

Office of Audit Services



Public Agency Review

City of Dana Point

CalPERS ID: 3001140140
Job Number: P15-014

May 2016



California Public Employees' Retirement System
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May 26, 2016

CalPERS ID: 3001140140
Job Number: P15-014

Michael A. Killebrew, Assistant City Manager
City of Dana Point
33282 Golden Lantern, Suite 203
Dana Point, CA 92629

Dear Mr. Killebrew:

Enclosed is our final report on the results of the public agency review completed for the City of Dana Point (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: Council Members, City of Dana Point
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 Dana Point (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.

- The Agency's pay schedule did not meet all of the Government Code and CCR requirements.
- The Agency incorrectly reported payrate and earnings.
- The Agency incorrectly paid member contributions.
- Observation: Agency records did not agree with my|CalPERS information.

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 21, 1991 to provide retirement benefits for local miscellaneous 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 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 July 1, 2012 through June 30, 2015. 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 met all the Government Code and CCR requirements. Specifically, the salary schedule effective October 1, 2014 did not include position titles and salary ranges for the City Manager and Council Members. Although the Agency's governing body approved salaries through individual bargaining groups, it did not approve one pay schedule listing all positions.

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 incorrectly reported payrate and earnings.

Condition:

- A. The Director of Community Development's payrate and corresponding earnings exceeded the maximum payrate listed in the Agency's salary schedule. Specifically, the Agency reported a monthly payrate of \$14,866.94 during the pay period ended June 5, 2015. However, the maximum monthly payrate listed on the salary schedule was \$14,793.00. Government Code Section 20636 requires that payrates reported to CalPERS are pursuant to publicly available pay schedules. Similarly, CCR Section 570.5 limits payrate to the amounts listed on a pay schedule that meets all of the enumerated requirements.
- B. The Agency incorrectly reported a monthly payrate using an hourly payrate type. Specifically, the Agency reported an hourly payrate of \$718.35 in pay period ended June 21, 2013 for a Council Member. The Agency should have reported \$718.35 as a monthly payrate. As a result, the payrate was over reported for the period. Payrate is an important factor in determining service credit earned and final compensation calculations upon retirement.
- C. The Agency incorrectly reported payrates for an Engineering Technician III, a City Clerk Specialist, and a Senior Administrative Assistant who received pay increases effective March 1, 2014. For example, the Engineering Technician III received a monthly payrate increase to \$5,239.74. However, the Agency continued to report the prior monthly payrate of \$5,137.00 from March 1, 2014 through September 26, 2014.
- D. The Agency incorrectly reported payrates for full-time employees who received pay increases on October 1, 2014 and June 1, 2015. Specifically, for those employees who received payrate increases on October 1, 2014, the Agency reported the new payrate for the entire pay period as a single entry. The Agency should have reported the prior payrate with corresponding earnings and the new payrate with corresponding earnings as two separate entries. In addition, for an Administrative Secretary who received a payrate increase on June 1, 2015, the Agency reported the new payrate in the subsequent pay period instead of in the period the payrate became effective.
- E. The Agency incorrectly reported a payrate for a Chief Building Inspector. Specifically, the employee received a monthly payrate increase to \$6,213.09 effective February 1, 2014. However, the Agency reported a payrate of \$6,197.53 from February 1, 2014 through August 15, 2014.

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Payrate and earnings are important factors in computing a member's retirement allowance.

Recommendation:

The Agency should ensure that payrates are within approved pay ranges.

The Agency should correctly report payrate and earnings.

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, § 20636
CCR: § 570.5

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3: The Agency incorrectly paid member contributions.

Condition:

The Agency incorrectly paid and reported normal member contributions. Specifically, in a written labor policy/resolution the Agency agreed to pay three percent of the seven percent member contributions for non-exempt employees for the period October 1, 2014 through October 1, 2015. Although the Agency split the contributions that were paid on regular earnings, the Agency paid the full amount of the contributions on special compensation. As a result, the Agency over paid and the members under paid their portion of contributions.

Recommendation:

The Agency should ensure contributions on special compensation are paid and reported to CalPERS in accordance with its written labor policy/resolution.

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, § 20636, § 20691
CCR: § 569

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Observation: The Agency's records do not agree with my|CalPERS information.

Condition:

OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 67: *Financial Reporting for Pension Plans*. The significant census data elements include, but are not limited to, date of birth, date of hire or years of service, marital status, gender, employment status (active, inactive, or retired), class of employee, and eligible compensation.

OAS identified three individuals who had employment statuses that were different from the employment statuses in my|CalPERS. The Agency's records show that three employees have separated; however, the employees were still active in my|CalPERS. OAS recommends the Agency work with the appropriate CalPERS division to make any corrections, if necessary.

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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
Vincent Antolini, Auditor
Janice Ng, 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."

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.

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- ✓ 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.
- ✓ Reviewed the Agency's records to determine whether member census data agreed with my|CalPERS information.

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APPENDIX B

AGENCY'S WRITTEN RESPONSE



April 19, 2016

Ms. Beliz Chappuie, Chief
CalPERS Office of Audit Services
P.O. Box 942702
Sacramento, CA 94229-2701

RE: City of Dana Point - PERS Public Agency Review
CALPERS ID: 3001140140 JOB NUMBER: P15-014

Dear Ms. Chappuie,

The City appreciates the professionalism and thoroughness with which CalPERS staff conducted this audit. We strive to comply with all aspects of CalPERS reporting procedures, and will correct the technical reporting issues identified in this report. Below is the City's response to the specific findings identified in the report.

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

As noted in the draft report, the City agrees that although the October 1, 2014, salary schedule was approved by the City's governing body approving salary ranges for all positions, the City Manager salary and Council Member salary were approved by the governing body in separate actions and were not, therefore, included in the one pay schedule listing all positions.

The City will ensure that City Manager and Council Member salary ranges are included in the one pay schedule listing all positions that is approved by the City's governing body and that the City's pay schedule meets all of the Government Code and CCR requirements.

REVIEW RESULTS #2: The Agency incorrectly reported pay rate and earnings.

FINDING 2A: The Agency reported pay rate and earnings that exceeded the maximum amount listed in the pay schedule.

The City agrees with this finding. The City's Wage Administration policy, which is approved by the governing body, provides that, based upon performance, an employee's salary may exceed the salary range maximum up to 2%. The City had not, however, included that additional 2% on the City's pay schedule.

The City will amend its salary range listing to add the additional 2% to the maximum salary range to ensure that an employee's pay rate does not exceed the approved salary schedule.

FINDING 2B: The Agency reported incorrect pay rates.

The City agrees with this finding. The council member's pay rate was inadvertently reported as hourly instead of monthly. This was a clerical error as staff inadvertently selected the wrong choice in the drop down menu. The City will work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

FINDING 2C: The Agency reported incorrect pay rates.

The City agrees with this finding. Although the City did report the correct earnings for these employees, staff did not update the "monthly wage" box of a few employees when they received a pay rate increase. The City will work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

FINDING 2D: The Agency reported incorrect pay rates.

The City agrees with this finding. The City reported the earnings correctly (with the increased pay) for the pay period in which the pay increase was initiated and then changed the monthly pay rate in the following period. Going forward, the City will create two entries for an employee that receives a pay rate increase that does not coincide with the beginning of a pay period. The first entry will reflect the earnings and monthly pay rate for the short period of the old pay rate, and the second entry will reflect the earnings and monthly pay rate for the short period of the new pay rate. The City will work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

FINDING 2E: The Agency reported incorrect pay rates.

The City agrees with this finding. This employee received a retroactive pay rate increase that coincided with the date of the employee's promotion. Although the City filed a retroactive earnings report with PERS, staff did not file retro "monthly wage" rates. The City will work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

FINDING RESULTS #3: The Agency incorrectly paid member contributions.

The City agrees with the finding. Bi-lingual pay (special compensation) is now reported to CalPERS in accordance with the written labor policy. The City will work with EAMD to identify and make adjustments, if necessary to any impacted active and retired member accounts pursuant to Government Code Section 20160.

OBSERVATION: The Agency's records do not agree with my/CALPERS information.

The City agrees with this finding and will work with CalPERS to make any necessary corrections. Internal measures have also been taken to ensure that all employment statuses are updated in the CalPERS system in a timely manner.

If you have any questions or require additional information, please feel free to contact me at (949) 248-3523.

Sincerely,



Original signed by Michael A. Killebrew

Michael A. Killebrew
Assistant City Manager

MAK/sv