

COMPLIANCE AUDIT

Old Forge Borough Police Pension Plan Lackawanna 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
Old Forge Borough
Lackawanna County
Old Forge, PA 18518

We have conducted a compliance audit of the Old Forge Borough Police 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 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 finding 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 finding 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.
- 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.
- We determined that there were no employee contributions required for the years covered by our audit period due to the fact that employee contributions were waived by the municipality.
- We determined whether retirement benefits calculated for the plan member who retired 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 monthly 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.

Old Forge Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for years ended December 31, 2017, 2018, and 2019, 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 Old Forge Borough Police 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.

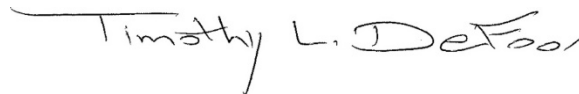
The results of our procedures indicated that, in all significant respects, the Old Forge Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

Finding No. 1 – Partial Compliance With Prior Recommendation – Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

Finding No. 2 – Impact Of Excess Benefits On Borough's State Aid Allocation

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it 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. 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 style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General

May 17, 2021

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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.

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 Old Forge Borough Police 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 including, but not limited to, the following:

Act 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Old Forge Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2 of 1971, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established December 20, 1971. Active members are required to contribute 5 percent of compensation to the plan; however, member contributions were eliminated during the audit period. As of December 31, 2020, the plan had 7 active members, no terminated members eligible for vested benefits in the future, and 3 retirees receiving pension benefits from the plan.

OLD FORGE BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Partial Compliance With Prior Recommendation

Old Forge Borough has partially complied with the prior recommendation concerning the following:

- Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

During the current audit period, the borough deposited the interest on the late deposit of the 2010 and 2011 state aid allocations, in the amount of \$12,526, into the police pension plan. However, the borough failed to deposit the full amount of its 2020 state aid allocation into the pension plan, as further discussed in Finding No. 1 of this report.

Status of Prior Audit Recommendation

- Improper Pension Benefit Modification

As disclosed as a finding in prior audit reports and most recently as a Status of Prior Audit Recommendation in the audit report for the period January 1, 2012 to December 31, 2014, Old Forge Borough enacted Ordinance No. 4 of 2000 on April 18, 2000, which established disability benefits “at the rate of 70 percent of the police officer’s average monthly salary” where the previous rate had been 50 percent. On the same date, the borough enacted Resolution No. 6 of 2000, which made the increased rate applicable to an existing retiree, retroactive to April 1, 1997. The referenced retiree’s original monthly benefit was \$1,291, calculated at 50 percent of average monthly salary, and was subsequently retroactively increased to \$1,936, calculated at 70 percent of average monthly salary, inclusive of cost-of-living adjustments. On October 29, 2014, the retiree died and his surviving spouse received half of the unauthorized pension benefit until her death on June 27, 2020 during the current audit period.

Act 600 mandates service-related disability benefits and, at Section 5(e), authorizes the governing body of the municipality to fix the amount and commencement of payments by regulation. Therefore, the increase in the disability benefit contained in Ordinance No. 4 of 2000 is authorized under Act 600 and unobjectionable, provided that the increased benefit is applied prospectively, i.e., only to those police officers who retire on service-related disability after the effective date of the ordinance.

Providing unauthorized pension benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses.

OLD FORGE BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Status of Prior Audit Recommendation – (Continued)

Since municipal officials determined that the borough was obligated to pay the unauthorized pension benefits to the referenced retiree and, subsequently, to his surviving spouse, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid.

In previous years, the plan's actuary prepared Supplemental Actuarial Information Form AG-MP-1 and it was determined that the borough received excess state aid in 2011 and 2013 attributable to the excess benefits provided, and the borough returned the excess state aid to the Commonwealth. Subsequently, the plan's actuarial valuation reports reflected that the actuarial value of assets exceeded the actuarial present value of future benefits, and the borough's state aid allocations in 2014 through 2019 were not attributable to the police pension plan, therefore, the borough did not receive state aid allocations in those years attributable to the unauthorized pension benefits provided. However, on the January 1, 2019 actuarial valuation report, the actuarial value of assets did not exceed the actuarial present value of future benefits, and the borough's 2020 state aid allocation was based on pension costs which included the police pension plan. As a result, the provision of the unauthorized pension benefits may have resulted in the receipt of excess state aid in 2020, as reported in Finding No. 2 of this report.

OLD FORGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Recommendation – Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

Condition: As disclosed in the Status of Prior Findings section of this report, the borough deposited the interest due on the late deposit of the 2010 and 2011 state aid allocations. However, during the current audit period, the municipality failed to deposit the full amount of its 2020 state aid allocation into the pension plan. The municipality received its 2020 state aid allocation in the amount of \$54,718 on September 29, 2020, but, as of our audit fieldwork completion, only state aid totaling \$46,848 was deposited into an eligible pension plan. Since the municipality has met its defined contribution funding obligations to its non-uniformed and union pension plans for the year 2020, the remaining balance of the state aid allocation of \$7,870 must be deposited into the police pension plan.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension funds or the alternate funding mechanisms applicable to the respective pension plans.

Cause: Municipal officials indicated that the remaining 2020 state aid was retained in the borough's general fund because the borough is currently in arbitration with a member of the non-uniformed union pension plan and is waiting on the outcome of the hearing scheduled to take place in June 2021. If the employee is reinstated, the borough will need to make contributions for the employee for 2020.

Effect: When state aid is not deposited into a pension plan account, the funds are not available to pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We recommend that the municipality deposit the balance of the 2020 state aid allocation, plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually, into the police pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

We also recommend that plan officials develop and implement procedures to ensure that future state aid is deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer.

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.

OLD FORGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Impact Of Excess Benefits On Borough’s State Aid Allocation

Condition: As disclosed in the Status of Prior Findings section of this report, during the current audit period, an unauthorized pension benefit continued to be paid to a surviving spouse until her death on June 27, 2020, which may have resulted in the borough’s receipt of excess state aid.

Criteria: To the extent that the borough was not in compliance with Act 600 and/or was contractually obligated to pay benefits to the retiree/surviving spouse in excess of those authorized by Act 600, such benefits are deemed ineligible for funding with state pension aid.

Cause: Municipal officials had determined that the borough remained obligated to continue paying the unauthorized pension benefit to the retiree and subsequently to the surviving spouse.

Effect: Providing unauthorized pension benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. Excess pension benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. As disclosed in the Status of Prior Findings section of this report, the borough did not receive state aid allocations during the current audit period through 2019 attributable to the unauthorized pension benefits provided; however, due to the actuarial status of the plan reported on the January 1, 2019 actuarial valuation report, the borough’s 2020 state aid allocation was based on pension costs which included the police pension plan. Because the borough’s state aid allocation is determined, in part, by the information contained in the plan’s actuarial valuation report, the correct inclusion of excess benefits in the January 1, 2019 actuarial valuation report may have resulted in the allocation of excess state aid to the borough in 2020 attributable to excess benefits provided, and may also have an effect on the borough’s future 2021 state aid allocation.

Recommendation: We recommend that municipal officials consult with the plan’s actuary to determine if Supplemental Actuarial Information Form AG-MP-1 should be prepared. If it is determined the excess benefits had an impact on the borough’s state aid allocation received in 2020, the form should be submitted to the Department. Furthermore, after the submission of the form, the plan’s actuary should contact the Department to verify the overpayment of state aid received and plan officials should then reimburse the overpayment to the Commonwealth. If it is determined that there is no impact on state aid and the form is not necessary, the borough should retain documentation of such communication from the actuary.

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.

OLD FORGE BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2015, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-15	\$ 2,349,622	\$ 1,421,110	\$ (928,512)	165.3%
01-01-17	2,463,996	1,572,951	(891,045)	156.6%
01-01-19	2,443,430	1,747,833	(695,597)	139.8%

Note: The market value of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses, which will be limited to a maximum of 120 percent and a minimum of 80 percent of the fair market value of assets. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

OLD FORGE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

OLD FORGE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2015	None	N/A
2016	None	N/A
2017	None	N/A
2018	None	N/A
2019	None	N/A
2020	None	N/A

N/A – Not applicable

OLD FORGE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2019
Actuarial cost method	Entry age normal
Amortization method	Not applicable
Remaining amortization period	None
Asset valuation method	The actuarial value of assets will be limited to a maximum of 120% and a minimum of 80% of the fair market value of assets.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%

OLD FORGE BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Robert Legg
Mayor

Mr. Robert Semenza
Council President

Ms. MaryLynn F. Bartoletti
Borough Manager

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.