

**MARIETTA BOROUGH NONUNIFORMED PENSION PLAN**

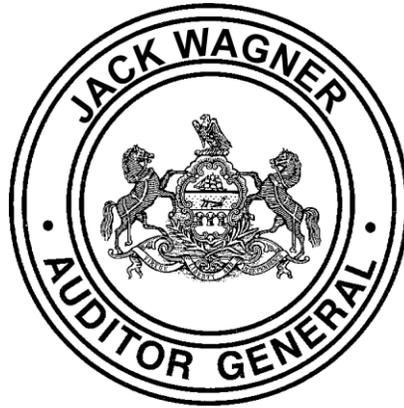
**LANCASTER COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2008, TO DECEMBER 31, 2009**





**MARIETTA BOROUGH NONUNIFORMED PENSION PLAN**

**LANCASTER COUNTY**

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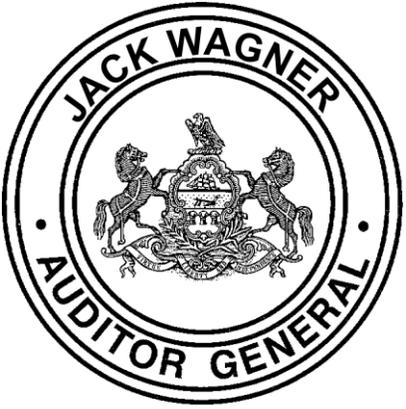
## **BACKGROUND**

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. 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 Marietta Borough Nonuniformed 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.

The Marietta Borough Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 96-3. Active members are not required to contribute to the plan. The municipality is required to contribute 18 percent of each participant's annual compensation.



The Honorable Mayor and Borough Council  
Marietta Borough  
Lancaster County  
Marietta, PA 17547

We have conducted a compliance audit of the Marietta Borough Nonuniformed 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 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Marietta Borough Nonuniformed 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 Marietta Borough Nonuniformed 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 – Noncompliance With Prior Audit Recommendation – Restated Plan Document Not Adopted By Ordinance

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 Marietta Borough and, where appropriate, their responses have been included in the report.

October 29, 2010

JACK WAGNER  
Auditor General

MARIETTA BOROUGH NONUNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

Marietta Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Restated Plan Document Not Adopted By Ordinance

MARIETTA BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Audit Recommendation – Restated Plan Document Not Adopted By Ordinance

Condition: As disclosed in the prior audit report, the terms, provisions and conditions of the nonuniformed pension plan were restated in a separately executed plan agreement with the Principal Financial Group and restated again effective January 1, 2010. However, the restated plan agreement has not been formally adopted by an ordinance that would properly amend the plan’s existing governing document, Ordinance No. 96-3.

Criteria: The benefit provisions contained in the plan agreement should be consistent with the plan’s governing ordinance.

Furthermore, 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: Plan officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The failure to properly adopt the plan agreement could result in improper or inconsistent benefit payments to plan members and their beneficiaries.

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

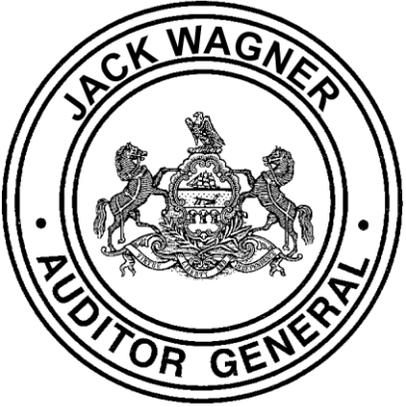
Management’s Response: Municipal officials agreed with the finding without exception. The borough is in the process of recodification of its ordinances and intends on including the restated plan agreement in the recodification.

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

MARIETTA BOROUGH NONUNIFORMED PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF STATE AID  
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2004	\$ 11,645	\$ 14,888
2005	11,707	15,168
2006	12,354	15,800
2007	12,826	17,000
2008	12,745	17,719
2009	12,512	18,933



MARIETTA BOROUGH NONUNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania

Marietta Borough Nonuniformed Pension Plan  
Lancaster County  
111 East Market Street  
Marietta, PA 17547

The Honorable Oliver C. Overlander, II	Mayor
Ms. Miriam N. Fletcher	Council President
Ms. Jody L. Shaffner	Chief Administrative Officer

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](http://www.auditorgen.state.pa.us).