

# COMPLIANCE AUDIT

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## Bristol Borough Police Pension Plan Bucks County, Pennsylvania For the Period January 1, 2012 to December 31, 2014

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March 2016



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Bristol Borough  
Bucks County  
Bristol, PA 19007

We have conducted a compliance audit of the Bristol Borough Police Pension Plan for the period January 1, 2012 to December 31, 2014. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings 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 audit 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 audit 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:

- × 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.

- × 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.
- × 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 members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan.
- × We determined whether retirement benefits calculated for the 1 plan member who retired 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 recalculating the amount of the monthly pension benefit due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipient.
- × We determined whether the January 1, 2011 and January 1, 2013 actuarial valuation reports were prepared and submitted to the Public Employee Retirement Commission (PERC) by March 31, 2012 and 2014, 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.

Bristol Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Bristol Borough Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the borough's internal controls as they relate to the borough's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 Bristol Borough Police 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 findings further discussed later in this report:

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Inconsistent Pension Benefit Provision

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600

The findings contained in this audit report repeat conditions that were cited in our previous audit report that have not been corrected by borough officials. We are concerned by the borough's failure to correct those previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this audit report.

As previously noted, one of the objectives of our audit of the Bristol Borough Police Pension Plan was to determine compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Act 205 was amended on September 18, 2009, through the adoption of Act 44 of 2009. Among several provisions relating to municipal pension plans, the act provides for the implementation of a distress recovery program. Three levels of distress have been established:

<u>Level</u>	<u>Indication</u>	<u>Funding Criteria</u>
I	Minimal distress	70-89%
II	Moderate distress	50-69%
III	Severe distress	Less than 50%

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. However, **we are extremely concerned about the funded status of the plan contained in the schedule of funding progress included in this report which indicates the plan's funded ratio is 61.5% as of January 1, 2013, which is the most recent data available. Based on this information, the Public Employee Retirement Commission issued a notification that the borough is currently in Level II moderate distress status.** We encourage borough officials to monitor the funding of the police pension plan to ensure its long-term financial stability.

The contents of this report were discussed with officials of Bristol Borough and, where appropriate, their responses have been included in the report

February 17, 2016



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. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

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 Bristol Borough Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Bristol Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 899, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established November 1, 1959. Active members are required to contribute 6 percent of wages to the plan. As of December 31, 2014, the plan had 14 active members, no terminated members eligible for vested benefits in the future, and 10 retirees receiving pension benefits from the plan.

## **BACKGROUND – (Continued)**

As of December 31, 2014, selected plan benefit provisions are as follows:

### Eligibility Requirements:

Normal Retirement	Age 50 and 25 years of service.
Early Retirement	Eligible with 20 years of service.
Vesting	A member is 100% vested after 12 years of service.

### Retirement Benefit:

Benefit equals 50% of final 36 months average salary, plus a service increment of \$100 per month for each full year of service in excess of 25 years, up to a maximum of \$100 per month.

### Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Retirement Eligibility	A monthly benefit equal to 50% of the pension the member was receiving or was entitled to receive on the day of the member's death.

### Service Related Disability Benefit:

Benefit equals 60% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

BRISTOL BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

Bristol Borough has not complied with the prior audit recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

- Inconsistent Pension Benefit Provision
- Pension Benefit Not Authorized By Act 600

BRISTOL BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Inconsistent Pension Benefit Provision**

Condition: As disclosed in the prior audit report, the pension plan’s governing document contained benefit provisions that conflicted with the collective bargaining agreement (CBA) between the police officers and the borough. The borough partially complied with the prior audit recommendation by revising the benefit provisions contained in the pension plan’s governing document and CBA. However, the current CBA still contains a service-related disability benefit provision that conflicts with the plan’s governing document and is not in compliance with Act 600, as noted below:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600</u>
Service-related disability	Any member who incurs a service-connected disability shall receive monthly benefits equal to 60% of his base salary at the time of disability.  All disability payments under this Section shall be reduced by any Social Security benefits received for the same injury.	60% of average of earnings and total compensation paid in the last 36 months immediately preceding retirement or the disability retirement, offset by Social Security benefits received for the same injury.	A rate no less than 50% of the member’s salary at the time of the disability offset by Social Security benefits received for the same injury.

In addition, the plan’s January 1, 2013, actuarial valuation reported the service-related disability benefit provision included in the plan’s governing document.

Criteria: The service-related disability benefit provision contained in the CBA should be consistent with the plan’s governing document and in compliance with the provisions of Act 600.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure full compliance with the prior audit recommendation.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

BRISTOL BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Recommendation: We again recommend that municipal officials take appropriate action to ensure that the service-related disability benefit provision contained in the CBA is consistent with the plan’s governing document and in compliance with Act 600 at their earliest opportunity to do so.

Management Response: The Borough Solicitor will prepare an ordinance for advertisement on approval of Borough Council which will bring the Borough ordinance into compliance with the Collective Bargaining Agreement. The ordinance will read “60% of average earnings” as it relates to service related disability.

Auditor’s Conclusion: Based on the management response, it appears municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

**Finding No. 2 – Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600**

Condition: As disclosed in the prior audit report, the CBA between police officers and the borough continues to provide for the inclusion of accrued leave payments earned outside the averaging period to be included in pension benefit calculations, which is not in compliance with Act 600.

Article 23F of the CBA between the borough and its police officers for the years 2011 through 2015, provides for a normal retirement benefit of 50 percent of average monthly earnings or compensation paid over a 36 month period immediately preceding retirement. Article 23C defines average monthly earnings and compensation as follows:

- (i) The “average monthly earnings and compensation” will include the amounts paid as part of the annual base wage, overtime pay, court time pay, accrued time-off with pay, vacation pay, holidays, sick pay, longevity increments, education incentive pay and other direct monetary compensation excluding, of course reimbursed expenses or payments made in lieu of expenses, i.e. non-salary (fringe benefits), or any other like benefits or allowances, e.g. uniform allowances. However, if and when, during the contract period, the Law, relating to the use of accrued benefits outside the three (3) year calculation period, is clarified, either by way of an un-appealed Commonwealth Court or Pennsylvania Supreme Court Decision, or by way of legislative change, then the calculation of the pension benefit shall be adjusted accordingly from the effective date of that clarification.

BRISTOL BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Criteria: Section 5(c) of Act 600 states, in part:

Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment.

Although Act 600 does not define “salary,” the Department has concluded, based on a line of court opinions, that the term does not encompass lump-sum payments for leave that were not earned during the pension computation period.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: During the current audit period, the plan continues paying pension benefits to a retiree in excess of those authorized by Act 600 due to the inclusion of leave earned outside the averaging period. As of the date of this report, the retiree is receiving excess benefits of \$72 per month, which have totaled approximately \$4,382 from the date of the member’s retirement through the date of this audit report.

Providing unauthorized pension benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. Since the borough received state aid based on unit value during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

BRISTOL BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Recommendation: We again recommend that the borough take appropriate action to exclude lump-sum payments for accumulated unused leave earned outside the pension computation period from pension calculations. To the extent that the borough has already obligated itself to pay benefits to existing retirees in excess of those authorized by Act 600, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. In addition, the improper inclusion of lump-sum payments for accumulated unused leave earned outside the pension computation period in the pension calculations will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact of the unauthorized benefits on the plan's state aid allocations and submit this information to the Department. If it is determined the excess benefits had an impact on the borough's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the Department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

Management Response: As noted in the Collective Bargaining Agreement, "However, if and when, during the contract period, the Law, relating to the use of accrued benefits outside the three (3) year calculation period, is clarified, either by way of an un-appealed Commonwealth Court or Pennsylvania Supreme Court Decision, or by way of legislative change, then the calculation of the pension benefit shall be adjusted accordingly from the effective date of that clarification."

Auditor's Conclusion: Based on the Criteria previously cited, the definition of "average monthly earnings and compensation" contained in the collective bargaining agreement is not in compliance with Act 600. Therefore, the finding and recommendation remain as stated.

BRISTOL BOROUGH POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2009, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-09	\$ 2,913,751	\$ 4,823,959	\$ 1,910,208	60.4%
01-01-11	3,459,871	5,194,666	1,734,795	66.6%
01-01-13	3,628,729	5,899,980	2,271,251	61.5%

Note: The market values of the plan's assets at 01-01-09, 01-01-11 and 01-01-13 have been adjusted to reflect the smoothing of gains and/or losses over a 5-year averaging period. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

BRISTOL BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

BRISTOL BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	\$ 256,366	100.0%
2010	214,162	100.0%
2011	248,675	100.0%
2012	263,735	100.0%
2013	222,302	100.0%
2014	277,155	100.0%

BRISTOL BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
NOTES TO SUPPLEMENTARY SCHEDULES  
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2013
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	11 years
Asset valuation method	Fair value, 5-year smoothing
Actuarial assumptions:	
Investment rate of return	8.0%
Projected salary increases	5.0%
Cost-of-living adjustments	2.5% per year, 30% maximum increase

BRISTOL BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
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