

COMPLIANCE AUDIT

West Fallowfield Township Police Pension Plan Chester County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

October 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

Board of Township Supervisors
West Fallowfield Township
Chester County
Cochranville, PA 19330

We have conducted a compliance audit of the West Fallowfield Township Police Pension Plan for the period January 1, 2016 to December 31, 2019. 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.

- 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 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 lone plan member who retired subsequent to 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 individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, respectively, in accordance with Act 205 and whether selected information provided on these 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 West Fallowfield Township Police 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 Comprehensive Annual 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 West Fallowfield 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 objective.

The results of our procedures indicated that, in all significant respects, the West Fallowfield 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 – Failure To Implement Mandatory Provisions Of Act 205
- Finding No. 2 – Ordinance Improperly Amended By Resolution
- Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

The contents of this report were discussed with officials of West Fallowfield 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.

September 18, 2020



EUGENE A. DEPASQUALE
Auditor General

CONTENTS

	<u>Page</u>
Background.....	1
Findings and Recommendations:	
Finding No. 1 – Failure To Implement Mandatory Provisions Of Act 205	2
Finding No. 2 – Ordinance Improperly Amended By Resolution	4
Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan	5
Supplementary Information	7
Report Distribution List	8

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 West Fallowfield 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 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The West Fallowfield Township Police Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 75, as amended, and a separately executed plan agreement with the plan's custodian adopted pursuant to Act 15. The plan was established December 3, 1998. The municipality is required to contribute \$8,500 per member per year. As of December 31, 2019, the plan had two active members.

WEST FALLOWFIELD TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Failure To Implement Mandatory Provisions Of Act 205

Condition: During the prior audit, a verbal observation was issued to plan officials notifying them of the passage of Act 44 of 2009, which effectively amended Act 205 for the procurement of professional services contracts, and recommending that the township adopt the mandatory provisions, accordingly. However, during the current audit period, the municipality again failed to adopt such mandatory provisions.

Criteria: Section 701-A of Act 205, as amended by Act 44, defines a “Professional Services Contract”, as follows:

“Professional services contract.” A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
- (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states in part:

Each municipal pension system ... shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

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.

WEST FALLOWFIELD TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

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 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.

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

Effect: The Township's failure to comply in all respects with the provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the township's pension plan could denote a lack of overall transparency of the actions taken by plan officials relative to the contracting for custodial and investment services for the is pension plan.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions which should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process to ensure the transparency of the actions taken by plan officials relative to the awarding of any future professional services contracts for its pension plan.

Management's Response: A resolution was adopted on September 16, 2020 by West Fallowfield Township Board of Supervisors meeting this requirement.

Auditor's Conclusion: Based on the management response, it appears municipal officials have complied with the finding recommendation. Compliance will be evaluated during our next plan engagement.

WEST FALLOWFIELD TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Ordinance Improperly Amended By Resolution

Condition: The Township amended the plan’s governing document, Ordinance No. 75 of 2012, which adopts the specific pension benefit structure in a separately executed plan agreement with the plan’s custodian, through Resolution No. 17-11-2017, enacted on November 16, 2017. The resolution effectively amended the superannuation retirement age of a plan participant from age 55 to age 50.

It was also noted that the plan benefit modification was not accompanied by an appropriate cost estimate disclosing the effects of the proposed benefit plan modification or included correctly in the accounting and financial data reported by the township under Government Accounting Standards Board Statement 68, as amended by Statements 73 and 82.

Criteria: In Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Additionally, Section 305(a) of Act 205, states the following:

Prior to the adoption of any benefit plan modification by the governing body of the municipality, the chief administrative officer of each pension plan shall provide to the governing body of the municipality a cost estimate of the effect of the proposed benefit plan modification.

In addition, Section 305(d) of Act 205, states the following:

If the pension plan is a defined contribution plan, which is either self-insured in whole or in part or fully insured by an authorized insurance carrier, the cost estimate shall be prepared by any qualified person and shall be a comparison of current and future contribution rates.

Cause: The municipality passed the resolution to increase the municipal contribution, as specifically authorized in the language found in Section 9.1(d) of the plan’s separately executed agreement adopted through Ordinance No. 75, as follows:

The Municipality may annually elect to contribute at a higher amount in future years by adopting a resolution and filing a copy of it with the Board.

However, municipal officials were unaware that similar language did not exist in Section 5.1 of the plan agreement which prescribes the required superannuation retirement age or that a resolution cannot otherwise amend an ordinance.

WEST FALLOWFIELD TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Effect: The failure to properly adopt the amendment to the plan document reduces the opportunity for public review and comment and could potentially result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that the township amend the plan’s governing document with a properly executed ordinance.

We also recommend that all future benefit modifications be preceded by a cost estimate, which has been prepared by a qualified person.

Management’s Response: The township will make the corrections with a new ordinance once the 2020 contract with PMRS is reviewed and signed. This process has been delayed due to the COVID-19 pandemic.

Auditor’s Conclusion: Based on the management response, it appears municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

Condition: The township’s record-keeping system did not provide effective control over the transactional activity of the Police pension plan during 2019. Municipal officials were unable to furnish annual financial statements or custodial account transaction statements for the police pension plan. These annual financial and account statements have historically been provided by the plan’s custodian, PMRS. However, as of the date of this report, annual financial and accounting statements summarizing the pension account activity have not been provided for the year 2019.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of pension plans. In addition, assets held in a custodial account for the purpose of plan management are to be governed by the terms and provisions of the account contract, provided that the terms and provisions of the contract are within the parameters of all prevailing pension legislation. Although the municipality may contract with a trustee to administer the financial management of the plan, the fiduciary responsibility for the plan remains with the municipality.

WEST FALLOWFIELD TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Cause: Municipal officials indicated that the plan’s custodian, PMRS, failed to provide copies of the custodial account transaction statements summarizing activity of the pension plan account for the year 2019. In addition, municipal officials did not maintain a separate detailed accounting of pension plan transactions, which, among other things, helps assure the production of proper financial statements to effectively monitor the annual activity of the pension plan.

Effect: Although we were able to obtain alternate documentation from the municipality to evidence the propriety of the individual transactions tested during performance of the audit for the year 2019, the failure to maintain annual financial and/or account transaction statements prohibits municipal officials from effectively monitoring the plan’s financial operations. Additionally, inadequate monitoring of the pension plan account could lead to undetected errors or improprieties in account transactions as well as deficiencies in authorizing and implementing pension plan policies and procedures.

Recommendation: We recommend that municipal officials contact the plan custodian and obtain annual financial statements of the custodial account of the police pension plan for the year 2019 to ensure the accuracy and propriety of the transaction activity. In addition, we recommend that municipal officials establish and maintain a financial record-keeping system that allows the municipality to effectively monitor the plan’s financial operations, even in the absence of statements from the plan custodian. Municipal officials should refer to the Auditor General’s Bulletin No. 2-88 entitled “Preparation, Maintenance and Auditability of Financial Records,” for further guidance in establishing adequate accounting and record-keeping procedures.

Management’s Response: Yes, it is the township’s responsibility to maintain the records; however, PMRS failed to provide the records to the township in a timely manner. This finding goes against the township and the municipal official. PMRS issued a letter stating they expect the figures and documents to be processed in December of 2020. With the statewide stay at home order for COVID-19 there is every expectation that things will be delayed. The township is being dinged for not having information that wasn’t provided by PMRS due to COVID, PMRS doing a software upgrade and PMRS having new financial software being installed. This was not negligence of the township or the municipal official, it was knowing the reports were delayed and will be provided when they are processed.

Auditor’s Conclusion: PMRS has indicated that they are in the process of preparing 2019 Year-End Financial Activity Reports and Annual Member Statements for all municipalities. PMRS has also indicated that they recently went through a substantial upgrade to the plan administration software and implemented a new accounting system. This transition in addition to disruptions in normal government operation due to COVID-19 has resulted in a three to four month delay in the 2019 year-end reporting process. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

WEST FALLOWFIELD TOWNSHIP POLICE 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	\$ 8,100	\$ 8,118	\$ (18)	\$ 104,198	7.79%
2015	6,240	6,240	-	121,465	5.14%
2016	17,040	17,080	(40)	135,801	12.58%
2017	17,040	13,210	3,830	145,612	9.07%
2018	17,040	16,620	420	157,838	10.53%
2019	17,040	17,040	-		

* 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.

** Due to the timing of this audit, covered-employee payroll for 2019 was not provided in this schedule.

*** The Statutorily Required Contribution and the Contributions In Relation To The SRC were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the Municipal Reserve.

WEST FALLOWFIELD TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. A. Duane Hershey
Chairman, Board of Township Supervisors

Ms. Gina Wheeler
Secretary/Treasurer

Ms. Charity Rosenberry, CPA
Pennsylvania Municipal Retirement System

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.