in accordance with the provisions contained in the plan's governing document.

Management's Response: Municipal officials agreed with the finding without exception. Municipal officials reached out to their pension representative with the information and will revise the pension calculation.

MAXATAWNY TOWNSHIP GOVERNMENTAL NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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.

MAXATAWNY TOWNSHIP GOVERNMENTAL 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, 2017, 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)
01-01-17	\$ 714,444	\$ 718,912	\$ 4,468	99.4%
01-01-19	796,076	886,054	89,978	89.8%
01-01-21	1,062,562	1,059,526	(3,036)	100.3%

MAXATAWNY TOWNSHIP GOVERNMENTAL 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.

MAXATAWNY TOWNSHIP GOVERNMENTAL 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
2016	\$ 53,838	100.0%
2017	51,791	100.0%
2018	50,793	100.0%
2019	54,229	100.0%
2020	55,756	100.0%
2021	56,526	100.0%

MAXATAWNY TOWNSHIP GOVERNMENTAL 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, 2021
Actuarial cost method	Entry age normal
Amortization method	Not applicable
Remaining amortization period	None
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	6.25%
Projected salary increases	3.25%

MAXATAWNY TOWNSHIP GOVERNMENTAL 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. Heath Wessner**  
Chairman, Board of Township Supervisors

**Ms. Judy Daub**  
Vice-Chairperson, Board of Township Supervisors

**Mr. John Deplanque**  
Township Supervisor

**Ms. Jerilyn Wehr**  
Chief Administrative Officer

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