

# **Office of Audit Services**



# **CalPERS**

## **Public Agency Review**

## **Alameda County Fire Department**

**CalPERS ID: 6496722114  
Job Number: BI14-004**

**August 2016**



California Public Employees' Retirement System  
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August 25, 2016

CalPERS ID: 6496722114  
Job Number: BI14-004

Irene De Jong, Administrative Services Director  
Alameda County Fire Department  
6363 Clark Ave.  
Dublin, CA 94568-3001

Dear Ms. De Jong:

Enclosed is our final report on the results of the public agency review completed for the Alameda County Fire Department (Agency). Your written response indicates disagreement with Finding 1 and Finding 2C. We appreciate the additional information regarding these findings that you provided in your response. After consideration of this information we have modified the language in Finding 1. However, our recommendations remain as stated in the report.

In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your Agency. We appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, Chief  
Office of Audit Services

Enclosure

cc: Board of Supervisors, Alameda County Fire Department  
David A. Rocha, Fire Chief, Alameda County Fire Department  
Shu-Mei Chen, Financial Services Manager, Alameda County Fire Department  
Risk and Audit Committee Members, CalPERS  
Matthew G. Jacobs, General Counsel, CalPERS  
Anthony Suine, Chief, BNSD, CalPERS  
Renee Ostrander, Chief, EAMD, CalPERS  
Carene Carolan, Chief, MAMD, CalPERS

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# ALAMEDA COUNTY FIRE DEPARTMENT

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## RESULTS IN BRIEF

The objective of our review was to determine whether the Alameda County Fire Department (Agency) complied with applicable sections of the California Government Code (Government Code), California Public Employees' Pension Reform Act of 2013 (PEPRA), California Code of Regulations (CCR) and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following findings during the review. Details are noted in the Results section beginning on page two of this report.

- Pay schedule did not meet all of the Government Code and CCR requirements.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Retroactive adjustments were incorrectly reported.

OAS recommends the Agency comply with applicable sections of the Government Code, PEPRA, CCR and its contract with CalPERS. We also recommend the Agency work with the appropriate CalPERS divisions to resolve issues identified in this report.

## SCOPE

The Agency contracted with CalPERS effective December 1, 1994 to provide retirement benefits for local miscellaneous and fire safety employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the CalPERS Board of Administration (Board) approved plan, OAS reviewed the Agency's payroll reporting related to the Agency's retirement contract with CalPERS. The review was limited to the examination of sampled employees, records, and pay periods from January 1, 2012 through December 31, 2014. OAS did not review the Agency's compliance with membership enrollment or employment after retirement. The review objectives and methodology are listed in Appendix A.

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency did not have a pay schedule that met all of the Government Code and CCR requirements.

***Condition:***

The Agency did not have a pay schedule that included all positions and was duly approved and adopted by the Agency's governing body in accordance with the requirements of applicable meeting laws. The Agency had salary schedules for fire and unrepresented employees included in its written labor agreements that were approved by its governing body. The Agency also posted the County of Alameda's pay schedule on their website, which contained numerous salaries that included Agency's positions. However, the Agency did not have a publicly available pay schedule that listed agency all positions, payrates, and was duly approved and adopted by its governing body.

Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. For purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount identified on a publicly available pay schedule. Per CCR Section 570.5, a pay schedule, among other things, must:

- Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identify the position title for every employee position;
- Show the payrate as a single amount or multiple amounts within a range for each identified position;
- Indicate the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicate an effective date and date of any revisions;
- Be retained by the employer and available for public inspection for not less than five years; and
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the payrate definition and pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). When an employer does not meet the requirements for a

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publicly available pay schedule, CalPERS, in its sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

***Recommendation:***

The Agency should ensure it has a pay schedule that meets all of the Government Code and CCR requirements.

The Agency should work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20636  
CCR: § 570.5

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**2:** The Agency did not report special compensation in accordance with the Government Code and CCR.

**Condition:**

- A. The Agency's non-safety personnel written labor policy containing provisions for special compensation items did not meet all the requirements of Government Code Section 20636 and CCR Section 571 (b). Specifically, the written labor policy containing the provisions for Holiday Pay and Certification Pay was not duly approved and adopted by the Agency's governing body in accordance with the requirements of the applicable public meeting laws.
- B. The Agency incorrectly reported Holiday Pay as special compensation for the Fire Chief and Fire Division Chief. Specifically, the Agency reported Holiday Pay of \$229.08 for the Fire Chief during the period of July, 1 2013 through June 15, 2014 and Holiday Pay of \$128.13 for the Fire Division Chief during the period of July 1, 2013 through December 30, 2013. The Agency stated that the Fire Chief and Fire Division Chief were entitled to Holiday Pay because they are required to be on call on approved holidays. CCR Section 571(a)(5) defines Holiday Pay as additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. The Fire Chief and Fire Division Chief are not normally required to work on holidays; therefore, Holiday Pay is not reportable as special compensation.
- C. The Agency's approved written labor policy covering the Fire Chief and Deputy Fire Chief did not include the eligibility for payment of Management Incentive Pay. Specifically, the labor policy stated the employees would receive an additional five percent compensation; however, it did not specify what requirements must be met for an employee to be eligible for Management Incentive Pay. In order for Management Incentive Pay to be reported, it must meet all of the CCR requirements. CCR Section 571(b) requires the written labor policy or agreement to contain the conditions of payment, including, but not limited to, the eligibility for, and amount of, the special compensation.

Reportable special compensation is defined in CCR Section 571(a) and must be reported if it conforms with all of the requirements listed in CCR Section 571(b). Specifically, special compensation is required to be contained in a written labor policy or agreement indicating the eligibility and amount of special compensation. Also, special compensation must be available to all members in the group or class, part of normally required duties, performed during normal hours of employment,

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paid periodically as earned, and historically consistent with prior payments for the job classification.

***Recommendation:***

The Agency should ensure its written labor policy or agreement is duly approved and adopted by the governing body in accordance with the requirements of applicable meeting laws.

The Agency should ensure Holiday Pay is only reported for employees who are normally required to work on approved holidays.

The Agency should ensure the conditions for payment of Management Incentive Pay are contained in the written labor policy or agreement.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Code: § 20160, § 20630, § 20636  
CCR: § 571



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3: The Agency incorrectly reported retroactive adjustments.

**Condition:**

- A. The Agency incorrectly reported retroactive special compensation adjustments as lump sum amounts for a Fire Captain and Fire Engineer. Specifically, the Agency reported a retroactive Holiday Pay adjustment of \$4,060.59 for the Fire Captain in the pay period ended November 30, 2012. However, the Holiday Pay was earned during the period July through November 2012. In addition, the Agency reported retroactive Educational Incentive Pay of \$180.00 and Confidential Premium Pay of \$250.00 in the pay period ended December 31, 2013 for the Fire Engineer. However, the special compensation items were earned over a six month period. Retroactive special compensation adjustments covering multiple prior periods should be reported to CalPERS for the pay periods earned.
- B. Although the Agency reported the correct special compensation amounts, it did not report the correct corresponding payrates when reporting retroactive adjustments for three fire safety employees. Specifically, the Agency reported a monthly payrate of \$9,705.00 for a Fire Captain when it reported retroactive special compensation adjustments for the period of January 1, 2013 through June 30, 2013. However, the Fire Captain's payrate was \$9,885.00. The Agency also reported a monthly payrate of \$17,212.00 for a Fire Chief during the period of January 1, 2014 through May 31, 2014. However, the correct payrate was \$16,392.00. In addition, the Agency used a monthly payrate of \$8,743.00 when it reported retroactive special compensation adjustments for a Fire Engineer for the period of January 1, 2014 through April 26, 2014. However, the Fire Engineer's payrate was \$8,848.00 per month. As a result, payrates were either over or under stated. Payrate is an important factor that can impact an employee's retirement calculation and benefits.
- C. The Agency reported an incorrect payrate when reporting a retroactive salary adjustment for a Fire Captain and Fire Engineer. For example, the Agency reported a payrate of \$10,291.00 for the Fire Captain during the period January 1, 2013 through June 30, 2013. However, the correct payrate was \$9,885.00. As a result, payrate was overstated. In addition, the Agency reported a payrate of \$8,743.00 for the Fire Engineer during the period of January 1, 2014 through April 26, 2014. The Fire Engineer's monthly payrate was \$8,848.00. Retroactive pay adjustments must be accurately reported as they can impact the employees' retirement calculations and benefits.

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- D. The Agency incorrectly reported a retroactive special compensation adjustment for a Fire Dispatch Supervisor. Specifically, the Agency reported retroactive Education Incentive Pay of \$74.97 for the period of July 1, 2013 through June 17, 2014. However, \$24.42 of the Education Incentive Pay was earned during overtime and should not have been reported to CalPERS. Pursuant to Government Code Section 20635 compensation for hours worked above an employee's regular work schedule is overtime and is not reportable compensation. In addition, the Agency reported Shift Differential Pay of \$3.09 during the period of July 1, 2013 through June 17, 2014. As mentioned in Finding 2A, the written labor policy for Non-Safety Personnel was not approved by the Agency's governing body. Education Incentive Pay and Shift Differential Pay are not reportable as special compensation unless it is approved by the Agency's governing body in a written labor policy.
- E. The Agency incorrectly reported a retroactive salary adjustment for a Fire Captain that included special compensation with regular earnings for the period July 1, 2013 through August 15, 2013. Specifically, the Agency included Paramedic Pay and Hazardous Material Pay in regular earnings. Paramedic Pay and Hazardous Material Pay should have been reported as retroactive special compensation separately from regular earnings. Payrate and earnings are important factors in computing a member's retirement allowance.

***Recommendation:***

The Agency should report retroactive adjustments in the correct pay periods and with the correct payrates.

The Agency should report retroactive special compensation adjustments that comply with Government Codes 20630 and 20636.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20120, § 20121, § 20160, § 20630, § 20635, § 20636  
CCR: § 571

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. The procedures performed provide reasonable, but not absolute, assurance that the Agency complied with the specific provisions of the PERL and CalPERS contract except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the Agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, of California Code of Regulations.

Respectfully submitted,

Original signed by Beliz Chappuie

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BELIZ CHAPPUIE, CPA, MBA  
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Alan Feblowitz, CFE, Senior Manager  
Alicia Watts, Manager  
Marlene Noss, Manager  
Patrick McCasland, CPA, Lead Auditor  
Billy Vi, CFE, Auditor

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## OBJECTIVES

The objectives of this review were to determine whether the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting procedures prescribed in the Agency's retirement contract with CalPERS.

## METHODOLOGY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the Agency's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
  - Provisions of the contract and contract amendments between the Agency and CalPERS
  - Correspondence files maintained at CalPERS
  - Agency Board minutes and Agency Board resolutions
  - Agency written labor policies and agreements
  - Agency salary, wage, and benefit agreements including applicable resolutions
  - Agency personnel records and employee time records
  - Agency payroll information including Contribution Detail Transaction History reports
  - Documents related to employee payrate, special compensation, and benefits
  - Various other relevant documents
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meetings laws.
- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.

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# APPENDIX B

## AGENCY'S WRITTEN RESPONSE

NOTE: The Agency provided an attachment to the response that was intentionally omitted from this appendix.



## Alameda County Fire Department

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[www.acgov.org/fire](http://www.acgov.org/fire)

DAVID A. ROCHA  
Fire Chief

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of Excellence"

Beliz Chappuie, Chief  
Office of Audit Services  
California Public Employees' Retirement System  
Office of Audit Services  
P.O. Box 942701  
Sacramento, CA 94229-2701

Dear Ms. Chappuie:

I am pleased to provide you with the Alameda County Fire Department's (ACFD) response to the compliance review, regarding the contract with the California Public Employees' Retirement System. ACFD welcomes audits to improve efficiency, effectiveness, and the safeguarding of taxpayer dollars.

Attached to this cover letter is the Department's detailed response to each of the audit findings, including efforts already underway to address the recommendations. Additionally, ACFD is periodically reviewing its labor agreements, payroll practices, employee designations, and policies and procedures, as part of an internal audit to ensure it is in compliance with the Public Employees' Retirement Law.

If you have questions, please contact me at (925) 833-3473 x 1112, or at [irene.dejong@acgov.org](mailto:irene.dejong@acgov.org).

Sincerely,

Original signed by Irene de Jong

Irene de Jong  
Administrative Services Director

Enclosure: 1

cc: David A. Rocha, Fire Chief  
Shu-Mei Chen, ACFD Financial Services Manager

**Finding 1. The Agency did not have a pay schedule that met all of the Government Code and CCR requirements.**

ACFD disagrees with this finding. Alameda County Human Resources Services Department publishes a salary report for all positions within the County, including Fire Department classifications, on a monthly basis. This report contains a pay schedule that meets all of the Government Code and CCR requirements. Specifically, the report:

- Contains a pay schedule that was duly approved and adopted by the governing body in accordance with requirements of applicable public meeting laws;
- Identifies the position title for every employee position;
- Shows the payrate as a single amount or multiple amounts within a range for each identified position;
- Indicates the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Is posted on the County's website;
- Indicates effective date and date of any revisions;
- Is retained for not less than five years; and
- Is not referencing another document in lieu of disclosing the payrate.

A copy of the most recent report can be accessed at <http://www.acgov.org/hrs/cc/reports.htm>.

**Finding 2. The Agency did not report special compensation in accordance with the Government Code and CCR.**

- A. ACFD partially agrees with this finding. The District has followed IAFF Local 55B bargaining unit's labor policy in administering Holiday Pay and Certification Pay for unrepresented safety personnel. This practice is also reflected in the Fire Chief's employment contract. In order to address the finding, ACFD staff will be working with the Alameda County Human Resources Services on the formal adoption of this practice by the ACFD governing board.
- B. ACFD partially agrees with this finding. As noted in response to Finding 2.A, ACFD has been following IAFF Local 55B bargaining unit's labor policy in administering Holiday Pay and Certification Pay for the unrepresented safety personnel. In order to address the finding, staff will be working with the Alameda County Human Resources Services on the formal adoption of this practice by the ACFD governing board.
- C. ACFD disagrees with this finding. Management Incentive Pay Compensation for the Fire Chief and the Deputy Fire Chief was approved by the ACFD governing body on October 22, 2002 and subsequently redefined on January 6, 2004. Board letters included criteria for the additional compensation being received, which recognizes off-duty emergency standby shared by the Fire Chief and Deputy Fire Chief positions. A copy of the Board Letter and attachments are included in Exhibit A, attached to the Audit Response.

**Finding 3. The Agency incorrectly reported retroactive adjustments.**

- A. ACFD agrees with this finding. The District's Payroll unit is working on addressing the finding and ensuring that special compensation adjustments covering multiple prior periods are reported to CalPERS for the pay periods earned.
- B. ACFD partially agrees with this finding. The District's Payroll records indicate that Fire Captain's and Fire Engineer's payrates were transmitted correctly, however, final data reported to CalPERS contained errors. ACFD Payroll unit is working on addressing this issue with our payroll software vendor.
- C. ACFD agrees with this finding. The District's Payroll unit is working on addressing the finding and ensuring that retroactive pay adjustments are accurately reported to CalPERS.
- D. ACFD agrees with the finding. The District's Payroll unit has noted the errors shortly after the retroactive special compensation adjustment was made and promptly corrected them.
- E. Agency agrees with the finding. Paramedic Pay and Hazardous Material Pay were included in regular earnings since the employee was on Workers Compensation during that time. The Payroll unit is working on addressing this finding.