

COMPLIANCE AUDIT

Ulysses Borough Non-Uniformed Employees Pension Plan

Potter County, Pennsylvania

For the Period

January 1, 2017 to December 31, 2020

June 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Ulysses Borough
Potter County
Ulysses, PA 16948

We have conducted a compliance audit of the Ulysses Borough Non-Uniformed Employees Pension Plan for the period January 1, 2017 to December 31, 2020. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the 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 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. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit. State aid allocations that were deposited into the pension plan for the years ended December 31, 2015 to December 31, 2020, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation. Employer contributions that were deposited into the pension plan for the years ended December 31, 2015 to December 31, 2020, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined that there were no employee contributions required by the plan's governing document and applicable laws and regulations for the years covered by our audit period.
- We determined whether retirement benefits calculated for the plan member who retired and received a lump-sum distribution during the current audit period, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws, and regulations by recalculating the amount of the pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, respectively, in accordance with Act 205 and whether 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 by comparing selected information to supporting source documentation.

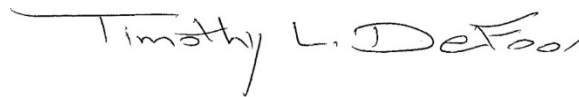
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Ulysses Borough Non-Uniformed Employees Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary 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 procedures indicated that, in all significant respects, the Ulysses Borough Non-Uniformed Employees 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 Recommendation – Ordinance Improperly Amended By Resolution

The finding contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by borough officials. We are concerned by the borough's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation noted in this audit report.

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

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive, flowing style.

Timothy L. DeFoor
Auditor General

June 24, 2021

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PSABMRT - Pennsylvania State Association of Boroughs Municipal Retirement Trust

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.

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 Ulysses Borough Non-Uniformed Employees Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

The Ulysses Borough Non-Uniformed Employees Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 245 of 2005, which adopts a joinder agreement with PSABMRT, effective January 1, 2005. Active members are not required to contribute to the plan. The municipality is required to contribute 7.5 percent of each participant's compensation. As of December 31, 2020, the plan had 3 active members.

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendation

Ulysses Borough has complied with the prior recommendation concerning the following:

- Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

During the current audit period, the borough reimbursed \$1,089 to the Commonwealth for the excess state aid received in 2016. In addition, the borough liquidated the unallocated reserve fund maintained by the pension plan by transferring \$2,952 to the borough's general fund.

Noncompliance With Prior Recommendation

Ulysses Borough has not complied with the prior recommendation concerning the following:

- Ordinance Improperly Amended By Resolution

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN
FINDING AND RECOMMENDATION

**Finding – Noncompliance With Prior Recommendation – Ordinance Improperly Amended
By Resolution**

Condition: The pension plan's governing document, Ordinance No. 245 of 2005, adopted a separately executed joinder agreement which prescribes the pension plan's benefit structure. As disclosed in the prior report, the borough improperly amended its governing document by adopting a new joinder agreement pursuant to Resolution No. 2-2015.

Criteria: In Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Borough officials indicated that they forgot to adopt the plan's governing document by ordinance.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We again recommend that the borough amend the plan's governing document through a properly executed ordinance.

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

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN
 SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2015	\$ 6,260	\$ 2,676
2016	5,934	None
2017	7,478	1,690
2018	7,176	864
2019	7,768	2,191
2020	8,265	776

Note: In 2016, the borough met the plan's \$8,264 funding requirement through the deposit of \$5,934 in state aid and the allocation of \$2,330 in terminated employee forfeitures.

ULYSSES BOROUGH NON-UNIFORMED EMPLOYEES PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Mary Jane Haskins
Mayor

Mr. Roy Hunt
Council President

Ms. Kristen Williams
Chief Administrative Officer

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.