

COMPLIANCE AUDIT

Derry Township Police Pension Plan Dauphin County, Pennsylvania

May 2025



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
Derry Township
Dauphin County
Hershey, PA 17033

We have conducted a compliance audit of the Derry Township Police 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 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:

- For the period January 1, 2022 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 annual deposit date of state aid and determining whether deposits were made within 30 days of receipt.
- For the period January 1, 2022 to December 31, 2023, and through the completion of our fieldwork procedures, 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.
- For the period January 1, 2022 to December 31, 2023, 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 the years in the period noted and examining documents evidencing the deposit of these employee contributions into the pension plan.
- For the period January 1, 2022 to December 31, 2023, and through the completion of our fieldwork procedures, 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 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, 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.
- For the period January 1, 2022 to December 31, 2023, we determined whether provisions of the Deferred Retirement Option Plan (DROP) were in accordance with the provision of Act 205 by examining provisions stated in the plan's governing documents.

Derry 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 Derry 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.

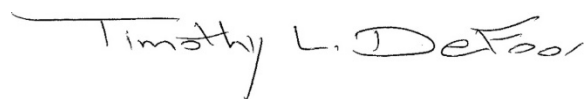
The results of our procedures indicated that, in all significant respects, the Derry Township Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, except as noted in the following findings further discussed later in this report:

- Finding No. 1 – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions
- Finding No. 2 – Noncompliance With Prior Audit Recommendation – In-Service Retirement Option Plan Not Adopted By Ordinance
- Finding No. 3 – Noncompliance With Prior Audit Recommendation – Unauthorized Provision For A Killed In Service Benefit

All three findings contained in this audit report repeat conditions that were cited in multiple prior audit reports and have not been corrected by township officials. We are concerned by the township's failure to correct those previously reported findings 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 Derry 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
May 1, 2025

CONTENTS

	<u>Page</u>
Background	1
Status of Prior Findings	2
Findings and Recommendations:	
Finding No. 1 – Noncompliance With Prior Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions	3
Finding No. 2 – Noncompliance With Prior Audit Recommendation – In-Service Retirement Option Plan Not Adopted By Ordinance	5
Finding No. 3 – Noncompliance With Prior Audit Recommendation – Unauthorized Provision For A Killed In Service Benefit.....	6
Supplementary Information	9
Report Distribution List	13

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 Derry 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Derry Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 180, as amended, 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 October 1, 1977. Active members are required to contribute 4 percent of compensation to the plan. As of December 31, 2023, the plan had 38 active members, 2 terminated members eligible for vested benefits in the future, and 39 retirees receiving pension benefits from the plan.

DERRY TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Recommendations

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

- Plan's Governing Document Fails To Contain An Intervening Military Service Credit Provision
- In-Service Retirement Option Plan Not Adopted By Ordinance
- Unauthorized Provision For A Killed In Service Benefit

DERRY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Condition: As disclosed in our six prior audit reports, the pension plan’s governing document fails to contain an intervening military service benefit provision that is required by Act 600. In addition, the plan’s governing document does not provide for a non-intervening military service benefit provision, which is optional under Act 600, but was agreed to in the collective bargaining agreement for the period January 1, 2022 to December 31, 2024 and was effective January 1, 2022. Two police officers who entered the In-service Retirement Option Plan during the period subject to audit purchased service credit for non-intervening military service.

Criteria: Sections 4(a) and (b) of Act 600 state:

- (a) Any member of the police force employed by a borough, town, township or regional police department, who has been a regularly appointed employee of any such political subdivision or regional police department for a period of at least six months and who thereafter shall enter into military service of the United States, shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment within six months after his separation from the service.
- (b) The ordinance or resolution establishing the police pension fund may provide full service credit for each year of military service or fraction thereof, not to exceed five years, to any member of the police force who was not employed by the political subdivision or regional police department prior to such military service. The amount due for the purchase of credit for military service other than intervening military service shall be computed by applying the average normal cost rate for borough, town, township and regional police pension plans as certified by the Public Employee Retirement Commission, but not to exceed ten per centum, to the member’s average annual rate of compensation over the first three years of municipal service and multiplying the result by the number of years and fractional part of a year of creditable non-intervening military service being purchased together with interest at the rate of four and three-quarters per centum compounded annually from the date of initial entry into municipal service to the date of payment.

DERRY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, Section 7G.2(K) of Article VII (G) *Retirement*, of the collective bargaining agreement for the period January 1, 2022 to December 31, 2024 states:

All employees covered under this agreement shall be permitted to purchase up to five (5) years of non-intervening military service. The cost to purchase this type of service shall be calculated for non-intervening military service under Act 600. This calculation will be performed by the Township's actuary.

The pension plan's benefit structure should be in compliance with the provisions of Act 600, and the plan's governing document and the collective bargaining agreement should contain consistent benefit provisions to ensure the sound administration of retirement benefits. Prudent business practices dictate that the governing document be reviewed and updated with the approval of new collective bargaining agreements.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendations and to follow through on their management responses to all findings in the prior audit report in which they stated their intentions to comply with the recommendations, resulting in all prior findings being repeated in the current audit report. In addition, municipal officials failed to establish adequate internal control procedures to ensure the plan's governing document and the collective bargaining agreement contained consistent benefit provisions.

Effect: The failure to include intervening or non-intervening military service credit provisions in the plan's governing document could result in a potential unfunded liability to the plan or the denial of benefits to which plan members are entitled under Act 600 or collective bargaining.

Recommendation: We again recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to bring the police pension plan's benefit structure into compliance with Act 600, as amended, and to ensure the plan's governing document and the collective bargaining agreement contain consistent benefit provisions at their earliest opportunity to do so.

Management's Response: Derry Township management provided the following response:

We take these findings seriously and are committed to addressing each of them thoroughly. Our team is currently implementing the necessary measures to ensure full compliance with all applicable guidelines and requirements moving forward.

Auditor's Conclusion: We are concerned by the failure to comply with the prior audit finding and encourage compliance at the earliest opportunity to do so.

DERRY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Noncompliance With Prior Audit Recommendation – In-Service Retirement Option Plan Not Adopted By Ordinance

Condition: As disclosed in our prior four audit reports, the terms, provisions and conditions of the In-Service Retirement Option Plan (IROP) were adopted in an addendum to collective bargaining between Derry Township and the Derry Township Police Association, dated February 27, 2007, effective January 1, 2007. However, the terms and conditions of the IROP have not been formally adopted by an ordinance that would properly amend the plan's benefit structure.

Criteria: Act 600 at Section 1(a)(1) states, in part:

Each borough, town and township of this Commonwealth maintaining a police force of three or more full-time members and each regional police department shall, and all other boroughs, towns or townships may, establish, by ordinance or resolution, a police pension fund. . . .

Furthermore, in Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, 529, 124 A.2d 487, 490 (1956), the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendations and to follow through on their management responses to all findings in the prior audit report in which they stated their intentions to comply with the recommendation, resulting in all prior findings being repeated in the current audit report.

Effect: The failure to include the IROP benefit provisions in the plan's governing document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We again recommend that municipal officials take appropriate action to formally adopt the IROP through a properly executed ordinance.

Management's Response: Derry Township management provided the following response:

We take these findings seriously and are committed to addressing each of them thoroughly. Our team is currently implementing the necessary measures to ensure full compliance with all applicable guidelines and requirements moving forward.

Auditor's Conclusion: We are concerned by the failure to comply with the prior audit finding and encourage compliance at the earliest opportunity to do so.

DERRY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Noncompliance With Prior Audit Recommendation – Unauthorized Provision For A Killed-In-Service Benefit

Condition: Derry Township maintains a police pension plan governed by the provisions of Act 600, as amended. Prior to the adoption of Act 51 of 2009, Act 600 contained a mandatory killed in service benefit provision; however, Act 51 specifically repealed the section of Act 600 that referenced the mandatory killed in service benefit. The three prior audit reports disclosed that the pension plan's governing document provides for a killed in service benefit that is no longer authorized by Act 600 and recommended that the township eliminate this unauthorized benefit provision. During the current audit period, it has been determined that the pension plan's governing document continues to provide for a killed in service benefit.

Section 4.2(a) of Ordinance No. 551 states:

Service-Connected Death Benefit – If an active participant dies on or after April 17, 2002, while performing police services for the employer, the participant's surviving spouse or eligible child (if any) shall receive a monthly benefit equal to 100% of the participant's monthly salary at the time of death.

Criteria: Section 1(a) of Act 51 of 2009 states, in part:

In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head, within 90 days from the date of death, shall submit certification of such death to the Commonwealth.

In addition, Section 1(d) of Act 51 of 2009 states, in part:

... the Commonwealth shall, from moneys payable out of the General Fund, pay to the surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section, and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until

DERRY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

there is no eligible beneficiary to receive them. For the purpose of this subsection, the term “eligible beneficiary” means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. (Emphasis added.)

Furthermore, Section 2 of Act 51 of 2009 states:

Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.
- (2) The following parts of acts are repealed:
 - (i) Section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No. 600), referred to as the Municipal Police Pension Law.
 - (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of December 18, 1984 (P.L.1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

Therefore, since Act 51 specifically repealed the killed in service provision of Act 600 and the funding provisions for the killed in service benefit that were contained in Act 205, the provision of a killed in service benefit is no longer authorized.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendations and to follow through on their management response to all findings in the prior audit report in which they stated their intentions to comply with the recommendations, resulting in all prior findings being repeated in the current audit report.

Effect: Since Section 1 of Act 51 provides that the Commonwealth is obligated to pay the killed in service benefit less any pension or retirement benefits paid to eligible survivors, the continued provision of a killed in service benefit could result in the pension plan being obligated to pay a benefit that is no longer authorized by Act 600, and would have been paid entirely by the Commonwealth absent such provision.

DERRY TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We again recommend that the municipality review the plan's killed in service benefit with its solicitor in conjunction with Act 51 of 2009 and eliminate this unauthorized benefit provision at its earliest opportunity to do so.

Management's Response: Derry Township management provided the following response:

We take these findings seriously and are committed to addressing each of them thoroughly. Our team is currently implementing the necessary measures to ensure full compliance with all applicable guidelines and requirements moving forward.

Auditor's Conclusion: We are concerned by the failure to comply with the prior audit finding and encourage compliance at the earliest opportunity to do so.

DERRY 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, 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	\$ 19,911,879	\$ 24,228,500	\$ 4,316,621	82.2%
01-01-21	26,813,611	26,206,961	(606,650)	102.3%
01-01-23	25,790,188	28,777,504	2,987,316	89.6%

DERRY 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.

DERRY 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>
2014	\$ 1,003,748	\$ 1,003,748	\$ -	\$3,429,072	29.27%
2015	1,111,782	1,111,782	-	3,748,331	29.66%
2016	959,589	959,589	-	3,839,792	24.99%
2017	987,226	987,226	-	3,782,543	26.10%
2018	987,638	987,638	-	3,813,166	25.90%
2019	1,081,478	1,081,478	-	3,500,142	30.90%
2020	1,066,550	1,066,550	-	3,424,874	31.14%
2021	1,243,116	1,243,116	-	3,770,244	32.97%
2022	563,658	563,658	-	4,095,746	13.76%
2023	583,984	583,984	-	4,182,313	13.96%

DERRY 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, 2023
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	12 years
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	7.5%
Projected salary increases	5.5%

DERRY TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Ms. Natalie Nutt
Chairperson, Board of Township Supervisors

Mr. Zachary Jackson
Township Manager

Ms. Cheryl Lontz
Manager of Payroll and Employee Benefits

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