

COMPLIANCE AUDIT

York Area Regional Police Department Police Pension Plan York County, Pennsylvania For the Period January 1, 2015 to December 31, 2017

May 2018



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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AUDITOR GENERAL**

Regional Police Commission
York Area Regional Police Department
York County
York, PA 17402

We have conducted a compliance audit of the York Area Regional Police Department Police Pension Plan for the period January 1, 2015 to December 31, 2017. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding 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.

- 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 determined whether retirement benefits calculated for all 5 of the plan members who retired 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 monthly pension benefit due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients. We also determined whether retirement benefits calculated for both of the plan members who elected to vest during the current audit period, represent payments to all (and only) those entitled to receive them and were properly determined in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the pension benefit due to these retired individuals and comparing these amounts to supporting documentation evidencing amounts determined.
- We determined whether the January 1, 2013, January 1, 2015, and January 1, 2017 actuarial valuation reports were prepared and submitted by March 31, 2014, 2016, and 2018, 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 provisions of the Deferred Retirement Option Plan (DROP) were in accordance with the provisions of Act 205 by examining provisions stated in the plan's governing documents.

York Area Regional Police Department contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ending December 31, 2015 and 2016 which are available at the York Area Regional Police Department's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Commission officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the York Area Regional Police Department 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 York Area Regional Police Department's internal controls as they relate to the York Area Regional Police Department's compliance with those requirements and that we considered to be significant within the context of our audit objective, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 York Area Regional Police Department 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 - Pension Benefit Not Authorized By The Plan's Governing Document

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

The contents of this report were discussed with officials of York Area Regional Police Department and, where appropriate, their responses have been included in the report. We would like to thank York Area Regional Police Department officials for the cooperation extended to us during the conduct of the audit.

May 11, 2018



EUGENE A. DEPASQUALE
Auditor General

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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.

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 York Area Regional Police Department Police Pension Plan is also governed by implementing regulations adopted by the former 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. § 767 et seq.

The York Area Regional Police Department Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. 2007-01, as amended. The plan is also affected by the provisions of collective bargaining agreements between the regional police department and its police officers. The plan was established March 1, 1965. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2017, the plan had 39 active members, 4 terminated members eligible for vested benefits in the future, and 30 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2017, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement Age 50 and 25 years of service

Early Retirement None

Vesting 12 years of service

Retirement Benefit:

Benefit equals 50% of average monthly pay based on last 36 months plus an incremental pension of \$100 times years of service over 25 (maximum \$500).

Survivor Benefit:

Before Retirement Eligibility Refund of member contributions plus interest.

After Retirement Eligibility A monthly benefit equal to 50% of the pension the member was receiving or was entitled to receive on the day of the member's death.

Service Related Disability Benefit:

Benefit equals 75% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Pension Benefits In Excess Of The Plan’s Governing Document

Condition: Plan officials provided a monthly pension benefit in excess of the pension plan’s governing document, Resolution No. 2007-01, as amended, adopted pursuant to Act 600. Plan officials included accrued unused sick pay (360 hours or 45 days) in the compensation used to calculate the final monthly pension benefit for 2 officers who retired during the current audit period even though this type of remuneration was specifically excludable according to the plan document. A similar condition occurred and was not detected during prior audit periods for 3 additional officers who retired previously and also had accrued unused sick pay included in their pension calculations although specifically prohibited.

Criteria: Section 3.2(c) of the pension plan’s separately executed plan agreement, amended and restated effective January 1, 2008, states as follows:

Pension Benefit Formula – Each eligible participant shall receive a monthly pension benefit payable at his normal retirement age equal to 50% of average monthly compensation.

Section 1.3(a)(1) further defines compensation/average monthly compensation as follows:

Compensation means any earnings reportable as W-2 wages for federal income tax withholding purposes, plus elective contributions for the applicable period....

However, Section 1.3(a)(2) identifies the following exclusions from compensation used in determining monthly pension benefits, as follows:

Exclusions From Compensation – Notwithstanding the provisions of Section 1.3(a)(1), the following types of remuneration shall be excluded from the participant’s compensation:

Unused vacation, personal day, and sick pay paid on account of termination of employment

Any lump sum payment made upon termination of employment

However with respect to any employee who was a police officer with York Township prior to the regionalization, the participant’s compensation shall include up to 50 unused sick days. **The former Windsor Township officers shall not have any unused sick days included.** [Emphasis Added]

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Cause: Plan officials failed to establish adequate internal control procedures to ensure that each retiring officer's pension calculation was determined in accordance with the plan's governing document. In addition, according to a police department official, last year during the Spring of 2017, plan officials held a discussion on pension calculations and lump sum payments and during that discussion it was mentioned that the prior Chief of Police would include those lump sum payments into the pension calculations for all the officers, referencing the pension plan documents. However, the current Chief of Police, after having read through the York Area Regional Police Pension Plan documents, came to the realization that Section 1.3 of the plan document prohibits including unused vacation, personal day, and sick pay paid on account of termination of employment. However, with respect to any employee who was a police officer with York Township prior to the regionalization, the participant's compensation would include up to 50 unused sick days. The former Windsor Township officers were not entitled to any unused sick days included.

Once the current Chief of Police had access to this pension plan document and the York Township side letter that was agreed upon prior to the regionalization of the new police department, the current Chief of Police felt an error had occurred in the pension calculations for the former Windsor Township officers that had retired or were enrolled in the Individual Retirement Option Plan (IROP) and contacted elected officials that govern the Police Department and informed them of the issue at hand.

The regional police department's attorney also became involved and took legal action against the former Windsor Township officers that received the lump sum payment included into their pension calculation.

Another police department official indicated that they had this conversation previously with the prior Chief of Police, and the current Chief of Police could only opine that the prior Chief of Police's interpretation of the word "termination" in the pension plan document was that of a discharged or fired officer.

Effect: The plan is paying pension benefits to 5 retirees in excess of those authorized by the plan's governing document. As of the date of this report, the retirees are receiving total excess benefits amounting to \$1,004 per month, which totaled approximately \$49,538 from retirement through the end of the audit period.

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Providing unauthorized pension benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. Since the regional received state aid based on unit value for its pension plans during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We recommend that the pension benefits of any retirees whose benefits were not properly determined in accordance with the provisions of the plan's governing document be adjusted, prospectively, and that plan officials limit future benefit payments from the pension plan to those authorized by the plan's governing document. In addition, any excess benefit payments made from the plan will be deemed ineligible for funding with state aid. Accordingly, the pension plan's actuary may be required to determine the impact, if any, of the excess benefit payments on the regional's future state aid allocations and submit this information to the Department. If it is determined the excess benefit payments had an impact on the regional's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the Department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

We further recommend that future pension benefits be calculated and paid in accordance with the applicable provisions contained in the plan's governing document in effect at the time of a plan member's retirement.

Management's Response: Plan officials indicated the following:

The first step in this process to rectify the problem was to have the former Windsor Township officers voluntarily sign-off on a new pension plan calculation based upon the final 36-month average with the lump sum payment being excluded from the calculation. This attempt was ignored and none of the former Windsor Township officers elected to sign the document.

The second step was made by the Police Department's attorney in suing the former Windsor Township officers in court. This strategy was then changed and the suit was removed from the court docket.

The third step was a unilateral change in the pension plan payment made to the former Windsor Township officers. This was completed by January 2018.

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

The next step is to continue with a legal suit to get a court ordered determination on the legality of the pension calculations and whether or not they were done correctly, originally, or if the current pension payment is the correct payment that is being made.

Auditor's Conclusion: Based on the management response, it appears municipal officials intend to comply with the finding recommendation. Compliance will be monitored subsequent to the release of the audit report and through our next audit of the plan.

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

The supplementary information contained on Pages 7 through 9 reflects the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans*. The objective of this statement is to improve financial reporting by state and local governmental pension plans.

SCHEDULE OF CHANGES IN THE NET PENSION
 LIABILITY AND RELATED RATIOS
 FOR THE YEARS ENDED DECEMBER 31, 2015 AND 2016

	<u>2015</u>	<u>2016</u>
Total Pension Liability		
Service cost	\$ 655,152	\$ 687,910
Interest	1,906,840	2,040,344
Benefit payments, including refunds of member contributions	<u>(996,590)</u>	<u>(1,152,062)</u>
Net Change in Total Pension Liability	1,565,402	1,576,192
Total Pension Liability – Beginning	23,817,710	25,383,112
Total Pension Liability - Ending (a)	<u>\$ 25,383,112</u>	<u>\$ 26,959,304</u>
Plan Fiduciary Net Position		
Contributions – employer	\$ 893,378	\$ 913,523
Contribution – employees	188,626	222,111
Net investment income	(593,885)	1,764,094
Benefit payments, including refunds of member contributions	<u>(996,590)</u>	<u>(1,152,062)</u>
Administrative expense	<u>(15,700)</u>	<u>(12,520)</u>
Net Change in Plan Fiduciary Net Position	(524,171)	1,735,146
Plan Fiduciary Net Position – Beginning	21,803,425	21,279,254
Plan Fiduciary Net Position - Ending (b)	<u>\$ 21,279,254</u>	<u>\$ 23,014,400</u>
Net Pension Liability - Ending (a-b)	<u>\$ 4,103,858</u>	<u>\$ 3,944,904</u>
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	83.83%	85.37%
Estimated Covered Employee Payroll	\$ 3,718,603	\$ 3,668,688
Net Pension Liability as a Percentage of Covered Employee Payroll	110.36%	107.53%

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the regional as of December 31, 2015 and 2016, calculated using the discount rate of 8.00%, as well as what the regional's net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	1% Decrease (7.00%)	Current Discount Rate (8.00%)	1% Increase (9.00%)
Net Pension Liability - 12/31/15	\$ 7,163,065	\$ 4,103,858	\$ 1,523,255
Net Pension Liability - 12/31/16	\$ 7,149,489	\$ 3,944,904	\$ 1,245,075

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Actuarially Determined Contribution	Actual Contributions	Contribution Deficiency (Excess)	Covered- Employee Payroll	Contributions as a Percentage of Covered- Employee Payroll*
2008	\$ 295,930	\$ 295,930	\$ -	*	*
2009	281,110	281,110	-	*	*
2010	324,388	324,388	-	*	*
2011	471,147	471,147	-	*	*
2012	472,201	472,201	-	*	*
2013	633,464	640,616	(7,152)	*	*
2014	662,972	662,972	-	\$3,589,972	18.47%
2015	893,378	893,378	-	3,718,603	24.02%
2016	913,523	913,523	-	3,668,688	24.90%
2017	935,219	935,219	-	**	**

* Due to GASB Statement No. 67, *Financial Reporting for Pension Plans*, being implemented only recently, the amount of Covered-Employee Payroll was not provided for years prior to 2014.

** Due to the timing of this audit, covered-employee payroll for 2017 was not provided in this schedule.

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF INVESTMENT RETURNS

Annual Money-Weighted Rate of Return, Net of Investment Expense:

2016	8.28%
2015	(2.79%)

YORK AREA REGIONAL POLICE DEPARTMENT 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, 2013, is as follows:

	(1)	(2)	(3)	(4)
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)
01-01-13	\$ 17,450,033	\$ 21,509,830	\$ 4,059,797	81.1%
01-01-15	21,803,425	23,817,710	2,014,285	91.5%
01-01-17	23,014,400	26,443,761	3,429,361	87.0%

YORK AREA REGIONAL POLICE DEPARTMENT 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.

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the 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, 2017
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	10 years
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	8.0%
Projected salary increases	5.0%
Cost-of-living adjustments	3.0%

YORK AREA REGIONAL POLICE DEPARTMENT POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. Albert Granholm
Chairman, Regional Police Commission

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