

# COMPLIANCE AUDIT

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## Coplay Borough Non-Uniformed Union Pension Plan Lehigh County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

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June 2020



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  
Coplay Borough  
Lehigh County  
Coplay, PA 18037

We have conducted a compliance audit of the Coplay Borough Non-Uniformed Union Pension Plan for the period January 1, 2016 to December 31, 2019. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the 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 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 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, 2014 to December 31, 2019, 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.
- 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 for the years covered by our audit period.
- We determined whether the January 1, 2015, January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2016, 2018, and 2020, 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, 2016 to December 31, 2019.

The borough's non-uniformed 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 Coplay 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 Coplay Borough Non-Uniformed Union Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary 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 Coplay 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 findings further discussed later in this report:

- Finding No. 1 – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan
- Finding No. 2 – Awarding of Professional Services Contract Inconsistent With Provisions Of Act 205

The contents of this report were discussed with officials of Coplay 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.

April 29, 2020



EUGENE A. DEPASQUALE  
Auditor General

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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.

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 Coplay Borough Non-Uniformed Union Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

As further described previously in this report, the borough's non-uniformed union employees participate in the Central Pennsylvania Teamsters Pension Fund. The Coplay Borough Non-Uniformed Union Pension Plan is locally controlled by the provisions of Resolution No. 1182, as amended. 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, 1992. Active members are not required to contribute to the plan. The municipality was required to contribute \$1.70 per hour worked per member for the period January 1, 2016 to December 31, 2017, and \$1.80 per hour worked per member for the period January 1, 2018 to December 31, 2019. As of December 31, 2019, the plan had 4 active members.

COPLAY BOROUGH NON-UNIFORMED UNION PENSION PLAN  
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

Coplay Borough has complied with the prior recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

During the current audit period, the borough reimbursed \$1,482 to the Commonwealth for the overpayment of state aid received in 2015.

COPLAY BOROUGH NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan**

Condition: The municipality did not deposit the full amount of its 2019 state aid allocation into an eligible pension plan. The municipality received its 2019 state aid allocation in the amount of \$51,198 on September 18, 2019, but, as of the date of this report, only state aid totaling \$43,820 was deposited into eligible pension plans.

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: The full amount of the 2019 state aid was not deposited into an eligible pension plan because internal control procedures were not in effect to ensure that borough officials, in conjunction with their plan consultant, reconciled 2019 contributions to state aid received on a timely basis.

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.

Recommendation: We recommend that the municipality deposit the borough's remaining state aid allocation of \$7,378, plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually, into an eligible pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

We also recommend that plan officials develop and implement procedures to ensure that future state aid is deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer.

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

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



COPLAY BOROUGH NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Awarding of Professional Services Contract Inconsistent With Provisions Of Act 205**

Condition: Municipal officials have not adopted the mandatory Act 44 provisions regarding professional services contracts. During the prior engagement, a verbal observation was issued to plan officials notifying them of the passage of Act 44 of 2009, which effectively amended Act 205 for the procurement of professional services contracts, and recommending that the borough adopt the mandatory provisions, accordingly. In 2019, the borough changed investment, advisory, and consultant services contractors for the police and non-uniformed pension plans. However, there was no evidence provided to support that the change was conducted in accordance with provisions of Act 205 and that the solicitation for the proposed change in providers was approved by borough council.

Criteria: Section 701-A of Act 205, as amended by Act 44, defines a “Professional Services Contract”, as follows:

“Professional services contract.” A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
- (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states, in part:

Each municipal pension system ... shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

Additionally, Section 702-A (c), (e), (f) and (h) state, in part:

**Review.** Procedures to select the most qualified person shall include a review of the person’s qualifications, experience and expertise and the compensation to be charged.

**Conflict of interest.** The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract.

COPLAY BOROUGH NON-UNIFORMED UNION PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

**Public information.** Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

**Notice and summary.** The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applications and posted on the municipal pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Section 703-A (c) states, in part:

Upon advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Cause: Plan officials failed to establish adequate internal controls procedures to ensure compliance with the prior verbal observation and Act 205 provisions.

Effect: Failing to comply with the provisions stipulated in Act 205 for the procurement of professional investment, advisory, and consultant services for the borough's pension plans denotes a general lack of overall transparency of the actions taken by plan officials relative to the awarding of the contracts for investment, advisory, and consultant services for the borough's pension plans.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 for the procurement of professional services for the pension plans and develop and implement formal written procedures to ensure compliance with these provisions, which should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan including authorizations/approvals of borough officials in the official minutes of formal board meetings and especially required notifications and disclosures to ensure transparency of the actions taken by plan officials relative to the awarding of the professional services contracts for the borough's pension plans.

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

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

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

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 15,966	None
2015	14,416	None
2016	18,020	None
2017	16,592	None
2018	18,360	None
2019	16,200	None

COPLAY 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

**The Honorable Dean Molitoris**  
Mayor

**Mr. Louis Bodish**  
Council President

**Ms. Kimberly Bachman**  
Secretary/Treasurer

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).