

COMPLIANCE AUDIT

Wind Gap Borough Non-Uniformed Pension Plan Northampton County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

September 2014



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
Wind Gap Borough
Northampton County
Wind Gap, PA 18091

We have conducted a compliance audit of the Wind Gap Borough Non-Uniformed Pension Plan for the period January 1, 2011 to December 31, 2013. 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 the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for finding and 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. 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, 2008 to December 31, 2013, 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, 2008 to December 31, 2013, 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 provisions of the union pension plan agreement are in accordance with the plan's governing document and the collective bargaining agreement and that payments made to the multi-employer union pension plan are made in accordance with the collective bargaining agreement.

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 Wind Gap Borough Non-Uniformed Pension Plan and did not extend to the activities of the multi-employer pension plan.

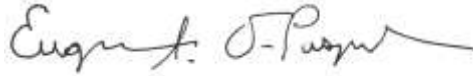
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Wind Gap Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances 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 objective, 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 objective.

The results of our tests indicated that, in all significant respects, the Wind Gap 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 – Participation Agreement Not Adopted By Ordinance Or Resolution

The contents of this report were discussed with officials of Wind Gap 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.

August 25, 2014

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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. 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 Wind Gap 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.

As further described in the Letter from the Auditor General included in this report, the borough's non-uniformed union employees participate in the Central Pennsylvania Teamsters Pension Plan. 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, 1974. Active members are not required to contribute to the plan. The municipality was required to contribute \$350 monthly per member for the years 2011 and 2012, and \$375 monthly per member for the year 2013. As of December 31, 2013, the plan had 2 active members, no terminated members eligible for vested benefits in the future and no retirees receiving pension benefits.

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Participation Agreement Not Adopted By Ordinance Or Resolution

Condition: The terms, provisions and conditions of the non-uniformed union pension plan were adopted in a separately executed plan agreement with the Central Pennsylvania Teamsters Pension Plan, dated December 16, 2008, effective January 1, 2009; however, the plan agreement has not been formally adopted by an ordinance or resolution that would properly adopt the plan's benefit structure.

Criteria: Proper internal control procedures dictate that the provisions of the pension plan be formally adopted by a municipal ordinance or resolution.

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

Effect: The municipality has not established a formal acknowledgement of the plan agreement with the union through a properly adopted ordinance or resolution.

Recommendation: We recommend that municipal officials take appropriate action to formally adopt the plan document through a properly executed ordinance or resolution.

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.

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2008	\$ 6,600	None
2009	7,200	None
2010	7,800	None
2011	8,350	50
2012	8,400	None
2013	7,825	50

WIND GAP BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Wind Gap Borough Non-Uniformed Pension Plan
Northampton County
29 Mechanic Street
Wind Gap, PA 18091

The Honorable James M. Shoemaker	Mayor
Mr. George Hinton	Council President
Ms. Louise Firestone	Borough Administrator

This report is a matter of public record and is available online at 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.