

# COMPLIANCE AUDIT

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## Southampton Township Non-Uniformed Pension Plan Franklin County, Pennsylvania For the Period January 1, 2017 to December 31, 2021

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June 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  
Southampton Township  
Franklin County  
Shippensburg, PA 17257

We have conducted a compliance audit of the Southampton Township Non-Uniformed Pension Plan for the period January 1, 2017 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 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, 2016 to December 31, 2021, 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, 2016 to December 31, 2021, 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 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 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 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.

The township elected to purchase allocated insurance contracts to fund a portion of the benefits provided by the pension plan at retirement. Under an allocated funding arrangement, the insurer receives and retains consideration in exchange for a legally enforceable obligation to pay future benefits. In accordance with Statement No. 67 of the Governmental Accounting Standards Board, allocated insurance contracts are excluded from the pension plan's assets.

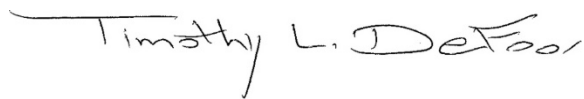
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Southampton Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local 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 Southampton 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 – Noncompliance With Prior Recommendation – Failure To Properly Fund Member’s Account
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid
- Finding No. 3 – Receipt Of State Aid In Excess Of Entitlement
- Finding No. 4 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by township officials. We are concerned by the township’s failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation noted in this audit report.

The contents of this report were discussed with officials of Southampton 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 1, 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 Southampton 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 Southampton Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution date November 1, 2017 and a separately executed plan agreement with the plan's custodians. The plan was established January 1, 1987. Active members are not required to contribute to the plan. The municipality is required to contribute 10 percent of each participant's compensation. As of December 31, 2021, the plan had nine active members. and one terminated member eligible for vested benefits in the future.

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Recommendations

Southampton Township has not complied with the prior recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

- Failure To Properly Fund Member's Account

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Recommendation – Failure To Properly Fund Member’s Account**

Condition: As disclosed in the prior report, the township did not properly fund the account of a plan member during 2014, prior to the member’s subsequent retirement, as illustrated below:

Required Contributions	Actual Contributions	Contributions Due
\$ 1,278	\$ 959	\$ 319

Criteria: The plan’s governing document, Resolution No. 2009-05, which adopted a separately executed plan agreement with the plan’s custodian, established the municipal contribution rate at 10 percent of the participant’s plan compensation.

Cause: Township officials failed to ensure compliance with this department’s prior audit recommendation.

Effect: The failure to properly fund the member’s account resulted in the plan member being denied benefits to which entitled in accordance with the plan’s governing document.

Furthermore, due to the township’s failure to properly fund the member’s account, the township must now pay interest on the delinquent contributions.

Recommendation: We again recommend that plan officials take appropriate action to ensure the retired plan member receives the underpayment due, plus appropriate interest. A copy of the interest calculation should be maintained by the township for examination during our next engagement.

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

Auditor’s Conclusion: We are concerned that the municipality has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.



SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid**

Condition: The township certified an ineligible, part-time employee (1 unit) and overstated payroll by \$33,836, \$29,620, and \$27,902 on the Certification Forms AG-385 filed in 2019, 2020 and 2021, respectively, by including earnings from the individual's part-time employment. In addition, the township overstated annual payroll by \$5,000, \$5,000, \$5,000, \$5,000, \$4,375 on the Certification Forms AG 385 filed in 2017, 2018, 2019, 2020 and 2021, respectively, by including supervisor meeting pay. Conversely, the township also understated total eligible payroll by \$54,784 on the Certification Form AG-385 filed in 2020 when compared to the wages reported on the 2020 W-2s provided by the municipality.

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. In addition, pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: Plan officials failed to establish adequate internal control procedures, such as having another individual review the data certified, to ensure the accuracy of the data certified and compliance with the instructions accompanying the certification forms.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plan. Because the municipality's state aid allocations are determined, in part, by the information contained on the AG 385 forms, the submission of the prior years' incorrect data information affected the municipality's state aid allocations for the years 2017, 2018, 2019, 2020 and 2021 as identified in the table below. *(It should be noted that since the plan is a defined contribution plan type, the township's state aid allocation each year is limited to the plan's actual pension costs for that specific plan year.)*

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

<u>Year</u>	<u>Normal Cost</u>	<u>Current year Full-Time Payroll</u>	<u>State aid Entitlement</u>	<u>State aid Received</u>	<u>State aid Overpayment (Underpayment)</u>
2017	10.00%	\$ 317,528	\$ 31,753	\$ 32,118	\$ 365
2018	10.00%	316,496	31,650	32,150	500
2019	10.00%	395,564	39,556	43,440	3,884
2020	10.00%	387,949	38,795	36,778	(731)*
2021	10.00%	391,063	38,378	42,334	<u>3,956</u>
				Total	<u>\$ 7,974</u>

*\* For the year 2020, the township’s total underpayment of state aid \$2,017 (\$38,795-\$36,778) has been adjusted above to limit the additional state aid (\$731) to eligible pension plan costs of its full-time members for the 2020 plan year.*

In addition, the township used the annual overpayments of state aid to pay the minimum municipal obligations (MMO’s) due to the pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMO’s will not be fully paid.

**Recommendation:** We recommend the net overpayment of state aid, in the amount of \$7,974, with 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 2 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.

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

In addition, if the reimbursement to the Commonwealth is made from pension plan funds, we recommend that any resulting MMO deficiencies 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: Compliance will be evaluated during our next audit of the plan.

**Finding No. 3 – 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 for full-time plan members in the years 2017, 2019 and 2021, as illustrated below:

	<u>2017</u>	<u>2019</u>	<u>2021</u>
State aid allocation	\$ 32,118	\$ 43,440	\$ 42,334
Municipal pension costs for full-time plan members	<u>(31,890)</u>	<u>(39,175)</u>	<u>(35,931)</u>
Excess state aid	228	4,265	6,403
<i>Less state aid disclosed in Finding No. 1</i>	<u>365</u>	<u>3,884</u>	<u>3,956</u>
Excess state aid due to Commonwealth	<u><u>\$ -</u></u>	<u><u>\$ 381</u></u>	<u><u>\$ 2,447</u></u>

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.

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – (Continued)**

In addition, Section 402(d) of Act 205 states, in part:

Eligible recipients of general municipal pension system State aid. 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. . . .

Furthermore, Section 402(e)(2) of Act 205 states, in part:

The applicable number of units shall be attributable to each active employee who was employed on a full-time basis for a minimum of six consecutive months. . .

Therefore, Act 205 state aid funding shall only be used to fund the pension costs attributable to full-time employees.

Cause: Plan officials failed to reconcile the township’s allocations of state aid to the plan’s annual defined contribution pension costs attributable to full-time plan members.

Effect: It is this department’s opinion that since 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 overpayments of state aid in the years 2019 and 2021, in the total amount of \$2,828, must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the above \$2,828 to the Commonwealth from the township’s general fund. The 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 recommend that, in the future, plan officials reconcile the amount of state aid allocated to the township with the plan’s annual defined contribution pension costs attributable to full-time members and reimburse any excess state aid received to the Commonwealth.

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.

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – Awarding Of Professional Services Contract Inconsistent With Provisions  
Of Act 205**

Condition: In 2017, the township changed investment services contractors and the plan service administrators for its non-uniformed pension plan. However, there was no substantive evidence provided to support that the change in service providers was conducted in accordance with provisions of Act 205 and Resolution No 2014-01 enacted by the township which adopted such provisions.

Criteria: Section 701-A of Act 205, defines a “Professional Services Contract”, as follows:

“Professional services contract.” A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
- (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states in part:

Each municipal pension system ... shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

Additionally, Section 702-A (c), (e), (f), and (h) state, in part:

**Review.** Procedures to select the most qualified person shall include a review of the person’s qualifications, experience and expertise and the compensation to be charged.

**Conflict of interest.** The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract.

**Public information.** Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

**Notice and summary.** The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applications and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Section 703-A (c) states in part:

Upon the advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Furthermore, Resolution No. 2014-01, enacted by the township on January 14, 2014, established procedures for the procurement of professional services for the municipal pension system in accordance with Act 205 provisions.

Cause: Plan officials failed to establish adequate procedures to properly follow and document adherence with each requirement prescribed under the provisions of Act 205 and its own procurement procedures in the awarding of the professional services contract for the investment and advisory services for the township's pension plan.

Effect: We were unable to determine whether the township complied in all respects with the provisions stipulated in Act 205 and its own governing policies and procedures for the procuring of professional investment and advisory services for the township's pension plan. Also, by failing to maintain appropriate substantive supporting documentation evidencing adherence with each requirement prescribed under Act 205 and the township's own procedures in the awarding of the professional services contract, it denotes a general lack of overall transparency of the actions taken by plan officials relative to the awarding of the investment and advisory services contract for the township's pension plan.

Recommendation: We recommend the township follow procedures developed and implemented by the township in Resolution No. 2014-01 for the procurement of professional services for the township's pension plan and ensure compliance with Act 205 provisions while maintaining appropriate and sufficient supporting documentation. This documentation should evidence every phase of the process in accordance with the township's policies and procedures in the awarding of future professional services contracts for the township's pension plan.

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

In addition, since we were unable to conclude whether the township complied in all respects with the provisions stipulated in Act 205 and its own governing policies and procedures relative to the procurement of the professional investment and advisory services for the township's pension plan awarded in 2018, we recommend that plan officials, along with current township officials, collectively review the process and familiarize themselves with the procedures enacted by the township while closely examining and identifying ways to improve the process as a whole, thus ensuring transparency for plan members as well as the citizens of Southampton Township and the avoidance of any confusion pertaining to the proper administration of the township's pension plan.

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.

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

Finding No. 2 and No. 3 contained in this audit report cite a total overpayment of state aid to the township in the amount of 10,802, plus interest. Conditions of this nature may lead to a total withholding of state aid in the future unless those findings are 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.



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

Year Ended December 31	State Aid	Employer Contributions
2016	\$ 26,248	\$ 4,539
2017	32,118	2,138
2018	32,150	10,511
2019	42,587	None
2020	36,778	3,958
2021	40,442	None

SOUTHAMPTON TOWNSHIP NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
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