



December 22, 2020

Neil G. Lovekin, Township Manager  
East Marlborough Township  
(15-042-5 N)  
721 Unionville Road  
Kennett Square, PA 19348

Dear Neil,

The Pennsylvania Municipal Retirement System (PMRS) has received your request seeking our "Disclosures" response as set forth in Act 44 of 2009. Act 44 added a new chapter to the Municipal Pension Plan Funding Standard and Recovery Act and sets forth requirements for municipal pension systems when they enter into "professional services contracts" which is defined as:

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.

It appears your municipality has interpreted our relationship as the administrator of one of your "municipal pension systems" as subjecting PMRS to the disclosure requirements of this law. It is PMRS' opinion that it is not subject to these disclosure provisions.

To be clear, PMRS itself is specifically defined in Act 44 as a "municipal pension system" which means that it must follow the law's contracting and purchasing requirements. By including PMRS in the definition of "municipal pension system," the General Assembly distinguished PMRS from other "contractors" with whom a municipality may enter into a contract. PMRS itself has entered into numerous professional services contracts since Act 44 became effective and has done so following Act 44's procedures.

The legal distinction starts with the acknowledgement that the pension plan contract for the administration of the municipality's pension plan entered into between PMRS and the municipality does not constitute a "professional services contract" as defined in Act 44. Neither PMRS nor its Board provides municipalities "investment services, legal services, real estate services [or] other consulting services." The Board's relationship is not one of a service provider. Further, as an independent administrative board of the Commonwealth of Pennsylvania, the Board does not receive personal profit in the administration of a pension plan as a consultant would. Clearly the Board is not within the domain of those pension service consultants who contract with municipalities to whom bidding and conflict of interest restrictions were made applicable.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Baker", is written over a faint, illegible typed name.

Douglas Baker, Acting Secretary  
Pennsylvania Municipal Retirement System

DB: LC