

COMPLIANCE AUDIT

Lower Nazareth Township Non-Uniformed Employees' Defined Contribution Pension Plan Northampton County, Pennsylvania

July 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 Nazareth Township
Northampton County
Nazareth, PA 18064

We have conducted a compliance audit of the Lower Nazareth Township Non-Uniformed Employees' Defined Contribution Pension Plan 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 conclusions based on our audit objective.

The objective of the audit was to determine whether 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 area 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:

- For the period January 1, 2022 to December 31, 2022, 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 the period January 1, 2022 to December 31, 2022, and through the completion of our fieldwork procedures, 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, 2019 to December 31, 2022, are presented on the Summary of Deposited State Aid and Employer Contributions.
- For the period January 1, 2022 to December 31, 2022, we determined whether employee contributions 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 the years in the period noted and examining documents evidencing the deposit of these employee contributions into the pension plan.
- For the period January 1, 2022 to December 31, 2022, we determined that there were no benefit calculations prepared.
- We determined whether the January 1, 2021 actuarial valuation report was prepared and submitted by March 31, 2022, in accordance with Act 205 and whether selected information provided on this report 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Lower Nazareth Township Non-Uniformed Employees' Defined Contribution 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 Lower Nazareth Township Non-Uniformed Employees' Defined Contribution Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, except as noted in the following finding further discussed later in this report:

Finding – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

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

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
July 7, 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 two (2.0) 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 Nazareth Township Non-Uniformed Employees' Defined Contribution 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 Nazareth Township Non-Uniformed Employees' Defined Contribution Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. LNT-42-18 and a separately executed plan agreement for non-uniformed employees hired on or after January 1, 2019. The plan was established January 1, 2019. Active members are required to contribute three (3.0) percent of compensation to the plan and voluntary contributions are permitted. The municipality is required to contribute five (5.0) percent of compensation. As of December 31, 2022, the plan had one active member.

LOWER NAZARETH TOWNSHIP NON-UNIFORMED EMPLOYEES'
DEFINED CONTRIBUTION PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Awarding Of Professional Services Contract Inconsistent With Provisions Of Act 205

Condition: Effective January 1, 2019, the township established a new defined contribution plan for all full-time non-uniformed employees hired on or after January 1, 2019 and invested assets with a new service provider. However, there was no evidence provided to support that the change in investment provider was conducted and awarded in accordance with provisions of Act 205 and the plan document.

Criteria: Section 701-A of Act 205, 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.

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.

LOWER NAZARETH TOWNSHIP NON-UNIFORMED EMPLOYEES'
DEFINED CONTRIBUTION PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

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.

Section 703-A (c) states in part:

Upon the advertisement for a professional services contract by the municipal pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the municipal pension system except for requests for technical clarification.

Furthermore, Resolution No. LNT-13-11, enacted by the township on April 27, 2011, established procedures for the procurement of professional services for the municipal pension system in accordance with Act 205 provisions.

Cause: Plan officials relied on the advice of their plan consultant, who did not feel that Act 205 procedures were necessary for various reasons.

Effect: We were unable to determine whether the township complied in all respects with the provisions stipulated in Act 205 and its own governing policies and procedures for the procuring of professional investment and advisory services for the township's defined contribution pension plan. Also, by failing to maintain appropriate substantive supporting documentation evidencing adherence with Act 205 and the township's procedures for the professional services contract, a general lack of transparency exists.

Recommendation: We recommend the township follow procedures developed and implemented by the township in Resolution No. LNT-13-11 for the procurement of professional services for the township's pension plans and ensure compliance with Act 205 provisions while maintaining appropriate and sufficient supporting documentation. This documentation should evidence every phase of the process in accordance with Act 205 and the township's policies and procedures in the awarding of future professional services contracts for the township's pension plans.

LOWER NAZARETH TOWNSHIP NON-UNIFORMED EMPLOYEES'
DEFINED CONTRIBUTION PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

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 NAZARETH TOWNSHIP NON-UNIFORMED EMPLOYEES'
 DEFINED CONTRIBUTION PENSION PLAN
 SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS
 (UNAUDITED)

Year Ended December 31	State Aid	Employer Contributions
2019	None	\$ 4,043
2020	None	3,439
2021	None	3,333
2022	None	2,747

The Department typically presents this data for the past six consecutive fiscal years. Since six years of data was not yet available, this will be done prospectively.

LOWER NAZARETH TOWNSHIP NON-UNIFORMED EMPLOYEES'
DEFINED CONTRIBUTION PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. James S. Pennington
Chairman, Board of Township Supervisors

Ms. Lori A. Stauffer
Township Manager

Ms. Tammi M. Dravec
Secretary/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.