

# LIMITED PROCEDURES ENGAGEMENT

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## Lewis Township Non-Uniformed Pension Plan Northumberland County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

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May 2020



Commonwealth of Pennsylvania  
Department of the Auditor General

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We conducted a Limited Procedures Engagement (LPE) of the Lewis Township Non-Uniformed Pension Plan for the period January 1, 2016 to December 31, 2019 to determine its compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. We also evaluated compliance with some requirements subsequent to that period when possible. The LPE was conducted pursuant to authority derived from Section 402(j) of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 *et seq.*) but was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. 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. We believe that the evidence obtained provides a reasonable basis to support our LPE results.

Our LPE was limited to determining the following:

- Whether municipal officials took appropriate corrective action to address the findings contained in our prior LPE Report, by inquiring of plan officials and evaluating supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken.
- 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 engagement period. 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.
- 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.

- 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.
- Whether the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.
- Whether the terms of the plan's allocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contracts with the plan's provisions, investment policies, and state regulations.

Based on the results of our procedures performed during our LPE, nothing came to our attention indicating that the Lewis Township Non-Uniformed Pension Plan was not being 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 - Noncompliance With Prior Audit Recommendation - Improper Ownership Of Allocated Insurance Contracts

Finding No. 2 - Noncompliance With Prior Audit Recommendation - Improper Loan Provision Contained In An Allocated Insurance Contract

Finding No. 3 - Withdrawal Of Plan Assets Prior To Retirement

Finding No. 1 and 2 contained in this LPE report repeat conditions that were cited in our previous audit report that have not been corrected by township officials. We are concerned by the township's failure to correct those previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this report.

Our determination to perform a LPE for this engagement period does not preclude the Department from conducting an audit in accordance with *Government Auditing Standards* of the pension plan in subsequent periods. The township should continue to maintain documentation related to this pension plan.

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



EUGENE A. DEPASQUALE  
Auditor General

April 27, 2020

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LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior LPE Report Recommendations

Lewis Township has complied with the prior recommendations concerning the following:

- Receipt Of State Aid In Excess Of Entitlement; and
- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid.

The Township returned excess state aid totaling \$380 received in the year 2014 to the Commonwealth for redistribution on September 28, 2016.

Noncompliance With Prior LPE Report Recommendations

Lewis Township has not complied with the prior recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

- Improper Ownership Of Allocated Insurance Contracts; and
- Improper Loan Provision Contained In An Allocated Insurance Contract.

LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 - Noncompliance With Prior Audit Recommendation - Improper Ownership Of Allocated Insurance Contracts**

Condition: As disclosed in the prior audit report, the township funded allocated insurance contracts that improperly designate individual plan members as the owners of the contracts. In addition, during the current period, an active member surrendered his insurance contract in the amount of \$31,963 but remains in the service of the township as of the date of this report.

Criteria: Since premiums on these policies have been paid with state aid and municipal funds, the township should maintain ownership of the allocated insurance contracts to ensure the plan's assets are adequately safeguarded.

Cause: Plan officials were unsuccessful in getting individuals to surrender these improperly owned investment mechanisms and/or change ownership to the township for benefit of the participant in accordance with the prior recommendation.

Effect: Continued improper ownership of the allocated insurance contracts results in the plan's assets not being adequately safeguarded and could result in premature benefit withdrawals or other improper dispositions of the funds.

Recommendation: We again recommend that pension plan officials take the necessary steps to change the ownership of these allocated insurance contracts from the plan members to the pension plan or municipality. If this cannot be accomplished, we recommend that the municipality implement adequate internal control procedures to ensure that the proceeds from the allocated insurance contracts are not surrendered to the plan members prior to their eligibility to receive benefits from the pension plan.

Management's Response: Plan officials provided the following response:

In result of this finding after the previous audit, the Township made an attempt for the participants at that time to close out the individual allocated insurance contracts in order to be compliant with the audit findings without success. It is my understanding that the reason these individual contracts were opened years ago was due to difficulty in finding a retirement plan for only two participants. One individual closed his individual contract in December of 2019 and another has withdrawn a portion of his contract but has a remaining balance [*Auditor's Note: The individuals' names were removed for reporting purposes.*]

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

LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 - Noncompliance With Prior Audit Recommendation - Improper Loan Provision Contained In An Allocated Insurance Contract**

Condition: As disclosed in the prior audit, one of the allocated insurance contracts improperly contains a provision that allows for loans to the active plan member.

Criteria: Section 102 of Act 205 contain the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” A Type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Therefore, Act 205 funding (state aid) is intended to provide periodic benefit payments at retirement, not withdrawals prior to retirement.

Cause: Plan officials were unable to change the terms of the allocated insurance contract as also noted in Finding No. 1.

Effect: The unauthorized loan provision violates the intent of Act 205 to only provide benefit distributions to plan members upon their retirement or termination of employment with the municipality.

Recommendation: We again recommend that municipal officials take appropriate action to eliminate the unauthorized loan provision from the allocated insurance contract at their earliest opportunity to do so.

Management’s Response: Plan officials indicated the following:

Because the allocated insurance contracts were created for the Participants at the time of beginning a Pension Plan, State Aid Funds are contained within them. *(Auditor’s Note: There is only one allocated insurance contract remaining as of December 31, 2019.)*

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

LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 - Withdrawal Of Plan Assets Prior To Retirement**

Condition: During 2019, funds amounting to \$21,000 maintained in an unallocated insurance contract were improperly withdrawn and distributed to an active member of the pension plan. The distribution represented a partial withdrawal of the member's retirement account balance leaving only \$1,781 as of December 31, 2019. Although the plan member was fully vested in the account, the participant had not separated from employment with the township as of the date of the distribution.

Criteria: The township adopted Resolution No. 2019-2 on April 3, 2019, which amended the plan's governing document as follows;

Section 10-1 of the Plan Document is hereby amended to allow a participant to withdrawal all or any portion of his/her vested Account Balance in the Pension Plan upon attainment of the age 62.

Prior to the date of this amendment, the plan's governing document did not previously permit in-service distributions.

In addition, Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Therefore, Act 205 funding (state aid) is intended to provide benefit payments upon eligibility for retirement, not for distributions prior to retirement benefit eligibility.



LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 - (Continued)**

Cause: The early withdrawal of plan assets prior to retirement occurred due to the adoption of the aforementioned resolution by the Board of Township Supervisors which allowed for in-service distributions of pension plan funds at age 62, which were not previously available. This action was initiated due to the request of the plan participant who was dissatisfied with the investment results of the pension plan. And although the township attempted to find another means to invest pension plan assets, plan officials were unsuccessful due to the difficulty in finding a plan for only two participants. Additionally, plan officials attempted to modify investments within the plan to invest the participant's moneys with a fixed rate to earn more interest. However, The Board of Supervisors ultimately granted the early distribution request and amended the plan document, accordingly.

Effect: Allowing distributions from member accounts prior to their eligibility to receive retirement benefits violates the purpose for which state aid was allocated to the municipality, adversely affects the retirement income of an annuitant, and undermines the integrity of the pension plan.

Recommendation: We recommend that plan officials discontinue the practice of allowing early withdrawals from retirement accounts by active plan members prior to separation from employment with the township and amend the plan's governing document to remove such provision for early withdraws, accordingly.

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

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

LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 6,104	None
2015	5,964	768
2016	6,602	175
2017	6,777	222
2018	6,999	286
2019	7,284	587

LEWIS TOWNSHIP NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

**Mr. Willard Murray**  
Chairman, Board of Township Supervisors

**Ms. Lucinda R. Bomberger**  
Secretary/Treasurer/CAO

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).