



**FOSTER TOWNSHIP 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**

Board of Township Supervisors
Foster Township
Luzerne County
Freeland, PA 18224

We have conducted a compliance audit of the Foster Township 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 findings 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 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 township's non-uniformed union employees participate in the Central Pennsylvania Teamsters Pension Fund, 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 Foster Township Non-Uniformed Pension Plan and did not extend to the activities of the multi-employer pension plan.

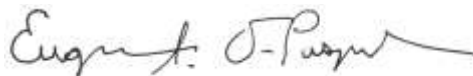
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Foster Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township'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 Foster Township 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 – Noncompliance With Prior Audit Recommendation –
Participation Agreement Not Adopted By Ordinance Or Resolution

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

October 23, 2013



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 Foster Township 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 township's non-uniformed union employees participate in the Central Pennsylvania Teamsters Pension Fund. The plan is also affected by the provisions of collective bargaining agreements between the township and its Non-Uniformed employees. Active members are not required to contribute to the plan. The municipality was required to contribute \$200 per month per employee from January 1, 2010, to October 31 2010, \$205 per month per employee from November 1, 2010, to October 31, 2011, \$210 per month per employee from November 1, 2011, to October 31, 2012, and \$215 per month per employee from November 1, 2012, to December 31, 2012.

FOSTER TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Foster Township has complied with the prior audit recommendations concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

The township reimbursed \$4,134 to the Commonwealth for the receipt of excess state aid.

- Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

During the current audit period, municipal officials established adequate internal control procedures to ensure compliance with the instructions that accompany Certification Form AG 385 and accurately reported the required pension data.

Noncompliance With Prior Audit Recommendation

Foster Township has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Participation Agreement Not Adopted By Ordinance Or Resolution

FOSTER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Audit Recommendation – Participation Agreement Not Adopted By Ordinance Or Resolution

Condition: As disclosed in the prior audit report, the terms, provisions and conditions of the pension plan were adopted in a separately executed plan agreement with the Central Pennsylvania Teamsters Pension Fund dated August 1, 1990; however, the plan agreement has not been formally adopted by a municipal ordinance or resolution.

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 have failed to adopt adequate internal control procedures to ensure compliance with the prior audit recommendation.

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 again 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.

FOSTER TOWNSHIP NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2007	\$ 6,540	None
2008	6,680	None
2009	7,505	None
2010	6,225	\$ 1,005
2011	7,000	1,240
2012	7,560	870

FOSTER TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Foster Township Non-Uniformed Pension Plan
Luzerne County
1000 Wyoming Avenue
Freeland, PA 18224

Mr. Gerald Brogan Chairman, Board of Township Supervisors

Ms. Brittany Majewski Secretary/Treasurer

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.