

# LIMITED PROCEDURES ENGAGEMENT

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## Old Forge Borough Police Pension Plan Lackawanna County, Pennsylvania For the Period January 1, 2012 to December 31, 2014

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May 2016



Commonwealth of Pennsylvania  
Department of the Auditor General  
Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

The Honorable Mayor and Borough Council  
Old Forge Borough  
Lackawanna County  
Old Forge, PA 18518

We conducted a Limited Procedures Engagement (LPE) of the Old Forge Borough Police Pension Plan for the period January 1, 2012 to December 31, 2014 to determine its compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. We also evaluated compliance with some requirements subsequent to that period when possible. The LPE was conducted pursuant to authority derived from Section 402(j) of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.) but was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. 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. We believe that the evidence obtained provides a reasonable basis to support our LPE results.

Our LPE was limited to determining the following:

- × Whether municipal officials took appropriate corrective action to address the findings contained in our prior audit report, by inquiring of plan officials and evaluating supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken.
- × 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 engagement period.
- × 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.

- × Whether retirement benefits calculated for plan members who retired during the engagement 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 benefit due to retired individuals and comparing these amounts to supporting documentation evidencing amounts determined.
- × Whether the January 1, 2011 and January 1, 2013 actuarial valuation reports were prepared and submitted to the Public Employee Retirement Commission (PERC) by March 31, 2012 and 2014, 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.
- × Whether the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

Based on the results of our procedures performed during our LPE, nothing came to our attention indicating that the Old Forge Borough Police Pension Plan was not being 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 subsequent to this letter:

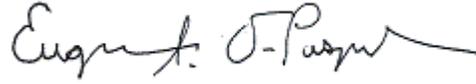
- Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Deposit The Full Amount Of State Aid Into The Pension Plan
- Finding No. 2 – Unauthorized Provision For A Killed In Service Benefit
- Finding No. 3 – Improper Elimination Of Members' Contributions

Finding No. 1 contained in this LPE results letter repeats a condition that was cited in our previous audit report that has not been corrected by borough officials. We are concerned by the borough's failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendations noted in this letter.

Our determination to perform a LPE for this engagement period does not preclude the Department from conducting an audit in accordance with *Government Auditing Standards* of the pension plan in subsequent periods. The borough should continue to maintain documentation related to this pension plan.

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 letter were discussed with officials of Old Forge Borough and, where appropriate, their responses have been included in this letter. We would like to thank borough officials for the cooperation extended to us during the conduct of this LPE.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

EUGENE A. DEPASQUALE  
Auditor General

March 21, 2016

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OLD FORGE BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendation

Old Forge Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Findings and Recommendations section of this letter:

- Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

Status of Prior Audit Recommendation

- Improper Pension Benefit Modification

As disclosed in prior audit reports, on April 18, 2000, Old Forge Borough enacted Ordinance No. 4 of 2000, which established disability benefits “at the rate of 70 percent of the police officer’s average monthly salary” where the previous rate had been 50 percent. On the same date, the borough enacted Resolution No. 6 of 2000, which made the increased rate applicable to an existing retiree, retroactive to April 1, 1997. The referenced retiree’s original monthly benefit was \$1,291, calculated at 50 percent of average monthly salary, and was subsequently retroactively increased to \$1,936, calculated at 70 percent of average monthly salary, inclusive of cost-of-living adjustments. During the current engagement period, on October 29, 2014, the retiree died and his surviving spouse is currently receiving half of the unauthorized pension benefit.

Act 600 mandates service-related disability benefits and, at Section 5(e), authorizes the governing body of the municipality to fix the amount and commencement of payments by regulation. Therefore, the increase in the disability benefit contained in Ordinance No. 4 of 2000 is authorized under Act 600 and unobjectionable, provided that the increased benefit is applied prospectively, i.e., only to those police officers who retire on service-related disability after the effective date of the ordinance.

Providing unauthorized pension benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses.

Since municipal officials determined that the borough was obligated to pay the unauthorized pension benefits to the referenced retiree, and now to his surviving spouse, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid.

OLD FORGE BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Status of Prior Audit Recommendation – (Continued)

As recommended in the prior audit report, the plan's actuary prepared Supplemental Actuarial Information Form AG-MP-1 as of January 1, 2009, and it was determined that the borough received excess state aid in 2011 in the amount of \$6,102 attributable to the excess benefits provided. The borough returned \$7,369, including interest, to the Commonwealth on March 6, 2015. The actuary also prepared Supplemental Actuarial Information Form AG-MP-1 as of January 1, 2011, and it was determined that the borough received excess state aid in 2013 in the amount of \$7,162 attributable to the excess benefits provided. The borough returned \$7,193, including interest, to the Commonwealth on April 28, 2016.

Since the borough received state aid based on unit value in 2012, 2014, and 2015, it did not receive allocations in those years attributable to the unauthorized pension benefits provided. The Department will continue to monitor the effect of the excess benefits being paid to the surviving spouse on the borough's future state aid allocations.

OLD FORGE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Deposit  
The Full Amount Of State Aid Into The Pension Plan**

Condition: As disclosed in our prior audit report, the municipality did not deposit the full amount of its 2010 and 2011 state aid allocations into the pension plan. The municipality received its 2010 and 2011 state aid allocations in the amounts of \$54,992 and \$79,264, on September 26, 2010, and April 26, 2012, respectively; however, only state aid totaling \$101,152 was deposited into an eligible pension plan. Of the remaining balance of \$33,104, the borough returned \$6,470 to the Commonwealth pursuant to a finding reported in the prior audit report for the non-uniformed pension plan that cited an overpayment of 2010 state aid. Since the municipality met its funding obligations to its non-uniformed defined contribution plans for the years 2010 and 2011, the remaining balance of the undeposited state aid allocations must be deposited into the police pension plan.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension funds or the alternate funding mechanisms applicable to the respective pension plans.

Cause: Plan officials have failed to adopt adequate internal control procedures to ensure compliance with this Department's prior audit recommendation.

Effect: When state aid is not deposited into a pension plan account, the funds are not available to pay operating expenses or for investment and the risk of misapplication is increased.

Furthermore, the borough's future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We again recommend that the municipality deposit the balance of the undeposited 2010 and 2011 state aid allocations, plus interest, into the police pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next engagement of the plan.

We also again recommend that plan officials develop and implement adequate internal control procedures to ensure that future state aid allocations are fully deposited into an eligible pension plan in accordance with Act 205 requirements.

OLD FORGE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Management’s Response: Municipal officials agreed with the finding without exception.

Auditor’s Conclusion: Due to the potential withhold of state aid, the borough’s compliance with the finding recommendation will be monitored subsequent to the release of the LPE results letter and through our next engagement of the plan.

**Finding No. 2 – Unauthorized Provision For A Killed In Service Benefit**

Condition: Old Forge Borough 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. During the prior audit period, a verbal observation was given to plan officials notifying them of the passage of Act 51. It was recommended that plan officials review the act’s implications for the police pension plan with their municipal solicitor. During the current engagement period, we determined that the pension plan’s governing document provides for a killed in service benefit that is no longer authorized by Act 600.

Section A of Ordinance No. 5 of 2007 states:

Any member of the Pension Plan who is killed in service, in the line of duty shall have a pension killed-in-service survivor benefits survivor benefits [sic] paid to his surviving spouse or children under the age of eighteen (18) years or if attending college, under or attaining the age of twenty three (23) years calculated at one hundred (100%) percent of the members salary at the time of death. The Borough may use a private insurance policy to satisfy this requirement and if such insurance is insufficient to cover this amount the balance shall be due and payable from the Police Pension Plan Fund. “Attending college” shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of seven credit hours per semester.

In addition, the borough continues to fund a killed in service benefit due to its inclusion in the plan’s January 1, 2011 and January 1, 2013, actuarial valuation reports.

OLD FORGE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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 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]

OLD FORGE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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: Plan officials failed to establish adequate internal control procedures to ensure the plan's governing document is in compliance with Act 600, as amended.

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.

Recommendation: We 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: Municipal officials agreed with the finding without exception.

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

OLD FORGE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – Improper Elimination Of Members’ Contributions**

Condition: The Old Forge Borough Police Pension Plan is locally controlled by the provisions of Ordinance No. 96-14, as amended, adopted pursuant to Act 600. Section 6(a) of Act 600 provides that where police officers are not covered by Social Security, members shall pay into the fund, monthly, an amount equal to not less than 5 percent nor more than 8 percent of monthly compensation. However, pursuant to Section 6(c) of Act 600, municipalities have the option to annually reduce or eliminate members’ contributions through the adoption of an ordinance or resolution. During the engagement period, the governing body of the municipality failed to annually eliminate members’ contributions in accordance with Act 600 provisions.

Criteria: Section 6(c) of Act 600 states, in part:

The governing body of the borough, town, township or regional police department may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that members’ contributions were eliminated in accordance with Act 600 provisions.

Effect: Although members did not contribute to the plan during the engagement period, members’ contributions were not annually eliminated in accordance with Act 600 provisions.

Recommendation: We recommend that the municipality either annually eliminate members’ contributions in accordance with Act 600, or reinstate the collection of members’ contributions in accordance with the rate approved by the municipality.

Management’s Response: Municipal officials agreed with the finding without exception.

Auditor’s Conclusion: Compliance will be evaluated during our next engagement of the plan.

OLD FORGE BOROUGH POLICE PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

A condition of a repeat finding such as that reported by Finding No. 1 contained in this LPE results letter may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this Department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

OLD FORGE BOROUGH 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, 2009, 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)
01-01-09	\$ 2,211,294	\$ 2,105,286	\$ (106,008)	105.0%
01-01-11	2,176,459	2,189,391	12,932	99.4%
01-01-13	2,267,041	1,674,466	(592,575)	135.4%

Note: The market value of the plan's assets at 01-01-09 has been adjusted to reflect the smoothing of gains and/or losses which will be limited to a maximum of 130 percent and a minimum of 70 percent of the fair value of assets. The market values of plan's assets at 01-01-11 and 01-01-13 have been adjusted to reflect the smoothing of gains and/or losses which will be limited to a maximum of 120 percent and a minimum of 80 percent of the fair market value of assets. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

OLD FORGE BOROUGH 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.

OLD FORGE BOROUGH POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
 AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	None	N/A
2010	None	N/A
2011	\$ 42,906	100.0%
2012	44,261	107.9%
2013	43,511	104.7%
2014	None	N/A

OLD FORGE BOROUGH 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, 2013
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	The actuarial value of assets will be limited to a maximum of 120% and a minimum of 80% of the fair market value of assets.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%
Cost-of-living adjustments	4.0% per year postretirement

OLD FORGE BOROUGH POLICE PENSION PLAN  
DISTRIBUTION LIST

This letter was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

**The Honorable Robert Mulkerin**  
Mayor

**Mr. Robert Semenza, Jr.**  
Council President

**Ms. MaryLynn Bartoletti**  
Borough Manager

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