

HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN

NORTHAMPTON 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 Hellertown 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 Hellertown Borough Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 579. 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 3.6 percent of compensation to the plan. The municipality is required to annually contribute \$1,000 per member.



The Honorable Mayor and Borough Council
Hellertown Borough
Northampton County
Hellertown, PA 18055

We have conducted a compliance audit of the Hellertown 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 our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings 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. Hellertown Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ended December 31, 2007 and 2008, 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 Hellertown 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 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 the extent necessary to satisfy the audit objectives.

The results of our tests indicated that, in all significant respects, the Hellertown 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 findings further discussed later in this report:

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

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

May 20, 2010

JACK WAGNER
Auditor General

HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Hellertown Borough has complied with the prior audit recommendations concerning the following:

- Failure To Properly Fund Members' Accounts

The borough deposited the remaining contributions due to the member's accounts for 2004, plus applicable interest; and

- Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

The borough used the reserve fund to offset their annual funding requirements for the years 2008 and 2009.

HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Condition: The borough received state aid in excess of the nonuniformed pension plan’s defined contribution pension costs in the year 2008, as illustrated below:

State aid allocation	\$ 17,366
Employee forfeitures available	1,531
Actual municipal pension costs	<u>(17,450)</u>
Excess state aid	<u>\$ 1,447</u>

Criteria: Section 4.02 of the pension plan’s Money Purchase Plan and Trust Basic Document, states:

Forfeitures. All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be allocated to a suspense account and used to reduce dollar for dollar Employer Contributions otherwise required under the Plan for the current Plan Year and succeeding Plan Years, if necessary. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions.

In addition, 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 plans 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 apply available employee forfeitures before reconciling the amount of state aid that would be needed to fund the plan’s annual pension costs.

Effect: It is this department’s opinion that because 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 overpayment of state aid in the year 2008, in the total amount of \$1,447, must be returned to the Commonwealth for redistribution.

HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the municipality return the \$1,447 of excess state aid received in the year 2008 to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 11 Stanwix Street, Suite 1450, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with evidence of payment.

Furthermore, we recommend that, in the future, plan officials reconcile the amount of state aid allocated to the nonuniformed pension plan and municipal contributions made to the pension plan with the plan’s annual defined contribution pension costs.

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

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The borough understated the total eligible compensation for nonuniformed employees in the amount of \$42,093 in 2009 on Certification Form AG 385.

Criteria: The total amount of compensation from which member contributions have been deducted should be included on Certification Form AG 385.

Cause: Plan officials were unaware that the total amount of all employee compensation from which member contributions have been deducted was eligible to be certified.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the borough’s state aid allocation was based on pension costs, the borough received an underpayment of state aid of \$1,069 as identified below:

<u>Normal Cost</u>	<u>Payroll Understated</u>	<u>State Aid Underpayment</u>
2.54%	\$ 42,093	\$ 1,069

HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Although the borough will be reimbursed for the underpayment of state aid due to the borough's certification error, the full amount of the 2009 state aid allocation was not available to be deposited timely and therefore was not available to pay operating expenses or for investment.

Recommendation: We recommend that, in the future, plan officials establish adequate internal control procedures to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

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

HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2004	\$ 8,000	None
2005	7,925	\$ 8,075
2006	8,465	7,535
2007	8,837	7,163
2008	17,366	None
2009	16,631	951



HELLERTOWN BOROUGH NONUNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Hellertown Borough Nonuniformed Pension Plan
Northampton County
685 Main Street
Hellertown, PA 18055

The Honorable Richard T. Fluck	Mayor
Mr. Philip Weber	Council President
Mr. Charles J. Luthar	Borough Manager

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.