

ELKLAND BOROUGH POLICE PENSION PLAN

TIOGA COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2007, TO DECEMBER 31, 2009



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ABBREVIATION

ERISA - Employee Retirement Income Security Act

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.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 Elkland Borough Police 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 police officers participate in the New York State Teamsters Conference Pension and Retirement Fund Pension Plan. The Elkland Borough Police Pension Plan is locally controlled by the provisions of Ordinance No. 81, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. Active members are not required to contribute to the plan. The municipality is required to contribute \$130 per week per member.



The Honorable Mayor and Borough Council
Elkland Borough
Tioga County
Elkland, PA 16920

We have conducted a compliance audit of the Elkland Borough Police Pension Plan for the period January 1, 2007, to December 31, 2009. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits 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 our finding and 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. The borough's police officers participate in the New York State Teamsters Conference Pension and Retirement Fund 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 Elkland Borough Police 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 Elkland Borough Police 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 the extent necessary to satisfy the audit objective.

The results of our tests indicated that, in all significant respects, the Elkland Borough Police 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 – Improper Distribution Provision Contained In Plan’s Governing Document

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Elkland Borough and, where appropriate, their responses have been included in the report.

September 8, 2010

JACK WAGNER
Auditor General

ELKLAND BOROUGH POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Improper Distribution Provision Contained In Plan’s Governing Document

Condition: The plan’s governing document, Ordinance No. 81, as amended, contains a provision which permits retirement benefit distributions to be made to plan members prior to their termination of employment or attainment of age 65 whichever is earlier.

Criteria: Section 24 (d) of Ordinance No. 81 states:

Retirement age shall be 25 years of services (sic), or age 60, or age 65. In order to receive full pension benefits, an employee must be 60 years of age. Employees may chose (sic) to work after age 65. Such employment shall be by joint agreement by the Borough and the employee. The Borough will not pay into a pension after age 65.

Cause: Plan officials were unaware that the plan’s governing document should not permit withdrawals of funds maintained for pension benefits to active employees prior to their termination of employment with the municipality or attainment of age 65, whichever comes first.

Effect: During 2008 and 2009, on behalf of an active member of the police pension plan, who on March 20, 2008, (the date of the first withdrawal) was age 59 years 6 months with 28 years of service, municipal officials made a series of withdrawals from the police officer’s pension annuity contract, and distributed the proceeds to the police officer. As of December 31, 2009, a total of \$163,000 was withdrawn from the contract.

Recommendation: We recommend that municipal officials amend the plan’s governing document to ensure that distributions cannot be made to active employees prior to their termination of employment or attainment of age 65, whichever comes first.

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

Auditor’s Conclusion: Compliance with the finding recommendation will be evaluated during our next audit of the plan. A condition of a repeat finding of this nature may lead to a total withholding of state aid in the future.

ELKLAND BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2004	\$ 13,250	None
2005	6,639	\$ 121
2006	6,500	260
2007	6,396	None
2008	13,520	None
2009	13,780	None

ELKLAND BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Elkland Borough Police Pension Plan
Tioga County
105 Parkhurst Street
Elkland, PA 16920

The Honorable Gordon Rice	Mayor
Mr. Stephen Brauchle	Council President
Ms. Laurie A. Kring	Secretary/Treasurer

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.