

COMPLIANCE AUDIT

Bristol Borough Police Pension Plan Bucks County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

June 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
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, 2017 to December 31, 2020. 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 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 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:

- 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 total 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 that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018, and 2020 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 for the years ended December 31, 2017, 2018, and 2019 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. 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 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
- Finding No. 3 – Failure To Fully Pay The Minimum Municipal Obligation Of The Plan

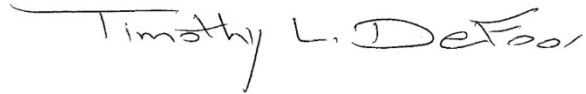
Finding Nos. 1 and 2 contained in this audit report repeat conditions that were cited in our previous audit report that have not been corrected by borough officials. We are concerned by the borough's failure to correct those previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this audit report.

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. 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. Among several provisions relating to municipal pension plans, Act 205, which was amended on September 18, 2009, through the adoption of Act 44 of 2009, 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 60.5% as of January 1, 2019, which is the most recent data available.** 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

May 10, 2021

Timothy L. DeFoor
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 Bristol Borough Police 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 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, as amended, 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, 2020, the plan had 13 active members and 10 retirees receiving pension benefits.

BRISTOL BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDING

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; and
- 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 collective bargaining agreement (CBA) between the police officers and the borough 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. In addition, the most recent CBA covering the years 2020 to 2025, increases the length of service increment which is not consistent with the plan’s governing document, 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.

BRISTOL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Benefit Provision	Governing Document	Collective Bargaining Agreement	Act 600
Length of service increment	...receive a length of service increment to their pension of \$50 per month for each year of service in excess of 25 years up to a maximum benefit of \$100.	...receive a length of service increment to his or her pension of One Hundred Dollars (\$100) per month for each year of service in excess of twenty-five (25) years up to maximum additional monthly benefit of Five Hundred Dollars (\$500).	Any borough, town, township or regional police department may establish and pay length of service increments for years of service beyond twenty-five years for each completed year of service in excess of twenty-five years, not to exceed one hundred dollars (\$100) per month for each completed year of service in excess of twenty-five years up to a maximum of five hundred dollars (\$500) per month after five completed years of service in excess of twenty-five years. Such length of service increments may be paid in addition to other monthly pension or retirement allowances.

In addition, the plan’s January 1, 2019, actuarial valuation reported the service-related disability benefit provision included in the plan’s governing document.

Criteria: A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the plan’s governing document and the collective bargaining agreement should contain consistent benefit provisions that are in compliance with provisions of Act 600.

BRISTOL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Cause: Municipal officials again failed to establish adequate internal control procedures to ensure consistency between plan documents and adherence with Act 600 and compliance with the prior recommendation.

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

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. In addition, we again recommend that municipal officials take the necessary action to ensure the plan's governing document and the collective bargaining agreement contain a consistent length of service increment benefit provision at its earliest opportunity to do so.

Management's Response: At an exit conference held on April 28, 2021, management indicated that a written response to this finding would be provided within 10 days; however, as of the date of this report, no such response has been provided.

Auditor's Conclusion: 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 3 most recent audit reports, 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.

BRISTOL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Article 23F of the CBA between the borough and its police officers for the years 2016 through 2019, 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.

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 \$76 per month, which have totaled approximately \$9,363 from the date of the member’s retirement through the date of this audit report.

BRISTOL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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.

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's Response: At an exit conference held on April 28, 2021, management indicated that a written response to this finding would be provided within 10 days; however, as of the date of this report, no such response has been provided.

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

BRISTOL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Failure To Fully Pay The Minimum Municipal Obligation Of The Plan

Condition: The municipality did not fully pay the minimum municipal obligation (MMO) that was due to the police pension plan for the years 2019 and 2020, as required by Act 205. The municipality had an outstanding MMO obligation of \$61,795 for the year 2019 and \$313,932 for the year 2020 for a total funding deficiency of \$375,727.

Criteria: With regard to the MMO, Section 302(c) of Act 205 states, in part:

Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year.

Section 302(d) of Act 205 states, in part:

The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality.

Furthermore, Section 302(e) of Act 205 states:

Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Cause: Plan officials did not comply with the Act 205 requirements because financial resources were not available to fully pay the MMO.

Effect: The failure to fully pay the MMO could result in the plan not having adequate resources to meet current and future benefit obligations to its members.

Due to the municipality's failure to fully pay the plan's MMOs by the December 31 deadline, the municipality must add the outstanding \$375,728 MMO balance to the current year's MMO and include interest, as required by Act 205.

BRISTOL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We recommend that the municipality pay the outstanding MMO due to the police pension plan for the years 2019 and 2020, with interest, in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Furthermore, we recommend that, in the future, plan officials pay the full MMO due the plan.

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

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

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, 2015, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-15	\$ 4,197,290	\$ 7,122,234	\$ 2,924,944	58.9%
01-01-17	4,862,777	8,216,882	3,354,105	59.2%
01-01-19	5,681,894	9,396,958	3,715,064	60.5%

Note: The market value of the plan assets at 01-01-15, 01-01-17 and 01-01-19 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

Year Ended December 31	Actuarially Determined Contribution	Actual Contributions	Contribution Deficiency (Excess)	Covered- Employee Payroll	Contributions as a Percentage of Covered- Employee Payroll
2011	\$ 248,675	\$ 248,675	\$ -	\$ 1,280,827	19.4%
2012	263,735	263,735	-	1,314,746	20.1%
2013	222,302	222,302	-	1,306,348	17.0%
2014	277,155	277,155	-	1,405,945	19.7%
2015	356,267	356,267	-	1,315,401	27.1%
2016	449,437	449,437	-	1,562,698	28.8%
2017	446,709	446,709	-	1,512,461	29.5%
2018	450,703	450,703	-	1,627,735	27.7%
2019	512,498	450,703	61,795**	1,691,329	26.6%
2020	581,001	267,069	313,932**	-	

* Due to the timing of this audit, covered-employee payroll for 2020 was not provided in this schedule.

** Refer to Finding No. 3 contained in the Findings and Recommendations section of this report.

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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	10 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	Lesser of CPI increase or 4% per year, 30% maximum increase

BRISTOL BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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