

COMPLIANCE AUDIT

Horsham Township Police Pension Plan Montgomery County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

May 2024



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

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We have conducted a compliance audit of the Horsham Township Police Pension Plan for the period January 1, 2019 to December 31, 2022. 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 determined whether retirement benefits calculated for plan members who retired during the current audit period, and through the completion of our fieldwork procedures, 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 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 and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2020 and 2022, 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.

Horsham Township contracted with an independent certified public accounting firm for annual audits of its basic 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 Horsham Township Police 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 Horsham 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:

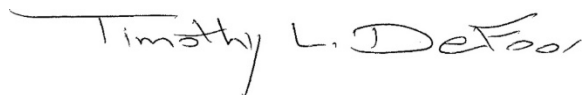
Finding No. 1 – Noncompliance With Prior Audit Recommendation –
Unauthorized Pension Benefits

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

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous reports that has not been corrected by township officials. We are concerned by the township's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendations noted in this audit report.

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 Horsham 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 9, 2024

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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 two 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 Horsham Township Police 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 177 - General Local Government Code, Act of December 19, 1996 (P.L. 1158, 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. § 767 et seq.

The Horsham Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2016-3, 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 plan was established January 1, 1973. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2022, the plan had 39 active members, 2 terminated members eligible for vested benefits in the future, and 31 retirees receiving pension benefits from the plan.

HORSHAM TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Recommendation

Horsham Township has not complied with the prior recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Unauthorized Pension Benefits

HORSHAM TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Unauthorized Pension Benefits

Condition: As disclosed in prior audit reports, the township adopted a home rule charter pursuant to the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. section 2901 et seq. previously 53 P.S. section 1-101 et seq.). The plan’s governing document and the collective bargaining agreement between the township and its police officers continue to contain a member contributions provision and a nonservice-related disability benefit provision that are not in compliance with Act 600, as noted below:

<u>Provision</u>	<u>Ordinance No. 2016-3</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Member contributions	Participants shall contribute to the Plan an amount equal to 2.75% of their compensation... In the event that the township is required to contribute General Fund monies to keep the plan actuarially sound, the township may, on an annual basis, compel contributions from the participants, not to exceed 5% of the participants’ compensation.	Participants shall contribute to the Plan an amount equal to 2.75% of their compensation... In the event that the township is required to contribute General Fund monies to keep the plan actuarially sound, the township may, on an annual basis, compel contributions from the participants, not to exceed 5% of the participants’ compensation.	Members shall pay into the fund, monthly, an amount equal to not less than five per centum nor more than eight per centum of monthly compensation. The governing body of the borough, town, township or regional police department may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members.
Nonservice-related disability benefit	A participant shall be considered as qualified for early retirement if it is determined by a qualified physician that he is disabled... by reason of physical or mental impairment.	A participant shall be considered as qualified for early retirement if it is determined by a qualified physician that he is disabled... by reason of physical or mental impairment.	Not authorized

HORSHAM TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Criteria: The plan’s governing document and the collective bargaining agreement should contain benefit provisions that are in compliance with Act 600, as amended.

Regarding disability benefits, Section 5(e)(1) of Act 600 states:

In the case of the payment of pensions for permanent injuries incurred in service, the amount and commencement of the payments shall be fixed by regulations of the governing body of the borough, town, township or regional police department and shall be calculated at a rate no less than fifty per centum of the member’s salary at the time the disability was incurred, provided that any member who receives benefits for the same injuries under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et. seq.) shall have his disability benefits offset or reduced by the amount of such benefits. (Emphasis added.)

Furthermore, the Supreme Court of Pennsylvania in *Chirico v. Board of Supervisors for Newtown Township*, 518 Pa. 572, 544A.2d 1313 (1988) held that Act 600 does not provide for the payment of pension benefits for non-service related injuries.

In addition, 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. section 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 again failed to effect compliance with the prior audit recommendation through the collective bargaining process.

Effect: The provision of an unauthorized nonservice-related disability benefit 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. Although the township did not receive excess state aid allocations attributable to excess benefits provided during the current audit period, providing unauthorized benefits could result in the receipt of excess state aid in the future and could increase required municipal contributions to the plan.

In addition, the failure to establish a member contribution rate pursuant to Act 600 provisions compels the township to annually determine whether member contributions should be increased as opposed to annually determining whether member contributions should be reduced.

HORSHAM TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: The Department acknowledges that its position has changed over the years and that, until *Monroeville*, there was no definitive decision as to whether home rule municipalities were obliged to comply with applicable pension law. The Department seeks, therefore, to implement the decision in as equitable a fashion as possible, while paying necessary deference to the court's ruling. Accordingly, the department will not penalize a home rule municipality for granting benefits not authorized by Act 600 to existing retirees or to individuals who began full-time employment before January 24, 2001 (the date *Monroeville* was issued). However, the Department expects the township to restrict pension benefits to those authorized by Act 600 for all employees who began full-time employment on or after that date.

Special note should be taken that the Department's application of *Monroeville* only to employees hired on or after January 1, 2001 does not sanction (1) a municipality's granting excess benefits to existing or future employees when none had been granted as of January 24, 2001, or (2) a municipality's increasing excess benefits for existing or future employees beyond those that had been granted as of that date.

Management's Response: Municipal officials indicated that they were not successful in negotiating elimination of these benefit provisions from the collective bargaining agreement during the current contract for the period January 1, 2023 to December 31, 2027, however, they will try to eliminate the benefit provisions during the next set of negotiations.

Auditor's Conclusion: We are concerned that the municipality has not complied with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

HORSHAM TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

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

Condition: The township certified an ineligible police officer (2 units) and overstated payroll by \$159,295 on the Certification Form AG 385 filed in 2022. The ineligible member retired effective January 1, 2019, and entered the township’s Deferred Retirement Option Program (DROP). The data contained on this certification form 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. The applicable number of units attributable to each eligible recipient city, borough, incorporated town and township shall be two units for each police officer and firefighter and one unit for each employee other than police officer or firefighter.

Furthermore, Act 205 at Section 402(e)(2) states, in part:

For the purpose of computing and reporting the applicable number of units, a DROP participant shall not be reported to the Auditor General as an active employee.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data certified. In addition, plan officials were unaware that DROP participants and their compensation are not eligible for certification.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the township’s state aid allocation was based on unit value, the incorrect certification of pension data affected the township’s state aid allocation, as identified below:

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2022	2	\$ 5,180	\$ 10,360

In addition, the township used the overpayment of state aid to pay the minimum municipal obligation (MMO) due to the police pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMO will not be fully paid.

HORSHAM TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$10,360, 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 two 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: Compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

HORSHAM 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, 2017, 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)
01-01-17	\$ 17,590,059	\$ 24,307,468	\$ 6,717,409	72.4%
01-01-19	19,528,005	27,449,734	7,921,729	71.1%
01-01-21	27,812,849	31,556,028	3,743,179	88.1%

HORSHAM 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.

HORSHAM TOWNSHIP POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2013	\$ 789,861	\$ 789,861	\$ -	\$ 3,378,449	23.4%
2014	795,581	795,581	-	3,378,449	23.5%
2015	1,214,965	1,216,457	(1,492)	3,852,683	31.6%
2016	1,240,176	1,240,176	-	4,228,342	29.3%
2017	1,334,456	1,334,456	-	4,330,859	30.8%
2018	1,330,404	1,330,404	-	4,276,803	31.1%
2019	1,468,718	1,468,718	-	4,347,708	33.8%
2020	1,600,271	1,600,271	-	4,589,455	34.9%
2021	1,592,106	1,592,106	-	5,031,910	31.6%
2022	1,035,570	1,035,570	-	5,108,659	20.3%

HORSHAM TOWNSHIP 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, 2021
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	8 years
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	6.75%
Projected salary increases	4.75%
Cost-of-living adjustments	None assumed

HORSHAM TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. W. William Whiteside III
Township Council President

Mr. William T. Gildea-Walker
Township Manager

Ms. Susan Zepp
Director of Finance

Ms. Maryann Holtz
Assistant Director of Finance

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