

A Performance Audit of the Lifeguard Pension Program: City of Atlantic City

AUDIT DIVISION REPORT



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Acting State Comptroller

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Audit Authority

We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)¹ applicable to performance audits. Those standards require that we plan and perform 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.

Background

In 1928, the Legislature adopted a law that required fourth-class cities² to provide a pension upon retirement for lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Atlantic City (City or Atlantic City) instituted its pension plan for lifeguards in 1928. A collective bargaining agreement (CBA) and related settlement agreement define the number of working days required to earn a year of pension-eligible service.

In 2022, the City paid pension benefits to 89 retirees at a cost of approximately \$1.1 million. The City’s 2022 budget included \$1.4 million for payments to lifeguard retirees. The City does not have a lifeguard pension fund and must provide for retiree payments through its annual budget.

Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	-	\$ 73,241	\$ 1,059,247	-	\$1,132,488	-
2021	-	\$ 71,779	\$ 1,058,174	-	\$1,129,953	-
2022	-	\$ 71,028	\$ 1,026,009	\$ 1,139	\$1,098,176	-

¹ UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

² Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	161	93
2021	162	89
2022	153	89

Executive Summary

Our audit identified weaknesses related to the administration of Atlantic City’s lifeguard pension program in the areas of compliance, financial reporting, and internal controls.

Specifically, our audit found that the City:

- Did not withhold approximately \$25,400 in employee contributions as required by the Lifeguard Pension Law and the City’s pension plan;
- Improperly paid an ineligible retiree approximately \$3,000;
- Failed to appoint pension commission members in compliance with the Lifeguard Pension Law;
- Did not obtain actuary reports and disclose pension liabilities of approximately \$21.6 million in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Failed to accurately track lifeguard service years, review eligibility, and maintain payroll records needed to administer its pension plan.

We make six recommendations to improve the City’s internal controls and improve compliance with its CBA, applicable law, and financial reporting requirements.

Audit Objectives

The objectives of our performance audit were to examine the operations of the City’s lifeguard pension program to determine whether the program complied with applicable local and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

Audit Scope

The period January 1, 2020 through December 31, 2022.

Audit Methodology

To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City's policies and procedures addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, CBAs, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"³ provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

Audit Findings and Recommendations

Lifeguard Pension Program

Objectives

Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.

Determine whether the City complied with its CBA requirements.

Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.

Determine whether the City had adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.

³ UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

Findings

The City inconsistently applied the required four percent pension deduction to total lifeguard wages as required by N.J.S.A. 43:13-27(a), which cost the City approximately \$25,400.

The City approved retirement benefits for an ineligible retiree resulting in improper payments of approximately \$3,000.

The City's pension commission did not consist of four members as required by N.J.S.A. 43:13-28. In addition, the City did not provide evidence that members were appointed by the mayor with the advice and consent of the governing body.

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73. The estimated total lifeguard pension liability was approximately \$21.6 million as of December 31, 2022.

The City did not provide sufficient payroll data to verify retiree eligibility and whether pension benefits were accurately calculated.

Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program.

The Lifeguard Pension Law requires the mayor or chief executive officer of municipalities subject to the law to appoint, with the advice and consent of the governing body of the city, a lifeguard pension commission consisting of four members, including a superior officer of the lifeguards, a lifeguard, and two citizens who are not lifeguards. They shall serve for a term of four years and until their successors are appointed and have qualified and shall not receive any compensation for their services.

The City must also comply with the CBA it negotiated with its lifeguards. The CBA establishes the minimum of number of days an employee must work within a calendar year to earn a year of pension-eligible service. In 2018, the number of days required for service credit increased from 45 to 70 days per year.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions

included in financial reports of local and state governments.⁴ GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and the City's CBA;
- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

Audit Results

We audited the City's lifeguard pension program to assess compliance with statutes, the CBA, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

Compliance with Statutes and Local Guidelines

Our audit examined whether the City collected pension contributions from lifeguards between 2020 and 2022. The Lifeguard Pension Law requires the City to withhold four percent of an employee's total compensation. We found that the City failed to deduct contributions from income related to settlements and compensation provided by the American Rescue Plan Act of 2021 in response to the COVID-19 pandemic. The statute requires the deduction be withheld from, "every payment of salary." The failure to withhold lifeguard pension deductions cost the City approximately \$25,400 over the three-year period.

We identified two employees who retired between 2020 and 2022. We requested payroll data to verify that each retiree met the City's criteria for retirement. The City provided payroll data from 2005 to 2020. The lack of payroll data for years prior to 2005 prevented the verification that the retirees worked the minimum number of days in at least 20 years to qualify for retirement benefits. The pension commission confirmed that each retiree met the eligibility of continuous service requirement and minimum years of service, however it is unclear what documentation it reviewed to verify the days worked in years prior to 2005.

⁴ GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

Our review of the payroll data found that one of the two retirees did not work continuously for ten years prior to submitting a retirement application contrary to N.J.S.A. 43:13-24.⁵ In August 2022, the City improperly approved annual payments of approximately \$7,400 to the retiree. The retiree received payments of almost \$3,000 for the remainder of 2022.

The City failed to appoint a fourth member to its pension commission, as required by N.J.S.A. 43:13-28. The City provided evidence that its pension commission had three members. However, the City did not provide evidence that the current pension commission members were appointed by the mayor with the advice and consent of the governing body.

Compliance with Financial Reporting Standards

We reviewed the City's audit reports for 2020 through 2022 and found that its lifeguard pension disclosures failed to comply with GASB Statement 73 requirements. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

We engaged an actuary to estimate the City's pension liability. This calculation included assumptions regarding salaries, inflation, and life expectancy subject to significant judgment and relied on the data obtained as part of this audit. We made reasonable assumptions when requested data was not provided.⁶ We estimated the future costs associated with Atlantic City's lifeguard pension program as of December 31, 2022 was approximately \$21.6 million. The City does not have a lifeguard pension fund and must provide for retiree payments through its annual budget.

Design, Implementation, and Operation of Internal Controls

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local guidelines, and guards against errors.

Our review found that the City lacked formal written guidelines to administer its lifeguard pension program. The City relies on a series of informal practices based on the Lifeguard Pension Law and its CBA to administer its pension program. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.⁷ Management can improve compliance with the Lifeguard Pension Law and improve accountability in the areas of tracking employee years of service and by memorializing its procedures and practices in a written communication to employees administering the City's lifeguard pension program.

⁵ Article 13(c) of the lifeguard agreement allows for a pension break for employees with ten years of service who are at least 35 years old.

⁶ Actuarial calculations of total pension program liabilities could change materially based upon changes in assumptions used to calculate the pension liability and the availability of historical pension program data.

⁷ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, Green Book at 9.

We requested documentation to determine whether the City's system used to track employees' years of pension-eligible service agreed with payroll information. The City provided an employee roster that contained active employees and their years of service. However, the years of service data reports the years since the employees' hire date with no regard to the number of days worked. We compared the employee roster to payroll data for 2022 and found that 127 employees worked fewer than the 70 days required to receive a year of pension-eligible service. In addition, 13 employees who worked at least 70 days that year were not on the roster. The City's process confirms an employee's pension-eligible years of service only upon receipt of a retirement application. The lack of a systematic way to track employees' service credit on an ongoing basis prevents management insight into future retirements.

Causes

The City lacked detailed policies and procedures for withholding employee contributions from total compensation.

The City incorrectly approved benefits for one retiree who did not meet eligibility criteria.

The City lacked a process to document pension commission members' eligibility and proper approvals.

The City failed to obtain actuary reports required for annual financial report disclosures.

The City lacked a formal process to track lifeguard service credit.

Effects/Potential Effects

The failure to withhold employee contributions cost from total compensation cost the pension fund approximately \$25,400.

The City provided retirement benefits of approximately \$3,000 to an ineligible retiree.

The failure to maintain documentation for Atlantic City's pension commission members limits transparency into the commission's membership.

The failure to disclose its pension liabilities in its annual audit reports prevents public insight into the current and future costs of the lifeguard pension program estimated to be approximately \$21.6 million.

An inaccurate system tracking pension-eligible service may result in improper lifeguard retirement approvals.

Recommendations

1. Develop and implement written policies and procedures to ensure the four percent deduction is applied to the lifeguards' total compensation as required by the Lifeguard Pension Law.

2. Develop and implement written policies and procedures to ensure that retirees meet the eligibility criteria as required in the Lifeguard Pension Law and its CBA. Ensure that adequate documentation is maintained to support the City's approval or denial of pension benefits.
3. Appoint a fourth member to the lifeguard pension commission in accordance with N.J.S.A. 43:13-28. Memorialize the appointment of members by the mayor with the advice and consent of the governing body through resolution.
4. Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.
5. Improve the City's system of tracking pension eligible service to ensure the accuracy of pension data including days worked and total wages earned through an employee's lifeguard career.
6. Develop and implement written procedures to assign responsibility for administering the City's lifeguard pension program, ensure compliance with statutes, and memorialize internal practices that are not explicitly outlined in the statute or City CBAs. The procedures should include an annual reconciliation of days worked for pension purposes and wages in the tracking system to payroll records for agreement. Any differences noted in the reconciliation should be investigated by the pension commission or appropriate City employees.

Reporting Requirements

We provided a draft copy of this report to City officials for their review and comment. The City generally agreed with our audit findings and conclusions, and its response indicated the City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



CITY OF ATLANTIC CITY

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June 25, 2025

Mr. Christopher Jensen, CPA
Audit Director
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P.O. 024
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Dear Mr. Jensen:

Please allow this letter to serve as the City of Atlantic City's ("COAC") formal response to the draft audit division report titled, "A Performance Audit of Lifeguard Pension Program City of Atlantic City" received on June 11, 2025. While we understand the findings enumerated in the report, we would like to reframe some of the points.

First, the audit found that the City inconsistently applied the required four percent pension deduction to total lifeguard wages as required by N.J.S.A. 43:13-27(a), which cost the City approximately \$25,400. The definitions section of the Lifeguard Pension Law does not expressly state that payments made through settlement agreements or stipends are considered in the 'year's salary'. The definition states, "a year's salary means the salary a lifeguard receives during the time of his normal employment in any calendar year". The compensation provided to the lifeguards by the American Rescue Place Act of 2021 were stipends. The COAC classified the payments as stipends because they were one-time payments, that did not go into the base salary. As such the 4% contributions were not deducted from them.

The COAC has written a policy and procedures manual, and plans to implement them moving forward to ensure we are in compliance with the Lifeguard Pension Law. See Attachment A (policy) and B (enrollment form).

Second, the COAC will implement the attached policy regarding eligibility and will conduct annual training for the Pension Commission, Human Resources, and the Payroll department. Moving forward, the retirement application will have to be approved by Human Resources who will confirm that the years in service and age requirements are met. While Payroll

will confirm the wages and days worked. The retirement application along with backup documentation will be forwarded to the Pension Commission. The backup documentation must include the employee payroll summary for each year of service. This multidepartment approach will provide an oversight of the retirement process. See Attachment C (retirement application).


Third, the Mayor will appoint a fourth member to the Pension Commission. All four members will be memorialized by the advice and consent of the City Council at the July council meeting.

Fourth, the COAC will continue to seek actuarial services. See Attachment D (email regarding procurement attempt).

Fifth, the Deputy Chief of Beach Patrol currently tracks the wages and days worked for each lifeguard. This document will be shared with Payroll and audited annually moving forward. See Attachment E (audit excel sheet).

Lastly, we are available to discuss further if needed. Thank you for your consideration.

Sincerely,



Rashanna Butler, Esq.
Deputy Solicitor