

LIMITED PROCEDURES ENGAGEMENT

Rush Township Non-Uniformed Pension Plan Centre County, Pennsylvania For the Period January 1, 2014 to December 31, 2016

October 2017



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Board of Township Supervisors
Rush Township
Centre County
Philipsburg, PA 16866

We conducted a Limited Procedures Engagement (LPE) of the Rush Township Non-Uniformed Pension Plan for the period January 1, 2014 to December 31, 2016 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 audit 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, 2011 to December 31, 2016, 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, 2011 to December 31, 2016, are presented on the Summary of Deposited State Aid and Employer Contributions.
- Whether annual employee contributions were required during the engagement period and, if so, were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the engagement period and examining documents evidencing the deposit of these employee contributions into the pension plan.
- Whether retirement benefits calculated for plan members who retired during the engagement 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 recalculating the amount of the lump sum payment pension benefit due to retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- Whether the January 1, 2013 and 2015 actuarial valuation reports were prepared and submitted to the former Public Employee Retirement Commission (PERC) by March 31, 2014 and 2016, 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 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.

Based on the results of our procedures performed during our LPE, nothing came to our attention indicating that the Rush 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 – Partial Compliance With Prior Audit Recommendation -
Receipt Of State Aid In Excess Of Entitlement
- Finding No. 2 – Noncompliance With Prior Audit Recommendation -
Unauthorized Funding Mechanism

The findings 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 Rush 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.

September 27, 2017

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale", with a long horizontal flourish extending to the right.

EUGENE A. DEPASQUALE
Auditor General

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RUSH TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Rush Township has complied with the prior audit recommendations concerning the following:

- Failure To Deposit The Full Amount Of State Aid Into The Pension Plan

During the current engagement period, township officials deposited the remaining 2013 state aid allocation in the amount of \$1,040 into the pension plan.

- Failure To Properly Fund Members' Accounts

Township officials funded the members' accounts in accordance with the provisions contained in the governing plan document.

Partial Compliance With Prior Audit Recommendation

Rush Township has partially complied with the prior audit recommendation concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

Municipal officials reimbursed \$1,119 of excess state aid received in 2012 and 2013 to the Commonwealth; however, plan officials failed to reconcile the amount of state aid received in the years 2015 and 2016 with the plan's defined contribution pension costs, as further discussed in the Findings and Recommendations section of this report.

Noncompliance With Prior Audit Recommendation

Rush Township has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Unauthorized Funding Mechanism

RUSH TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Audit Recommendation – Receipt of State Aid In Excess Of Entitlement

Condition: As disclosed in the prior audit report, the township received state aid in excess of the non-uniformed pension plan’s defined contribution pension costs in the years 2012 and 2013. During the current engagement period, municipal officials reimbursed \$1,119 to the Commonwealth for the excess state aid received; however, plan officials failed to reconcile the township’s annual state aid allocation with the plan’s defined contribution pension costs in the years 2015 and 2016, as illustrated below:

	<u>2015</u>	<u>2016</u>
State aid allocation	\$ 3,145	\$ 1,599
Actual municipal pension costs	(1,040)	(1,040)
Excess state aid	\$ 2,105	\$ 559

Criteria: Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Cause: The township’s state aid allocations were based, in part, on one of the plan members having an account in an unauthorized funding mechanism as described in Finding No. 2.

Effect: It is this Department’s opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid received in one year to offset pension costs in other years. Consequently, the overpayments of state aid received in the years 2015 and 2016, in the total amount of \$2,664, must be returned to the Commonwealth for redistribution.

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

RUSH TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend the municipality return the \$2,664 of excess state aid received in the years 2015 and 2016 to the Commonwealth from the township’s general fund. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

Furthermore, we again recommend plan officials reconcile the township’s annual state aid allocation and municipal contributions made to the pension plan with the plan’s annual defined contribution pension costs and reimburse any excess state aid received to the Commonwealth.

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

Auditor Conclusion: Due to the potential withhold of state aid, the township’s compliance with the finding recommendation will be monitored subsequent to the release of the report and through our next engagement.

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Unauthorized Funding Mechanism

Condition: As disclosed in our prior audit report, in 2012, municipal officials improperly purchased an individual retirement account (IRA) to provide benefits for a plan member at retirement. Plan officials also named the plan member as the owner of the account, and deposited \$5,200 of state aid into the unauthorized IRA in 2012 and 2013. During the current engagement period, plan officials deposited an additional \$2,142 of state aid into the IRA account. The plan member retired in December of 2014.

Criteria: Section 102 of Act 205 defines a pension plan as follows:

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.

RUSH TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Section 201.2 of Part IV of Title 16 of the Pennsylvania Code further elaborates on the definition included in Act 205, stating

The term does not include a plan, program, or arrangement that is funded solely by municipal employee earnings or compensation reported as municipal employee earnings or compensation to the Internal Revenue Service on the Form W-2 Wage and Tax Statement or established under sections 8.1-8.3 of the act of March 30, 1811 (P.L. 145 Sm.L. 228) (72 P.S. 4521.1-4521.3) [. . . / or Section 408 of the Internal Revenue Code (26 U.S.C.A. 408).]

Consequently, the former Public Employee Retirement Commission (PERC) determined that Individual Retirement Accounts (IRAs) and IRS Section 457 Deferred Compensation plans are not eligible to participate in the state aid program.

Cause: Municipal officials did not transfer the plan assets from the IRA into an eligible funding mechanism, or reimburse all of the state aid allocated to the unauthorized account, as recommended in the prior audit report.

Effect: Since the IRA funding mechanism does not meet the definition of a pension plan as prescribed above, it is not eligible to receive any state aid allocations.

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

Recommendation: We again recommend municipal officials reimburse all of the state aid allocated to the unauthorized funding mechanism (IRA) for the years 2012 and 2013 in the amount of \$5,200, and for the year 2014 in the amount of \$2,142 to the Commonwealth. A check in the total amount of \$7,342, with interest at a rate earned by the pension plan, should be made payable to Commonwealth of Pennsylvania, and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check. Furthermore, municipal officials should exclude members belonging to the ineligible plan from future Certification Forms AG 385 submitted to the department.

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

Auditor Conclusion: Due to the potential withhold of state aid, the township's compliance with the finding recommendation will be monitored subsequent to the release of the report and through our next engagement of the plan.

RUSH TOWNSHIP NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

Finding No. 1 contained in this report cites an overpayment of state aid to the township in the amount of \$2,664. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania, and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120.

Finding No. 2 contained in this report cites an overpayment of state aid to the township in the amount of \$7,342. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania, and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120.

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

Year Ended December 31	State Aid	Employer Contributions
2011	\$ 2,739	\$ 81
2012	3,120	None
2013	3,640	None
2014	3,182	458
2015	1,040	None
2016	1,040	None

RUSH 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 A. Shannon
Chairman, Board of Township Supervisors

Mr. John Romano
Vice-Chairman, Board of Township Supervisors

Mr. Samuel M. Estright
Township Supervisor

Ms. Joan Cowher
Township 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.