

October 2023

Mr. Donald Handerhan  
Village of Menands  
280 Broadway  
Menands, NY 12204

**Re: Service Award Program 2023-2024 Service Fee Agreement**

Dear Mr. Handerhan:

In 2023, Penflex was excited to receive positive feedback from various Plan Sponsors and LOSAP participants about the value of their Length of Service Award Programs. As specialists in LOSAP actuarial services, administration and consulting, we find it rewarding to see the tangible benefits these programs provide.

Enclosed is our service fee agreement for the upcoming administration year, which details the fees for actuarial and administration services for your program. Like every year, Penflex is eager to continue our service and remain a trusted partner for our clients.

Over the past year, Penflex has observed an increasing trend among Length of Service Award Programs: a readiness to modify existing plans. Plan Sponsors, including local municipalities, fire districts, EMS organizations, and boards, are creatively enhancing benefits to attract and retain volunteers. This could involve increasing monetary rewards, extending the maximum volunteering years, or lowering the entitlement age for service award eligibility. Penflex supports these efforts by providing tailored cost estimates for any proposed changes, ensuring key LOSAP stakeholders have access to crucial information. For a cost estimate specific to your program, please contact us at (518) 783-6933 or [info@penflexinc.com](mailto:info@penflexinc.com).

Is your LOSAP program benefiting from Penflex's complimentary online training and tracking management system, which offers 24/7 access to a diverse range of volunteer courses? Recognizing that attending in-person training can be challenging for volunteers, we provide a convenient online alternative accessible from home. Our parent company, McNeil & Company, facilitates these training sessions. We have also introduced a secure client portal for seamless electronic sharing of plan, client, and participant information. For more details on these offerings, please contact Nicole Meeker, Penflex's Manager of Business Development and Accounts, at (518) 394-7894 or [nmeeker@penflexinc.com](mailto:nmeeker@penflexinc.com).

The cornerstone of Penflex has always been the level of knowledge, experience, and expertise our staff exhibits when working with our clients to address their LOSAP needs and questions. For 2023, Penflex has hired two new staff members to join our growing organization. The addition of staff brings new ideas, different perspectives, and reliable LOSAP experience, all of which directly contribute to the high standards Penflex has upheld for over 30 years in servicing our clients.

**Please return the signed Service Fee Agreement to Penflex Actuarial Services, LLC by January 12th, 2024, via fax at (518) 783-6915, email to [info@penflexinc.com](mailto:info@penflexinc.com), or mail to our Latham, NY office.** Your prompt response is greatly appreciated. Please note that, if applicable, an invoice for our base fee is enclosed. If you are requesting that we prepare an optional financial statement disclosure package, please review your auditor's information and make any applicable changes to the Agreement.

The Penflex team proudly meets our clients' high expectations, ensuring their best interests are at the forefront, all while maintaining our signature personalized and attentive service. We appreciate your continued trust and thank you for your ongoing business!

*Paul A. Cognetta*

Paul A. Cognetta  
Vice President of Operations

Penflex Actuarial Services, LLC.  
11/1/2023-10/31/2024 Service Fee Agreement

Penflex Copy

VILLAGE OF MENANDS  
SERVICE AWARD PROGRAM

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Standard Services Fee Schedule

Base Fee: \$2,650

Per-Participant Fee: \$20

Payment certification and trustee directive letters: \$100 per letter

**Total Estimated Standard and Distribution Services Fees: \$3,700**

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Optional Preparation of Financial Statement Disclosures (For Additional Fee)

Disclosure Packages Provided For Program Year 2022:

NYS LOSAP Audit Package: Yes

Auditing Firm: Teal Becker & Chiaramonte

Contact Name: Vince Commisso

Email Address: vcommisso@tbccpa.com

Please Check 'Yes' Or 'No' For Program Year 2023:

Complete the NYS LOSAP Audit Package for a fee of \$375: \_\_\_\_\_ Yes \_\_\_\_\_ No

Please refer to the enclosed newsletter titled 'NYS Volunteer Firefighter LOSAP Audit Requirement' for more information.

**PLEASE NOTE: If you are requesting any Disclosure Packages, please review and make any necessary changes to your auditor's information noted above.**

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All other services are optional and are billed only when requested. Please call for fee estimates and purchase order arrangements. Optional services include additional client meetings, drafting of special correspondence and documents, and performing cost estimate calculations for proposed program amendments. Plan transfers have a \$750 processing fee, while plan consolidations or terminations fee will be determined by the complexity of the work upon request.

To authorize Penflex Actuarial Services, LLC. to begin providing these services in accordance with this fee schedule, please have the Mayor sign and return this Service Fee Agreement. Keep a copy for your records.

\_\_\_\_\_  
Print Name

Mayor

Village of Menands

\_\_\_\_\_  
Signature & Date

*Paul A. Cagnetta*

Paul A. Cagnetta

Vice President of Operations

Penflex Actuarial Services, LLC.

\_\_\_\_\_  
Email Address



### SERVICE AWARD PROGRAM STANDARD SERVICES

1. Prepare an annual Service Award Program statement for each Service Award Program participant, including those who are in payment status.
2. Prepare for the record and **for audit purposes** an annual Service Award Program report which:
  - a. shows and completely documents the calculation (defined benefit plans) or allocation (defined contribution plans) of the annual Program cost.
  - b. accounts for changes in the Program's assets.
  - c. lists the earned Service Awards (defined benefit plans) or accounts for changes in the Program account (defined contribution plans) for each participant.
  - d. summarizes the major provisions of the Program.
  - e. lists current payment recipients.
  - f. includes a service credit listing for current participants.
  - g. includes a written description of the actuarial methods and assumptions used to calculate the annual program costs (defined benefit plans).
  - h. For members of the Sponsor's Governing Board or Officials, prepare:
    - i. "Fact Sheet" which includes current year important information about their Program.
    - ii. "Annual Report Commentary" correspondence which alerts officials about emerging issues and/or explains changes in the Program (such as increase/decrease in Program funding costs).
3. One meeting upon request, first with officials and then with volunteers to review the Annual Report, to answer questions from volunteers about their annual statements, and to provide updates on Service Award Program related legislation and on their own Program.
4. Provide pertinent forms for participants to apply for payment upon eligibility, elect or change beneficiaries, etc.
5. At year-end, provide written instructions about how to prepare the required certified listings to be approved by the Sponsor's Governing Board and Department/Company officials, posted by the Department/Company, and sent to Penflex Actuarial Services, LLC.
6. Project the Program's cash flow needs in order to plan and formulate investment strategy.
7. Prepare written notification/explanation to be sent to persons who cease to participate in the Program.
8. During normal business hours, have trained staff available to answer questions from officials and designated client contact persons.
9. Throughout the year, receive, review and reconcile financial statements from custodian and/or investment and/or insurance providers.

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10. Process Service Award payment applications, certify payment amounts and eligibility, prepare payment directives and communicate directly with the payment recipient and/or custodian and/or paying agent when necessary.
11. Answer routine questions from Sponsor's auditors about the Program and the Annual Report.
12. When required, prepare vouchers for payments to the Program Trust Fund.

## **New York State Volunteer Firefighter LOSAP Audit Requirement**

### ***Background***

In November 2005 and May 2006, the Long Island-based newspaper Newsday published articles about Length of Service Award Programs (LOSAPs), in particular, their relatively poor funded status. Partly in reaction to these articles, a bill was introduced in 2006 that was eventually signed into law. This new legislation, GML §219-a(3) required a LOSAP to be audited annually by an independent certified public accountant (CPA). The justification for the bill stated, in part, the following:

*"Annual audits will help ensure that programs are adequately funded, allow program sponsors to adjust contributions and increase transparency."*

The new statute required the audits to commence effective with the program sponsor's fiscal year ending on/after June 30, 2007. Although the original deadline for the completion of the audit was 90 days, it was subsequently increased to 270 days. However, for reasons discussed below, the deadline for fire districts that prepare audited financial statements is 180 days. The audit report must be submitted to the Office of the State Comptroller (OSC).

Our observation is that the audit requirement has made LOSAP sponsors generally more educated about the financial state of their program, but more progress must still be made. Penflex is proactively working with CPAs, statewide associations, and other professionals serving LOSAP sponsors to increase awareness about the need to more closely monitor these programs.

### ***Compliance & Model Footnote***

The text of the statute is somewhat vague and open ended. To clarify how a LOSAP sponsor is to comply with this requirement, the OSC established guidelines in a 2008 memorandum which outlined two options. The first option is aimed towards LOSAP sponsors that already have their financial statements audited by an independent CPA. These sponsors can include a footnote of information about the LOSAP in its financial statements. The CPA will then audit the footnote and LOSAP as part of the overall financial statement audit. The second option is to engage a CPA to perform a LOSAP-only audit in compliance with the AICPA Audit and Accounting Guide for Employee Benefit Plans. With either option, the LOSAP information is to be presented using the model footnote format and submitted to the OSC. Note that fire districts that are required to have their financial statements audited must submit the financial statements to the OSC by June 30<sup>th</sup>, making the effective filing date for these fire districts 180 days, not 270.

The footnote is to state basic program provisions and benefits provided. It must describe how the program assets are managed and what vendors have been hired to assist the sponsor in its fiduciary role, including asset management and third-party administration. It also requires disclosure of the financial condition of the program, which includes the investment allocation of the program assets and changes in the assets during the year, liabilities, contributions required and made during the year, fees paid to vendors for administration, actuarial and/or investment management services, and actuarial assumptions (for defined benefit programs).

The LOSAP audit must be filed with the OSC by the required deadline. Based on our discussions with OSC staff and information we requested on LOSAP audits reported to the OSC, it appears that LOSAP audits are not being transmitted to the OSC even though they are likely being completed by the CPA. Based on information obtained through a Freedom of Information request, it appears that the number of submissions has increased from 306 in 2013 to 353 in 2016 (the most recent year available). Although information about the LOSAP (i.e., LOSAP footnote) is submitted with the Annual Update Document (AUD), this submission does not satisfy the LOSAP audit requirement because it is not one of the two compliance options outlined above.

Based on municipal spending data available on the OSC website, there are about 510 municipalities that report an annual expenditure for LOSAP. However, this data does not include many towns, since the LOSAP cost is often rolled into fire protection contract costs. Knowing this, we estimate that 353 LOSAP audits likely represents a filing compliance rate of 50% to 60% of all LOSAP sponsors. Although we believe that the LOSAP statute requires the CPA to file the audit report with the OSC directly, we understand in speaking to CPAs that there are certain restrictions that do not always make this a practical procedure. We recommend that each sponsor work with its CPA to ensure that the audit is being filed with the OSC, either by the CPA or the sponsor. It can be electronically filed to [afrrfile@osc.state.ny.us](mailto:afrrfile@osc.state.ny.us). In addition, we suggest that the sponsor review the results of the audit with the CPA and ask to be alerted of any problems or concerns. If the CPA ever has questions about actuarial or administrative work performed by Penflex, the CPA is encouraged to contact us directly to have these questions answered.

### ***Penflex LOSAP Audit Package***

To assist our clients in complying with the audit requirement, Penflex developed an optional LOSAP Audit Package service. After consulting with several CPAs, the LOSAP Audit Package was modeled to provide all the necessary information to fulfill the audit requirements for the sponsor. Essentially, Penflex completes the model footnote on behalf of the sponsor and provides the necessary documentation for the CPA to verify its accuracy – annual report, asset statements, fees paid, and other supporting materials. The LOSAP Audit Package is emailed to the CPA and sponsor. Penflex answers any questions from the CPA about the LOSAP or the package. Most CPAs find this package helpful in that it gives them direct access to the necessary information from Penflex rather than having to piece it together from multiple sources. Our clients benefit from a more streamlined process that reduces their effort and improves the accuracy of the disclosures. However, before asking Penflex to prepare the LOSAP Audit Package, please discuss it with the CPA to determine if the goal of the package will be achieved.

While our LOSAP audit package is comprehensive in its content, it cannot function as the audit itself. The audit must be performed by the CPA, and the results of the audit must be submitted to the OSC.

### ***What you need to know...***

- The LOSAP audit is an **annual requirement** that must be filed with the OSC within **270 days** of the end of the sponsor's fiscal year (**180 days for most fire districts**).
- The Penflex LOSAP Audit Package is an **optional service** and provides the necessary disclosures but **does not** satisfy the audit disclosure requirements.
- The sponsor must retain an **Independent CPA** to perform the annual audit.
- There are **two audit options** – the CPA can help the sponsor determine which approach is best.
- Attaching the footnote to the AUD **does not** satisfy the audit requirement.

## Governmental Accounting Standards Board (GASB) Statement No. 73 Frequently Asked Questions

The accounting and financial reporting requirements of Governmental Accounting Standards Board (GASB) Statement No. 73 "Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB 68" became effective for fiscal years beginning after June 15, 2016. Penflex has responded to this new client need by providing educational information as well as an optional "GASB 73 Disclosure Package" containing the information required to be reported under GASB 73.

The majority of our clients who have requested the GASB 73 Disclosure Package have now completed their first year of financial statements including these new requirements; a handful of clients are in their second year of reporting under this new standard. Over the past year, we have prepared the actuarial information required by GASB 73 for our clients and communicated with them and their auditors regarding implementation of the new standard. Throughout this process we have heard many questions and concerns about the new standard and the information presented in our GASB 73 Disclosure Package.

The following is a list of some of the most frequently asked questions.

**Q1. *Is my municipality required to report financial information in accordance with GASB 73?***

**A1.** Financial statements that are prepared in accordance with generally accepted accounting principles (GAAP) are required to comply with all applicable GASB statements, including GASB 73. Many of our clients consist of Towns and Villages, and the majority of those municipalities prepare GAAP based financial statements which are including the GASB 73 information. Conversely, fire districts typically do not prepare GAAP based financial statements. Ultimately, your accountant or auditor will be able to advise you as to whether the GASB 73 information will be needed by your municipality.

**Q2. *Is the Office of the New York State Comptroller (OSC) going to require GASB 73 information to be reported on the Annual Update Document (AUD)?***

**A2.** As of the date of this newsletter, the OSC has not issued any guidance on the reporting of GASB 73 information on the AUD. However, the OSC did recently issue guidance on a separate statement, GASB 75, which applies to the treatment of liabilities for other post-employment benefits (OPEB) sometimes offered by local governments. The OSC will *not* be requiring the GASB 75 OPEB information for AUD reporting purposes. Penflex is hopeful that similar guidance will be issued soon regarding the reporting of GASB 73 information on the AUD.

**Q3. *My LOSAP is a defined contribution plan, not defined benefit. Do I still need the Disclosure Package provided by Penflex?***

**A3.** Penflex does not provide a GASB 73 Disclosure Package for our clients with defined contribution plans. While GASB 73 is applicable to defined contribution LOSAPs, the information required does not require special actuarial calculations. The GASB 73 disclosure can be prepared by your accountant or auditor using the Annual Report already provided by Penflex.

**Q4. Does this mean that there will be a change to the LOSAP contribution or funded status calculated by Penflex in my Annual Report?**

**A4.** GASB 73 is meant to impact the accounting and financial reporting of pensions only and intentionally *does not* address how the pensions are funded. Penflex is committed to helping our clients properly fund for the benefits promised to volunteers by determining annual contribution requirements based on sound actuarial principles and appropriate funding policies. The calculation of the GASB 73 information is unrelated to plan funding calculations; therefore GASB 73 will have no impact on program contributions or funded status.

**Q5. Why is the Total Pension Liability (TPL) different from the Actuarial Accrued Liability (AAL) shown in the Penflex Annual Report?**

**A5.** As noted above, the GASB 73 information is intended for accounting requirements, not plan funding. The TPL is calculated using methods and assumptions that are prescribed in that statement and that differ from those used in Penflex funding calculations. For this reason, the TPL in the GASB 73 Disclosure Package will differ from, and should not be compared to, the AAL in your LOSAP Annual Report.

**Q6. Why does the information in my GASB 73 package have a measurement date that is one year prior to the date of my financial statements?**

**A6.** Penflex is measuring the Total Pension Liability (TPL) as of a date one year prior to some clients' fiscal year end in order to be able to provide the Disclosure Package in a timely manner and to best align with staff workloads. This practice is in accordance with the GASB 73 standard which allows for some flexibility in the timeframe at which the TPL is measured. Specifically, the TPL can be measured on any date up to a year prior to the reporting date, or the fiscal year end. This choice in measurement date has no material impact on the required disclosures.

**Q7. What is the difference between the GASB 73 package and the NY State LOSAP Audit package?**

**A7.** Section 219-a(3) of the New York State General Municipal Law requires every volunteer firefighter service award program to be audited. The implementation of the new GASB 73 standard does not change this State audit requirement. The challenge for the majority of LOSAP sponsors is that compliance with the State audit requirement takes the form of a footnote to the sponsor's audited financial statements. The template for this footnote was provided by the Office of the State Comptroller. The information about the program that is detailed on the footnote is based on the Annual Report prepared by Penflex, which is different than what is reported in the GASB 73 disclosure (as addressed in Question 5). This has left many treasurers, comptrollers, and auditors unsure how to balance complying with both requirements against the potential confusion of reporting two financial disclosures of the program on the same statement. From our discussions with the OSC about this topic, we have been alerted that guidance is forthcoming. In the meantime, you should continue to work with your auditor to decide the most appropriate way to proceed.