

Office of Audit Services



Public Agency Review

Central Marin Police Authority

CalPERS ID: 2558720758
Job Number: P14-069

April 2016



California Public Employees' Retirement System
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April 28, 2016

CalPERS ID: 2558720758
Job Number: P14-069

Cathy Orme, Finance Director
City of Larkspur
400 Magnolia Ave.
Larkspur, CA 94939

Dear Ms. Orme:

Enclosed is our final report on the results of the public agency review completed for the Central Marin Police Authority (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 2E. We appreciate your response regarding Finding 2E. After consideration of this information, the finding remains.

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: Central Marin Police Council
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

CENTRAL MARIN POLICE AUTHORITY

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CENTRAL MARIN POLICE AUTHORITY

RESULTS IN BRIEF

The objective of our review was to determine whether the Central Marin Police Authority (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 Government Code and CCR.
- Payrates and earnings were incorrectly reported.
- Retroactive salary adjustment was incorrectly reported.
- Eligible part-time employee was not enrolled into membership.
- Member reciprocal self-certification information was not maintained.
- Unused sick leave was 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 November 10, 1980 to provide retirement benefits for local miscellaneous and safety (police) employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by 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 and member enrollment processes 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 January 31, 2015. The review objectives and methodology are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency's pay schedule did not meet all of the Government Code and CCR requirements.

Condition:

The Agency's pay schedule effective January 1, 2013 did not meet all the requirements of the Government Code and CCR. The Agency did not have one pay schedule that listed the position titles and payrates for every employee position.

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 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.

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Recommendation:

The Agency should ensure its pay schedule 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 incorrectly reported Uniform Allowance as a lump sum amount for a police lieutenant. Specifically, the Agency's Memorandum of Understanding (written labor agreement) for police officers provided a Uniform Allowance of \$450.00 to police lieutenants assigned as detectives. Although the Agency did not provide documentation of the police lieutenant's assignment as a detective, Uniform Allowance is required to be reported as earned. Government Code Section 20636 requires the Agency to identify the pay period(s) in which the special compensation was earned.
- B. The Agency's written labor policy containing the provision for uniforms did not include the conditions for payment of the uniforms. Specifically, the written labor policy did not identify an amount or the monetary value for the maintenance of uniforms. CCR 571(b) requires that the written labor policy or agreement must contain the conditions for payment including, but not limited to, eligibility for, and amount of, the special compensation.
- C. The Agency incorrectly reported Bonus Pay as special compensation for two police officers. Specifically, the Agency reported Bonus Pay for performing training duties associated with a formal training program on an as-needed basis. However, the Bonus Pay as defined by the Agency's written labor policy did not meet the definition of special compensation as defined in the Government Code and CCR. Therefore, Bonus Pay is not reportable as special compensation.
- D. The Agency incorrectly reported Holiday Pay in the pay period ended November 23, 2014. Specifically, the Agency's written labor agreement for miscellaneous and police employees provided cash-outs for Holiday Pay twice a year at straight-time. However, the Agency included special compensation when calculating the Holiday Pay cash-outs. In addition, the Agency reported the Holiday Pay cash-outs as lump sum amounts. Government Code Section 20630 requires the Agency to identify the pay period(s) in which special compensation was earned.
- E. The Agency incorrectly reported Educational Incentive Pay for a police lieutenant with a Bachelor's Degree. Specifically, the Agency's written

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labor agreement provided Education Incentive Pay of five percent of salary for employees with a Bachelor's Degree and six percent of salary for employees with a Master's Degree. The police lieutenant was eligible for Education Incentive Pay of five percent or \$238.85. However, the Agency reported Education Incentive Pay of \$278.68. As a result, Education Incentive Pay was over reported.

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

Recommendation:

The Agency should ensure special compensation is reported in the pay period(s) earned for eligible employees.

The Agency should ensure that the conditions for payment of special compensation items are contained in a written labor policy or agreement as required.

The Agency should only report special compensation that meets the Government Code and CCR requirements.

The Agency should ensure Holiday Pay cash-outs are correctly calculated.

The Agency should ensure Educational Incentive Pay is reported pursuant to its labor 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 Codes: § 20160, § 20630, § 20636
CCR: § 571

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3: The Agency incorrectly reported payrate.

Condition:

The Agency incorrectly reported the payrate for the police chief. Specifically, the police chief's contract effective October 3, 2013 listed a monthly payrate of \$15,124.27. However, the Agency reported a monthly payrate of \$13,960.84 which was identified as a prior payrate. As a result, payrate was under reported.

Government Code Section 20636(b)(1), defines payrate as the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full- time basis during normal working hours, pursuant to publicly available pay schedules. Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to payrate.

Recommendation:

The Agency should ensure payrate is reported correctly.

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, § 20636

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4: The Agency incorrectly reported retroactive adjustments.

Condition:

- A. The Agency incorrectly reported a retroactive salary adjustment as part of regular earnings and in a lump sum amount. Specifically, an administrative assistant received a retroactive salary increase from April 14, 2014 through May 11, 2014; however, the Agency incorrectly reported a lump sum retroactive salary adjustment of \$830.69 with regular earnings in the pay period ended May 25, 2014.

Retroactive salary adjustments used to capture salary increases covering multiple periods should be reported to CalPERS as a separate transaction type rather than adding it to payrate and earnings in the pay period it was paid. For retroactive pay increases, the Agency should also provide the inclusive dates of the increase as well as the new payrate, total earnings, and contributions for the period of the increase.

- B. The Agency incorrectly reported a retroactive special compensation adjustment as special compensation and in a lump sum amount. Specifically, the administrative assistant received retroactive Educational Incentive Pay from April 14, 2014 through May 11, 2014; however, the Agency incorrectly reported a lump sum retroactive adjustment of \$41.52 with special compensation in the pay period ended May 25, 2014. Retroactive special compensation adjustments should be reported to CalPERS as a separate transaction type and in the period earned.

Recommendation:

The Agency should ensure retroactive adjustments are reported as separate transaction types and in the correct pay periods.

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

Criteria:

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

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5: The Agency did not enroll an eligible part-time employee into membership.

Condition:

The Agency did not enroll an eligible part-time employee with prior CalPERS membership. Specifically, the Agency hired the employee on February 6, 2012 to provide service as a part-time reserve police, level 1. The employee's hire documents identified prior membership with a CalPERS covered agency, the San Anselmo Police Department. However, the Agency did not enroll and report the employee's earnings to CalPERS. Government Code Section 20305 requires the Agency to enroll and report earnings for employees with active membership.

Government Code Section 20283 provides that any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears cost for member contributions and administrative costs of five hundred dollars (\$500) per member as reimbursement to this system's current year budget.

Recommendation:

The Agency should ensure they enroll and report eligible part-time employees into membership.

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

Criteria:

Government Codes: § 20044, § 20160, § 20283, § 20305

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6: The Agency did not maintain the required member reciprocal self-certification.

Condition:

The Agency did not maintain the required member reciprocal self-certification information for two employees hired after January 1, 2013. CCR Section 579.3 requires individuals to self-certify in writing as to whether he or she is also a member of another public retirement system and is eligible for reciprocity. Agencies are required to retain the retirement and benefit-related information provided by the newly-hired individual.

Recommendation:

The Agency should ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and provide the additional required information if reciprocity exists. Further, the Agency should ensure it retains the information provided.

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: § 20160, § 7522.02, § 7522.04
CCR: § 579.3

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7: The Agency did not report the unused sick leave balance for a retiree.

Condition:

The Agency did not report the balance of unused sick leave for a retiree. At the time of retirement, the member had an unused sick leave balance of 121.16 hours, equivalent to 15.15 days. However, the Agency did not report the unused sick leave to CalPERS. Retiring members are eligible for additional service credit for unused sick leave accrued by the member during the normal course of employment. The total number of unused sick leave hours at retirement is converted to days to determine additional service credit.

Recommendation:

The Agency should ensure unused sick leave is certified to CalPERS for retiring members.

The Agency should work with EAMD to assess the impact of this incorrect reporting and make any adjustments, if necessary, to any impacted retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20965

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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

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, CIDA, Senior Manager
Chris Wall, Senior Manager
Monica Bynum, Auditor

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APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited 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 and enrollment procedures prescribed in the Agency's retirement contract with CalPERS.

Effective January 1, 2013, new enrollments are checked against the PEPRA definition of "new member," regardless of whether the enrollment is for a first time CalPERS member or an existing member. All members that do not fit within the definition of a new member are referred to as "classic members."

This review did not include an assessment as to whether the Agency is a "public agency," and expresses no opinion or finding with respect to whether the Agency is a public agency or whether its employees are employed by a public agency.

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
 - Other documents related to employee payrate, special compensation, and benefits
 - Other various relevant documents

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- ✓ 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.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's employment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when unlawful employment occurs.
- ✓ 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 entity organizational structure to determine whether employees of the affiliated entity qualified for CalPERS membership and were enrolled as required.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide additional service credits for unused sick leave.

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APPENDIX B

AGENCY WRITTEN RESPONSE



City of Larkspur

400 Magnolia Avenue, Larkspur, California 94939
Telephone: (415) 927-5110 Fax: (415) 927-5022
Website: www.cityoflarkspur.org

April 1, 2016

California Public Employees' Retirement System
Beliz Chappuie
Chief Audit Services
PO Box 942701
Sacramento, CA 94229-2701

Dear Beliz Chappuie,

This letter serves as a response to the draft compliance report for Central Marin Police Authority (Agency) dated March 15, 2016.

1. The Agency agrees and has corrected the finding. The Agency council adopted resolution 2015/09 approving authorized positions and salary ranges for all positions.
2. The Agency agrees and has corrected:
 - a. Special compensation is reported in the pay periods earned
 - d. Holiday pay is reported in pay periods when earned.

The Agency agrees:

- b. The Agency will work with EAMD to correct. Uniform allowance is applicable to all sworn officer and non-sworn who are required to wear a uniform. The Agency's MOU will be amended to clarify annual uniform pay.
- c. The Agency's Bonus pay is not reported as special compensation and will work with EAMD to correct.
2. e. The Agency disagrees, the employee has a master degree.
3. The Agency agrees and will work with EAMD to make the adjustments. A prior pay period was copied over to report PERS, the monthly rate was not updated.
4. The Agency agrees and has corrected the finding. Retroactive pay is reported as a separate transaction in the correct pay periods.
5. The Agency agrees and has incorporated a question on the employee fact sheet if the employee has previous PERS employment in another agency.
6. Agency agrees and has corrected. A form has been added to the Agency's check list for new employees.
7. The Agency agrees and will work with EAMD to correct. Sick leave will be reported to PERS for all retiring employees.

Sincerely,

Cathy Orme
Finance Director

Planning: (415) 927-5038
Public Works: (415) 927-5017

Parks & Recreation: (415) 927-6746
Twin Cities Police: (415) 927-5150

Library: (415) 927-5005
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