

# LIMITED PROCEDURES ENGAGEMENT

---

## Somerset Township Non-Uniformed Pension Plan Somerset County, Pennsylvania For the Period January 1, 2015 to December 31, 2018

---

August 2019



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  
Somerset Township  
Somerset County  
Somerset, PA 15501

We conducted a Limited Procedures Engagement (LPE) of the Somerset Township Non-Uniformed Pension Plan for the period January 1, 2015 to December 31, 2018 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 (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 finding 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, 2013 to December 31, 2018, 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, 2013 to December 31, 2018, are presented on the Summary of Deposited State Aid and Employer Contributions.
- Whether retirement benefits calculated for all 3 of the plan members who terminated employment and elected a lump-sum form of pension benefit 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 comparing the distributed amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- Whether the January 1, 2015 and January 1, 2017 actuarial valuation reports were prepared and submitted by March 31, 2016 and 2018, 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.

Based on the results of our procedures performed during our LPE, nothing came to our attention indicating that the Somerset 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 – Failure To Implement Mandatory Provisions Of Act 205

Finding No. 2 – Withdrawal Of Plan Assets Prior To Retirement

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 Somerset 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

June 27, 2019

## CONTENTS

	<u>Page</u>
Status of Prior Finding .....	1
Findings and Recommendations:	
Finding No. 1 – Failure To Implement Mandatory Provisions Of Act 205 .....	2
Finding No. 2 – Withdrawal Of Plan Assets Prior To Retirement.....	4
Summary of Deposited State Aid and Employer Contributions.....	6
Report Distribution List .....	7

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Compliance With Prior Audit Recommendation

Somerset Township has complied with the prior audit recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In A Net Underpayment Of State Aid

Although during the current engagement period municipal officials again disclosed incorrect payroll data on the Certification Form AG 385 filed in 2018, this error had no impact on state aid. In addition, subsequent to the engagement period, municipal officials accurately reported the required pension data on the Certification Form AG 385 filed during 2019.

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Failure To Implement Mandatory Provisions Of Act 205**

Condition: During the prior audit, a verbal observation was issued to plan officials notifying them of the passage of Act 44 of 2009, which effectively amended Act 205 for the procurement of professional services contracts, and recommended that the township adopt the mandatory provisions, accordingly. However, during the current engagement period, the municipality again failed to adopt such mandatory provisions.

Criteria: Section 701-A of Act 205, as amended by Act 44, 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.

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (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 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.

Cause: Plan officials failed to establish adequate procedures to ensure compliance with provisions of Act 205 as previously recommended.

Effect: The borough’s continued failure to comply in all respects with the adoption of required provisions stipulated in Act 205 regarding the procurement of professional investment and advisory services for the township’s pension plan could result in a lack of overall transparency of proposed actions to be taken by plan officials relative to the contracting for custodial and investment services for the township’s pension plan.

Recommendation: We recommend that municipal officials obtain a comprehensive understanding of Act 205 provisions for the procurement of professional services and develop and implement formal written procedures to ensure compliance with these provisions. Such procedures should include the maintaining of appropriate and sufficient supporting documentation evidencing every phase of the process to ensure the transparency of the actions taken by plan officials relative to the awarding of any future professional services contracts for its pension plan.

Management’s Response: Municipal officials agreed with the finding and recommendation without exception.

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

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Withdrawal Of Plan Assets Prior To Retirement**

Condition: During 2018, pension funds amounting to \$19,494 maintained in the unallocated pension plan trust account were improperly withdrawn and distributed to an ex-spouse of an active, participating member of the township’s pension plan. Although the plan member was fully vested in his account balance, this individual had not yet met the eligible requirements for such distribution according to the plan document and/or terminated employment with the township as of the date of this report.

Criteria: Article IX of the plan document prescribes provisions for distributions of a participant’s accrued benefits under the plan and includes authorized provisions relative to the following: retirement, disability, death or termination of employment.

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.

Cause: Township officials based the distribution on provisions contained in a Qualified Domestic Relations Order that awarded the sum of \$19,494 to the active members’ ex-wife from the employee’s retirement account and contend that the timing for the distribution was to be made as soon as practical according to the executed order.

Effect: Allowing distributions from member accounts prior to a participant’s eligibility to receive such 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. In addition, it was noted that only \$15,010 was actually taken/credited against the individual member’s account while the remaining \$4,484, which was designated by the QDRO recipient for federal income tax purposes, was taken/credited against the overall accumulated earnings maintained in the unallocated pension plan trust account prior to allocation to the other eligible participants of the pension plan.



SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued):**

Recommendation: We recommend that plan officials implement adequate internal control procedures to ensure that all subsequent distributions made from the pension plan are distributed in accordance with the provisions contained in the plan’s governing document or if necessary, seek additional legal counsel from the township’s solicitor when judicial orders seeking distributions from the pension plan are not consistent with the plan provisions of the governing documents and/or applicable laws, regulations, etc., accordingly.

In addition, we also recommend that plan officials review and analyze the individual fund accounting performed of the aforementioned participant’s account balance at December 31, 2018, which only shows a reduction in the amount of \$15,010 of the \$19,494 awarded by the QDRO after distribution, to ensure that the balance accurately reflects the participant’s remaining account balance, as well as the account balances of the other participants in the township’s pension plan.

Management’s Response: Municipal officials agreed with the finding and recommendation without exception.

Auditor’s Conclusion: Compliance with be evaluated during our next engagement of the plan.

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

Year Ended December 31	State Aid	Employer Contributions
2013	\$ 66,034	\$ 10,466
2014	50,345	26,155
2015	58,813	16,412
2016	65,620	1,530
2017	59,647	6,653
2018	60,897	5,403

SOMERSET 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. Donald K. Miller**  
Chairman, Board of Township Supervisors

**Ms. Tami L. Yutzy**  
Secretary/Treasurer

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).