

COMPLIANCE AUDIT

Salisbury Borough Non-Uniformed Pension Plan Somerset County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

May 2023



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
Salisbury Borough
Somerset County
Salisbury, PA 15558

We have conducted a compliance audit of the Salisbury Borough 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.
- 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 that there were no benefit calculations prepared for the years covered by our audit period.
- 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.

The Salisbury Borough Non-Uniformed Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Annual Comprehensive Financial Report, copies of which are available from the PMRS accounting office. PMRS's financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Salisbury Borough 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.

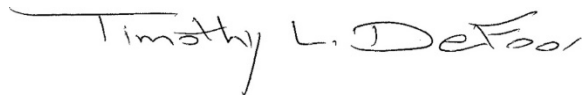
The results of our procedures indicated that, in all significant respects, the Salisbury Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following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

Finding No. 1 – Partial Compliance With Prior Recommendation – Failure To Properly Utilize State Aid In Accordance With Act 205

Finding No. 2 – Inadequate Accounting/Reporting Over Activity Of The Pension Plan

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 Salisbury 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.

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
April 26, 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 Salisbury Borough 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 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The Salisbury Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 040990, effective January 1, 2020, and a separately executed adoption agreement with PMRS adopted pursuant to Act 15. Prior to January 1, 2020, the pension plan was locally controlled by the provisions of Ordinance No. 051115 adopted pursuant to Act 15. The plan was established January 1, 1990. Active members are not required to contribute to the plan. As of December 31, 2022, the plan had three active members, no terminated members eligible for vested benefits in the future, and one retiree receiving pension benefits.

SALISBURY BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

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

- Failure To Properly Utilize State Aid In Accordance With Act 205

During the current audit period, borough officials contacted the Bureau of Unclaimed Property with the Pennsylvania Treasury Department and requested the escheated funds from the borough's former police pension plan; however, funds remain outstanding as further discussed in the Findings and Recommendations section of this report.

SALISBURY BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Recommendation – Failure To Properly Utilize State Aid In Accordance With Act 205

Condition: As previously disclosed in prior reports, borough officials failed to utilize state aid for its intended purpose in accordance with state statute. The borough originally purchased an annuity contract for a former police officer of the borough’s now defunct police pension plan during 1982 for the sole purpose of providing a retirement benefit for the former officer upon reaching retirement eligibility. However, the former police officer terminated prior to reaching eligibility and subsequently died before becoming eligible to receive such a benefit. Moreover, borough officials failed to properly and timely surrender the annuity and deposit the proceeds, representing state aid, into an eligible pension plan. Therefore, funds were not used for their intended purpose under Act 205. During the current audit period, the borough inquired through the PA Treasury’s Unclaimed Property Division about the escheated funds; however, the borough was unable to recover any funds as of the date of this report.

Criteria: As previously cited, Section 102 of Act 205 states, in part:

“Pension Fund.” The entity which is the repository for the assets amassed by a pension plan as reserves for the present and future periodic retirement payments and benefits of active and retired members of the pension plan.

Section 403(a) of Act 205 states, in part:

Any funds paid to a municipality pursuant to the act of May 12, 1943 (P.L. 259, No. 120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, prior to the effective date of this act, and which have been either actually expended or, by action of the municipality, are irrevocably committed to be expended only in accordance with the Foreign Casualty Insurance Premium Tax Allocation Law, shall not be returned for redistribution pursuant to section 1.2 of the Foreign Casualty Insurance Premium Tax Allocation Law (emphasis added).

Therefore, since the former police officer did not meet the conditions to receive benefits under the former plan and left service prior to qualifying for such benefits (and hence, neither would a surviving spouse be eligible) and would never be able to qualify for the benefit, to that end, the funds could never be “irrevocably committed” under the act.

Cause: Plan officials indicated that the borough was unable to proceed with the return of any funds included within what had been the former “Police Retirement Pension Fund” established pursuant to Ordinance No. 61278 of June 12, 1978, because of an injunction by the Court of Common Pleas of Somerset County due to the borough’s attempt to rescind the noted ordinance.

SALISBURY BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Effect: The borough's failure to properly and timely surrender the annuity and obtain the corresponding proceeds resulted in a potential loss of funds to the pension plan. Furthermore, the proceeds of the annuity contract, which was owned by the former police pension plan and funded with prior state aid, were not available to pay other authorized benefits, plan expenses or for investment purposes and any future interest income from this investment.

Recommendation: We again recommend that the borough continue to pursue with the Bureau of Unclaimed Property with the Pennsylvania Department of Treasury the escheated funds from the borough's former pension plan's surrendered annuity contract and either deposit the proceeds, which represent state aid and accumulated earnings on state aid, into the borough's non-uniformed pension plan or return the funds to the Commonwealth for redistribution to other eligible municipal pension plans.

Management's Response: Municipal officials agreed with the finding and provided the following:

The Borough of Salisbury was not able to proceed with the return of any monies included within what had been the "Police Retirement Pension Fund" established pursuant to Ordinance No, 61278 of July 12, 1978 because of the issuance of an injunction by the Court of Common Pleas of Somerset County, Pennsylvania on or about the September 11, 2000, docketed to No. 594 Civil 2000 in the Office of the Prothonotary of Somerset County, Pennsylvania as the result of the Borough's advertisement of its intent to rescind the noted ordinance, there no longer being a police department and no one who could qualify for a pension under that ordinance.

That action had originally been filed by the F.O.P on behalf of a former member who was attempting to make a claim for a pension, even though he clearly did not meet the requirements to be awarded a pension under the Ordinance. In any event, the case languished, being continued on a number of occasions by counsel for the Plaintiff or his widow and finally was dismissed by the above named Court on September 26, 2018.

The Borough is now in the process of rescinding the "Police Retirement Pension Fund" Ordinance No, 61278 of July 12, 1978, and has made inquiry with the Treasurer's Unclaimed Property Division to recover any funds that have been escheated to the same. Once the Ordinance is rescinded and the monies received, the Borough should be in a position to forward the same to the proper Commonwealth agency.

Auditor's Conclusion: The department acknowledges the borough's actions to recoup the escheated funds and encourage compliance at the earliest opportunity to do so.

SALISBURY BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Inadequate Accounting/Reporting Over Activity Of The Pension Plan

Condition: The municipality’s accounting/reporting system did not provide effective control over the transactional activity of the pension plan during the year 2022. Municipal officials were unable to furnish annual financial statements or custodial account statements summarizing the financial activity of its pension plan.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of pension plans. In addition, assets held in a custodial account for the purpose of plan management are to be governed by the terms and provisions of the account contract, provided that the terms and provisions of the contract are within the parameters of all prevailing pension legislation. Although the municipality may contract with a trustee to administer the financial management of the plan, the fiduciary responsibility for the plan remains with the municipality.

Cause: Municipal officials did not maintain a separate detailed accounting of pension plan transactions which, among other things, helps assure the production of proper financial statements to effectively monitor the annual activity of the pension plan. Additionally, municipal officials indicated that the plan’s custodian failed to provide copies of the custodial account transaction statements summarizing activity of the pension plan account for the year 2022.

Effect: Although we were able to obtain alternate documentation from the municipality to evidence the propriety of individual transactions tested during performance of the audit, the failure to maintain annual financial and/or account transaction statements prohibits municipal officials from effectively monitoring the plan’s financial operations and could lead to undetected errors or improprieties in account transactions.

Recommendation: We recommend that municipal officials establish and maintain a financial accounting and reporting system that allows the municipality to effectively monitor the plan’s financial operations, even in the absence of statements from the plan custodian. Municipal officials should refer to the Auditor General’s Bulletin No. 2-88 entitled “Preparation, Maintenance and Auditability of Financial Records,” for further guidance in establishing adequate accounting and record-keeping procedures. In addition, we recommend that municipal officials contact the plan custodian and obtain annual financial statements of the custodial account for its pension plan for the year 2022 to ensure the accuracy and propriety of the transaction activity.

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

Auditor’s Conclusion: It was noted that the plan custodian went through a substantial upgrade to the plan administration software and implemented a new accounting system. The modernization process, along with the COVID-19 pandemic, resulted in unforeseen delays in the year-end reporting process for financial statements and GASB 68 reports. The custodian expects 2022 financial reports to be distributed before the end of 2023. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

SALISBURY BOROUGH 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	\$ 258,745	\$ 258,906	\$ 161	99.9%
01-01-19	282,531	282,231	(300)	100.1%
01-01-21	302,813	313,999	11,186	96.4%

SALISBURY BOROUGH 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.

SALISBURY BOROUGH NON-UNIFORMED PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll*</u>	<u>Contributions as a Percentage of Covered- Employee Payroll*</u>
2014	\$ 5,190	\$ 5,319	\$ (129)	\$ 97,014	5.5%
2015	5,322	5,342	(20)	83,642	6.4%
2016	5,223	5,223	-	90,474	5.8%
2017	3,501	3,681	(180)	89,908	4.1%
2018	3,671	5,948	(2,277)	93,774	6.3%
2019	6,131	6,190	(59)	98,489	6.3%
2020	6,385	6,485	(100)	102,066	6.4%
2021	6,667	6,721	(54)	104,036	6.5%
2022	6,844	6,852	(8)		

* Due to the timing of this audit, covered-employee payroll for 2022 was not provided in this schedule.

SALISBURY BOROUGH 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 available
Remaining amortization period	8 years
Asset valuation method	Not available
Actuarial assumptions:	
Investment rate of return *	5.25%, compounded annually, net of investment and administration expenses
Projected salary increases *	4.1%
* Includes inflation at	2.2%
Cost-of-living adjustments	2.2% per year, subject to plan limitations

The information reported above was extracted from the Pennsylvania Municipal Retirement System Experience Study Results Report dated September 2020, which is the basis for the 01-01-2021 actuarial valuation. The report did not specify the actuarial or market value methodologies often contained in the Notes to Supplementary Schedules and will be added going forward when readily available.

SALISBURY BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Jane E. Swartzwelder
Mayor

Ms. Nancy A. Green
Secretary/Treasurer

Mr. Richard Cardamone, CPA, CGMA
Pennsylvania Municipal Retirement System

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