

COMPLIANCE AUDIT

Shippingport Borough Non-Uniformed Union Pension Plan

Beaver County, Pennsylvania
For the Period
January 1, 2016 to December 31, 2019

December 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Shippingport Borough
Beaver County
Shippingport, PA 15077

We have conducted a compliance audit of the Shippingport Borough Non-Uniformed Union Pension Plan for the period January 1, 2016 to December 31, 2019. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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, 2014 to December 31, 2019, 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, 2014 to December 31, 2019, 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 that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2015, January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2016, 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.

The borough's non-uniformed union employees participate in the Central Pension Fund of the International Union of Operating Engineers, 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 Shippingport Borough Non-Uniformed Union 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 Shippingport Borough Non-Uniformed Union 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 objective.

The results of our procedures indicated that, in all significant respects, the Shippingport Borough Non-Uniformed Union 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 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Finding No. 2 – Failure To Implement Mandatory Provisions Of Act 205

The contents of this report were discussed with officials of Shippingport 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.

November 30, 2020



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.

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 Shippingport Borough Non-Uniformed Union 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.

As further described in the Letter from the Auditor General included in this report, the borough's non-uniformed union employees participate in the Shippingport Non-Uniformed Union Pension Plan, which is locally controlled by the provisions of collective bargaining agreements between the borough and its non-uniformed union employees. The plan was established January 1, 2019. Active members are not required to contribute to the plan. The municipality is required to contribute a variable dollar rate per hour worked. As of December 31, 2019, the plan had two active members.

SHIPPINGPORT BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The borough understated payroll by \$3,152 for its police officers and \$3,380 for its non-uniformed employees on the Certification Form AG 385 filed in 2017. In addition, the borough failed to certify two eligible non-uniformed (*union*) employees (2 units) and understated payroll by \$91,408 on the Certification Form AG 385 filed in 2020. The data contained on these certification forms is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), an employee who has been employed on a full-time basis for at least six consecutive months and has been participating in a pension plan during the certification year is eligible for certification. Pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: There was a recent turnover in the treasurer’s position responsible for preparation of the annual AG 385 form during the current audit period. In addition, the borough failed to establish adequate internal control procedures, such as having another individual review the accuracy of the data certified, prior to submission.

Effect: The data submitted on these certification forms 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 allocations were based on pension costs, the borough received a total underpayment of state aid as identified below:

<u>Year</u>	<u>Type Of Plan</u>	<u>Normal Cost</u>	<u>Payroll Understated</u>	<u>State Aid Underpayment</u>
2017	Police	14.1779%	\$ 3,152	\$ 447
	Non-Uniformed	8.3335%	\$ 3,380	282
	Total			<u>\$ 729</u>
2020	Non-Uniformed	9.5728%	\$ 91,408	<u>8,750</u>
	Total Underpayment of State Aid			<u>\$ 9,479</u>

Although the borough will be reimbursed for the total underpayment of state aid due to the borough’s certification errors, the full amount of the 2017 and 2020 state aid allocation were not available to be deposited timely and therefore resulted in the borough having to make additional municipal contributions in order to meet the plan’s funding obligation.

SHIPPINGPORT BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two people review the data certified, 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.

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

Finding No. 2 – Failure To Implement Mandatory Provisions Of Act 205

Condition: During the three most recent audits of the pension plan, plan officials were notified, via verbal observations, of the passage of Act 44 of 2009, which effectively amended Act 205 for the procurement of professional services contracts, and recommending that the municipality adopt the mandatory provisions, accordingly. However, during the current audit period, the municipality again failed to adopt such mandatory provisions.

Criteria: Section 701-A of Act 205, as amended by Act 44, defines a “Professional Services Contract”, as follows:

“Professional services contract.” A contract to which the municipal pension system is a party that is:

- (1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and
- (2) not subject to a requirement that the lowest bid be accepted.

In addition, Section 702-A (a) of Act 205 states, in part:

Each municipal pension system ... shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

SHIPPINGPORT BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Additionally, Section 702-A (c), (e), (f) and (h) state, in part:

Review. Procedures to select the most qualified person shall include a review of the person’s qualifications, experience and expertise and the compensation to be charged.

Conflict of interest. The municipal pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract.

Public information. Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

Notice and summary. The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applications and posted on the municipal pension system’s Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

Section 703-A (c) states, in part:

Upon advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Cause: There was a recent turnover in the treasurer’s position responsible for administration of the plan during the current audit period. Prior plan officials failed to ensure compliance with provisions of Act 205 as previously recommended during conduct of the prior audit.

Effect: The borough’s failure to adopt the required provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the pension plan could result in a general lack of overall transparency of the proposed actions to be taken by plan officials relative to the awarding of future investment and advisory service contracts for the plan.

SHIPPINGPORT BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions which should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process to ensure the transparency of the actions taken by plan officials relative to the awarding of any future professional services contracts for its pension plan.

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.

SHIPPINGPORT BOROUGH NON-UNIFORMED UNION PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 6,300	\$ 1,282
2015	5,681	3,811
2016	878	6,936
2017	8,018	N/A
2018	944	8,079
2019	826	8,364

SHIPPINGPORT BOROUGH NON-UNIFORMED UNION PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Shannon Clancy
Mayor

Ms. Bernice Nelson
Council President

Ms. Laura Korcan
Secretary/Treasurer

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.