

UPPER DARBY TOWNSHIP POLICE PENSION PLAN

DELAWARE 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 Upper Darby 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 147 - Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.
- Act 177 - General Local Government Code, Act of December 19, 1996 (P.L. 1178, No. 177), as amended, 53 Pa.C.S. § 101 et seq.
- 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 Upper Darby Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2619, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers.



The Honorable Mayor and Township Council
Upper Darby Township
Delaware County
Upper Darby, PA 19082

We have conducted a compliance audit of the Upper Darby 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 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 findings 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. Upper Darby Township contracted with an independent certified public accounting firm for annual audits of the Upper Darby Township Police Pension Plan's financial statements 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 Upper Darby 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 Upper Darby 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 findings further discussed later in this report:

Finding No. 1 – Noncompliance With Prior Audit Recommendation –
Provision Of Benefits In Excess Of Act 600

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Failure
To Adopt Benefit Provisions Mandated By Act 30

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. However, we are extremely concerned about the historical trend information contained in the schedule of funding progress included in this report which indicates a continued decline of assets available to satisfy the long-term liabilities of the plan. For example, the plan's funded ratio went from 79.6% as of January 1, 2005, to a ratio of 57.9% as of January 1, 2009, which is the most recent date available. We encourage township officials to monitor the funding of the police pension plan to ensure its long-term financial stability.

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

October 19, 2011

JACK WAGNER
Auditor General

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

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

- Provision Of Benefits In Excess Of Act 600
- Failure To Adopt Benefit Provision Mandated By Act 30

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Provision Of Benefits In Excess Of Act 600

Condition: As disclosed in the prior audit report, Upper Darby Township adopted a home rule charter pursuant to the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2901 et seq. (previously 53 P.S. § 1-101 et seq.) and has provided retirement benefits in the plan’s governing document and the collective bargaining agreement that are in excess of Act 600 provisions, as noted below:

<u>Provision</u>	<u>Ordinance No. 2619</u>	<u>Act 600, as amended</u>	<u>2010-2011 Collective Bargaining Agreement</u>
Survivor Benefit - prior to eligibility for retirement, regardless of cause of death	\$300 per month for spouse and \$75 per month for each dependent child.	Not authorized	\$1,200 per month for spouse and \$800 per month for each dependent child.
Nonservice-related disability benefit	50% of the average monthly earnings based on last 60 months of employment, regardless of the years of service; upon reaching normal retirement date, recalculated as 50% of average monthly earnings based on last 36 months prior to disability.	Not authorized	Before 3 years of service, not provided. After 3 years of service, 50% of the highest 12 months of earnings.

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Criteria: On January 24, 2001, the Commonwealth Court of Pennsylvania issued its opinion in *Municipality of Monroeville v. Monroeville Police Department Wage Policy Committee*. Therein, the court held that section 2962(c)(5) of the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2962(c)(5), “clearly precludes home rule municipalities from providing pension benefits different from those prescribed in general law including Act 600.” The court’s holding was in accord with the position taken by this Department since at least January 1995.

Cause: Municipal officials were unable to amend the excess benefit provisions through the collective bargaining process.

Effect: The provision of unauthorized benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the township received state aid based on unit value during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, in the future, the increased costs to the pension plan as a result of the excess pension benefits could increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards and may result in the receipt of state aid in excess of the township’s entitlement. Additionally, during the current audit period, 2 plan members were granted nonservice-related disability pension benefits.

Recommendation: We again recommend that the township comply with Act 600 at its earliest opportunity to do so. To the extent that the township is not in compliance with Act 600 and/or is contractually obligated to provide benefits in excess of those authorized by Act 600 for employees who began full-time employment on or after January 24, 2001 (the date Monroeville was issued), the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, the excess benefits will be deemed ineligible for funding with state pension aid. In such case, the plan’s actuary may be required to determine the impact, if any, of the excess benefits on the plan’s future state aid allocations and submit this information to the department.

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

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Failure To Adopt Benefit Provisions Mandated By Act 30

Condition: As disclosed in the prior audit report, on April 17, 2002, Act 600 was amended by Act 30, which made significant changes to the statutorily prescribed benefit structure of the 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>Provision</u>	<u>Ordinance No. 2619</u>	<u>Act 600, as amended</u>	<u>2010-2011 Collective Bargaining Agreement</u>
Survivor benefit – after normal retirement date or after member’s retirement	100%, 10-year certain; then reduced to 50% for life or until remarriage.	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 attaining the age of 23) of no less than 50% of the pension the member was receiving or would have been entitled to receive 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).	100%, 10-year certain; then reduced to 50% for life or until remarriage.

UPPER DARBY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

<u>Provision</u>	<u>Ordinance No. 2619</u>	<u>Act 600, as amended</u>	<u>2010-2011 Collective Bargaining Agreement</u>
Service-related disability benefit	70% of final average monthly earnings. 36	A service-related disability benefit in conformity with a uniform scale and fixed by the plan’s governing document, but at least 50% of the member’s salary at the time of disability, provided that if the member receives Social Security disability benefits for the same injury his disability benefit is reduced by the amount of the Social Security benefit.	70% of average of highest 12 monthly earnings.

Criteria: The police pension plan’s benefit structure should be in compliance with Act 600, as amended by Act 30.

Cause: Municipal officials were unable to implement all of the Act 30 provisions through the collective bargaining process.

Effect: Maintaining a benefit structure which is not in compliance with Act 600, as amended by Act 30, 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 bring the police pension plan’s benefit structure into compliance with Act 600, as amended by Act 30, at their earliest opportunity to do so.

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

UPPER DARBY 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 Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Liability (b) - (a)	Funded Ratio (a)/(b)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Liability as a % of Payroll [(b-a)/(c)]
01-01-05	\$ 39,065,751	\$ 49,069,479	\$ 10,003,728	79.6%	\$ 8,461,109	118.2%
01-01-07	42,113,143	57,891,316	15,778,173	72.7%	9,298,453	169.7%
01-01-09	37,596,410	64,960,950	27,364,540	57.9%	11,374,290	240.6%

Note: The market values of the plan's assets at 01-01-05 and 01-01-07 have been adjusted to reflect the smoothing of gains and/or losses over a 3-year averaging period. The market value of the plan's assets at 01-01-09 has been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 70 to 130 percent of the market value of assets. These methods 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.

UPPER DARBY 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.

UPPER DARBY 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	\$ 2,042,829	100.0%
2006	2,614,336	101.9%
2007	2,781,834	100.0%
2008	2,756,075	125.2%
2009	3,720,809	100.0%
2010	3,746,842	100.0%

UPPER DARBY 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	14 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 70-130% of the market value of assets.
Actuarial assumptions:	
Investment rate of return *	8.0%
Projected salary increases *	5.0%
* Includes inflation at	Not disclosed
Cost-of-living adjustments	None assumed



UPPER DARBY TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Upper Darby Township Police Pension Plan
Delaware County
100 Garrett Road
Upper Darby, PA 19082

The Honorable Thomas N. Micozzie	Mayor
Mr. John E. Clark	Council President
Mr. Thomas J. Judge, Jr.	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.