

**MUHLENBERG TOWNSHIP POLICE PENSION PLAN**

**BERKS COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2009, TO DECEMBER 31, 2010**





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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. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system State aid and of every municipal pension plan and fund in which general municipal pension system State aid is deposited.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 Muhlenberg Township Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Muhlenberg Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 315, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers.





Board of Township Commissioners  
Muhlenberg Township  
Berks County  
Temple, PA 19560

We have conducted a compliance audit of the Muhlenberg Township Police Pension Plan for the period January 1, 2009, to December 31, 2010. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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 audit 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Muhlenberg Township Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objectives.

The results of our tests indicated that, in all significant respects, the Muhlenberg Township Police 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 finding further discussed later in this report:

Finding – Noncompliance With Prior Audit Recommendation – Pension Benefits  
Not In Compliance With Act 600 Provisions

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Muhlenberg Township and, where appropriate, their responses have been included in the report.

August 31, 2011

JACK WAGNER  
Auditor General

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

Muhlenberg Township has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Pension Benefits Not In Compliance With Act 600 Provisions

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Condition: As disclosed in the prior audit report, the pension plan’s governing document, Ordinance No. 315, as amended, contains benefit provisions that conflict with the collective bargaining agreement between the police officers and the township and are not in compliance with Act 600.

Furthermore, on April 17, 2002, Act 600 was amended by Act 30, which made significant changes to the statutorily prescribed benefit structure of police pension plans subject to Act 600. Municipal officials have not amended the police pension plan’s benefit structure to adopt all of the changes mandated by Act 30. The specific inconsistencies are as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Survivor’s benefit	If a police officer is pensioned or eligible to be pensioned by reason of age and service, then the spouse, if not remarried, or children under age 18 will receive half of the pension the officer was receiving or was eligible to receive.	If a police officer is pensioned or eligible to be pensioned by reason of age and service, then the spouse, if not remarried, or children under age 18 will receive half of the pension the officer was receiving or was eligible to receive.	A lifetime survivor’s benefit must be provided to the surviving spouse (or if no spouse survives or if he or she subsequently dies, the child or children under 18 years of age or if attending college, under or attaining the age of 23) of no less than 50% of the pension the member was receiving or would had he been retired at the time of death. (“Attending college” shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of 7 credit hours per semester.)

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Pre-vesting death benefit	Not provided	Not provided	The surviving spouse of a member of the police force who dies before his pension has vested or if no spouse survives or if he or she survives and subsequently dies, the child or children under the age of eighteen years, or, if attending college, under or attaining the age of twenty-three years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in value of the member's investment in the pension fund, unless the member has designated another beneficiary for this purpose.
Service-related disability benefit	A police officer who suffers a service related disability shall receive 50% of retirement benefits increased by 5% for each continuous year of service in excess of 10 years up to a maximum of 100% of retirement benefits.	The allowance of a member who has suffered a permanent service connected disability shall be 2/3 of the average monthly salary, longevity payments, base holiday payments and bonus payments as provided by this agreement.	The benefit must be in conformity with a uniform scale and fixed by the plan's governing document at no less than 50% of the member's salary at the time the disability was incurred, reduced by the amount of Social Security disability benefits received for the same injury.

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Cost of living adjustment	COLAs shall not exceed the lesser of 3% or the change in CPI for Greater Philadelphia. In addition, total monthly benefits shall not exceed 130% of the original benefit due at retirement. COLAS are first payable on the January 1, following retirement and every January 1 thereafter.	Officers receiving benefits shall be entitled to annual COLAs not to exceed the lesser of 3% or the increase in CPI. In addition, benefits shall not exceed 130% of the benefit due at retirement.	The ordinance or resolution establishing the police pension fund may provide for a cost of living increase for members of the police force receiving retirement benefits. The cost of living increase shall not exceed the percentage increase in the Consumer Price Index from the year in which the police member last worked, shall not cause the total police pension benefits to exceed seventy-five per centum of the salary for computing retirement benefits and shall not cause the total cost of living increase to exceed thirty per centum. No cost of living increase shall be granted which would impair the actuarial soundness of the pension fund.

Criteria: A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the police pension plan’s benefit structure should be in compliance with Act 600, as amended.

Cause: The township has been unsuccessful at reaching a revised agreement with the Muhlenberg Township Police Labor Organization which is necessary to update the plan’s governing document.

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan. In addition, maintaining a benefit structure which is not in compliance with Act 600 could result in plan members or their beneficiaries receiving incorrect benefit amounts or being denied benefits to which they are statutorily entitled.

Recommendation: We again recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to eliminate the inconsistencies among the plan documents and bring the police pension plan's benefit structure into compliance with Act 600, as amended, at their earliest opportunity to do so.

Management's Response: Municipal officials are aware that the governing document for the Police Pension Plan is not currently in compliance with Act 600. In an effort to remedy this situation, the township has prepared several revised plan documents in recent years to bring the Plan into compliance with the current applicable laws, regulations and actuarial standards. These revised documents have been submitted to the Muhlenberg Township Police Labor Organization (MTPLO) who represents the police officers bargaining unit.

The MTPLO contends that pension benefits are a mandatory subject of collective bargaining under Pennsylvania statute and have threatened to file unfair labor charges against the Township if changes are made without their approval even if those changes are only to incorporate changes to Act 600. The MTPLO also contends that it does not need a revised document because the Township is bound by the new legislation with or without changes to the plan document.

The Township believes that a restated, comprehensive and up-to-date plan document is not only a requirement but also in the best interest of both the Township and the MTPLO members because it will better ensure that the Township is in compliance with applicable laws and it will improve all parties' understanding of plan benefits. Towards this end the Township entered this as an item in dispute during our negotiations this past year for a new collective bargaining agreement. Negotiations for a new agreement reached an impasse and the contract was submitted to binding arbitration. The Act 111 award that was recently received authorizes the Township to adopt a new plan document following review by the MTPLO. It is expected that a new document will be enacted by ordinance no later than November 2011.

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

MUHLENBERG TOWNSHIP POLICE 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, 2005, is as follows:

	(1)	(2)	(3)	(4)	(5)	(6)
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)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-05	\$ 6,410,037	\$ 7,318,684	\$ 908,647	87.6%	\$ 1,737,483	52.3%
01-01-07	7,811,650	8,452,860	641,210	92.4%	2,007,056	31.9%
01-01-09	7,748,063	10,597,235	2,849,172	73.1%	2,251,139	126.6%

Note: The market value of the plan's assets at 01-01-09 has been adjusted to reflect the smoothing of gains and/or losses over a 4-year averaging period which will be limited to a maximum of 120 percent and a minimum of 80 percent of the fair market value of assets. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.



MUHLENBERG TOWNSHIP POLICE 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.

Trends in unfunded (assets in excess of) actuarial accrued liability and annual covered payroll are both affected by inflation. Expressing the unfunded (assets in excess of) actuarial accrued liability as a percentage of annual covered payroll (Column 6) approximately adjusts for the effects of inflation and aids analysis of the plan's progress made in accumulating sufficient assets to pay benefits when due. Generally, where there is an unfunded actuarial accrued liability, the smaller this percentage, the stronger the plan. However, when assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2005	\$ 205,674	100.0%
2006	375,794	100.0%
2007	385,219	100.0%
2008	290,601	100.0%
2009	315,079	100.0%
2010	318,014	100.1%

MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 NOTES TO SUPPLEMENTARY SCHEDULES  
 (UNAUDITED)

The information presented in the required 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, 2009
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	13 years
Asset valuation method	4-year smoothing - the actuarial value of assets will be limited to a maximum of 120% and a minimum of 80% of the fair market value of assets.
Actuarial assumptions:	
Investment rate of return *	7.5%
Projected salary increases *	5.0%
* Includes inflation at	Not disclosed
Cost-of-living adjustments	3% per year



MUHLENBERG TOWNSHIP POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Muhlenberg Township Police Pension Plan  
Berks County  
5401 Leesport Avenue  
Temple, PA 19560

Mr. Michael S. Malinowski	President, Board of Township Commissioners
Mr. Steven C. Landes	Township Manager
Ms. Dawn M. Cieniewicz	Finance Director
Ms. Judith A. Zettlemyer	Chief Administrative Officer

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).