



**FORTY FORT BOROUGH NON-UNIFORMED  
PENSION PLAN**

**LUZERNE COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2010 TO DECEMBER 31, 2012**

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE AUDITOR GENERAL**



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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Forty Fort Borough  
Luzerne County  
Forty Fort, PA 18704

We have conducted a compliance audit of the Forty Fort Borough Non-Uniformed Pension Plan for the period January 1, 2010 to December 31, 2012. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements. State aid allocations that were deposited into the pension plan for the years ended December 31, 2007 to December 31, 2012, are presented on the Summary of Deposited State Aid and Employer Contributions.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations. Employer contributions that were deposited into the pension plan for the years ended December 31, 2007 to December 31, 2012, are presented on the Summary of Deposited State Aid and Employer Contributions.

- Whether employee contributions are required and, if so, are determined, deducted and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.
- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.
- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the terms of the unallocated insurance contract, including ownership and any restrictions, are in compliance with plan provisions, investment policies and state regulations.
- Whether refunds are made to eligible members in accordance with the plan provisions and applicable laws and regulations.

Forty Fort Borough contracted with an independent certified public accounting firm for audits of its basic financial statements for the years ended December 31, 2010 and 2011, 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 Forty Fort Borough Non-Uniformed 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 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 tests indicated that, in all significant respects, the Forty Fort Borough Non-Uniformed 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 – Allocation Of State Aid In Excess Of Entitlement

The contents of this report were discussed with officials of Forty Fort 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.



EUGENE A. DEPASQUALE  
Auditor General

April 17, 2014

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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.

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 Forty Fort Borough Non-Uniformed 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 Forty Fort Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 1986-7, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established December 27, 1986. Active members are required to contribute 2 percent of compensation to the plan. The municipality is required to contribute 3 percent of each member's compensation. As of December 31, 2012, the plan had 6 active members, 1 terminated member eligible for vested benefits in the future and no retirees receiving pension benefits.

FORTY FORT BOROUGH NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Compliance With Prior Audit Recommendation

Forty Fort Borough has complied with the prior audit recommendation concerning the following:

- Inconsistent Pension Benefits

Municipal officials adopted Ordinance No. 2011-1 to ensure the plan's governing document and the collective bargaining agreement contain consistent benefit provisions.

FORTY FORT BOROUGH NON-UNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Allocation Of State Aid In Excess Of Entitlement

Condition: In 2012, the borough allocated state aid to the non-uniformed pension plan in excess of the plan’s defined contribution pension costs, as illustrated below:

State aid allocation	\$ 21,457
Less: Actual municipal pension costs	<u>(6,905)</u>
Excess state aid	<u>\$ 14,552</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 plan 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: Plan officials were unaware of the need to annually reconcile the amount of state aid allocated to the pension plan with the plan’s actual defined contribution pension costs.

Effect: It is this department’s opinion that, since 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 borough must therefore allocate the excess state aid to its defined benefit pension plans.

Recommendation: We recommend that municipal officials allocate the \$14,552 of excess state aid to its defined benefit pension plans.

In addition, we recommend that plan officials reconcile the amount of state aid allocated to the non-uniformed pension plan with the pension plan’s actual defined contribution pension costs.

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



FORTY FORT BOROUGH NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2007	\$ 5,730	\$ 515
2008	7,385	None
2009	7,283	None
2010	7,783	None
2011	7,796	None
2012	21,457	None

FORTY FORT BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Forty Fort Borough Non-Uniformed Pension Plan  
Luzerne County  
1271 Wyoming Avenue  
Forty Fort, PA 18704

The Honorable Andrew Tuzinski	Mayor
Mr. Jeffrey McLaughlin	Council President
Ms. Barbara Fairchild	Borough Manager

This report is a matter of public record and is available online at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: [news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).