

COMPLIANCE AUDIT

Clay Township Non-Uniformed Pension Plan Butler County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

April 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
Clay Township
Butler County
Butler, PA 16001

We have conducted a compliance audit of the Clay Township Non-Uniformed Pension Plan for the period January 1, 2017 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 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 whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan. We also tested individual employee contributions made for all four active employees employed during 2017, and all three active employees employed during 2018, 2019, and 2020, amounting to \$7,871, \$6,842, \$7,815, and \$8,565, respectively.
- We determined whether retirement benefits calculated for the plan member who elected to vest during the current audit period 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 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 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.

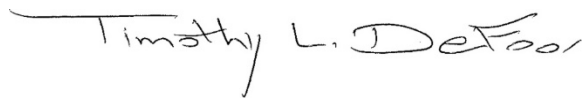
The Clay Township Non-Uniformed Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Clay 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 Clay 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 – Partial Compliance With Prior Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 2 – Receipt Of State Aid In Excess Of Entitlement
- Finding No. 3 – Inadequate Accounting/Reporting Over Activity Of The Pension Plan
- Finding No. 4 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

The contents of this report were discussed with officials of Clay 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
April 5, 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 Clay 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 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974 (P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

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 Clay Township Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 2020-1, and a separately executed plan agreement with the plan custodian, effective November 1, 2020. Prior to November 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 10-2-08 and a separately executed plan agreement adopted pursuant to Act 15. The plan was established January 1, 1995. Active members are not required to contribute to the plan but may make optional contributions in an amount not to exceed 15 percent of compensation. As of December 31, 2020, the plan had four active members and one terminated member eligible for vested benefits in the future.

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

Clay Township has partially complied with the prior recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

During the current audit period, the township reimbursed \$432 to the Commonwealth for the overpayment of state aid in 2015; however, plan officials again failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data as further discussed in the Findings and Recommendations section of this report.

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: As disclosed in the Status of Prior Finding section of this report, the township partially complied with the prior recommendation by reimbursing the Commonwealth for the excess state aid received during 2015. However, the township again overstated payroll by including supervisor meeting pay of \$3,750 on the Certification Forms AG 385 filed in the years 2019, 2020, and 2021, respectively. The data contained on these certification forms is based on prior calendar year information.

Criteria: 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 again failed to subtract the supervisor meeting pay from the AG 385s filed in 2019, 2020, and 2021 and follow this department’s prior recommendation, accordingly.

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. The township’s 2019 and 2020 state aid allocations were based on pension costs. The incorrect certification of pension data affected the township’s state aid allocations, as identified below:

<u>Year</u>	<u>Normal Cost %</u>	<u>Payroll Overstatement</u>	<u>State Aid Overpayment</u>
2019	10%	\$ 3,750	\$ 375
2020	10%	3,750	<u>375</u>
		State Aid Overpayment	<u><u>\$ 750</u></u>

In addition, the township’s state aid allocation for 2021 was based on unit value in the amount of \$19,188 (4 units at \$4,797 each) However, based on the corrected information, the township was entitled to an allocation based on the plan’s pension cost amounting to \$18,936. Therefore, the township received an overpayment of state aid in the amount of \$252 during 2021.

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

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$1,002, 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.

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: We are concerned by the municipality’s failure to fully comply with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

Finding No. 2 – Receipt Of State Excess State Aid In Excess Of Entitlement

Condition: The township received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the years 2018 and 2019, as illustrated below:

	<u>2018</u>	<u>2019</u>
State aid allocation	\$ 20,801	\$ 20,357
Actual municipal pension costs	(20,103)	(18,374)
Less State aid overpayment <i>(refer to Finding No. 1)</i>	-	(375)
Adjusted excess state aid	\$ 698	\$ 1,608

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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.

Cause: Plan officials failed to establish adequate internal control procedures to reconcile the township's state aid allocation with the plan's actual defined contribution pension costs during 2018 and 2019.

Effect: It is this department's opinion that because 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 overpayment of state aid in the years 2018 and 2019 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$2,306 of excess state aid received in the years 2018 and 2019 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 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 township's annual state aid allocation and municipal contributions made to the pension plan with the plan's annual defined contribution pension costs and reimburse any excess state aid received to the Commonwealth.

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

Auditor's Conclusion: 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.

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – 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 2020. 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 2020.

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 2020 to ensure the accuracy and propriety of the transaction activity.

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

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Auditor Conclusion: It was noted that the plan custodian recently 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. In addition, the custodian has taken active measures to resolve these issues and anticipates distribution of the 2020 reports and statements for their plans beginning the last week of March and completion of the 2020 financial reporting this summer. Moreover, the custodian expects 2021 financial reports to be distributed before the end of 2022. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

Finding No. 4 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

Condition: As disclosed as a verbal observation during a prior engagement, municipal officials failed to adopt the mandatory provisions of Act 205 regarding professional services contracts.

Criteria: Section 701-A of Act 205, as amended by Act 44 of 2009, 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.

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

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.

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.

Cause: Plan officials failed to establish adequate internal controls procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: The township’s failure to comply in all respects with the previous recommendation and the provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the township’s pension plan could result in 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.

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions which include maintaining appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan, including authorizations/approvals of township officials in the official minutes of formal board meetings and the required notifications and disclosure responsibilities to ensure the transparency of the actions taken by plan officials relative to the awarding of such professional services contracts.

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

Auditor Conclusion: Compliance will be evaluated during our next engagement of the plan.

CLAY TOWNSHIP NON-UNIFORMED PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Statutorily Required Contribution (SRC)*	Contributions in Relation to the SRC*	Contribution Deficiency (Excess)**	Covered- Employee Payroll***	Contributions as a Percentage of Covered- Employee Payroll
2014	\$ 18,967	\$ 19,191	\$ (224)	\$ 188,471	10.18%
2015	19,580	19,786	(206)	194,593	10.17%
2016	20,714	20,756	(42)	205,940	10.08%
2017	20,922	19,927	(995)	208,012	9.58%
2018	20,104	20,257	(153)	199,839	10.14%
2019	18,373	26,122	(7,749)	182,536	14.31%
2020	19,056	19,056	-		
2021	19,634	19,634	-		

* The Statutorily Required Contribution (SRC) is a contribution amount based upon the payroll and the contribution rate as outlined under the terms of the cash balance pension plan.

** The SRC and the actual Contribution were provided by the custodian. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account.

*** Due to the timing of this audit, covered-employee payroll for 2020 or 2021 was not provided in this schedule.

CLAY 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. David Beachem
Chairman, Board of Township Supervisors

Ms. Joann Duke
Secretary

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

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