

Office of Audit Services



CalPERS

Public Agency Review

City of Brea

CalPERS ID: 5656211102
Job Number: BI15-018

June 2016



California Public Employees' Retirement System
Office of Audit Services
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June 30, 2016

CalPERS ID: 5656211102
Job Number: BI15-018

Cindy Russell, Administrative Services Director
City of Brea
1 Civic Center Circle
Brea, CA 92821-5792

Dear Ms. Russell:

Enclosed is our final report on the results of the public agency review completed for the City of Brea (Agency). 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 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: City Council Members, City of Brea
Lee Squire, Financial Services Manager, City of Brea
Faith Madrazo, Budget and Revenue Manager, City of Brea
Rita Wendling, Payroll Supervisor, City of Brea
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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RESULTS IN BRIEF

The objective of our review was to determine whether the City of Brea (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 the Government Code and CCR requirements.
- Special compensation was not reported in accordance with the Government Code and CCR.

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 January 1, 1949 to provide retirement benefits for local miscellaneous and safety (fire and police) 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 compliance with the PERL and its contract related to compensation and payroll reporting. The review was limited to the examination of the sampled employees, records, and pay periods from July 1, 2013 through October 31, 2015. 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 requirements of the Government Code and CCR.

The Agency did not have a pay schedule that met all of the requirements of the Government Code and CCR. The Agency provided salary information for Agency Directors that was approved by the governing body and included in an Executive Summary. The Agency stated that additional salary information was listed in various labor agreements for other employees. However, the Agency did not have a pay schedule that listed the position title and payrate 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 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.

- A. The Agency incorrectly reported annual Performance Award Pay, an item of special compensation, as a lump sum amount for a Public Works Director in the pay period ended August 2, 2013. Although the pay met the definition of Bonus Pay listed in CCR Section 571, Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which the special compensation was earned.
- B. The Agency reported annual Performance Award Pay as special compensation for the Police Chief in pay periods ended August 16, 2013 and March 28, 2014. However, the Agency was unable to provide documentation to show the payments were paid for superior performance and the achievement of objectives. Therefore, the pay was not reportable to CalPERS. Per CCR Section 571, the pay is reportable as special compensation if it is for superior performance and a program or system is in place to plan and identify performance goals and objectives. The Agency's written labor policy stated the Performance Award Pay would be paid for superior long-term performance and on the achievement of objectives above and beyond performance expectations.

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 report Performance Award Pay in the period(s) earned.

The Agency should ensure special compensation reported to CalPERS meets the Government Code and CCR requirements.

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.

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Criteria:

Government Codes: § 20160, § 20222.5, § 20630, § 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

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Alan Feblowitz, CFE, Senior Manager
Alicia Watts, Manager
Emma Shaw, Auditor
Michelle O'Connor, CPA, Auditor

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APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were to determine whether member information was accurate and the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting procedure 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 written labor policies and agreements
 - Agency salary, wage, and benefit agreements including applicable resolutions
 - Agency personnel records and employee time records
 - Agency payroll information
 - CalPERS payroll reports
 - Documents related to employee payrate 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 payroll information reported to CalPERS and reconciled payroll records, personnel records, pay schedules, and written labor policies to determine whether the Agency correctly reported Performance Award Pay, whether service credit was accurate, and whether retirement benefits were correct.

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APPENDIX B

AGENCY'S WRITTEN RESPONSE



City of Brea

June 15, 2016

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

Re: Job Number: BI15-018
Report Issue Date: June 3, 2016

Dear Ms. Chappuie:

Below is the City of Brea's response to the identified findings. We are confident that the information provided will satisfy your requirements for the Public Agency Review – Focused Audit performed for the period of July 1, 2013 through October 31, 2015.

1. Finding 1

Per the recommendation, the City of Brea will work with CalPERS Employer Account Management Division to identify and make the necessary changes to be in compliance with Government Code Section 20636 and CCR Section 570.5, referencing pay schedules.

2. Finding 2

The City of Brea has taken the necessary steps in reporting Annual Performance Award Pay in the period(s) in which it was earned. The City of Brea will collaborate with CalPERS Employer Account Management Division to ensure that special compensation is reported in accordance with the Government Code and CCR requirements.

As stated previously, the City is taking steps to correct and comply with all of the above findings.

If you have any questions, please contact Rita Wendling at (714) 671-4464 or RitaW@cityofbrea.net.

Sincerely,

Original signed by Cindy Russell

Cindy Russell
Administrative Services Director
City of Brea

cc: Lee Squire, Financial Services Manager
Faith Madrazo, Budget and Revenue Manager
Rita Wendling, Payroll Supervisor