

COMPLIANCE AUDIT

Lower Towamensing Township Non-Uniformed Cash Balance Pension Plan Carbon County, Pennsylvania

January 2025



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Supervisors
Lower Towamensing Township
Carbon County
Palmerton, PA 18071

We have conducted a compliance audit of the Lower Towamensing Township Non-Uniformed Cash Balance 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 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 findings 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 findings 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:

- For the period January 1, 2019 to December 31, 2023, 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, 2023, 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.
- For the period January 1, 2022 to December 31, 2023, we determined whether annual 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. We also tested individual employee contributions for all three active employees employed during the period noted amounting to \$1,428 and \$2,656 for the years 2022 and 2023, respectively.
- For the period January 1, 2022 to December 31, 2023, we determined that there were no benefit calculations prepared.
- We determined whether the January 1, 2023 actuarial valuation report was prepared and submitted by March 31, 2024 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.

The Lower Towamensing Township Non-Uniformed Cash Balance Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Annual Comprehensive Financial Report, copies of which are available from the PMRS accounting office. PMRS's 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 Towamensing Township Non-Uniformed Cash Balance 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.

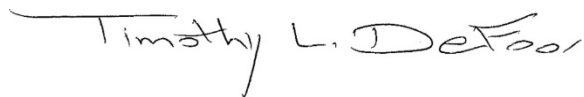
The results of our procedures indicated that, in all significant respects, the Lower Towamensing Township Non-Uniformed Cash Balance Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, except as noted in the following finding further discussed later in this report:

Finding – Noncompliance With Prior Recommendation – Incorrect Data On
Certification Form AG 385 Resulting In A Net Overpayment Of State
Aid

The finding contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by township officials. We are concerned by the township's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation noted in this audit report.

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Lower Towamensing 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
December 31, 2024

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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 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 Towamensing Township Non-Uniformed Cash Balance 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 including, but not limited to, the following:

Act 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The Lower Towamensing Township Non-Uniformed Cash Balance Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 157 and a separately executed plan agreement with the plan's custodian effective September 1, 2020, adopted pursuant to Act 15, for non-uniformed employees hired on or after July 1, 2016. *(It should be noted that the township also adopted a separately executed cash balance pension plan agreement effective September 1, 2020, specifically for accumulating optional, after-tax voluntary member contributions for plan members which does not impact the costs of this cash balance pension plan or the separately audited defined benefit pension plan or the funding requirement of the township.)* Prior to September 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 153, as amended, and a separately executed plan agreement with the plan's custodian effective July 1, 2016, adopted pursuant to Act 15. The plan was established October 1, 2003. Active members are required to contribute 2 percent of compensation to the plan and may optionally contribute up to 18 percent of compensation. The municipality is required to contribute 3 percent of compensation. As of December 31, 2023, the plan had 3 active members.

LOWER TOWAMENSING TOWNSHIP
NON-UNIFORMED CASH BALANCE PENSION PLAN
STATUS OF PRIOR FINDINGS

In the prior audit, the non-uniformed defined benefit and non-uniformed cash balance plans were combined in one audit report which contained the following two findings:

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid – *addressed in both current audit reports*
- Failure To Deposit The Full Amount Of State Aid Into The Pension Plan – *addressed in the current non-uniformed defined benefit pension plan audit report*

Noncompliance With Prior Recommendation

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

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

LOWER TOWAMENSING TOWNSHIP
NON-UNIFORMED CASH BALANCE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Recommendation – Incorrect Data On Certification Form AG 385 Resulting In A Net Overpayment Of State Aid

Condition: As disclosed in the prior report, the township certified an ineligible non-uniformed employee (1 unit) and overstated payroll by \$12,901 on the Certification Form AG 385 filed in 2019, resulting in an overpayment of state aid to the township in the amount of \$2,403. However, the township failed to return the overpayment of state aid to the Commonwealth. In addition, a similar condition occurred during the period subject to audit. The township failed to certify an eligible non-uniformed employee (1 unit) and understated payroll by \$40,211 on the Certification Form AG 385 filed in 2020. Also, the township overstated payroll by \$5,460 on the Certification Form AG 385 filed in 2022. The data contained on these certification forms is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year. The applicable number of units attributable to each eligible recipient city, borough, incorporated town, and township shall be two units for each police officer and firefighter and one unit for each employee other than police officer or firefighter.

Furthermore, pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

Cause: Township officials failed to establish adequate internal control procedures to ensure compliance with this department’s prior audit recommendation and the accuracy of the data certified.

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the township’s state aid allocations were based on pension costs for the years 2020 and 2022, the incorrect certification of pension data affected the township’s state aid allocations, as identified below:

LOWER TOWAMENSING TOWNSHIP
NON-UNIFORMED CASH BALANCE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated (Understated)</u>	<u>State Aid Overpayment (Underpayment)</u>
2020	5.6074%	\$ (40,211)	\$ (2,255)
2022	6.8481%	\$ 5,460	<u>374</u>
Net Underpayment of State Aid			<u><u>\$ 1,881</u></u>

Since the \$2,403 overpayment of state aid in 2019 was not returned to the Commonwealth as of the date of this report, we netted the 2019 error against the 2020 and 2022 errors, resulting in a net overpayment of \$522 for the three years.

In addition, the township used the overpayments of state aid to pay the minimum municipal obligations (MMOs) due to the non-uniformed pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMO(s) will not be fully paid.

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

Recommendation: We recommend that the net overpayment of state aid, in the amount of \$522, be returned 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 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.

We also again recommend that in the future, plan officials establish adequate internal control procedures, such as having at least two people review the data certified, to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

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

Auditor’s 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 audit report and through our next audit of the pension plan.

LOWER TOWAMENSING TOWNSHIP
NON-UNIFORMED CASH BALANCE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

A condition of a repeat finding such as that reported by the finding contained in this audit report may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

LOWER TOWAMENSING TOWNSHIP
NON-UNIFORMED CASH BALANCE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Statutorily Required Contribution (SRC)*	Contributions in Relation to the SRC*	Contribution Deficiency (Excess)**	Covered- Employee Payroll	Contributions as a Percentage of Covered- Employee Payroll
2017	\$ 2,185	\$ 2,245	\$ (60)	\$ 113,967	1.97%
2018	2,989	1,849	1,140	97,630	1.89%
2019	3,275	3,959	(684)	106,510	3.72%
2020	2,587	2,587	-	83,554	3.10%
2021	2,140	2,140	-	69,337	3.09%
2022	1,447	1,447	-	45,555	3.18%
2023	4,800	4,800	-	132,971	3.61%

* The Statutorily Required Contribution (SRC) is a contribution amount based upon the payroll and the contribution rate as outlined under the terms of the cash balance pension plan.

** The SRC and the actual Contribution were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account. The 2018 contribution deficiency is due to transfers from the municipal reserve account.

LOWER TOWAMENSING TOWNSHIP
NON-UNIFORMED CASH BALANCE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Ms. Connie Brown
Chairman, Board of Township Supervisors

Ms. RoniSue Ahner
Secretary/Treasurer

Mr. Richard Cardamone, CPA, CGMA
Pennsylvania Municipal Retirement System

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.