

FORTY FORT BOROUGH NONUNIFORMED PENSION PLAN

LUZERNE COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2007, TO DECEMBER 31, 2009



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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.

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 Forty Fort Borough Nonuniformed 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 Nonuniformed 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 nonuniformed employees. 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.



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 Nonuniformed 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. Forty Fort Borough contracted with an independent certified public accounting firm for an audit of the Forty Fort Borough Nonuniformed Pension Plan's financial statements for the year ended December 31, 2007, and audits of the borough's basic financial statements for the years ended December 31, 2008 and 2009, 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 Nonuniformed 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 Forty Fort Borough Nonuniformed 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 – Inconsistent Pension Benefits

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 Forty Fort Borough and, where appropriate, their responses have been included in the report.

December 9, 2010

JACK WAGNER
Auditor General

FORTY FORT BOROUGH NONUNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Inconsistent Pension Benefits

Condition: The pension plan’s governing document, Ordinance No. 1986-7, as amended, contains benefit provisions that conflict with the collective bargaining agreement between the nonuniformed employees and the borough, as noted below:

| <u>Benefit Provision</u> | <u>Governing Document</u> | <u>Collective Bargaining Agreement</u> |
|--------------------------|--|---|
| Employer contributions | The employer shall make contributions to the plan in the amount of 1% of each eligible participant’s compensation. | The borough agrees to contribute 3% of the employee’s salary to the pension plan. |
| Eligibility requirements | Each employee shall become a participant on the entry date coincident with or next following the date when he authorizes payment of mandatory contributions to the plan. | New hires after January 1, 2008, must work one full year before being permitted to participate in the pension plan. |
| Vesting benefit | All Participants are immediately vested in all contributions including employer contributions. | New hires after January 1, 2008, are not vested until after five full years of service have been completed. |

Criteria: The plan’s governing document and the collective bargaining agreement should contain consistent benefit provisions to ensure the sound administration of retirement benefits.

Cause: Municipal officials failed to update the plan’s governing document to reflect the provisions contained in the current collective bargaining agreement.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that municipal officials take appropriate action to ensure the plan’s governing document and the collective bargaining agreement contain consistent benefit provisions at their earliest opportunity to do so.

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

FORTY FORT BOROUGH NONUNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

| Year Ended December 31 | State Aid Deposited | Employer Contributions |
|------------------------|---------------------|------------------------|
| 2004 | \$ 5,210 | \$ 188 |
| 2005 | 5,583 | None |
| 2006 | 5,487 | 350 |
| 2007 | 5,730 | 515 |
| 2008 | 7,385 | None |
| 2009 | 7,283 | None |

FORTY FORT BOROUGH NONUNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Forty Fort Borough Nonuniformed Pension Plan
Luzerne County
1271 Wyoming Avenue
Forty Fort, PA 18704

| | |
|----------------------------------|-------------------|
| The Honorable Boyd T. Hoats, Jr. | Mayor |
| Mr. Joseph Chacke, III | Council President |
| Ms. Denise Syms | Secretary |

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.