

OLD FORGE BOROUGH NONUNIFORMED PENSION PLAN

LACKAWANNA COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2006, TO DECEMBER 31, 2008



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ABBREVIATION

ERISA - Employee Retirement Income Security Act

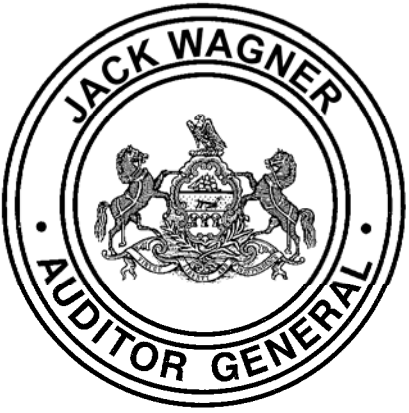
BACKGROUND

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 Old Forge 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.

As further described in the Letter from the Auditor General included in this report, the borough's nonuniformed union employees participate in the Service Employees International Union Pension Plan. The Old Forge Borough Nonuniformed Pension Plan is locally controlled by the provisions of collective bargaining agreements between the borough and its nonuniformed employees. Active members are not required to contribute to the plan. The municipality was required to contribute \$.85 per member for each hour worked in 2006 and 2007, and \$.90 per member for each hour worked in 2008.



The Honorable Mayor and Borough Council
Old Forge Borough
Lackawanna County
Old Forge, PA 18518

We have conducted a compliance audit of the Old Forge Borough Nonuniformed Pension Plan for the period January 1, 2006, to December 31, 2008. 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 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. The borough's nonuniformed union employees participate in the Service Employees International Union 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 Old Forge Borough Nonuniformed 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 Old Forge 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 Old Forge 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 – Receipt Of State Aid In Excess Of Entitlement

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

February 5, 2010

JACK WAGNER
Auditor General

OLD FORGE BOROUGH NONUNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Old Forge Borough has complied with the prior audit recommendations concerning the following:

- Failure To File Actuarial Valuation Report

The borough completed the January 1, 2005, actuarial valuation report and submitted it to the Public Employee Retirement Commission;

- Failure To Fund Members' Accounts

The borough deposited \$1,712 for contributions due to the members' accounts for September and October of 2005;

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

During the current audit period, the borough accurately reported the required pension plan data on Certification Form AG 385; and

- Failure To Maintain An Adequate Record-Keeping System

The borough established accounting procedures which met the minimum record-keeping requirements of this department.

OLD FORGE BOROUGH NONUNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – 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 years 2006, 2008 and 2009, as illustrated below:

	<u>2006</u>	<u>2008</u>	<u>2009</u>
State aid allocation	\$ 10,130	\$ 27,498	\$ 32,158
Actual municipal pension costs	<u>(9,435)</u>	<u>(11,942)</u>	<u>(9,909)</u>
Excess state aid	<u>\$ 695</u>	<u>\$ 15,556</u>	<u>\$ 22,249</u>

Criteria: 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 annually reconcile the amount of state aid allocated to the pension plan with the plan’s actual defined contribution pension costs. In addition, the borough overstated the municipal contributions made to the plan on the January 1, 2007, actuarial valuation report. This reporting error resulted in a higher normal cost percentage being used to determine the borough’s 2008 and 2009 state aid allocations.

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 overpayments of state aid in the years 2006, 2008 and 2009, in the total amount of \$38,500, must be returned to the Commonwealth for redistribution.

OLD FORGE BOROUGH NONUNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that the municipality return the \$38,500 of excess state aid received in the years 2006, 2008 and 2009 to the Commonwealth from the borough's general fund. 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 actual defined contribution pension costs.

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

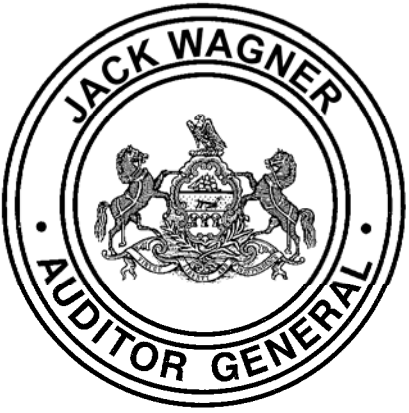
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POTENTIAL WITHHOLD OF STATE AID

The finding contained in this audit report cites an overpayment of state aid to the borough in the amount of \$38,500. A condition of this nature may lead to a total withholding of state aid in the future unless the finding is corrected. A check in this amount with interest, at a rate earned by the pension 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.

OLD FORGE BOROUGH NONUNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2003	\$ 7,242	\$ 790
2004	5,729	3,046
2005	6,691	2,508
2006	9,435	1,028
2007	9,522	2,165
2008	11,942	1,189



OLD FORGE BOROUGH NONUNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Old Forge Borough Nonuniformed Pension Plan
Lackawanna County
310 South Main Street
Old Forge, PA 18518

The Honorable Michele Petrini Awisato	Mayor
Mr. Michael Bartoletti	Council President
Ms. MaryLynn Bartoletti	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.