

BIRDSBORO BOROUGH NONUNIFORMED UNION PENSION PLAN

BERKS COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2008, TO DECEMBER 31, 2009



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ABBREVIATION

ERISA - Employee Retirement Income Security Act

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.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 Birdsboro Borough Nonuniformed Union 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 nonuniformed union employees participate in the Central Pennsylvania Teamsters Pension Plan. The plan is also affected by the provisions of collective bargaining agreements between the borough and its nonuniformed union employees. Active members are not required to contribute to the plan. The municipality was required to contribute \$268 per month per member in 2008, and \$278 per month per member in 2009.



The Honorable Mayor and Borough Council
Birdsboro Borough
Berks County
Birdsboro, PA 19508

We have conducted a compliance audit of the Birdsboro Borough Nonuniformed Union Pension Plan for the period January 1, 2008, to December 31, 2009. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits 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 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 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. The borough's nonuniformed union employees participate in the Central Pennsylvania Teamsters 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 Birdsboro Borough Nonuniformed 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 Birdsboro Borough Nonuniformed 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, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objectives.

The results of our tests indicated that, in all significant respects, the Birdsboro Borough Nonuniformed 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 findings further discussed later in this report:

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Formally Adopt The Provisions Of The Pension Plan

Finding No. 2 – Failure To Properly Fund Members' Accounts

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Birdsboro Borough and, where appropriate, their responses have been included in the report.

October 7, 2010

JACK WAGNER
Auditor General

BIRDSBORO BOROUGH NONUNIFORMED UNION PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

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

- Failure To Formally Adopt The Provisions Of The Pension Plan

BIRDSBORO BOROUGH NONUNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Formally Adopt The Provisions Of The Pension Plan

Condition: As disclosed in the prior audit report, although a pension plan was created in 1988 for the nonuniformed union employees of the borough, municipal officials have not established the nonuniformed union pension plan by ordinance or resolution.

Criteria: A governing document that contains clearly specified benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The municipality has not established a formal acknowledgement of the plan agreement with the union through a properly executed ordinance or resolution.

Recommendation: We again recommend that municipal officials, with the assistance of their solicitor, formally adopt the provisions of the pension plan through a properly executed ordinance or resolution at their earliest opportunity to do so.

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

Finding No. 2 – Failure To Properly Fund Members’ Accounts

Condition: The borough did not fully fund the account of 1 member in 2008 and 2009 in the amounts of \$1,822 and \$120, respectively, as illustrated below:

Required Contributions	Actual Contributions	2008 Contributions Due
\$ 3,216	\$ 1,394	\$ 1,822
Required Contributions	Actual Contributions	2009 Contributions Due
\$ 3,336	\$ 3,216	\$ 120

Furthermore, in 2008, the borough allocated \$2,231 to an employee who terminated employment on September 7, 2007, and therefore was no longer eligible for a contribution.

BIRDSBORO BOROUGH NONUNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Criteria: The collective bargaining agreement established the municipal contribution rate at \$268 per month per employee effective January 1, 2008, and \$278 per month per employee effective January 1, 2009.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that only eligible plan members' accounts were properly funded in accordance with the provisions contained in the collective bargaining agreement.

Effect: The failure to properly fund the members' accounts could result in plan members being denied benefits to which they are entitled in accordance with the collective bargaining agreement. In addition, the borough contributed \$2,231 to an employee who was not eligible to participate in the pension plan after the employee terminated employment in 2007.

Furthermore, due to the borough's failure to properly fund the account of one member, the borough must now pay interest on the delinquent contributions.

Recommendation: We recommend that the borough deposit the contributions due to the member's account for the years 2008 and 2009, with interest. A copy of the interest calculations should be maintained by the borough for examination during our next audit of the plan.

Furthermore, we recommend that the borough review the improper contribution made in 2008 to the terminated employee with its solicitor to determine if the plan can be reimbursed for the unauthorized contribution.

We also recommend that the borough establish and implement adequate internal control procedures to ensure that the accounts of all eligible plan members are properly funded.

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

BIRDSBORO BOROUGH NONUNIFORMED UNION PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2004	\$ 16,129	\$ 8,683
2005	29,488	None
2006	30,550	None
2007	31,150	None
2008	33,740	None
2009	32,160	None

BIRDSBORO BOROUGH NONUNIFORMED UNION PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Birdsboro Borough Nonuniformed Union Pension Plan
Berks County
202 East Main Street
Birdsboro, PA 19508

The Honorable Robert M. Myers	Mayor
Mr. Steven Lusky	Council President
Mr. Aaron Durso	Borough Manager

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.