

COMPLIANCE AUDIT

Jackson Township Non-Uniformed Pension Plan Luzerne 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**

Board of Township Supervisors
Jackson Township
Luzerne County
Jackson Township, PA 18708

We have conducted a compliance audit of the Jackson Township Non-Uniformed 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 findings 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 findings 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 for all four active employees employed during the audit period amounting to \$17,879, \$17,698, \$18,847, and \$18,719, for the years 2019, 2020, 2021, and 2022, respectively, made during the audit period.
- We determined whether retirement benefits calculated for 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 benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- 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.

The Jackson 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 Jackson 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 Jackson 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 A Net Overpayment Of State Aid

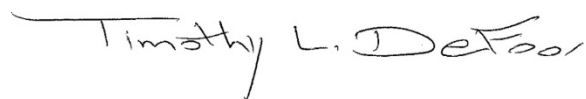
Finding No. 2 – Noncompliance With Prior Recommendation – Allocation Of State Aid In Excess Of Entitlement

Finding No. 3 – Failure To Properly Fund Members Accounts

Finding No. 2 contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by township officials. We are concerned by the township's failure to correct that 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 Jackson 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
March 29, 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 Jackson 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 Jackson Township Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 1 of 2020 and a separately executed plan agreement with the plan's custodian effective January 1, 2020, adopted pursuant to Act 15. Prior to January 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 1-2000 and an agreement adopted pursuant to Act 15. The plan is also affected by the provisions of collective bargaining agreements between the township and its non-uniformed employees. The plan was established January 1, 2000. Active members are required to contribute 5 percent of compensation to the plan and may optionally contribute an amount not to exceed 15 percent of compensation. The municipality is required to contribute 7 percent of each member's compensation. As of December 31, 2022, the plan had 4 active members, 1 terminated member eligible for vested benefits in the future, and 4 retirees receiving pension benefits.

JACKSON TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Recommendation

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

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

During the current audit period, the township reimbursed \$22,559 to the Commonwealth for the overpayment of state aid received in 2017, 2018, and 2019; however, the township failed to calculate and pay the required interest due on the reimbursement, as further discussed in the Findings and Recommendations section of this report.

Noncompliance With Prior Recommendation

Jackson Township has not complied with the prior recommendation concerning the following:

- Allocation Of State Aid In Excess Of Entitlement

JACKSON 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 A Net Overpayment Of State Aid

Condition: As disclosed in the Status of Prior Findings section of this report, the township partially complied with the prior recommendation by reimbursing \$22,559 to the Commonwealth for the overpayment of state aid received in 2017, 2018, and 2019; however, the township failed to calculate and pay the required interest due on the reimbursement. It was recommended in the prior audit report that the total excess state aid be returned to the Commonwealth, with interest compounded annually from the date of receipt to the date of repayment. However, as of the date of the current audit fieldwork completion, no such interest has been paid on the excess state aid reimbursement.

Criteria: The case of Peyton v. Margiotti, 398 Pa. 86, (1959), states that a person has the right to collect interest of money which is unlawfully withheld from him. When interest is not expressly provided for... it is due... from the date of withholding. Id. at 94.

Cause: Township officials misunderstood and thought the interest due was already calculated in the amount due noted during the prior audit.

Effect: The pension plan retained the interest earned on the state aid overpayment.

Recommendation: We again recommend that the interest due on the state aid overpayments received in 2017, 2018, and 2019, compounded annually from date of receipt to date of repayment, at a rate earned by the pension plan, be reimbursed to the Commonwealth. A check 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 payment.

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.

JACKSON TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Noncompliance With Prior Recommendation – Allocation Of State Aid In Excess Of Entitlement

Condition: The prior audit report disclosed that in 2016, the township allocated state aid to the non-uniformed pension plan in excess of the plan’s actual pension costs under Act 205, as illustrated below:

State aid allocated to plan	\$ 15,566
Less: Actual municipal pension costs	<u>(13,098)</u>
Excess state aid	<u>\$ 2,468</u>

The prior finding recommended that municipal officials allocate the \$2,468 of excess state aid to the township’s defined benefit pension plan. However, as of the date of the current audit fieldwork completion, no such allocation had been made.

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 plan 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: Township officials were unaware this finding still required compliance.

Effect: It is this department’s opinion that, since 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; however, the township does have the option to allocate the excess state aid to its defined benefit pension plan.

Recommendation: We again recommend that municipal officials allocate the \$2,468 of excess state aid to the township’s defined benefit pension plan.

In addition, we recommend that, in the future, plan officials reconcile the amount of state aid allocated to the non-uniformed pension plan with the pension plan’s actual pension costs.

JACKSON TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Continued

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. 3 – Failure To Properly Fund Member’s Account

Condition: The township made excess municipal contributions to the account of a plan member in 2018 and 2019, as illustrated below:

2018:

<u>Employee Hire Date</u>	<u>Actual Contributions</u>	<u>Required Contributions</u>	<u>Excess Contributions</u>
6/12/89	\$ 5,843	\$ 5,081	\$ 762

2019:

<u>Employee Hire Date</u>	<u>Actual Contributions</u>	<u>Required Contributions</u>	<u>Excess Contributions</u>
6/12/89	\$ 5,334	\$ 4,634	\$ 700

The discrepancy in 2018 was disclosed to municipal officials in a verbal observation during the prior audit, however no action was taken to resolve the matter.

Criteria: Resolution #2 of 2018, states, in part:

...Township agrees to increase their quarterly contributions to the municipal pension plan to seven percent (7%) of each member’s compensation for calendar year 2018 only.

Resolution #2 of 2019, states, in part:

...Township agrees to increase their quarterly contributions to the municipal pension plan to the seven percent (7%) of each member’s compensation for the calendar year 2019 only.

JACKSON TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Continued)

Pursuant to the plan agreement, plan membership is restricted to full time employees, and a member's compensation upon which municipal contributions should be determined is restricted to the compensation related to that full time employment.

Cause: The employee holds part-time positions at the township in addition to their full-time position. At the time the discrepant contributions were made, township officials were unaware that compensation related to part-time positions should not be contributed on.

Effect: The failure to properly fund members' accounts results in plan members receiving excess benefits in violation of the plan's governing document.

Recommendation: We recommend that the township review the applicable member's account and make the adjustments deemed necessary to ensure that it is funded in accordance with plan provisions.

Management's Response: Municipal officials agreed with the finding without exception and indicated that they will take appropriate action to comply with the recommendation upon receipt of the audit report.

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

JACKSON 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	\$ 12,539	\$ 12,663	\$ (124)	\$ 177,124	7.15%
2015	12,317	12,428	(111)	175,459	7.08%
2016	12,762	12,762	-	182,112	7.01%
2017	12,676	12,696	(20)	179,093	7.09%
2018	15,959	11,833	4,126	225,979	5.24%
2019	15,910	20,056	(4,146)	224,998	8.91%
2020	16,054	16,055	(1)	226,779	7.08%
2021	17,263	17,264	(1)	244,053	7.07%
2022	17,126	17,126	-	242,084	7.07%

* 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 Statutorily Required Contribution and the actual Contribution were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account. The 4th quarter contribution for the year 2018 was deposited into the plan on January 15, 2019, causing the 2018 Deficiency and 2019 Excess reported above.

JACKSON TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. John Jay Wilkes, Jr.
Chairman, Board of Township Supervisors

Mr. Allen L. Fox
Secretary/Treasurer

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

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