

**POTTSTOWN BOROUGH POLICE PENSION PLAN**  
**MONTGOMERY COUNTY**  
**COMPLIANCE AUDIT REPORT**  
**FOR THE PERIOD**  
**JANUARY 1, 2006, TO DECEMBER 31, 2008**





**POTTSTOWN BOROUGH POLICE PENSION PLAN**

**MONTGOMERY COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2006, TO DECEMBER 31, 2008**



CONTENTS

	<u>Page</u>
Background .....	1
Letter from the Auditor General .....	3
Status of Prior Finding .....	5
Findings and Recommendations:	
Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid.....	6
Finding No. 2 – Restated Plan Document Not Adopted By Ordinance .....	8
Finding No. 3 – Pension Benefits In Excess Of Act 600 .....	9
Finding No. 4 – Incorrect Data Supplied To Actuary For Actuarial Valuation Preparation .....	10
Supplementary Information .....	12
Report Distribution List .....	17

ABBREVIATION

PERC - Public Employee Retirement Commission



## 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 Pottstown Borough Police 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 including, but not limited to, the following:

Act 147 - Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.

Act 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Pottstown Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1679, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers.



The Honorable Mayor and Borough Council  
Pottstown Borough  
Montgomery County  
Pottstown, PA 19464

We have conducted a compliance audit of the Pottstown Borough Police Pension Plan for the period January 1, 2006, to December 31, 2008. 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. Pottstown Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years 2007 and 2008; and an audit of the Pottstown Borough Police Pension Plan's financial statements for the year 2006, which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Pottstown Borough Police 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 Pottstown Borough Police 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 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid
- Finding No. 2 – Restated Plan Document Not Adopted By Ordinance
- Finding No. 3 – Pension Benefits In Excess Of Act 600
- Finding No. 4 – Incorrect Data Supplied To Actuary For Actuarial Valuation Preparation

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

October 14, 2009

JACK WAGNER  
Auditor General

POTTSTOWN BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDING

Compliance With Prior Audit Recommendation

Pottstown Borough has complied with the prior audit recommendation concerning the following:

· Pension Benefits Not In Compliance With Act 600 Provisions

The Pottstown Police Pension/Investment Board established a restated plan document dated September 13, 2006, which contains benefit provisions in compliance with Act 600 and eliminated benefit provision inconsistencies with the collective bargaining agreement. However, the restated plan document was not adopted by the borough through a properly executed ordinance as further discussed in the Findings and Recommendations section of this report.

POTTSTOWN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid

Condition: The borough certified 1 ineligible police officer (2 units) and overstated payroll by \$812, and overstated the number of eligible nonuniformed employees by 22 (22 units) and overstated payroll by \$36,903 in 2007 on Certification Form AG 385. In addition, the borough understated nonuniformed payroll by \$126,178 in 2008 on Certification Form AG 385. Furthermore, the borough certified 1 ineligible police officer (2 units) and overstated payroll by \$99,852, and certified 2 ineligible nonuniformed employees (2 units) and understated payroll by \$23,376 in 2009 on Certification Form AG 385.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year.

Furthermore, pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: Plan officials failed to establish adequate internal control procedures to the accuracy of the data certified.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans.

The borough’s 2007 state aid allocation was based on pension costs. Therefore, the borough received an overpayment of state aid in the amount of \$2,445 as identified below:

<u>Year</u>	<u>Type Of Plan</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2007	Police	13.14438%	\$ 812	\$ 107
	Nonuniformed	6.33626%	36,903	<u>2,338</u>
			Total	<u>\$ 2,445</u>

POTTSTOWN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

The borough’s 2008 state aid allocation was based on pension costs. Therefore, the borough received an underpayment of state aid in the amount of \$6,259 as identified below:

<u>Year</u>	<u>Type Of Plan</u>	<u>Normal Cost</u>	<u>Payroll Understated</u>	<u>State Aid Underpayment</u>
2008	Nonuniformed	4.96058%	\$ 126,178	\$ 6,259

The borough’s 2009 state aid allocation was based on unit value. Therefore, the borough received an overpayment of state aid in the amount of \$12,512 as identified below:

<u>Year</u>	<u>Type Of Plan</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2009	Police	2	\$ 3,128	\$ 6,256
	Nonuniformed	2	3,128	6,256
			Total	<u>\$ 12,512</u>

Therefore, as a result of the certification errors, the borough received a net overpayment of state during the audit period in the amount of \$8,698.

Recommendation: We recommend that the net overpayment of state aid, in the amount of \$8,698, be returned to the Commonwealth. A check in this amount should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 1205 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

We also recommend that, in the future, plan officials comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

Management’s Response: Municipal officials agreed with the finding without exception. Subsequent to the audit period, the borough reimbursed \$8,698 to the Commonwealth for the net overpayment of state aid received.

Auditor’s Conclusion: Municipal officials have partially complied with the finding recommendation. Full compliance will be evaluated during our next audit of the plan.

POTTSTOWN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Restated Plan Document Not Adopted By Ordinance

Condition: The terms, provisions and conditions of the police pension plan were restated in a separately executed plan agreement adopted by the Pottstown Police Pension/Investment Board effective September 13, 2006. However, the restated plan agreement has not been formally adopted by the borough through a properly executed ordinance that would properly amend the plan’s existing governing ordinance.

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, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Plan officials were unaware that the borough should formally adopt the provisions of the restated plan agreement through a properly executed ordinance.

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

Management’s Response: Municipal officials stated that they are in the process of preparing an amendment to the existing ordinance relating to the police pension plan, which will adopt the restated plan document and further address the requirements of Act 600, as amended by Act 30.

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

POTTSTOWN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Pension Benefits In Excess Of Act 600

Condition: The restated plan document and collective bargaining agreement between the police officers and the borough grants cost of living adjustments (COLAs) for survivors which are not authorized by Act 600.

Criteria: Section 5(g) (1) of Act 600 states, in part:

The ordinance or resolution establishing the police pension fund may provide for a cost of living increase for members of the police force receiving retirement benefits. (Emphasis added)

Therefore, Act 600 does not provide for COLAs for surviving spouses.

Cause: Municipal officials believed that Act 600 authorized COLAs for survivors.

Effect: 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. The provision of unauthorized pension benefits could result in the receipt of excess state aid and could increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We recommend that the borough comply with Act 600 upon the renewal, extension, or renegotiation of the collective bargaining agreement. To the extent that the borough is not in compliance with Act 600 and/or is contractually obligated to pay benefits to survivors in excess of those authorized by Act 600, 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. In such case, the plan's actuary may be required to determine the impact, if any, of the excess benefits on the plan's state aid allocations and submit this information to the department.

Management's Response: Municipal officials stated that they intend to negotiate through collective bargaining revisions to the police contract so that the contract is consistent with the provisions of Act 600, as it relates to survivor COLAs.

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

POTTSTOWN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – Incorrect Data Supplied To Actuary For Actuarial Valuation Report Preparation

Condition: Actuarial valuation report form PC201C, with a valuation date of January 1, 2007, submitted to the Public Employee Retirement Commission (PERC), contained incorrect information. The information was based on data supplied by the municipality to the plan's actuary. Member contributions were reported as \$161,194 based on a member contribution rate of 4.8 percent, while actual member contributions were \$109,812 based on a member contribution rate of 3 percent.

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: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data submitted to the plan's actuary.

Effect: Because the municipality's state aid allocation is determined, in part, by the information contained in the actuarial valuation report, the municipality received a \$57,792 underpayment of state aid in 2008.

Recommendation: We recommend that plan officials contact PERC to determine if a revised actuarial valuation report 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 Audits, 406 Finance Building, Harrisburg, PA 17120.

We also recommend that, in the future, plan officials review and verify all information submitted to and received from the plan's actuary so that future actuarial valuation reports properly reflect the status of the pension plan.

POTTSTOWN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Management's Response: Municipal officials agreed with the finding without exception. Municipal officials contacted PERC and filed a revised actuarial valuation report.

Auditor's Conclusion: Based on the management response, it appears municipal officials have partially complied with the finding recommendation. Full compliance will be evaluated during our next audit of the plan.

POTTSTOWN 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, except for distressed pension plans, for which annual reporting was required through January 1, 2003. The historical information, beginning as of January 1, 2003, is as follows:

	(1)	(2)	(3)	(4)	(5)	(6)
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)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-03	\$ 14,726,138	\$ 11,632,757	\$ (3,093,381)	126.6%	\$ 2,234,854	(138.4%)
01-01-05	14,621,541	13,379,494	(1,242,047)	109.3%	2,551,835	(48.7%)
01-01-07	15,677,645	15,243,030	(434,615)	102.9%	3,028,575	(14.4%)

POTTSTOWN 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.

Trends in unfunded (assets in excess of) actuarial accrued liability and annual covered payroll are both affected by inflation. Expressing the unfunded (assets in excess of) actuarial accrued liability as a percentage of annual covered payroll (Column 6) approximately adjusts for the effects of inflation and aids analysis of the plan's progress made in accumulating sufficient assets to pay benefits when due. Generally, where there is an unfunded actuarial accrued liability, the smaller this percentage, the stronger the plan. However, when assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

POTTSTOWN BOROUGH POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

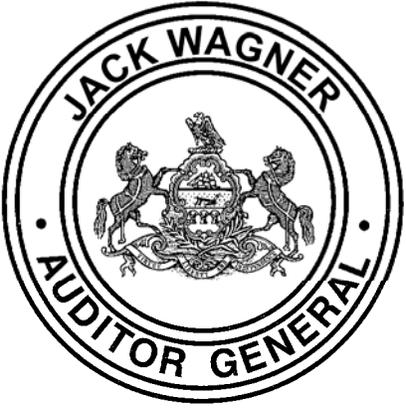
SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
 AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2003	None	N/A
2004	None	N/A
2005	None	N/A
2006	\$ 219,514	101.2%
2007	241,969	108.3%
2008	289,598	100.0%

POTTSTOWN BOROUGH POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 NOTES TO SUPPLEMENTARY SCHEDULES  
 (UNAUDITED)

The information presented in the required 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, 2007
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return *	7.0%
Projected salary increases *	4.0%
* Includes inflation at	Not disclosed
Cost-of-living adjustments	Based on Philadelphia Consumer Price Index - For those retired after 1/1/95 to 8/10/97, a maximum of 7.5% of final average compensation; for those retired on or after 8/11/97, a maximum of 15% of final average compensation.



POTTSTOWN BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania

Pottstown Borough Police Pension Plan  
Montgomery County  
100 East High Street  
Pottstown, PA 19464

The Honorable Sharon V. Thomas	Mayor
Mr. David G. Garner	Council President
Mr. Jason M. Bobst	Borough Manager
Ms. Janice Lee	Finance Director
Mr. Charles McClincy	Chairman, Police Pension Board

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).