

# LIMITED PROCEDURES ENGAGEMENT

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## Ulysses Borough Non-Uniformed Employees Pension Plan

Potter County, Pennsylvania  
For the Period  
January 1, 2013 to December 31, 2016

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June 2017



Commonwealth of Pennsylvania  
Department of the Auditor General

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AUDITOR GENERAL

The Honorable Mayor and Borough Council  
Ulysses Borough  
Potter County  
Ulysses, PA 16948

We conducted a Limited Procedures Engagement (LPE) of the Ulysses Borough Non-Uniformed Employees Pension Plan for the period January 1, 2013 to December 31, 2016 to determine its compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. We also evaluated compliance with some requirements subsequent to that period when possible. The LPE was conducted pursuant to authority derived from Section 402(j) of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 *et seq.*) but was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. 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. We believe that the evidence obtained provides a reasonable basis to support our LPE results.

Our LPE was limited to determining the following:

- 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 engagement period. State aid allocations that were deposited into the pension plan for the years ended December 31, 2011 to December 31, 2016, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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, 2011 to December 31, 2016, are presented on the Summary of Deposited State Aid and Employer Contributions.

- Whether retirement benefits calculated for plan members who retired during the engagement period represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the pension benefit due to retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- Whether the January 1, 2011, January 1, 2013 and January 1, 2015 actuarial valuation reports were prepared and submitted to the former Public Employee Retirement Commission (PERC) by March 31, 2012, 2014 and 2016, 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.

Based on the results of our procedures performed during our LPE, nothing came to our attention indicating that the Ulysses Borough Non-Uniformed Employees Pension Plan was not being 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 – Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Finding No. 2 – Ordinance Improperly Amended By Resolution

Our determination to perform a LPE for this engagement period does not preclude the Department from conducting an audit in accordance with *Government Auditing Standards* of the pension plan in subsequent periods. The borough should continue to maintain documentation related to this pension plan.

The contents of this report were discussed with officials of Ulysses Borough and, where appropriate, their responses have been included in this report. We would like to thank borough officials for the cooperation extended to us during the conduct of this LPE.

June 15, 2017

  
EUGENE A. DEPASQUALE  
Auditor General

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ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan**

Condition: Due to the availability of employee forfeitures, the borough received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the year 2016, and also made municipal contributions in excess of those required to fund the plan in the year 2016, as illustrated below:

Actual municipal pension costs	\$	8,264
Employee forfeitures available		(2,330)
Adjusted actual municipal pension costs	\$	5,934
State aid allocated		(7,023)
Excess state aid received	\$	1,089
Actual municipal contributions made	\$	2,952
Municipal contributions required to fund plan		-
Excess municipal contributions	\$	2,952

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.

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

In addition, Section 3.01 of the governing plan agreement indicates the borough the borough will contribute 7.5% of each Eligible Participant's Compensation.

Regarding forfeitures, Section 8.01 of the plan agreement states:

The members' account balance shall be forfeited if employed less than four years.

Furthermore, Section 8.06 of the plan agreement states:

The aggregate of such forfeitures shall be used to reduce the Employer's contribution to the Plan attributable to the plan year in which such forfeitures occurred (or in the year immediately subsequent thereto) including any administrative expense incurred by the plan ...

Cause: Plan officials failed to establish adequate internal control procedures to reconcile the state aid allocation and the borough's municipal contributions made with the plan's actual defined contribution pension costs after the application of available employee forfeitures.

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 received in one year to offset pension costs in other years. Consequently, the overpayment of state aid received in the year 2016 must be returned to the Commonwealth for redistribution.

In addition, as a result of the borough making excess municipal contributions in 2016, an unallocated reserve fund in the amount of \$2,952 existed as of December 31, 2016.

Recommendation: We recommend that the municipality return the \$1,089 of excess state aid received in the year 2016, plus interest, to the Commonwealth. 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.

We also recommend that the borough liquidate the unallocated reserve fund maintained by the pension plan by transferring the assets which represent excess municipal contributions to the borough's general fund.

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Furthermore, we recommend that plan officials establish adequate internal control procedures to reconcile the annual state aid allocated to the borough, after the application of any available employee forfeitures, with the plan's annual defined contribution pension costs and reimburse any excess state aid received to the Commonwealth. In addition, if employee forfeitures become available, plan officials should consult with the plan custodian to determine if additional municipal contributions are needed to meet the plan's funding requirements.

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

Auditor Conclusion: Compliance will be monitored subsequent to the release of the report and through our next engagement.

**Finding No. 2 – Ordinance Improperly Amended By Resolution**

Condition: The pension plan's previous joinder agreement was adopted by Ordinance No. 245 of 2005. During the current engagement period, the borough adopted a new joinder agreement pursuant to Resolution No. 2-2015, which did not properly amend the previous governing ordinance.

Criteria: 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: Municipal officials were unaware that a resolution cannot amend an ordinance.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that the borough amend the plan's governing document through a properly executed ordinance.

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

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

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN  
 SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2011	\$ 8,358	\$ 95
2012	6,688	979
2013	6,861	1,886
2014	6,829	429
2015	6,260	2,676
2016	7,023	2,952



ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN  
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This report was initially distributed to the following:

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