

COMPLIANCE AUDIT

Port Vue Borough Non-Uniformed Union Pension Plan

Allegheny County, Pennsylvania
For the Period
January 1, 2018 to December 31, 2022

August 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
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, 2018 to December 31, 2022. 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 conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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, 2017 to December 31, 2022, 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, 2017 to December 31, 2022, 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 for the years covered by our audit period.
- We determined whether the January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2020, and 2022, 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, 2018 to December 31, 2020 and for the period January 1, 2021 to December 31, 2022.

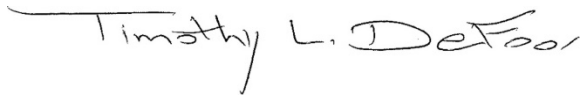
The borough's non-uniformed union employees participate in the Western Pennsylvania Teamsters and Employers Pension Plan, a Taft-Hartley Act collectively bargained, jointly trustee, multi-employer pension plan, which is governed primarily by the Federal Employee Retirement Income Security Act of 1974 (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. 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 objective.

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 – Receipt Of State Aid In Excess Of Entitlement

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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
August 2, 2023

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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 two 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 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 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 Fund 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 employees. The plan was established January 1, 1972. Active members are not required to contribute to the plan. The municipality is required to contribute \$111.57 per week per member for 2018, \$115.47 per week per member for 2019, \$119.51 per week per member for 2020, \$123.69 per week per member for 2021, and \$128.02 per week per member for 2022. As of December 31, 2022, the plan had two active members.

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

Finding – Receipt Of State Aid In Excess Of Entitlement

Condition: The borough received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the years 2019, 2020 and 2022, *(i.e., the municipality’s aggregated pension costs were limited to its defined contribution plan since the actuarial value of assets exceeded the actuarial present value of future benefits for its defined benefit police pension plan and therefore, had no pension costs during the years noted)*, as illustrated below:

	<u>2019</u>	<u>2020</u>	<u>2022</u>
State aid allocation	\$ 19,164	\$ 16,643	\$ 19,287
Actual municipal pension costs	<u>(18,013)</u>	<u>(16,373)</u>	<u>(17,667)</u>
Excess state aid	<u>\$ 1,151</u>	<u>\$ 270</u>	<u>\$ 1,620</u>

Criteria: Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Cause: Although the borough correctly deposited a majority of its annual state allocation into the non-uniformed plan to satisfy its annual municipal pension obligation, during December 2019, 2020, and 2022, the borough transferred \$1,151, \$270, and \$1,620, respectively, into the police pension plan, representing the 2019, 2020 and 2022 state aid received in excess of its aggregated pension costs. The actuarial valuation reports prepared for the borough’s police pension plan valued as of January 1, 2017, January 1, 2019, and January 1, 2021, indicated that the plan did not have actual pension costs. Plan officials were unaware that Act 205 prohibits the deposit of state aid into a fully funded defined benefit plan and did not return the excess state aid allocation to the Commonwealth for redistribution.

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

Finding – (Continued)

Effect: It is this department’s opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Consequently, the overpayments of state aid received in the years 2019, 2020 and 2022 must be returned to the Commonwealth for redistribution.

Furthermore, the borough’s future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the municipality return the \$3,041 of excess state aid received during the years 2019, 2020 and 2022 to the Commonwealth from its police pension plan. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

Furthermore, we recommend that, in the future, plan officials reconcile the borough’s annual state aid allocation with the aggregated annual pension costs of its pension plans and reimburse any excess state aid received to the Commonwealth.

Management’s Response: The borough was notified of this issue on August 1, 2023, after the date of the exit conference held on June 26, 2023, and indicated that they are in the process of reviewing the excess state aid with their solicitor and will follow up with the department as soon as possible.

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 pension plan.

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

The finding contained in this audit report cites an overpayment of state aid to the borough in the amount of \$3,041, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, 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, 321 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
2017	\$ 16,149	\$ 270
2018	10,857	6,548
2019	19,164	None
2020	16,643	None
2021	15,708	3,588
2022	19,287	None

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

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

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