

COMPLIANCE AUDIT

Point Marion Borough Non-Uniformed Union Pension Plan

Fayette County, Pennsylvania
For the Period
January 1, 2017 to December 31, 2020

February 2022



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
Point Marion Borough
Fayette County
Point Marion, PA 15474

We have conducted a compliance audit of the Point Marion Borough Non-Uniformed Union 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 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, 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 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 (AVR) 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 (*The January 1, 2019 AVR was not prepared by the borough refer to Finding No. 1*).
- 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, 2017 to December 31, 2019 and for the period January 1, 2020 to December 31, 2024.

The borough's non-uniformed union employees participate in the Southwestern Pennsylvania and Western Maryland Area Teamsters 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 Point Marion Borough Non-Uniformed Union Pension Plan and did not extend to the activities of the multi-employer pension plan.

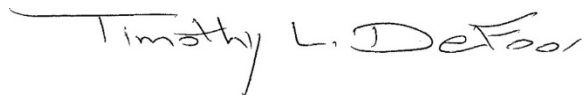
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Point Marion Borough Non-Uniformed Union Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and 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 Point Marion 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 – Failure To File Actuarial Valuation Report
- Finding No. 2 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services
- Finding No. 3 – Failure To Maintain Adequate Record-Keeping System

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.

We attempted to convey the results of the audit contained in this report with officials of Point Marion Borough. After repeated attempts using varying methods of communication, on January 12, 2022, the Department received receipt from the United States Postal Service of delivery of the certified mail package to the borough containing the results of the audit, a request for signatures from those municipal officials charged with governance and notification of the department's offer to meet and further discuss the results of the audit with borough officials prior to issuance of this report. As of the date of this report, borough officials have not responded to the Department's request and as such, their responses have not be included in the report.



Timothy L. DeFoor
Auditor General
February 3, 2022

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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 Point Marion 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 Southwestern Pennsylvania and Western Maryland Area Teamsters and Employers Pension Plan. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed union employees. The plan was established January 1, 1981. Active members are not required to contribute to the plan. The municipality was required to contribute \$187.68, per week, per employee in 2017; \$202.68 per week, per employee, in 2018; \$218.89 per week, per employee, in 2019 and \$232.02 per week, per employee, in 2020. As of December 31, 2020, the plan had 3 active members.

POINT MARION BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Failure To File Actuarial Valuation Report

Condition: Actuarial valuation report Form PC-201A, for the non-uniformed union pension plan, with a valuation date of January 1, 2019, was not submitted to the Municipal Pension Reporting Program by the March 31, 2020, deadline, as required by Act 205 and remained delinquent at the completion of our audit fieldwork.

Criteria: Section 201(a) of Act 205 states, in part:

Each municipality which has established or maintains a pension plan for its employees, including any municipality which participates in the Pennsylvania Municipal Retirement System, shall cause to be made actuarial valuation reports. Actuarial valuation reports shall be made biennially, unless the applicable municipality is applying or has previously applied for supplemental State assistance pursuant to Section 603, whereupon actuarial valuation reports shall be made annually.

Furthermore, Section 201(b) of Act 205 states, in part:

The biennial actuarial valuation report required pursuant to subsection (a) shall be made as of the beginning of each plan year occurring in an odd-numbered calendar year and shall be filed with the executive director of the commission no later than the last business day of March occurring in the following calendar year.

Section 204 of Act 205 provides:

If a complete actuarial valuation report or experience investigation is not filed in a timely fashion, any and all financing which is provided to the municipality by the Commonwealth and is dedicated for pension plan purposes shall be withheld until the report or investigation is filed.

Cause: The borough experienced a high rate of turnover in personnel responsible for the administration of the plan and current plan officials were not familiar with the applicable Act 205 filing guidelines.

Effect: Data from the January 1, 2019 Act 205 actuarial valuation reports is necessary to calculate the borough's 2020 state aid allocation; therefore, the borough's 2020 state aid allocation cannot be calculated and released until the necessary reports are filed for both the police pension plan and the non-uniformed union pension plan. In addition, the borough may receive less state aid than it would have received had the reports been filed in a timely manner.

POINT MARION BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Furthermore, the borough’s future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the municipality take immediate action to complete the January 1, 2019 Act 205 actuarial valuation report which was due by March 31, 2020 and submit it to the Municipal Pension Reporting Program. By submitting the report as soon as possible, the municipality can minimize the length of time the pension aid will be withheld due to the delinquent filing of the required report.

Furthermore, to insure that future actuarial filing deadlines are met and to improve pension plan administration, we recommend that current plan officials develop and implement internal control procedures, such as a calendar listing the various reporting and filing deadlines required by Act 205, including the actuarial valuation report filing date.

Management’s Response: Municipal officials have failed to respond to repeated requests to conduct a formal exit conference to discuss the issue. Therefore, the borough’s response cannot be reflected in this report.

Auditor’s Conclusion: As disclosed earlier in this report, several attempts have been made by this Department to contact borough officials to convey the results of the audit and for purposes of receiving a formal response to the aforementioned issue. However, as of the date of this report, no such response has been received from the borough and therefore, the issue remains as stated. Compliance will be evaluated during our next audit of the plan.

Finding No. 2 – Failure To Implement Mandatory Act 44 Procedures For The Procurement Of Professional Services

Condition: As disclosed as a verbal observation during the prior engagement, municipal officials failed to adopt the mandatory provisions of Act 205 regarding professional services contracts.

Criteria: Section 701-A of Act 205, as amended by Act 44 of 2009, 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.

POINT MARION BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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.

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.

Cause: The borough experienced a high rate of turnover in personnel responsible for the administration of the plan and current plan officials were not familiar with Act 205. In addition, the borough again failed to establish adequate internal controls procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: The borough's failure to comply in all respects with the previous recommendation and the provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the borough's pension plan could result in a general lack of overall transparency of the actions taken by plan officials relative to the awarding of the investment and advisory services contract for the borough's pension plan.

POINT MARION 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 include maintaining appropriate and sufficient supporting documentation evidencing every phase of the process in the awarding of future professional services contracts for the pension plan, including authorizations/approvals of borough officials in the official minutes of formal board meetings and the required notifications and disclosure responsibilities to ensure the transparency of the actions taken by plan officials relative to the awarding of such professional services contracts.

Management's Response: Municipal officials have failed to respond to repeated requests to conduct a formal exit conference to discuss the issue. Therefore, the borough's response cannot be reflected in this report.

Auditor's Conclusion: As disclosed earlier in this report, several attempts have been made by this Department to contact borough officials to convey the results of the audit and for purposes of receiving a formal response to the aforementioned issue. However, as of the date of this report, no such response has been received from the borough and therefore, the issue remains as stated. Compliance will be evaluated during our next audit of the plan.

Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System

Condition: The pension plan's record-keeping system did not provide effective control over assets, revenues and expenses and does not meet the minimum requirements of financial records required by this department. The deficiencies are as follows:

- A journal was not maintained to record financial transactions of the pension plan;
- Ledgers were not utilized to record receipts and disbursements,
- Payroll documentation for plan members eligible for state aid reimbursement and certification on the Certification Form AG-385, and
- Bank statements validating the receipt and deposit of state aid and municipal contributions for the years 2017 and 2019.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of pension plan.

POINT MARION BOROUGH NON-UNIFORMED UNION PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Cause: The borough experienced a high rate of turnover in personnel responsible for the administration of the plan. Furthermore, current plan officials were unaware of their various record-keeping responsibilities under the general municipal state aid program.

Effect: Although we were able to obtain copies of statements from a third-party source evidencing propriety of account balances and related financial transactions, the failure of plan officials to maintain adequate records prohibits municipal officials from effectively monitoring the plan's financial operations.

Recommendation: We recommend that plan officials establish accounting procedures which meet the minimum record-keeping requirements of this department. Plan officials should refer to the Auditor General's Bulletin No. 2-88 entitled "Preparation, Maintenance and Auditability of Financial Records," for further guidance in establishing adequate accounting procedures.

Management's Response: Municipal officials have failed to respond to repeated requests to conduct a formal exit conference to discuss the issue. Therefore, the borough's response cannot be reflected in this report.

Auditor's Conclusion: As disclosed earlier in this report, several attempts have been made by this Department to contact borough officials to convey the results of the audit and for purposes of receiving a formal response to the aforementioned issue. However, as of the date of this report, no such response has been received from the borough and therefore, the issue remains as stated. Compliance will be evaluated during our next audit of the plan. Compliance will be evaluated during our next audit of the plan.

POINT MARION BOROUGH NON-UNIFORMED UNION PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by Finding No. 1 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

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

Year Ended December 31	State Aid	Employer Contributions
2015	\$ 11,763	\$ 13,337
2016	13,124	13,984
2017	13,765	15,512
2018	14,053	17,565
2019	15,361	18,786
2020	None	36,891

POINT MARION 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 Carl Ables
Mayor

Mr. T. J. Fowler
Council President

Ms. Jamie Krizner-Brower
Senior Accountant
McClure and Wolfe, CPA

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.