

Office of Audit Services



CalPERS

Public Agency Review

City of Canyon Lake

**Employer Code: 1562
CalPERS ID: 3813045770
Job Number: P13-006**

January 2014



California Public Employees' Retirement System
Office of Audit Services
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January 24, 2014

Employer Code: 1562
CalPERS ID: 3813045770
Job Number: P13-006

City of Canyon Lake
Deborah Harrington, Acting City Manager
31516 Railroad Canyon Road
Canyon Lake, CA 92587

Dear Ms. Harrington:

Enclosed is our final report on the results of the public agency review completed for the City of Canyon Lake. Your written response, included as an appendix to the report, indicates agreement with the issues noted 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 City and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed By Margaret Junker
MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: City Council, City of Canyon Lake
Nancy Greenhalgh, Accounting Specialist, City of Canyon Lake
Risk and Audit Committee Members, CalPERS
Gina M. Ratto, Interim General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

CITY OF CANYON LAKE

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
Scope.....	1
Office of Audit Services Review Results	2
1: Pay schedule.....	2
2: Retired annuitants	3
Conclusion	5
Objectives	Appendix A
Agency's Response	Appendix B

CITY OF CANYON LAKE

RESULTS IN BRIEF

The primary objective of our review was to determine whether the City of Canyon Lake (Agency) complied with applicable sections of the California Government Code, California Code of Regulations (CCR) and its contract with the California Public Employees' Retirement System (CalPERS).

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

- Employee payrates were not listed in a publicly available pay schedule.
- Retired annuitants' employment did not comply with all Government Code requirements.

OAS recommends the Agency comply with applicable sections of the California Government Code, 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 January 16, 1992 to provide retirement benefits for local miscellaneous employees.

As part of the Board approved plan for fiscal year 2013/2014, the OAS reviewed the Agency's payroll reporting and member enrollment processes as these processes relate to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2010 through June 30, 2013. The on-site fieldwork for this review was conducted on August 14, 2013 through August 15, 2013. The review objectives and a summary of the procedures performed are listed in Appendix A.

CITY OF CANYON LAKE

OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: Employee payrates were not listed in a publicly available pay schedule.

Condition:

The Agency did not have a publicly available pay schedule prior to June 30, 2013. The Agency adopted salaries through resolutions. These resolutions did not meet the CCR 570.5 criteria to be considered a pay schedule. For the purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount listed on a pay schedule that meets all of the following requirements:

- Has been duly approved and adopted by the Agency's governing body
- Identifies the position title for every employee position
- Shows the payrate for each identified position
- Indicates the time base
- Is posted at the office of the Agency or immediately accessible and available for public review from the Agency during normal business hours or posted on the Agency's internet website
- Indicates an effective date and date of any revision
- Is retained by the employer and available for public inspection for not less than five years
- Does not reference another document in lieu of disclosing the payrate

Recommendation:

The Agency must ensure reported amounts are set forth in publicly available pay schedules and meet the definition of payrate under Government Code section 20636(b)(1) and related regulations. Only pay that constitutes compensation earnable, as defined under Government Code section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits.

The Agency should work with CalPERS Customer Account Services Division (CASD) to make all necessary adjustments, if any, to active and retired member accounts pursuant to Government Code section 20160.

Criteria:

Government Codes: § 20160, § 20636(b)(1), § 20636(d)
CCR: § 570.5

CITY OF CANYON LAKE

2: Retired annuitants' employment did not comply with all Government Code requirements.

Condition:

Pursuant to Government Code section 21224, a retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year.

Government Code section 21221(h) states the compensation for the interim appointment of a retired person shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule for the vacant position divided by 173.333 to equal an hourly rate.

A person employed in violation of the Government Code shall be reinstated to membership pursuant to Government Code section 21202 in the category in which and on the date on which the unlawful employment occurred.

- A. The Agency did not reinstate one retired annuitant who exceeded the 960-hour threshold in fiscal year 2012/2013. OAS examined the hours worked by six retired annuitants working for the Agency in fiscal years 2011/2012 and 2012/2013. OAS identified one retired annuitant who worked 997 hours in fiscal year 2012/2013 without being reinstated by the Agency. The retired annuitant exceeded 960 hours in the June 1 to June 15, 2013 time sheet period.
- B. The Agency paid a retired annuitant a rate of pay that exceeded the rate of pay for a comparable position. OAS reviewed the contracted salaries in the May 16 to May 31, 2013 earned period for six sampled retired annuitants and identified a retired annuitant who held the position of Acting City Manager with a salary of \$113.68 an hour. Because the Agency did not have a publicly available pay schedule (as noted in Finding 1), the OAS reviewed the former City Manager's contract to determine a comparable salary for this position. The former City Manager's contracted salary was \$62.50 an hour. As a result, the retired annuitant earned \$51.18 more an hour than the former City Manager.

CITY OF CANYON LAKE

Recommendation:

Government Code section 21220 addresses the conditions and consequences of unlawful employment of a person who has been retired under this system. The Government Code states that any retired member employed in violation of this article shall reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law, pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment plus interest thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

The Government Code also states that any public employer that employs a retired member in violation of this article shall pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

The Agency should monitor the hours worked and payrate of retired annuitants in order to ensure the Agency complies with applicable Government Codes. OAS recommends the Agency work with CalPERS Benefit Services Division (BNSD) to determine the appropriate course of action.

Criteria:

Government Codes: § 21202, § 21220, § 21221(h), § 21224

CITY OF CANYON LAKE

CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix B. OAS limited the test of transactions to employee samples selected from the Agency's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code 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, California Code of Regulations.

Respectfully submitted,

Original Signed By Margaret Junker
MARGARET JUNKER, CPA, CIA, CIDA
Chief, Office of Audit Services

Date: January 2014

Staff: Cheryl Dietz, CPA, CIA, Assistant Division Chief

Michael Dutil, CIA, CRMA, Manager

Alan Feblowitz, CFE, Manager

Mel Lanse, CIA, CPA, Auditor

Jodi Brunner, CGAP, Auditor

Joanna Balachandra, Auditor

CITY OF CANYON LAKE

APPENDIX A

OBJECTIVES

CITY OF CANYON LAKE

OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency complied with applicable sections of the California Government Code (sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

This review covers the period of July 1, 2010 through June 30, 2013.

SUMMARY

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
 - City Council minutes and City Council resolutions
 - Agency written labor policies and agreements
 - Agency salary, wage and benefit agreements including applicable resolutions
 - Agency personnel records and employee hours worked records
 - Agency payroll information including Summary Reports and CalPERS listings
 - Other documents used to specify payrate, special compensation, and benefits for all employees
 - Various other documents as necessary
- ✓ 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 meeting laws.

CITY OF CANYON LAKE

- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's enrollment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 960 hours were worked in a fiscal year.
- ✓ Reviewed the Agency's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the Agency's affiliated entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

CITY OF CANYON LAKE

APPENDIX B

AGENCY'S RESPONSE



CITY OF CANYON LAKE

November 20, 2013

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

RE: Canyon Lake Audit

Dear Ms. Brunner:

It was a pleasure working with you during the audit process. We have been overwhelmed with the failure of a Measure on the November Ballot and I apologize for the delay in responding to your review of our city.

The City has taken the following steps to comply with requirements as follows:

City has posted the Pay schedule on the Website.

City staff have taken steps to better track the number of hours a retired person works to insure the 960 hour limit is not exceeded.

City has adopted a new salary schedule for the City Manager which more closely aligns with surrounding cities.

City will add any employee that is currently working part-time to the PERS system if they exceed 1,000 hours.

Sincerely,

Deborah Harrington
Acting City Manager