

COMPLIANCE AUDIT

Smithfield Township Non-Uniformed Pension Plan Monroe County, Pennsylvania For the Period January 1, 2020 to December 31, 2023

January 2025



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Supervisors
Smithfield Township
Monroe County
East Stroudsburg, PA 18301

We have conducted a compliance audit of the Smithfield Township Non-Uniformed Pension Plan for the period January 1, 2020 to December 31, 2023. 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 finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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 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 plan members who retired or elected to vest 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, 2021 and January 1, 2023 actuarial valuation reports were prepared and submitted by March 31, 2022 and 2024, 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 Smithfield 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.

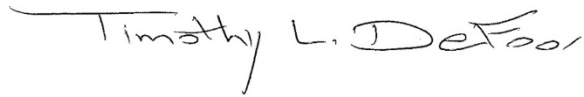
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Smithfield Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local 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 Smithfield 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 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 Smithfield 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.

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
December 4, 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 Smithfield 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.

The Smithfield Township Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Resolution No. 454, as amended, (*see Finding*) and a separately executed plan agreement with the plan's custodian, effective September 1, 2020, adopted pursuant to Act 15. Prior to September 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 213, and a separately executed plan agreement with the plan's custodian, 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 June 26, 1984. Active members are not required to contribute to the plan, but may optionally contribute up to, but not to exceed, 20 percent of compensation. The municipality was required to contribute \$4,070 per member for the year 2020, and \$4,500 per member for the years 2021, 2022, and 2023. As of December 31, 2023, the plan had ten active members, six terminated members eligible for vested benefits in the future, and four retirees receiving pension benefits.

SMITHFIELD TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendations

Smithfield Township has complied with the prior recommendations concerning the following:

· Receipt Of State Aid In Excess Of Entitlement

During the current audit period, the township returned \$2,358 to the Commonwealth for the excess state aid received in 2017 and 2018. In addition, during the current audit period, plan officials reconciled the township's annual state aid allocation with the plan's annual defined contribution pension costs and reimbursed any excess state aid received to the Commonwealth.

· Failure To Properly Fund Member Accounts

Plan officials reviewed the applicable members' accounts and made the adjustments deemed necessary to ensure they are properly funded in accordance with the provisions contained in the plan's governing document. In addition, during the current audit period, plan officials ensured that the members' accounts were properly funded in accordance with the provisions contained in the plan's governing document.

· Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

During the current audit period, municipal officials complied with the instructions that accompany Certification Form AG 385 and accurately reported the required pension data.

· Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

The township provided annual financial statements of transactions of the custodial account of the pension plan for all years of the audit period.

SMITHFIELD TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Ordinance Improperly Amended By Resolution

Condition: The pension plan governing document, Ordinance No. 213, which adopted a separately executed plan agreement with the plan’s custodian effective January 1, 2014, was amended in its entirety by Resolution No. 454, which adopted a separately executed plan agreement with the plan’s custodian effective September 1, 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: Township officials stated they did not realize Ordinance No. 213 that passed in 2013, did not contain a provision to permit the Board of Supervisors to update the aforementioned ordinance via Resolution of the Board of Supervisors. Additionally, municipal officials were not aware that a resolution cannot amend an ordinance.

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 township amend the plan’s governing document with a properly executed ordinance.

Management’s Response: Township officials stated the Board of Supervisors will begin an ordinance update, to be completed by December 31, 2024, that will permit the Board of Supervisors to make changes to the contract with PMRS for the municipal pension by Resolution.

Auditor’s Conclusion: As stated in the Criteria section above, an ordinance may be amended only by another ordinance and not by a resolution. The action proposed by the township to update the ordinance to permit changes to the contract by resolution will not suffice to adopt the new plan agreement. We reiterate our recommendation to amend the plan’s governing document (Ordinance No. 213) with a properly executed ordinance, which is legally binding, to adopt the new plan agreement, and not merely with a resolution that is less formal and may not be binding. Compliance will be evaluated during our next audit of the plan.

SMITHFIELD 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	\$ 10,889	\$ 10,889	\$ -	\$ 300,786	3.62%
2015	24,160	24,002	158	325,306	7.38%
2016	24,160	23,343	817	318,217	7.34%
2017	23,410	25,725	(2,315)	359,483	7.16%
2018	24,191	23,534	657	380,661	6.18%
2019	28,350	28,350	-	413,629	6.85%
2020	33,894	33,654	240	400,184	8.41%
2021	36,885	36,885	-	428,258	8.61%
2022	39,114	39,946	(832)	478,387	8.35%
2023	43,826	48,180	(4,354)	579,924	8.31%

* 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.

In 2015, the deviation between these amounts was due to contributions and the transfer from the municipal reserve account to pay administrative expenses. In 2016, the deviation between these amounts was due to transfers from the municipal reserve for contributions and administrative expenses. In 2017, the deviation between these amounts was due to an amount that was not allocated to member's account and the payment of administrative expenses. In 2018, the deviation between these amounts was due to transfers from the municipal reserve for contributions and administrative expenses.

In 2020, the deviation between these amounts was due to the payment of administrative expenses. In 2022, the deviation between these amounts was due to an amount that was not allocated to a member's account. In 2023, the deviation between these amounts was due to the deposit of additional state aid received for the year 2022.

SMITHFIELD 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. Jacob A. Pride
Chairman, Board of Township Supervisors

Ms. Julia Heilakka
Township Manager/Secretary

Ms. Bonnie Winters
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. 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.