

COMPLIANCE AUDIT

Lower Milford Township Employees' Pension Plan Lehigh County, Pennsylvania For the Period January 1, 2018 to December 31, 2022

June 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Supervisors
Lower Milford Township
Lehigh County
Coopersburg, PA 18036

We have conducted a compliance audit of the Lower Milford Township Employees' Pension Plan for the period January 1, 2018 to December 31, 2022. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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, 2017 to December 31, 2022, 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, 2017 to December 31, 2022, 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 retired and received a lump-sum distribution 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 recalculating the amount of the pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- We determined whether the January 1, 2017, January 1, 2019, and January 1, 2021, actuarial valuation reports were prepared and submitted by March 31, 2018, 2020, and 2022, 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 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.
- We determined whether the terms of the plan's two 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.

- We determined whether transfers were properly authorized, timely, and appropriately recorded by plan officials by examining supporting documentation for all 5 of the transfers made during the audit period.

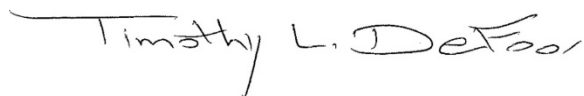
Lower Milford Township contracted with an independent certified public accounting firm for annual audits of its financial statements for the years ended December 31, 2021, 2020, 2019 and 2018, prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, which are available at the township's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Lower Milford Township Employees' 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 Lower Milford Township Employees' 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 – Receipt Of State Aid Excess Of Entitlement

The contents of this report were discussed with officials of Lower Milford 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.



Timothy L. DeFoor
Auditor General
May 15, 2023

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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 Lower Milford Township Employees' 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.

The Lower Milford Township Employees' Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution 2021-8 and a separately executed plan agreement with the plan's custodian effective June 1, 2021. Prior to June 1, 2021, the plan was locally controlled by the provisions of Resolution No. 1998-18, as amended. The plan is also affected by the provisions of collective bargaining agreements between the township and its non-uniformed employees. The plan was established January 1, 1989. Active members are not required to contribute to the plan but were permitted to contribute up to 15 percent of compensation for the years 2018, 2019 and 2020. The municipality is required to contribute six (6.0) percent of compensation. As of December 31, 2022, the plan had seven active members and one terminated member eligible for retirement benefits in the future.

LOWER MILFORD TOWNSHIP EMPLOYEES' PENSION PLAN
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

Lower Milford Township has complied with the prior recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Plan officials complied with the instructions that accompany Certification Form AG 385 and accurately reported the required pension data during the audit period.

LOWER MILFORD TOWNSHIP EMPLOYEES' PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Receipt Of State Aid In Excess Of Entitlement

Condition: The township received state aid in excess of the non-uniformed pension plan's defined contribution pension costs in the years 2019 and 2020, as illustrated below:

	<u>2019</u>	<u>2020</u>
Actual municipal pension costs	\$ 23,096	\$ 10,942
Less: Forfeitures available	-	(4,911)
Adjusted municipal pension costs	\$ 23,096	\$ 6,031
State aid allocation	23,779	10,822
Excess state aid	\$ 683	\$ 4,791

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: Plan officials failed to establish adequate internal control procedures to reconcile the township's state aid allocation, along with plan forfeitures available to reduce municipal contributions, with the plan's actual defined contribution pension costs.

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 in one year to offset pension costs in other years. Consequently, the overpayment of state aid in the years 2019 and 2020 must be returned to the Commonwealth for redistribution.

LOWER MILFORD TOWNSHIP EMPLOYEES' PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that the municipality return the \$5,474 of excess state aid received in the years 2019 and 2020 to the Commonwealth. 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 recommend that, in the future, plan officials reconcile the township's annual state aid allocation made to the pension plan and any available employee forfeitures with the plan's annual defined contribution pension costs and reimburse any excess state aid received to the Commonwealth.

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.

LOWER MILFORD TOWNSHIP EMPLOYEES' PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2017	\$ 17,454	\$ 1,948
2018	20,226	4,519
2019	23,779	None
2020	10,822	None
2021	17,229	\$ 3,533
2022	22,009	2,275

Note: In 2020, the township met the plan's \$10,942 funding requirement through the deposit of \$10,822 in state aid and the allocation of \$4,911 in terminated employee forfeitures (*resulting in the allocation of state aid in excess of pension costs - refer to the Finding and Recommendation of this report*).

LOWER MILFORD TOWNSHIP EMPLOYEES' PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Ms. Donna L. Wright
Chair, Board of Township Supervisors

Ms. Emily Fucci
Township Administrator

Ms. Wendy Stryker
Township Treasurer

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.