

COMPLIANCE AUDIT

Upper Leacock Township Non-Uniformed Employees Pension Plan

Lancaster County, Pennsylvania
For the Period
January 1, 2016 to December 31, 2019

May 2020



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
Upper Leacock Township
Lancaster County
Leola, PA 17543

We have conducted a compliance audit of the Upper Leacock Township Non-Uniformed Employees 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 conclusions 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 all nine of the plan members who terminated employment and/or retired 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 recipients.
- We determined whether the January 31, 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.

Upper Leacock Township contracted with an independent certified public accounting firm for annual audits of its basic financial statements, 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 Upper Leacock Township Non-Uniformed 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 objective.

The results of our procedures indicated that, in all significant respects, the Upper Leacock Township Non-Uniformed 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 In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

The contents of this report were discussed with officials of Upper Leacock 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.

April 9, 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 Upper Leacock Township Non-Uniformed 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 Upper Leacock Township Non-Uniformed Employees Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 2015-11. The plan is also affected by the provisions of collective bargaining agreements between the township and its non-uniformed employees. The plan was established February 15, 1978. Active members are not required to contribute to the plan. The municipality is required to contribute 10 percent of compensation. As of December 31, 2019, the plan had 13 active members and 2 terminated members eligible for vested benefits in the future.

UPPER LEACOCK TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Condition: The township received state aid in excess of the non-uniformed pension plan’s pension costs and also made municipal contributions in excess of those required to fund the plan in the year 2018. In addition, the township made municipal contributions in excess of those required to fund the plan in the year 2019, as illustrated below:

	<u>2018</u>	<u>2019</u>
Actual municipal pension costs	\$ 87,743	\$ 91,169
Employee forfeitures available	<u>(21,287)</u>	<u>(5,531)</u>
Adjusted actual municipal pension costs	\$ 66,456	\$ 85,638
State aid allocated	<u>(70,266)</u>	<u>(66,566)</u>
Excess state aid received	<u>\$ 3,810</u>	<u>\$ -</u>
Actual municipal contributions made	\$ 18,854	\$ 24,602
Municipal contributions required to fund plan	<u>-</u>	<u>19,072</u>
Excess municipal contributions	<u>\$ 18,854</u>	<u>\$ 5,530</u>

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.

UPPER LEACOCK TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

In addition, Number 24 of the plan agreement sets the employer contribution at 10 percent of each Participant's Compensation for each Plan Year, and Number 29 of the plan agreement states that forfeitures of employer contributions other than matching contributions will be used to reduce any employer contribution.

Furthermore, Section 1.21 of the plan document states:

“Forfeiture” means that portion of a Participant's Account that is not Vested and is disposed of in accordance with the provisions of the Plan.

A Forfeiture will occur on the earlier of:

(a) The last day of the Plan Year in which a Participant incurs five (5) consecutive 1-Year Breaks in Service, or

(b) The distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero, then such Participant shall be deemed to have received a distribution of such Vested benefit as of the year in which the severance of employment occurs. For this purpose, a Participant's Vested benefit shall not include: (i) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B), and (ii) the Participant's Rollover Account.

Cause: The township misinterpreted the forfeiture language in the plan's governing document, incorrectly holding forfeitures for a five-year period after the member had withdrawn the vested portion of their account.

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 year 2018, in the total amount of \$3,810, must be returned to the Commonwealth for redistribution.

In addition, as a result of the township not using available forfeitures toward the 2018 and 2019 pension plan costs, inactive members' funds containing forfeitures existed as of December 31, 2019.

UPPER LEACOCK TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that the municipality return the \$3,810 of excess state aid received in the year 2018 to the Commonwealth from the non-uniformed pension plan. 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.

We also recommend that the township liquidate the inactive members' funds containing forfeitures by transferring the assets, which represent excess municipal contributions, to the township's general fund and using the remaining balance of the fund towards 2020 employer contributions due to the plan.

Furthermore, we again recommend that plan officials establish adequate internal control procedures to reconcile the amount of state aid allocated to the township, any available employee forfeitures and municipal contributions made to the pension plan, with the plan's annual pension costs and reimburse any excess state aid received to the Commonwealth.

Management's Response: Township supervisors will review the draft finding at their April meeting.

Auditor's Conclusion: Compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

UPPER LEACOCK TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 58,090	\$ 21,107
2015	62,733	33,264
2016	69,994	30,118
2017	68,824	26,876
2018	70,266	18,854
2019	66,566	24,602

Note: In 2014, the township met the plan's \$88,137 funding requirement through the deposit of \$58,090 in state aid and \$21,107 in employer contributions and the allocation of \$8,940 in terminated employee forfeitures.

UPPER LEACOCK TOWNSHIP NON-UNIFORMED EMPLOYEES PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. Ronald S. Simmons
Chairman, Board of Township Supervisors

Mr. J. Harold Leaman
Vice-Chairman, Board of Township Supervisors

Mr. Nelson J. Bard
Township Supervisor

Mr. Michael Morris
Township Manager

Ms. Yulianne Izaguirre
Office Manager

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.