

COMPLIANCE AUDIT

Colonial Regional Police Commission Non-Uniformed Employees' Pension Plan Northampton County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

September 2022



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
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Board of Commissioners
Colonial Regional Police Commission
Northampton County
Bethlehem, PA 18017

We have conducted a compliance audit of the Colonial Regional Police Commission Non-Uniformed Employees' Pension Plan for the period January 1, 2018 to December 31, 2021. 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 finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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. Employer contributions that were deposited into the pension plan for the years ended December 31, 2016 to December 31, 2021, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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 also tested individual employee contributions for one active employee employed during the audit period amounting to \$1,596, \$1,921, \$1,818 and \$1,868, for the years 2018, 2019, 2020 and 2021, respectively, made during the audit period.
- We determined whether retirement benefits calculated for the plan member who separated employment and received a lump-sum distribution 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 pension benefits 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, 2017, January 1, 2019, and January 1, 2021, actuarial valuation reports were prepared and submitted by March 31, 2018, 2020, and 2022, 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.

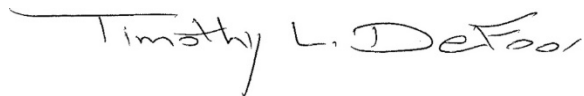
Colonial Regional Police Commission contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ended December 31, 2018, 2019 and 2020, which are available at the commission's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Commission officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Colonial Regional Police Commission Non-Uniformed 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 objective.

The results of our procedures indicated that, in all significant respects, the Colonial Regional Police Commission Non-Uniformed Employees' 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 finding further discussed later in this report:

Finding – Withdrawal Of Plan Assets Prior To Retirement

The contents of this report were discussed with officials of Colonial Regional Police Commission and, where appropriate, their responses have been included in the report. We would like to thank commission officials for the cooperation extended to us during the conduct of the audit.

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.

Timothy L. DeFoor
Auditor General
August 16, 2022

CONTENTS

	<u>Page</u>
Background.....	1
Finding and Recommendation:	
Finding – Withdrawal of Plan Assets Prior to Retirement.....	2
Summary of Deposited State Aid and Employer Contributions.....	4
Report Distribution List.....	5

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 Colonial Regional Police Commission Non-Uniformed Employees' 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.

The Colonial Regional Police Commission Non-Uniformed Employees' Pension Plan is a single employer defined contribution pension plan locally controlled by the provisions of Resolution No. 2018-01 and a separately executed plan agreement with the plan's custodian. The plan was established January 1, 1995. Active members are not required to contribute to the plan; however, they may voluntarily contribute up to 10 percent of compensation. The municipality is required to contribute 5 percent of compensation and must match up to 3.5 percent of any voluntary member contributions. As of December 31, 2021, the plan had one active member.

COLONIAL REGIONAL POLICE COMMISSION
NON-UNIFORMED EMPLOYEES' PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Withdrawal Of Plan Assets Prior To Retirement

Condition: During 2018, plan assets in the amount of \$11,897, maintained in an allocated account, were improperly withdrawn and distributed to an active member of the pension plan in accordance with a loan agreement dated May 2, 2018. Although the plan member was fully vested in the account balance, the plan's governing document does not contain a provision to allow for such loans to active plan members. The plan member terminated employment on October 28, 2021.

Criteria: Article V of the plan agreement adopted by Resolution No. 2018-01 only allows for distributions from the plan in the event of a retirement, death, permanent and total disability, or termination of employment.

Section 5.05—Withdrawal Benefits of the separately executed plan agreement states, in part:

A participant may withdraw any part of the Vested Account resulting from the following Contributions:

- Rollover Contributions
- Voluntary Contributions

A participant may make only two such withdrawals in any 12- month period.

It should be noted that the plan member did not have any rollover or voluntary contributions.

In addition, Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Therefore, Act 205 funding (state aid) is intended to provide benefit payments upon eligibility for retirement, not for distributions prior to retirement benefit eligibility.

COLONIAL REGIONAL POLICE COMMISSION
NON-UNIFORMED EMPLOYEES' PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Cause: Commission officials were advised by their plan consultant that the loan in question was not prohibited but lacked adequate procedures to ensure that distributions from pension plan assets were made in accordance with provisions in the plan document.

Effect: Allowing distributions from member accounts prior to their eligibility to receive such retirement benefits violates the purpose for which state aid was allocated to the municipality, adversely affects the retirement income of plan members and undermines the integrity of the pension plan.

Recommendation: We recommend that plan officials establish adequate internal control procedures to ensure that all distributions from the pension plan are made in accordance with the provisions contained in the plan's governing document.

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.

COLONIAL REGIONAL POLICE COMMISSION
NON-UNIFORMED EMPLOYEES' PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2016	None	\$ 2,942
2017	None	4,046
2018	None	3,485
2019	None	9,086
2020	None	5,723
2021	None	6,206

Note: In 2016, the commission met the plan's \$4,143 funding requirement through the deposit of \$2,942 in employer contributions and the allocation of \$1,201 in terminated employee forfeitures.

In 2017, the commission met the plan's \$4,384 funding requirement through the deposit of \$4,046 in employer contributions and the allocation of \$338 in terminated employee forfeitures.

COLONIAL REGIONAL POLICE COMMISSION
NON-UNIFORMED EMPLOYEES' PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. John Diacogiannis
Chairman, Board of Commissioners

Mr. James DePalma
Chief of Police

Ms. Gail Heffner
Administrative Assistant

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.