

COMPLIANCE AUDIT

Speers Borough Non-Uniformed Pension Plan Washington County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

August 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Speers Borough
Washington County
Charleroi, PA 15022

We have conducted a compliance audit of the Speers Borough Non-Uniformed 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 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. 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, 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.
- We determined whether all payments made to the multi-employer union pension plan were in accordance with the provisions contained in the collective bargaining agreement for the period January 1, 2016 to December 31, 2020.

The borough's non-uniformed union employees participate in the Western Pennsylvania Teamsters & Employers Pension Fund, 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 Speers Borough Non-Uniformed 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 Speers Borough Non-Uniformed 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 Speers Borough Non-Uniformed 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 Fully Fund Member’s Account
- Finding No. 3 – Failure To Implement Mandatory Provisions Of Act 205

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

August 7, 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 Speers Borough Non-Uniformed 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 Western Pennsylvania Teamsters & Employers Pension Fund. The Speers Borough Non-Uniformed Pension Plan is locally controlled by the provisions of Ordinance No. 308. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established June 8, 1986. Active members are not required to contribute to the plan. The municipality was required to contribute as follows:

- Effective July 1, 2015 through June 30, 2016, \$112.78 per member per week;
- Effective July 1, 2016 through June 30, 2017, \$119.55 per member per week;
- Effective July 1, 2017 through June 30, 2018, \$126.72 per member per week;
- Effective July 1, 2018 through June 30, 2019, \$134.32 per member per week; and
- Effective July 1, 2019 through June 30, 2020, \$142.38 per member per week.

As of December 31, 2019, the plan had two active members.

SPEERS BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

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

- Incorrect Data Certified On Actuarial Valuation Report Resulting In An Overpayment Of State Aid

During the current audit period, the borough reimbursed \$940 to the Commonwealth for the overpayment of state aid received in 2013.

SPEERS BOROUGH NON-UNIFORMED 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 failed to certify an eligible non-uniformed employee (1 unit) and understated payroll by \$24,658 on the Certification Form AG 385 filed in 2018. The data contained on this certification form 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.

Cause: The borough’s failure to include the eligible employee was attributed to clerical oversight. Additionally, the borough lacked adequate internal control procedures, such as having another individual review the data certified to ensure compliance with the instructions that accompanied Certification Form AG 385 prior to submission.

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 plan. Because the borough’s state aid allocation was based on unit value, the borough received an underpayment of state aid of \$4,684 as identified below:

<u>Units</u> <u>Understated</u>	<u>Unit</u> <u>Value</u>	<u>State Aid</u> <u>Underpayment</u>
1	\$ 4,684	\$ 4,684

Although the additional state aid will be allocated to the borough, the full amount of the 2018 state aid allocation was 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.

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 Response: Municipal officials agreed with the finding without exception.

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

SPEERS BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Failure To Fully Fund Member’s Account

Condition: In 2018, the borough did not fully fund the account of an employee who was promoted to a full-time position effective May 9, 2018 with the employee probation period waived. The borough did not begin to make contributions to the pension plan for the employee until June 4, 2018, resulting in shortfall of approximately 4 weeks totaling approximately \$507.

Criteria: Article XVI, Section A, of the collective bargaining agreement effective for the period July 1, 2015 to June 30, 2020 established the annual employer contribution rate for the period July 1, 2017 through June 30, 2018 at \$126.72 per member per week.

Cause: The failure to promptly commence municipal contributions is attributable to a clerical oversight.

Effect: The failure to properly fund the plan could result in plan members being denied benefits to which they are entitled in accordance with the plan’s governing document.

Due to borough’s failure to properly fund the referenced member’s account, the borough must now pay interest on the delinquent contributions.

Recommendation: We recommend that the borough determine and deposit the contributions due to the member’s account for the year 2018, with interest, from the date of deposit of the other municipal contributions which were made in that year to the date of deposit of the amount in arrears. 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, in the future, borough officials properly fund the accounts of all eligible plan members.

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

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

SPEERS BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Failure To Implement Mandatory Provisions Of Act 205

Condition: During the prior two audits, a verbal observation was issued to plan officials notifying them 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.

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.

SPEERS BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

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: The borough's failure to implement the mandatory provisions of Act 205 was attributable to a clerical oversight.

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.

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 Response: Municipal officials agreed with the finding without exception.

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

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

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 7,745	\$ 3,006
2015	7,842	3,780
2016	8,749	3,331
2017	9,177	521
2018	4,684	6,102
2019	10,241	4,147

SPEERS BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable William Lee
Mayor

Mr. Curtis Rice
Council President

Ms. Jody Burkholder
Borough Secretary

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.