

COMPLIANCE AUDIT

Port Vue Borough Non-Uniformed Union Pension Plan Allegheny County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

February 2015



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



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

EUGENE A. DEPASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Port Vue Borough
Allegheny County
Port Vue, PA 15133

We have conducted a compliance audit of the Port Vue Borough Non-Uniformed Union Pension Plan for the period January 1, 2011 to December 31, 2013. We also evaluated compliance with some requirements for the year 2014 when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our 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 finding contained in our prior audit 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 finding contained in our prior audit 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2008 to December 31, 2013, are presented on the Summary of Deposited State Aid and Employer Contributions.
- × 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. Employer contributions that were deposited into the pension plan for the years ended December 31, 2008 to December 31, 2013, are presented on the Summary of Deposited State Aid and Employer Contributions.
- × 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 that there were no benefit calculations prepared or pension distributions made for the years covered by our audit period.
- × We 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.
- × We determined whether all payments made to the multi-employer union pension plan were in accordance with the provisions contained in the collective bargaining agreement for the period January 1, 2010 to December 31, 2012 and for the period January 1, 2013 to December 31, 2016.

The borough's non-uniformed union employees participate in the Western Pennsylvania Teamsters and Employers Pension Plan, a Taft-Hartley Act collectively bargained, jointly trustee, multi-employer pension plan, which is governed primarily by the Federal Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides for substantial federal government oversight of the operating and reporting practices of employee benefit plans subject to its provisions. Accordingly, the scope of our audit was restricted to the activities of the Port Vue Borough Non-Uniformed Union Pension Plan and did not extend to the activities of the multi-employer pension plan.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Port Vue Borough Non-Uniformed Union Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the borough's internal controls as they relate to the borough's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 Port Vue Borough Non-Uniformed Union 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 – Partial Compliance With Prior Audit Recommendation – Incorrect Data Certified On Actuarial Valuation Reports Resulting In An Overpayment Of State Aid

The finding contained in this audit report 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 recommendation noted in this audit report.

The contents of this report were discussed with officials of Port Vue 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.

March 27, 2015



EUGENE A. DEPASQUALE
Auditor General

CONTENTS

	<u>Page</u>
Background	1
Status of Prior Finding	2
Finding and Recommendation:	
Finding – Partial Compliance With Prior Audit Recommendation – Incorrect Data Certified On Actuarial Valuation Reports Resulting In An Overpayment Of State Aid	3
Potential Withhold of State Aid	5
Summary of Deposited State Aid and Employer Contributions	6
Report Distribution List	7

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. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

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 Port Vue Borough Non-Uniformed Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

As further described in the Letter from the Auditor General included in this report, the borough's non-uniformed union employees participate in the Western Pennsylvania Teamsters and Employers Pension Plan. The Port Vue Borough Non-Uniformed Union Pension Plan is locally controlled by the provisions of Ordinance No. 284. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed union employees. The plan was established January 1, 1972. Active members are not required to contribute to the plan. The municipality was required to contribute \$72, \$79 and \$83 per week worked per employee for the years 2011, 2012 and 2013, respectively. As of December 31, 2013, the plan had 2 active members.

PORT VUE BOROUGH NON-UNIFORMED UNION PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Audit Recommendation

Port Vue Borough has partially complied with the prior audit recommendation concerning the following:

- Late Filing And Incorrect Data Certified On Actuarial Valuation Reports Resulting In An Overpayment Of State Aid

During the current audit period, the borough reimbursed \$22,066 to the Commonwealth for the overpayments of state aid received in 2010 and 2011, and included interest. In addition, the plan's January 1, 2011 and January 1, 2013 actuarial valuation reports were filed timely. However, the plan's January 1, 2011 and January 1, 2013 actuarial valuation reports contained inaccurate information as further discussed in the Finding and Recommendation section of this report.

PORT VUE BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDING AND RECOMMENDATION

**Finding – Partial Compliance With Prior Audit Recommendation – Incorrect Data
Certified On Actuarial Valuation Reports Resulting In An Overpayment Of State
Aid**

Condition: As disclosed in the Status of Prior Finding section of this report, the borough partially complied with our prior audit recommendation by reimbursing \$22,066 to the Commonwealth for the overpayments of state aid received in 2010 and 2011, and included interest. In addition, the plan's January 1, 2011 and January 1, 2013 actuarial valuation reports were filed timely. However, the plan's actuarial valuation reports for the non-uniformed union pension plan with valuation dates of January 1, 2011 and January 1, 2013, submitted to the Public Employee Retirement Commission (PERC), contained incorrect information. On the January 1, 2011 actuarial valuation report, the borough reported municipal contributions in the amount of \$26,353 when the actual amount of municipal contributions were \$12,633 and on the January 1, 2013 actuarial valuation report, the borough reported municipal contributions in the amount of \$15,648 when the actual amount of municipal contributions were \$8,180.

Criteria: Section 201(d) of Act 205 states:

Responsibility for preparation and filing of reports and investigations. The actuarial valuation report or experience investigation required pursuant to subsection (a) shall be prepared under the supervision and at the discretion of the chief administrative officer of the municipality, who shall be responsible for the filing of the document. The actuarial valuation report or experience investigation shall be signed by the chief administrative officer, indicating that to the extent of the understanding and knowledge of the officer, the report or investigation represents a true and accurate portrayal of the actuarial, financial and demographic condition of the pension plan of the municipality.

Cause: Borough officials were uncertain as to the cause of the discrepancies in the data reported to PERC on the actuarial valuation reports for 2011 and 2013 because the borough relied on the previous borough manager who is no longer employed by the borough.

PORT VUE BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Effect: Because the municipality's state aid allocations are determined, in part, by the information contained in the actuarial valuation reports, the submission of incorrect data resulted in the municipality receiving state aid allocations of \$28,609, \$31,075 and \$29,662, for the years 2012, 2013 and 2014, respectively. However, had the correct data been included in the actuarial valuation reports for 2011 and 2013, the borough would have been entitled to state aid allocations in the amounts of \$26,428, \$28,324 and \$22,194 for the years 2012, 2013 and 2014, respectively. Therefore, the borough received overpayments of state aid in the amounts of \$2,181, \$2,751 and \$7,468 for the years 2012, 2013 and 2014 respectively.

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

Recommendation: We recommend that plan officials contact PERC to determine if a revised actuarial valuation report for 2013 may be filed. If a revised report is prepared and accepted by PERC, a copy should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 316-D Finance Building, Harrisburg, PA 17120.

We further recommend that the total excess state aid, in the amount of \$12,400, be returned to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 320 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

Finally, we again recommend that in the future, plan officials review and verify all information submitted to PERC so that future actuarial valuation reports properly reflect the status of the pension plan.

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 audit report and through our next audit of the plan.

PORT VUE BOROUGH NON-UNIFORMED UNION PENSION PLAN
POTENTIAL WITHTHOLD OF STATE AID

A condition of a repeat finding such as that reported by the finding contained in this audit report may lead to a total withholding of state aid in the future unless the 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, 316-D Finance Building, Harrisburg, PA 17120.

PORT VUE BOROUGH NON-UNIFORMED UNION PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2008	\$ 12,394	\$ 336
2009	12,566	2,274
2010	12,633	None
2011	7,488	22
2012	7,824	356
2013	8,670	None

PORT VUE BOROUGH NON-UNIFORMED UNION PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Port Vue Borough Non-Uniformed Union Pension Plan
Allegheny County
1191 Romine Avenue
Port Vue, PA 15133

The Honorable Brien A. Hranics	Mayor
Mr. Mark D. Tortorice	Council President
Ms. Malisa Migliori	Borough Manager

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, 231 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.