

COMPLIANCE AUDIT

Girard Township Non-Uniformed Pension Plan Erie County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

May 2022



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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AUDITOR GENERAL**

Board of Township Supervisors
Girard Township
Erie County
Girard, PA 16417

We have conducted a compliance audit of the Girard Township Non-Uniformed Pension Plan for the period January 1, 2018 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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 the plan member who retired, and 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 actually paid or payable to the recipients.
- We determined whether the January 1, 2019 actuarial valuation report was prepared and submitted by March 31, 2020, in accordance with Act 205 and whether selected information provided on this report 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 transfers were properly authorized, timely, and appropriately recorded by plan officials by examining supporting documentation for all of the transfers made during the audit period.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Girard 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 objective.

The results of our procedures indicated that, in all significant respects, the Girard 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 – Receipt Of State Aid In Excess Of Entitlement
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 3 – Failure To Fully Fund Members' Accounts
- Finding No. 4 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

The contents of this report were discussed with officials of Girard 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 11, 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 Girard 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 Girard Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 19-005, effective January 1, 2019. Prior to that, the plan was locally controlled by the provisions of Resolution No. 14-631. The plan was established October 5, 1973. Active members are not required to contribute to the plan. For the year 2018, the municipality was required to contribute \$3,000 per employee to the plan. For the years 2019, 2020 and 2021, the municipality was required to contribute \$4,000 per employee to the plan. As of December 31, 2021, the plan had four active members and one terminated member eligible for vested benefits in the future.

GIRARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Receipt Of 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 2021, as illustrated below:

	<u>2018</u>	<u>2021</u>
Actual municipal pension costs	\$ 15,000	\$ 16,000
Less forfeitures	-	8,271
Adjusted municipal pension costs	15,000	7,729
State aid allocation	18,000	18,317
Less: State aid overpayment (See Finding No. 2)	-	(158)
Excess state aid	\$ 3,000	\$ 10,430

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, along with forfeitures available to reduce municipal contributions, with the plan’s actual defined contribution pension costs.

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 2021 must be returned to the Commonwealth for redistribution.

Furthermore, the township’s future state aid allocations may be withheld until the finding recommendation is complied with.

GIRARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the municipality return the \$13,430 of excess state aid received in the years 2018 and 2021 to the Commonwealth, from the township’s general fund. 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 any available employee forfeitures, 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: Due to the potential withhold of state aid, 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 plan.

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

Condition: The township certified an ineligible non-uniformed employee and overstated payroll by \$34,991 on the Certification Form AG 385 filed in 2019. The township certified an employee who did not become a plan member until the year 2019 due to a one-year probationary period required by the municipality. In addition, the township overstated payroll by \$2,500 on the Certification Form AG 385 filed in 2021 by including supervisor meeting pay. The data contained on these certification forms is based on prior calendar year information.

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, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: The township failed to establish adequate internal control procedures, such as having another individual review the data certified, to ensure the accuracy of the data certified prior to submission.

GIRARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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 township’s state aid allocation was 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	6.80%	\$ 34,991	\$ 2,379
2021	6.33%	2,500	<u>158</u>
Total Overpayment Of State Aid			<u><u>\$ 2,537</u></u>

Recommendation: We recommend that the total excess state aid, in the amount of \$2,537, plus 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.

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.

Finding No. 3 – Failure To Fully Fund Members’ Accounts

Condition: In 2019, the township did not fully fund the accounts of the plan members in accordance with the plan document.

Criteria: The plan’s governing document, Resolution #19-005, sets the municipal contribution rate at \$4,000 per year per each eligible employee.

GIRARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Cause: Township officials inadvertently contributed in accordance with a prior plan document and the township lacked adequate internal control procedures to timely identify the error.

Effect: The failure to properly fund the plan could result in plan members being denied benefits to which they are entitled in accordance with the plan’s governing document.

Due to the township’s failure to properly fund the members’ accounts, the township must now pay interest on the delinquent contributions.

Recommendation: We recommend that the township deposit the outstanding contributions due to the member for the year 2019, with interest, from the date of deposit of the municipal contributions which were made in that year to the date of deposit of the amount in arrears. A copy of the interest calculation must be maintained by the township for examination during our next audit of the plan.

We also recommend that, in the future, township officials properly fund the accounts of all eligible plan members.

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. 4 – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Condition: In 2021, the township changed investment service providers for its non-uniformed pension plan. However, there was no substantive evidence provided to support that the change in providers was conducted in accordance with provisions of Act 205 and/or that the change was properly approved.

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.

GIRARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

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.

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. 14-625, enacted by the township on March 11, 2014, established procedures for the procurement of professional services for the municipal pension system in accordance with Act 205 provisions.

GIRARD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

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 service providers 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 non-uniformed 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. 14-625 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.

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 2021, 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 Girard Township and the avoidance of any confusion pertaining to the proper administration of the township’s pension plans.

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.

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

Finding No. 1 contained in this audit report cites an overpayment of state aid to the township in the amount of \$13,430, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is 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.

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

Year Ended December 31	State Aid	Employer Contributions
2016	\$ 18,000	None
2017	18,000	None
2018	15,000	None
2019	18,000	None
2020	17,491	\$ 6,509
2021	7,729	None

Note: In 2021, the township met the plan's \$16,000 funding requirement through the deposit of \$7,729 in state aid and the allocation of \$8,271 in terminated employee forfeitures.

GIRARD 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

Ms. Lindy Platz
Chairman, Board of Township Supervisors

Mr. Peter Dion
Vice-Chairman, Board of Township Supervisors

Mr. Clayton Brocious
Supervisor

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