

# COMPLIANCE AUDIT

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## Kutztown Borough Non-Uniformed Pension Plan Berks County, Pennsylvania

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November 2024



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Kutztown Borough  
Berks County  
Kutztown, PA 19530

We have conducted a compliance audit of the Kutztown Borough Non-Uniformed Pension Plan 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 conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

The objective of the audit was to determine whether 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:

- For the period January 1, 2023 to December 31, 2023, and through the completion of our fieldwork procedures, we determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the deposit date of state aid and determining whether deposits were made within 30 days of receipt.

- For the period January 1, 2023 to December 31, 2023, we determined whether 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 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.
- For the period January 1, 2023 to December 31, 2023, we determined whether 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 using the rates obtained from the plan's governing document in effect for the period noted and examining documents evidencing the deposit of these employee contributions into the pension plan.
- For the period January 1, 2023 to December 31, 2023, we determined whether retirement benefits calculated for plan members who retired during the period noted 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 to the recipients.
- We determined whether the January 1, 2023 actuarial valuation report was prepared and submitted by March 31, 2024 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.

The Kutztown Borough 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.

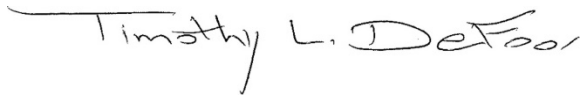
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Kutztown Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances 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 Kutztown Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, except as noted in the following finding further discussed later in this report:

Finding – Ordinance Improperly Amended By Resolution

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 Kutztown Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor  
Auditor General  
October 7, 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 Kutztown Borough 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.

The Kutztown Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. 13-2020, as amended, and a separately executed plan agreement with the plan's custodian effective September 1, 2020, adopted pursuant to Act 15. (*See Finding.*) Prior to September 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 1-2012 and a separately executed plan agreement with the plan's custodian effective January 1, 2012, adopted pursuant to Act 15. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established January 1, 1963. Active members are required to contribute 8.25 percent of compensation to the plan. As of December 31, 2023, the plan had 45 active members, 7 terminated members eligible for vested benefits in the future, and 28 retirees receiving pension benefits from the plan.

KUTZTOWN BOROUGH NON-UNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – Ordinance Improperly Amended By Resolution**

Condition: The pension plan governing document, Ordinance No. 1-2012, was restated in its entirety by Resolution No. 13-2020.

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.

Cause: Municipal officials were informed by the plan’s custodian that the restatement could be amended by a resolution.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

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

Management’s Response: The Borough is in agreement with the Cause of the noted Finding and the Borough will pursue the Recommendation to remedy the Finding.

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.

KUTZTOWN BOROUGH NON-UNIFORMED 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, 2019, 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)
01-01-19	\$12,436,699	\$13,928,330	\$ 1,491,631	89.3%
01-01-21	13,922,974	15,465,106	1,542,132	90.0%
01-01-23	15,249,140	16,842,697	1,593,557	90.5%



KUTZTOWN BOROUGH NON-UNIFORMED 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.

KUTZTOWN BOROUGH NON-UNIFORMED PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

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
2014	\$ 71,055	\$ 81,890	\$ (10,835)	\$2,324,479	3.52%
2015	241,045	241,125	(80)	2,196,450	10.98%
2016	250,418	250,458	(40)	2,314,341	10.82%
2017	326,278	326,338	(60)	2,398,399	13.61%
2018	330,960	330,960	-	2,505,074	13.21%
2019	373,686	373,706	(20)	2,556,757	14.62%
2020	378,554	378,574	(20)	2,778,315	13.63%
2021	403,082	403,162	(80)	2,661,869	15.15%
2022	404,228	352,138	52,090	2,708,467	13.00%
2023	428,899	428,939	(40)	2,812,962	15.25%

Note: The 2022 Contribution Deficiency was due to an increase in the member contribution rate which made actual member contributions \$62,612 higher than estimated on the 2022 MMO. Therefore, there is no deficiency.

KUTZTOWN BOROUGH NON-UNIFORMED 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, 2023
Actuarial cost method	Entry age normal
Amortization method	Level dollar for plan bases and an average for Aggregate Gain/Loss, 10% of surplus is credited against aggregate cost where applicable.
Remaining amortization period	5 years
Asset valuation method	The Actuarial Value of Assets is the sum of all audited reserve accounts as of the valuation date, including Members', Municipal, Retired Members', Disability, and DROP Participants' Reserves, as provided in the December 31, 2022 ACFR, and a one-year administration expense reserve, plus any additional adjustments as made during the year by the Board of Trustees without reflecting any Excess Interest. This asset valuation is based on the unique legislative structure of PMRS and the administrative rules adopted by the PMRS Board in conjunction with Pennsylvania Municipal Retirement Law. <sup>1</sup>

Actuarial assumptions:

Investment rate of return *	5.25%, compounded annually, net of investment and administration expenses.
Projected salary increases *	2.2%-6.22% based on age and service
* Includes inflation at	2.2%
Cost-of-living adjustments	2.2% per year up to plan maximum

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<sup>1</sup> The administrative rules adopted by the PMRS Board in conjunction with Pennsylvania Municipal Retirement Law, which are not required to comply with Actuarial Standards of Practice (ASOP) when defining the Actuarial Value of Assets (AVA), do not necessarily meet the requirement of ASOP 44 Selection and Use of Asset Valuation Methods for Pension Valuations. The AVA provided within this report follow the Pennsylvania Municipal Retirement Law and the PMRS policy statement.

KUTZTOWN BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Joshua D. Shapiro**  
Governor  
Commonwealth of Pennsylvania

**The Honorable James F. Schlegel**  
Mayor

**Mr. Kevin J. Snyder**  
Council President

**Mr. Gabriel Khalife**  
Borough Manager

**Ms. Sharon Dalickas**  
Finance Director

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

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).