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October 3, 2012

Employer Code: 0354
CalPERS ID: 6261532335
Job Number: P11-017

City of Alameda
Fred Marsh, Controller
2263 Santa Clara Ave, Room 220
Alameda, CA 94501

Dear Mr. Marsh:

Enclosed is our final report on the results of the public agency review completed for the City of Alameda. Your agency's written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 3 and the second portion of Finding 2. Based on our review of the information contained in your agency's response pertaining to these findings, our recommendation remains 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 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: Risk and Audit Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Honorable Council Members, City of Alameda

Office of Audit Services



Public Agency Review

City of Alameda

Employer Code: 0354
Job Number: P11-017

October 2012

CITY OF ALAMEDA

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RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Alameda's (City) enrolled individuals, member compensation, required health and retirement information and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- Fair Labor Standards Act (FLSA) pay was not reported timely and the value of employer provided uniforms and maintenance was not contained in a written labor policy or agreement.
- Payrates were not listed on a publicly available pay schedule.
- Incorrect amounts of unused sick leave were reported to CalPERS.
- Eligibility verification for dependents enrolled in CalPERS Health Benefits Program was not provided, and an eligible employee was incorrectly excluded from health benefits.

CITY BACKGROUND

The City of Alameda was incorporated on April 19, 1854, as a Charter City and operates under a Council-Manager form of government. The City provides public safety (police and fire); streets and related improvements; sanitation; development services; public improvements; planning and zoning and general administrative services. Memoranda of Understanding (MOU) and employment agreements outline City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees.

The City contracted with CalPERS effective January 1, 1957, to provide retirement benefits for local safety and miscellaneous employees. The City's current contract amendment identifies the length of the final compensation period as twelve months for all employees. The City contracted with CalPERS effective April 1, 1992, to provide health benefits to all eligible employees.

All contracting public agencies, including the City, are responsible for the following:

- Determining CalPERS membership eligibility for its employees.
- Enrolling employees into CalPERS upon meeting membership eligibility criteria.
- Enrolling employees in the appropriate membership category.
- Establishing the payrates for its employees.
- Approving and adopting all compensation through its governing body in accordance with requirements of applicable public meeting laws.

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- Publishing all employees' payrates in a publicly available pay schedule.
- Identifying and reporting compensation during the period it was earned.
- Ensuring special compensation is properly identified and reported.
- Reporting payroll accurately.
- Notifying CalPERS when employees meet Internal Revenue Code annual compensation limits.
- Ensuring the employment of a retired annuitant is lawful and reinstating retired annuitants that work more than 960 hours in a fiscal year.
- Ensuring only eligible members and their dependents are enrolled for health coverage.
- Keeping accurate and up to date records of all health enrollment related information such as enrollment forms, parent-child relationship affidavits, divorce decrees, and other documentation.

SCOPE

As part of the Board approved plan for fiscal year 2011/2012, the OAS reviewed the City's payroll reporting and member enrollment processes as these processes relate to the City's retirement and health contracts with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2008, through June 30, 2011. The on-site fieldwork for this review was conducted from December 19, 2011, through December 22, 2011, and on January 4, 2012 and January 5, 2012. The review objectives and a summary of the procedures performed are listed in Appendix B.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: The City did not report FLSA premium pay during the period it was earned. In addition, the value of employer provided uniforms and maintenance was not contained in a labor policy or agreement.

Recommendations:

The City should ensure all compensation is reported for the service period in which it was earned. In addition, the City should ensure that the provision for uniforms is contained in a written labor policy or agreement.

OAS recommends CASD work with the City to assess the impact of this incorrect reporting and determine what adjustments are needed.

Conditions:

FLSA premium pay was not reported timely.

OAS reviewed FLSA premium pay reported to CalPERS for two sampled fire shift employees in service period 5/11-4. Although the City properly tracked, computed and paid FLSA premium pay to the two employees, the City did not report the compensation during the period it was earned. The FLSA premium pay reported in service period 5/11-4 was earned between March 18, 2011 and April 13, 2011. Government Code 20630(b) stipulates that when compensation is reported to CalPERS, the City should identify the pay period in which the compensation was earned regardless of when reported or paid.

Uniform and uniform maintenance was not contained in a labor policy or agreement

The City provided uniforms and uniform maintenance to its maintenance employees, and the uniform and maintenance value was reported to CalPERS on a quarterly basis. The City paid and reported \$64.17 as the value of uniforms for two sampled maintenance employees in service period 4/11-3. However the provision for uniform allowance, a statutory item of compensation, was not contained in a written labor policy or agreement. The City provided a copy of a memo which stated that the value of uniforms provided to employees was reportable to CalPERS. However, the memo did not meet the definition of a written labor policy or agreement duly approved by the governing body as required in California Code of Regulations Section 571(b).

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Criteria:

Government Code: § 20630(b), § 20636(a), § 20636(c)(2), § 20636(c)(3),
§ 20636(c)(6)

California Code of Regulations: § 571(b)

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Finding 2: The City did not list all employee position titles or payrates in a publicly available pay schedule.

Recommendation:

The City should list all employee positions and payrates on a publicly available pay schedule.

Only compensation earnable, as defined under Government Code Section 20636 and the corresponding regulations, can be reported to CalPERS and considered in calculating retirement benefits. Payrates for each position must be clearly set forth in publicly available pay schedules available for public scrutiny.

OAS recommends CASD work with the City to make necessary adjustments to reported payrates, service credit or other areas needing adjustment pursuant to Government Code Section 20160 and to deny all incorrectly reported payrates and earnings.

Condition:

OAS reviewed the payrates reported to CalPERS for a sample of 27 City employees to determine whether the City reported payrates in accordance with publicly available pay schedules. OAS found the City reported payrates in accordance with publicly available pay schedules except for three sampled employees. The annual salaries of \$250,000 for a former Interim City Manager, \$191,580 for the City Attorney, and \$215,000 for the current City Manager. Although the City paid and reported the employees' payrates in accordance with the employees' approved employment agreements, the City did not list the employees' positions and payrates in a publicly available pay schedule as required under Government Code Section 20636, and California Code of Regulations Section 570.5.

To enhance disclosure and transparency of an employee's payrate, the employee's specific payrate amount should be listed on a publicly available pay schedule. OAS recommends that the City clearly state and publish all employees' payrates in the City approved pay schedule in the same manner as for all other City employees. Per Government Code Section 20636, an employee's payrate is the base pay pursuant to publicly available pay schedules and shall be public records available for public scrutiny.

In addition, we observed that the City Managers employed immediately before and after the Interim City Manager had annual salaries of approximately \$195,156 and \$215,000 respectively. The City Manager hired after the Interim City Manager

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received benefits which included employer paid deferred compensation, auto allowance, and other City benefits. The Interim City Manager, who retired on April 1, 2011, did not receive City benefits, but instead, received an increased annual salary of \$250,000. City benefits converted to salary, if any, such as employer paid deferred compensation, auto allowance, and health benefits should not be reported to CalPERS.

Criteria:

Government Code: § 20636(a), § 20636(b)(1), § 20636(d)

California Code of Regulations: § 570.5

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Finding 3: The City did not certify the correct amount of unused sick leave days to CalPERS.

Recommendation:

The City should ensure that retiring members' unused sick leave balances are correctly reported to CalPERS.

OAS recommends BNSD work with the City to determine the impact of this incorrect reporting and determine what adjustments, if any, are needed.

Condition:

The City elected the optional provision of Government Code Section 20965, credit for unused sick leave for all City employees. OAS reviewed a sample of 11 employees who retired during the review period to determine whether the unused sick leave balances were correctly converted to days by utilizing a divisor of 8 and correctly reported to CalPERS. OAS found that the City incorrectly utilized a divisor of 7.5 instead of 8 when converting sick leave hours to days for two sampled retirees. The retirees' accumulated balance of unused sick leave hours should have been divided by eight, irrespective of their work schedules or hours they were charged for a day of sick leave. As a result, the unused sick leave balance reported for these two retirees were over stated by 8.021 days and 11.849 days.

Criteria:

Government Code: § 20965

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Finding 4: The City did not provide eligibility verifications for dependents enrolled in CalPERS Health Benefits Program. The City did not provide an employee with enrollment information.

Recommendation:

The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60 days from the date of the final OAS report. CalPERS CASD may be contacted at 1-888-CalPERS (1-888-227-7377) with any questions.

OAS recommends CASD obtain the missing documentation and cancel enrollment of any person who is found to be ineligible to participate in the CalPERS Health Benefits Program. Also, OAS recommends CASD take the appropriate action to ensure the City enrolls any person who is found to be eligible to participate in the CalPERS Health Benefits Program.

Condition:

Eligibility documentation not provided:

OAS reviewed a sample of twelve employees to assess the health benefits eligibility and enrollment of members and their dependents. OAS was unable to ascertain that enrollments for individuals were proper because the City failed to provide required documentation that was requested such as marriage certificates and various dependent child documents. Specifically, the following exceptions were noted:

- The City was unable to provide marriage certificates supporting the enrollment of six sampled employees' spouses.
- The City was unable to provide birth certificates verifying the eligibility of 27 dependent children enrolled under eight sampled employees' health benefits.
- The City was unable to provide HBD-40 declaration forms for four children enrolled under three sampled employees' health benefits.

Eligible employee erroneously excluded from CalPERS Health Benefits:

The City incorrectly excluded an employee from enrollment into the CalPERS Health Benefits Program. The employee, an Interim City Manager, was hired to work on a full-time basis for a minimum period of 24 months commencing

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April 1, 2009 through March 31, 2011. The City stated in the employee's employment agreement that "The Interim City Manager is a temporary employee, and therefore, shall not receive any medical, dental, long term disability, or life insurance benefits during the term of this Agreement."

The City should have offered the employee enrollment in the CalPERS Health Benefits Program. Employees are eligible for health benefits coverage if appointed to a position that is intended to last at least six months and one day with a time base of half time or greater.

Criteria:

Government Code: § 20085, § 22007, § 22775, § 22797, § 22800, § 22830

California Code of Regulations: § 599.500(f), § 599.500(h), § 599.500(k), § 599.500(o), § 599.502(b)(1)

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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 City's payroll and health 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 thirty 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: October 2012

Staff: Michael Dutil, CIA, Senior Manager

Alan Feblowitz, CFE, Manager

Jose Martinez

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APPENDIX A

BACKGROUND

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BACKGROUND

California Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides services for eligible members who apply for service or disability retirement. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employer's knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

APPENDIX B

OBJECTIVES

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OBJECTIVES

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

- Whether the City 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 City's retirement and health benefits contracts with CalPERS were followed.

This review covers the period of July 1, 2008, to June 30, 2011. OAS completed a prior review covering the period of January 1, 1997, to June 30, 2000.

SUMMARY

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

- ✓ Reviewed:
 - Provisions of the Contract and contract amendments between the City and CalPERS
 - Correspondence files maintained at CalPERS
 - City Council minutes and City Council resolutions
 - City written labor policies and agreements
 - City salary, wage and benefit agreements including applicable resolutions
 - City personnel records and employee hours worked records
 - City payroll information including Summary Reports and CalPERS listings
 - Other documents used to specify payrate, special compensation and benefits for all employees
 - Health Benefits Program enrollment records and supporting documentation
 - City ordinances as necessary
 - Various other documents as necessary
- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City correctly reported compensation.

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- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to City 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 City's governing body in accordance with requirements of applicable public meeting laws.
- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the City's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the City'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 City's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the City's affiliated entities to determine if the City shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the City or by the affiliated entity.
- ✓ Reviewed the City's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick.
- ✓ Reviewed health records to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program, if contracted for Health Benefits.

APPENDIX C

CITY'S WRITTEN RESPONSE



**City of Alameda
Finance Department
2263 Santa Clara Avenue, Room 220
Alameda, California 94501
(510) 747-488**

May 9, 2012

Jose L. Martinez
Office of Audit Services, CalPERS

Dear Mr. Martinez

Attached is the City's official response to the Cal PERS Audit dated June 15, 2012.

If you have any questions please contact me at the number above. Thank you.

Sincerely,

Fred Marsh
Controller

Response to format Findings for the City of Alameda from Cal PERS Audit Results Letter Dated June 15, 2012

Finding 1

Part 1 – The City did not report FLSA premium pay during the period it was earned

Response – **The City agrees with the recommendation**, however, the discrepancies noted in the audit were a result of the FLSA 7K period lookback (28 days for Police, 27 days for Fire until February 2012 and 24 days thereafter) reviews which can only be done in arrears, and thus any changes required to persable earnings resulting from these reviews must also be reported retroactively. City staff will work with PERS to report these earnings in the proper periods on a going forward basis and will work with the CASD to assess the impact of this incorrect reporting to determine what adjustments are needed.

Part 2 – The value of employer provided uniforms and maintenance was not contained in a labor policy or agreement

Response – **The City agrees with the recommendation** - City staff will include this item as a discussion point to be considered for inclusion in the next MOU for each applicable bargaining unit.

Finding 2

Part 1 - The City did not list all employee position titles or pay rates in a publicly available pay schedule

Response – **The City agrees with the recommendation**, however, the City has made the employment agreements publicly available for the Council appointed positions noted in the audit (i.e. City Manager and City Attorney). Going forward, the City will develop separate publicly available pay schedules for the City Manager and City Attorney

Part 2 – City Benefits converted to salary, if any, such as employer paid deferred compensation, auto allowance and health benefits should not be reported to CalPERS

Response – **The City does not agree with the recommendation**. There was no specific language in the employment agreement with the former interim City Manager that indicated that any portion of the higher pay received was in lieu of any of these benefits.

Finding 3

The City did not certify the correct amount of unused sick leave days in CalPERS

Response – **The City does not agree with the recommendation**. The City utilizes a divisor to report unused sick leave days to PERS that is the same as the employee's sick leave accrual rate. For instance, if the City accrues 7.5 hours of sick leave for an employee for one day of work per the employee's MOU, then the sick leave reported to PERS is also divided by 7.5 hours. If the City accrues 8 hours of sick leave for an employee for one day of work per the employee's MOU, then the sick leave reported to PERS is also divided by 8 hours.

Finding 4

Part 1 - The City did not provide eligibility verifications for dependents enrolled in CalPERS Health Benefit Program.

Response – **The City agrees with the recommendation**, however, the City reviewed these documents from employees upon enrollment, and going forward will maintain a copy of these documents from employees on an annual basis.

Part 2- The City did not provide HBD-40 declaration forms for dependents enrolled in CalPERS Health Benefit Program.

Response – **The City agrees with the recommendation** , however, the City had employees complete the HBD-40 (previously HBD-35) upon enrollment, and going forward will require employees to complete it annually.

Part 3 - The City did not provide an employee with enrollment information

Response – **The City agrees with the recommendation** - Going forward the City will have all employees fill out the required PERS form when they have elected to decline medical coverage under PERS.