

COMPLIANCE AUDIT

Potter Township Non-Uniformed Pension Plan Centre County, Pennsylvania For the Period January 1, 2018 to December 31, 2020

March 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
Potter Township
Centre County
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We have conducted a compliance audit of the Potter Township Non-Uniformed Pension Plan for the period January 1, 2018 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 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2018 to December 31, 2020, 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, 2018 to December 31, 2020, 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 and the plan members who elected to vest 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 pension benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid and/or payable 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 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Potter 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 Potter 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 – Incorrect Data On Certification Form AG-385 Resulting In An Overpayment Of State Aid

Finding No. 2 – Failure To Properly Fund Members’ Accounts

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

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
February 24, 2022

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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 Potter 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 Potter Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 9 of 1994, as amended. The plan was established January 1, 1995. Active members are not required to contribute to the plan. The municipality is required to contribute 6 percent of compensation. As of December 31, 2020, the plan had 7 active members and 1 terminated member eligible for vested benefits in the future.

POTTER TOWNSHIP 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 \$76,238 on the Certification Form AG 385 filed in 2020. The individual in question voluntarily elected to receive a lump sum distribution of his entire accrued pension benefit available under the non-uniformed pension plan during December 2018, while still continuing to work full-time with the township through December 2019. Pension plan distributions are available to recipients upon termination, disability or retirement but are specifically prohibited while in-service according to the plan’s governing document. 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.

However, it is the opinion of this department that a member cannot be both active and retired at the same time. Since the employee received a pension distribution during 2018, this individual is considered retired for pension purposes and therefore not eligible for state aid certification.

Cause: Plan officials were unaware that the full-time, working employee was considered retired/separated from employment when election was made to receive a retirement distribution from the pension plan, and therefore, not eligible for state aid certification purposes.

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 pension costs, the incorrect certification of pension data affected the township’s state aid allocation, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2020	6.0%	\$ 76,238	\$ 4,574

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.

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

POTTER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the overpayment of state aid, in the amount of \$4,574, 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 specifically exclude individuals receiving retirement distributions from the pension plan (*in excess of RMD amounts specifically required by federal law*) while still actively employed by the municipality, when reporting subsequent required data for certification purposes.

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.

Auditor’s Conclusion: 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 pension plan.

Finding No. 2 – Failure To Properly Fund Members’ Accounts

Condition: The township did not properly fund the accounts of plan members during the current audit period in accordance with the pension plan document. The township failed to fully fund the account of a plan member in 2015 and two plan members during 2017 (*prior to becoming eligible for the receipt of state aid during 2018 in accordance with Act 205*), as follows:

<u>Employee Hire Date</u>	<u>Required Contributions</u>	2015 <u>Actual Contributions</u>	<u>Contributions (Due)</u>
04/21/11	\$ 2,236	\$ 1,996	<u><u>\$ (240)</u></u>

POTTER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

<u>Employee Hire Date</u>	<u>Required Contributions</u>	2017 <u>Actual Contributions</u>	<u>Contributions (Due)</u>
04/21/2011	\$ 2,242	\$ 2,156	\$ (86)
06/24/2014	2,160	2,000	<u>(160)</u>
		Total	<u>\$ (246)</u>

Furthermore, the township made excess municipal contributions to the accounts of three plan members during 2018 and an additional member during 2019, as illustrated below:

<u>Employee Hire Date</u>	<u>Required Contributions</u>	2018 <u>Actual Contributions</u>	<u>Contributions In Excess</u>
04/21/2011	\$ 2,348	\$ 4,583	\$ 2,235
06/24/2014	2,332	4,426	2,094
07/07/2014	2,159	4,174	<u>2,015</u>
		Total	<u>\$ 6,344</u>

<u>Employee Hire Date</u>	<u>Required Contributions</u>	2019 <u>Actual Contributions</u>	<u>Contributions In Excess</u>
12/07/2018	\$ 1,715	\$ 2,236	<u>\$ 521</u>

Criteria: According to Act 205, at Section 4.02(d) - Eligible recipients of general municipal pension system State aid, states, in part:

Any county of the second class which, prior to the effective date of this chapter, received allocations for its police pension fund pursuant to the act of May 12, 1943 (P.L. 259, No. 120), or any city, borough, incorporated town or township or any home rule municipality formerly classified as a city, borough, incorporated town or township which employs one or more full-time municipal employees and provides pension cover-age for that employee or those employees by a pension plan which was established and maintained on the effective date of this act or which was established subsequent to the effective date of this act and has been maintained for at least three plan years, shall be entitled to receive general municipal pension system State aid.

POTTER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

In addition, the plan's governing document, Resolution No. 9 of 1994, as amended, establishes the pension plan as of January 1, 1995; however, the township elected not to participate in the general municipal system state aid program until January 1, 2015. In addition, the plan's governing document, which adopts a money purchase agreement at Section 3.01 of Article III, states:

The amount of the Employer's annual contribution to the Trust will equal 6% (not exceeding 25%) of each Participant's Compensation for the Plan Year.

Cause: Plan officials failed to establish adequate internal control procedures to properly maintain the pension plan and ensure that plan members' accounts were properly funded in accordance with the plan's governing document.

Effect: The failure to properly fund members' accounts has resulted in certain plan members receiving benefits in excess of those to which they are entitled and other members being denied benefits to which entitled in accordance with the plan's governing document.

Recommendation: We recommend that the township review the applicable members' accounts and make the appropriate adjustments deemed necessary to ensure that these accounts are funded in accordance with the provisions contained in the plan's governing document.

We also recommend that in the future, plan officials implement adequate internal control procedures to ensure that the members' accounts are properly funded in accordance with provisions contained in the plan's governing document.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

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

Finding No. 1 contained in this audit report cites an overpayment of state aid to the non-uniformed pension plan in the amount of \$4,574, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, 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.

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

Year Ended December 31	State Aid	Employer Contributions
2018	\$ 12,663	\$ 11,085
2019	15,829	1,941
2020	18,032	655

The Department typically presents this data for the past six consecutive fiscal years. Since six years of data was not yet available, this will be done prospectively.

POTTER 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. Dick Decker
Chairman, Board of Township Supervisors

Ms. Lisa Kroner
Chief Administrative Officer

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.