

COMPLIANCE AUDIT

Luzerne Township Non-Uniformed Pension Plan Fayette County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

September 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**

Board of Township Supervisors
Luzerne Township
Fayette County
Brownsville, PA 15417

We have conducted a compliance audit of the Luzerne Township 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 finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion 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 whether retirement benefits calculated for the plan member who terminated employment and elected a lump-sum form of pension benefit 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 comparing the distributed 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.
- We determined whether the terms of five of the plan's allocated insurance contracts, 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.

The township has elected to purchase allocated insurance contracts to fund the pension benefits for plan members. Under an allocated funding arrangement, the insurer receives and retains consideration in exchange for a legally enforceable obligation to pay future benefits. In accordance with Statement No. 67 of the Governmental Accounting Standards Board, as amended, allocated insurance contracts are excluded from the pension plan's assets. Consequently, the plan has no reportable assets.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Luzerne Township 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 objective.

The results of our procedures indicated that, in all significant respects, the Luzerne Township 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 finding further discussed later in this report:

Finding – Pension Plan Benefit Changes For Supervisor-Employees Not In Compliance With Act 69

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

August 26, 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 Luzerne Township 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 including, but not limited to, the following:

Act 69 - The Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended, 53 P.S. § 65101 et seq.

The Luzerne Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 73-86, as amended. The plan was established January 1, 1984. Active members are not required to contribute to the plan. The municipality was required to contribute 17.75% percent of compensation for all non-supervisory employees in the years 2016, 2017, 2018, and 2019, and required to contribute 17.75% of compensation for all supervisory employees in the years 2016 and 2017 and 18.75% of compensation in the years 2018 and 2019. As of December 31, 2019, the plan had five active members.

LUZERNE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Plan Benefit Changes For Supervisor-Employees Not In Compliance With Act 69

Condition: The pension plan’s governing document, Ordinance No. 73-86, as amended, sets the employer contribution rate at 17.75 percent of salary. The Luzerne Township Board of Auditors annually approved increases in the rate to 18.75 percent for the years 2018, 2019, and 2020 for road masters only. The township’s three road masters are also elected township supervisors. The employer contribution rate remained at 17.75 percent for other plan members, who are not elected officials. This benefit increase only for employees who are also township supervisors is not in compliance with the provisions of Act 69.

Criteria: Sections 606(b), (b)(1), and (b)(3) of Act 69 state:

Any benefit provided to or for the benefit of a supervisor employed by the township in an employe capacity under this act in the form of inclusion in a pension plan paid for in whole or in part by the township is compensation within the meaning of this act to the extent that benefit is paid for by the township and is determined by the board of auditors; however:

Supervisors are eligible for inclusion in township pension plans only if they are employed by the township in any employe capacity under this act. In order to be eligible for inclusion in the plans, supervisor-employes must meet the same requirements as other employes of the township who are eligible to participate in a pension plan. Pension plans shall not improperly discriminate in favor of a supervisor-employe. [Emphasis added.]

No change in the nature or rate of the contributions of a defined contribution plan and no change in the benefit formula of a defined benefit plan shall be initiated by the board of supervisors with respect to a supervisor-employe without auditor approval.

Cause: Plan officials were unaware of the applicable Act 69 provisions regarding benefits for supervisor-employees. According to an interview conducted with the pension plan’s chief administrative officer, the contribution rate increase was approved for supervisor-employees in lieu of a pay increase.

Effect: Increasing the employer contribution rate for certain plan members but not others could result in unauthorized pension benefits being paid. By using unequal employer contribution rates, the three supervisor-employees received a greater amount of employer contributions into their allocated insurance policies than the other township employees.

LUZERNE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that township officials consult with their solicitor and pension consultant and take whatever action is necessary to bring the plan's benefit structure into compliance with Act 69 at their earliest opportunity to do so.

We also recommend that the Board of Township Auditors familiarize themselves with the provisions of Act 69 regarding the pension plan benefits available to township employees who are township supervisors.

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.

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

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 27,108	\$ 12,369
2015	27,446	11,444
2016	26,248	13,467
2017	22,941	17,437
2018	23,422	18,239
2019	25,602	17,684

LUZERNE 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. John Marshall
Chairman, Board of Township Supervisors

Ms. Tanya Capuzzi
Chief Administrative Officer

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.