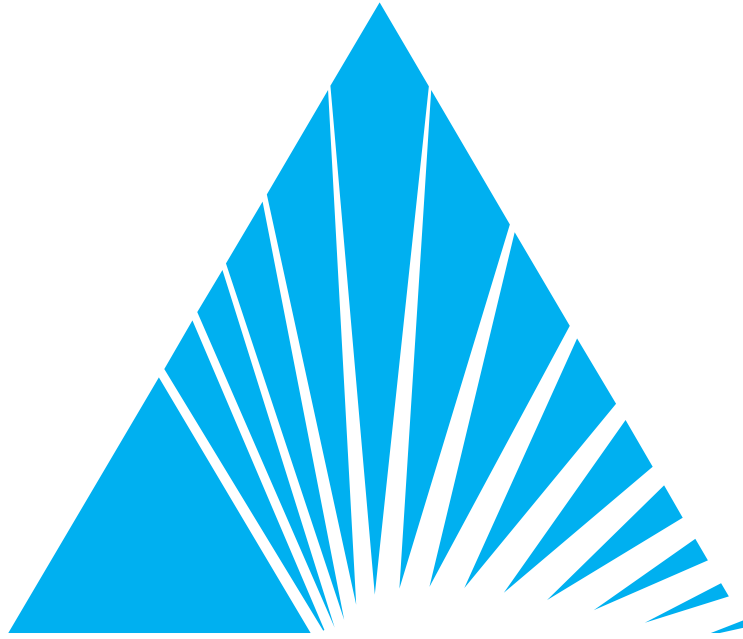


Office of Audit Services



CalPERS

Public Agency Review

City of Davis

CalPERS ID: 6213369926
Job Number: P14-084

October 2016



California Public Employees' Retirement System
Office of Audit Services
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October 20, 2016

CalPERS ID: 6213369926
Job Number: P14-084

Kelly Stachowicz, Assistant City Manager
City of Davis
23 Russell Blvd
Davis, CA 95616

Dear Ms. Stachowicz:

Enclosed is our final report on the results of the public agency review completed for the City of Davis (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Findings 2A, 2B, and 2E. We appreciate the additional information regarding these findings that you provided in your response. After consideration of this information, we have clarified these findings in the final report. However, our recommendations remain as stated.

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, City of Davis
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 Davis (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 and observation during the review. Details are noted in the Results section beginning on page three of this report.

- Pay schedule did not meet all of the Government Code and CCR requirements.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Reported payrate exceeded maximum listed on the pay schedule.
- Enrollment and compensation reporting was not in accordance with the Government Code.
- Council member was incorrectly enrolled.
- Retired annuitants' employment did not comply with all Government Code requirements.
- Eligible employees were not enrolled as required.
- Scheduled work hours were incorrectly reported.
- Member reciprocal self-certification was not maintained.
- 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 October 1, 1960 to provide retirement benefits for local miscellaneous and safety 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

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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, 2011 through June 30, 2014. 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 of the Government Code and CCR requirements. Specifically, the Agency's salary schedule effective January 1, 2014 was not duly approved and adopted by the Agency's governing body in accordance with requirements of applicable public meetings laws.

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.

Condition:

- A. The Agency did not report the monetary value of uniforms in accordance with the Government Code and CCR. Specifically, the Agency did not report the purchase and maintenance of uniforms provided to public works and park maintenance employees enrolled as classic members. Government Code Section 20636(c)(6) requires the monetary value for the purchase, rental, and/or maintenance of the required clothing to be reported as special compensation for classic employees.
- B. The Agency's written labor policy for public works and park maintenance employees did not contain a provision for uniforms. Government Code Section 20636(c)(6) requires that the monetary value of uniforms be reported. In addition, CCR Section 571(b) requires special compensation be contained in a written labor policy or agreement approved by the Agency's governing body that indicates the conditions for payment including, but not limited to, eligibility for, and amount of, the special compensation.
- C. The Agency over reported Uniform Allowance for a firefighter in pay period ended July 7, 2013. Specifically, the Davis Firefighter's Memorandum of Understanding (MOU) authorized an annual Uniform Allowance of \$2,000.00. However, the Agency paid and reported \$2,180.00. The Agency should have reported Uniform Allowance of \$2,000.00 as specified in the MOU.
- D. The Agency incorrectly reported Uniform Allowance as lump sum amounts for classic employees of the Davis Police Officers Association and Fire Department General Unit. Government Code Section 20636 requires the Agency to identify the pay period(s) in which special compensation was earned.
- E. The Agency incorrectly reported regular earnings and Fair Labor Standards Act (FLSA) Premium Pay for a Fire Captain. Specifically, the Agency under-reported the regular earnings and FLSA Premium Pay by one-half hour. The individual worked 96 regular hours in pay period ended April 27, 2014. However, the Agency reported 95.5 hours of regular earnings.

In addition, the individual was scheduled to work 9-24 hour shifts, which calculates to 216 hours over a 27 day cycle period. The Fair Labor Standards Act requires that the individual be paid a premium when they reach 204 hours worked in a 27 day cycle period. Government Code Section

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20636(c)(6) and CCR 571 require that the premium paid for hours worked above 204 hours and up to 216 regular hours worked be reported as special compensation. The individual worked 204.5 hours; however, the Agency did not report the premium for the one-half hour worked above the 204 hour threshold. The Agency stated during the onsite fieldwork it does not report FLSA Premium Pay for fire safety employees.

- F. The Agency incorrectly reported Police Investigator Premium Pay of \$177.11 as special compensation for a Police Sergeant in the pay period ended April 13, 2014. However, the Police Sergeant does not qualify for the Police Investigator Premium Pay as defined by the CCR. The Police Investigator Premium Pay is specific to rank and file local police officers, county peace officers, and school police or security officers who are routinely and consistently assigned to analyze crimes or investigative accidents.

- G. The Agency reported an incorrect amount of Police Investigator Premium Pay for a Police Corporal in the pay period ended April 13, 2014. Specifically, the Davis Police Officers Association (DPOA) MOU states that sworn employees will receive one percent of base pay upon appointment to the Investigations Division, and an additional one percent each year thereafter based on meeting or exceeding performance standards. Since the additional one percent increase beyond the initial appointment was based on meeting certain merit-based requirements, only one percent of the Police Investigator Premium met the definition of special compensation. CCR 571(a)(4) defines Police Investigator Premium Pay as compensation to rank and file local police officers, county peace officers, and school police or security officers who are routinely and consistently assigned to analyze crimes or investigative accidents. Since the Police Investigator Premium Pay includes a merit base component, it no longer meets the definition of Police Investigator Premium Pay according to the CCR and should not have been reported as compensation to CalPERS.

- H. The Agency incorrectly reported special compensation in the pay period ended April 13, 2014. Specifically the Agency reported a cafeteria cash-out as special compensation for the Police Chief and a Fire Captain in the amounts of \$281.41 and \$395.07 respectively. Cafeteria cash-outs are not exclusively defined as special compensation in CCR 571(a) and do not meet the definition of compensation as defined in Government Code 20636. Therefore, the amounts should not have been reported as compensation to CalPERS.

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

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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 the monetary value for the purchase, rental, and/or maintenance of required clothing is reported as special compensation for classic employees.

The Agency should ensure its written labor policies or agreements contain provisions for uniforms, including the conditions for payment.

The Agency should report special compensation in correct amounts and for the period it was earned.

The Agency should ensure FLSA premium pay is reported as special compensation and all earnings worked under a normal schedule are reported as regular earnings.

The Agency should ensure it reports special compensation that complies with the Government Code and CCR.

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 reported a payrate that exceeded the pay schedule.

Condition:

The Agency reported a payrate that exceeded the maximum salary listed on the Agency's salary table. Specifically, the Agency reported an hourly payrate of \$61.55 for the Deputy City Manager position in the pay period ended April 13, 2014. The maximum hourly payrate for the position according to the Agency's salary table was \$51.20. Payrate is an important factor in computing a member's retirement allowance.

Recommendation:

The Agency should ensure payrates are correctly reported in accordance with a pay schedule that meets all 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.

Criteria:

Government Codes: § 20160, § 20636
CCR: § 570.5

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4: Enrollment and compensation reporting was not in accordance with the Government Code.

Condition:

The Agency did not correctly enroll or report compensation for a Fire Chief and Fire Division Chief. The Agency entered into an Agreement for Shared Management of Fire Departments (Agreement) with University of California at Davis (UC Davis) for purposes of jointly managing, equipping, maintaining, and operating emergency services, and providing shared management personnel. The Agency explained that the Fire Chief and Fire Division Chief work a portion of the time for UC Davis and the other portion for the Agency.

- A. The Agency did not enroll or report compensation earnable for a Fire Chief who was incorrectly enrolled as a full-time employee of the UC Davis despite working 50 percent of the time for the Agency. The Agency advised that the Fire Chief's retirement benefits are handled by UC Davis. OAS reviewed the Agreement to determine if the Fire Chief was a common-law employee of the Agency. Using this information, OAS applied the common-law employment test and identified the following common facts which support a finding of control and indicates that the individual working as Fire Chief was a common-law employee of the Agency:
- The shared cost of the Fire Chief was to be divided equally between both the Agency and UC Davis.
 - The Fire Chief received administrative direction from the City Manager and the UC Davis Vice Chancellor of Campus Planning, Facilities and Safety (Vice Chancellor CPFS) in the planning, directing, and reviewing of the activities and operations of their respective Fire Departments.
 - Although the Fire Chief worked independently in supervising technical operations, the Fire Chief consulted with the UC Davis Vice Chancellor CPFS and the City Manager on problems of policy and planning.
 - The Agency's Agreement stated that the Fire Chief received supervision from both the Agency and UC Davis.
 - The Agency's Agreement also included a cost allocation formula that identified that the cost of the Fire Chief is to be split 50/50 between the Agency and UC Davis.
 - The Fire Chief position was identified in the Agreement as a key management personnel/position that is shared between UC Davis and the Agency.

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Our review also included information obtained from the individual's job description, an employment relationship questionnaire completed by the Agency, and other information related to the individual. The information outlined below further supports the determination that the individual was a common-law employee of the Agency:

- The Fire Chief directs and manages all fire/emergency service activities of UC Davis and the Agency.
- The Fire Chief also functions as the Assistant Emergency Services Director for the Agency and is responsible for Emergency Operations Center (EOC) operations, training, and emergency management related functions for the Agency as delegated by the City Manager who functions as the Emergency Services Director in the EOC during a large scale disaster or event.
- The Fire Chief is part of the Senior Leadership Team in the broader Administrative and Resource Management organization and the Agency's Executive Staff.
- The Fire Chief was appointed by the City Council, Resolution No. 13-163.
- The Fire Chief performs general administration and oversight of the Agency and UC Davis fire departments.
- The Fire Chief performs the same types of services for the Agency as for UC Davis.
- The Fire Chief's time is equally shared among the Agency and UC Davis.
- Both the Agency and UC Davis determine the hours worked by the Fire Chief.
- The Agency indicated that it has the right to control how the Fire Chief performs the work which is directed, supervised and reviewed by the City Manager.
- The Agency furnishes the Fire Chief with the facilities and equipment to perform services for the Agency that includes office space, office equipment, stationary, automobile, machinery, and tools.
- The Agency indicated that the Fire Chief is paid by UC Davis; however, OAS obtained an invoice from UC Davis to the Agency for salaries and benefits for the Fire Chief. OAS also obtained a copy of the payment for the invoice.
- The Agency indicated that it did not believe the Fire Chief was an employee of the Agency; however, the Fire Chief position is identified in the Agency's Agreement as a key management personnel/position that is shared between UC Davis and the Agency.

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By applying common-law factors, OAS found that the Fire Chief shared common-law employment with both the Agency and UC Davis. For the reasons discussed above, OAS determined that the control over the Fire Chief is with the Agency for part of the time and with UC Davis for part of the time. As a result, the Agency should have enrolled the Fire Chief in CalPERS membership, and reported compensation earnable and contributions for services performed up to the time worked under the Agency's control.

- B. In addition, the Agency incorrectly reported compensation for a Fire Division Chief who was incorrectly enrolled as a full-time employee of the Agency, despite working a portion of the time for UC Davis. OAS also reviewed the Agency's Agreement and an employment relationship questionnaire completed by the Agency to determine if the Fire Division Chief was under the direction and control of UC Davis and the City of Davis. Using this information, OAS applied the common-law employment test and identified the following common facts which support a finding of control and indicate that the individual who was working as Fire Division Chief was under the direction and control of both UC Davis and the Agency:
- According to the Agency's Agreement, the Fire Division Chief will, under the supervision and direction of the Deputy Fire Chief of Operations, be assigned responsibility for general operations and oversight of the daily operations of the fire departments of the Agency and UC Davis.
 - The Agency's Agreement includes a cost allocation formula that splits the cost of the Fire Division Chief: 72.15 percent by the Agency, 21.78 percent by UC Davis, and the Agency will cover the offset amount of 6.07 percent.
 - The services performed by the Fire Division Chief are also offered to the general public or other agencies.
 - The Agency and UC Davis both determine the hours worked by the Fire Division Chief.

By applying common-law factors, OAS found that the Fire Division Chief shared common-law employment with both the Agency and UC Davis. OAS determined that the control over the Fire Division Chief is with the Agency for part of the time and with UC Davis for part of the time. As a result, the Agency should only report compensation earnable and contributions for services performed under the Agency's control for the Fire Division Chief.

Applying the California common-law employment test, the most important factor in determining whether an individual performs services for another as employee is the right of the principal to control the manner and means of job performance and the desired result, whether or not this right is exercised. Where there is independent evidence that the principal has the right to control the manner and means of

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performing the service in question, CalPERS will determine that an employer-employee relationship exists between the employee and the principal.

Other factors to be taken into consideration under the common-law employment test are as follows:

- Whether or not the one performing services is engaged in a distinct occupation or business;
- The kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of a principal or by a specialist without supervision;
- The skill required in the particular occupation;
- Whether the principal or the individual performing the services supplies the instrumentalities, tools, and the place of work for the person doing the work;
- The length of time for which the services are to be performed;
- The method of payment, whether by the time or by the job;
- Whether or not the work is a part of the regular business of the principal;
- Whether or not the parties believe they are creating the relationship of employer-employee.

Government Code Section 20460 provides in relevant part that any public agency may participate in and make all or part of its employee's members of this system by contract. Government Code Section 20022 defines a contracting agency as any public agency that has elected to have all or any part of its employees become members of this system and that has contracted with the Board for that purpose. Government Code 20028 defines an employee as any person in the employ of any contracting agency. Management and control of CalPERS is vested in the CalPERS Board as provided in Government Code Section 20120. Each member and each person retired is subject to the PERL and the rules adopted by the Board pursuant to Government Code Section 20122. Government Code Section 20125 provides that the Board shall determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system. Government Code Section 20283 provides in pertinent part 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 arrear costs for member contributions and administrative costs of five hundred dollars per member as a reimbursement to this system's current year budget.

For the purposes of the PERL and for programs administered by the Board, the standard used for determining whether an individual is the employee of another entity is the California common-law employment test as set forth in the California Supreme Court case titled *Tieberg v. Unemployment Ins. App. Bd.*, (1970) 2 Cal. 3d

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943, which was cited with approval in *Metropolitan Water Dist. v. Superior Court (Cargill)*, (2004) 32 Cal. 4th 491, and which was adopted by the Board in two precedential decisions, *In the Matter of Lee Neidengard*, Precedential Decision No. 05-01, effective April 22, 2005, and *In the Matter of Galt Services Authority*, Precedential Decision No. 08-01, effective October 22, 2008.

Recommendation:

The Agency should ensure that all current and future common-law employees that meet membership eligibility requirements are enrolled and reported correctly to CalPERS.

The Agency should ensure that compensation earnable reported to CalPERS is limited to the payment for member services performed for the Agency. To the extent that a member provides services as a common-law employee of another entity, and that entity does not contract with CalPERS for retirement benefits, that service should not be reported to CalPERS.

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 Sections 20160 and 20283.

Criteria:

Government Codes: § 20022, § 20028, § 20030, § 20056, § 20120, § 20121, § 20122, § 20125, § 20160, § 20281, § 20283, § 20460

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5: The Agency incorrectly enrolled a City Council member.

Condition:

The Agency did not have an elected official complete the Optional Membership Form prior to enrollment into membership. An elective officer is excluded from membership unless the officer files with the Board an election in writing to become a member. An elective officer includes persons elected to a City Council.

Recommendation:

The Agency should work with EAMD to ensure elected officials are advised of their CalPERS optional membership rights when first elected and file the appropriate election in writing with CalPERS for those who elect to be members.

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, § 20322

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

Condition:

The Agency did not report the payrate and hours worked for a retired annuitant in my|CalPERS to allow monitoring of the 960-limit per fiscal year. Although the retired annuitant did not exceed the 960 hours in Fiscal Year 2013-14, the Agency did not report the hours and payrate of the retired annuitant in my|CalPERS as required.

Recommendation:

The Agency must report retired annuitants' payrates and hours worked in my|CalPERS.

The Agency should work with CalPERS Benefit Services Division (BNSD) and 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

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7: The Agency did not enroll employees upon meeting CalPERS membership eligibility.

Condition:

The Agency did not enroll two part-time employees who worked more than 1,000 hours in Fiscal Year 2013-14. Specifically, both part-time members exceeded 1,000 hours worked as of June 22, 2014. However, neither was enrolled into CalPERS membership. Government Code Section 20305 requires employees who complete 1,000 hours within a fiscal year to be enrolled into membership effective not later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.

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 monitor the hours worked by part-time employees to ensure the employees are enrolled when membership eligibility requirements are met.

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: § 20044, § 20160, § 20283, § 20305

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8: The Agency incorrectly reported scheduled work hours.

Condition:

The Agency incorrectly reported the number of scheduled full-time work hours for a fire safety employee. By misreporting the number of scheduled full-time work hours, the employee's monthly retirement allowance could be overstated by as much as 40 percent.

OAS reviewed a Fire Marshal's payroll information reported for the pay period ended June 8, 2014. The Agency reported the Fire Marshal on an hourly basis, and identified scheduled full-time hours as 56 per week. However, the Fire Marshal's normal full-time work schedule during this period was 40 hours per week. The Agency explained that its misreporting of the Fire Marshal's hours was an error. Based on the data reported to CalPERS and Agency records, OAS noted the incorrect reporting of the scheduled work hours for the entire Fiscal Year 2013-2014.

If the Fire Marshal were to retire at the end of June 2014, the monthly retirement could be overstated by as much as 40 percent. The Fire Marshal's hourly payrate reported to CalPERS for Fiscal Year 2013-2014 was \$58.89. To determine the Fire Marshal's estimated one year final compensation, the hourly payrates would be multiplied by 56 hours to reach an estimated one year final compensation amount of \$171,487.68. The annual amount would convert to an estimated average of \$14,290.64 per month. However, the Fire Marshal worked 40 hours per week, not 56 hours. Using the correct full-time work schedule of 40 hours, the Fire Marshal's estimated one year final compensation amount would have been \$122,491.20, or \$9,186.84 per month. The final compensation amount would then be used in determining the Fire Marshal's monthly retirement allowance. In the event the Fire Chief retired after June 2014, and had reached 30 years of service, the monthly retirement allowance would have been overstated by approximately \$3,674.74. Therefore, reporting accurate payroll information is essential in calculating correct member benefits at retirement.

Reporting an incorrect number of scheduled full-time work hours may cause the following:

- Delays in member retirement processing
- Inaccurate retirement estimates
- Miscalculation of employer's contribution
- Incorrect payments of benefits
- Hardship to retired members from a reduction in benefits

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Recommendation:

The Agency should ensure the correct number of scheduled full time work hours are reported for all employees.

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

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

Condition:

The Agency did not maintain the required member reciprocal self-certification for 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 individuals.

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

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* requirements. 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 ten individuals who had employment statuses that were different from the employment statuses in my|CalPERS. The Agency's records show that the employees separated from the Agency; however, the employees were still active in my|CalPERS. In addition, the Agency incorrectly enrolled a council member who opted out of CalPERS membership; however, the council member is still enrolled as an active member. 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
Chris Wall, Senior Manager
Patrick McCasland, CPA, Lead Auditor
Rebecca Honeywell, Auditor

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APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were 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.

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.
- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.

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- ✓ 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.

CITY OF DAVIS

APPENDIX B

AGENCY'S WRITTEN RESPONSE

Note: The name of an individual mentioned in the Agency's response was intentionally omitted from this appendix.

HUMAN RESOURCES

23 Russell Boulevard, Suite 4 – Davis, California 95616
530/757-5644 – FAX 530/753-1224 - TDD 530/757-5666



September 16, 2016

VIA CERTIFIED MAIL AND E-MAIL
BELIZ.CHAPPUIE@CALPERS.CA.GOV

Beliz Chappuie, Chief
Office of Audit Services
California Public Employees' Retirement System
P.O. Box 942707
Sacramento, CA 94229-2701

RE: Response by City of Davis to August 24, 2016 Draft Audit Report
CALPERS ID: 6213369926 Job Number: P14-084

Dear Ms. Chappuie:

The City of Davis ("City") is in receipt of the Office of Audit Services' ("OAS") August 24, 2016 draft audit report ("Draft Report") related to the City's contract with the California Public Employees' Retirement System ("CalPERS"). Staff appreciates the efforts of OAS in performing its compliance review and the opportunity to comment on the Draft Report. Although our written response was initially due September 7, 2016, the City was graciously given an extension until September 16, 2016 to provide this response. We thank you for granting us this additional time to prepare the City's response.

FINDINGS AND THE CITY'S RESPONSE

In order to facilitate your review of the City's position with respect to each of the findings noted in the Draft Report, we have organized our comments in chronological order based on the order of the findings.

FINDING 1: THE AGENCY DID NOT HAVE A PAY SCHEDULE THAT MET ALL OF THE GOVERNMENT CODE AND CCR REQUIREMENTS.

Response:

The City agrees with Finding 1 and will work with designated representatives of CalPERS to ensure that its salary schedules meet all of the Government Code and CCR requirements to be deemed publicly available pay schedules.

FINDING 2: THE AGENCY DID NOT REPORT SPECIAL COMPENSATION IN ACCORDANCE WITH THE GOVERNMENT CODE AND CCR.

Response:

Although the City agrees with Parts C and D of Finding 2 and will work with designated representatives of CalPERS to make the appropriate corrections, the City strongly disagrees with Parts A, B and E of Finding 2 as detailed below.

Parts A and B:

The City strongly disagrees with Parts A and B of Finding 2. The proposed findings in Part A – that the Agency did not report the monetary value of uniforms to public works and park maintenance employees – is inconsistent with the proposed finding in Part B – that the City’s written labor policy for public works and park maintenance employees did not contain a provision for uniforms. In fact, the finding in Part B supports the City’s practice of not reporting the value of uniforms provided to public works and park maintenance employees because if the value of uniforms is not “contained in a written labor policy or agreement” – as required pursuant to 2 CCR 571(b)(1) and recognized in Part B of Finding 2 – it is not reportable as special compensation. Therefore, the conclusions in Parts A and B of Finding 2 are erroneous. As such, we respectfully request that Parts A and B of Finding 2 be removed from the final report.

Part E:

The City strongly disagrees with Part E of Finding 2 because hours worked in excess of the work schedule are not PERSable pursuant to Government Code Section 20635. Section 20635 defines overtime as “the aggregate service performed by an employee . . . ***in excess of the hours of work considered normal*** for employees on a full-time basis, and for which monetary compensation is paid.” Emphasis added. As acknowledged in the Condition to Part E of Finding 2, the regular work schedule for fire safety employees is 56 hours per week and no more than 204 hours in a 27-day cycle. Thus, hours in excess of the foregoing are not considered normal for fire safety employees and are, thus, non-PERSable overtime pursuant to Section 20635. Therefore, the conclusions in Part E of Finding 2 is erroneous. As such, we respectfully request that Part E of Finding 2 be removed from the final report.

FINDING 3: THE AGENCY REPORTED A PAY RATE THAT EXCEEDED THE PAY SCHEDULE.

Response:

Although it is technically correct that the City reported an hourly payrate for the Deputy City Manager position in excess of the hourly payrate for the position as listed in the City’s most recent salary schedule, the reported hourly rate is consistent with the hourly rate for the Deputy City Manager position approved by the City Council. The reported hourly rate was not reflected in the City’s salary schedule as a result of an administrative oversight. However, the City will correct this administrative

oversight by revising the salary schedule in accordance with 2 CCR 570.5 and presenting it to the City Council for approval to meet the requirements for a publicly available pay schedule.

FINDING 4: ENROLLMENT AND COMPENSATION REPORTING WAS NOT IN ACCORDANCE WITH THE GOVERNMENT CODE.

Response:

At this time, the City has insufficient information to make an informed decision as to whether the City agrees or disagrees with this finding and therefore reserves the right to appeal the proposed determination in connection with Finding 4. In an effort to become better informed so that it can make an informed decision on this subject, staff has reached out to CalPERS and is in communication with [REDACTED]. We look forward to the proper resolution of this matter.

FINDING 5: THE AGENCY INCORRECTLY ENROLLED A CITY COUNCIL MEMBER.

Response:

The City agrees with Finding 5 and will work with designated representatives of CalPERS to make the appropriate corrections, including that elected officials are advised of their optional membership rights and ensuring that the proper forms are completed by elected officials that have elected to enroll prior to enrollment.

FINDING 6: RETIRED ANNUITANTS' EMPLOYMENT DID NOT COMPLY WITH ALL GOVERNMENT CODE REQUIREMENTS.

Response:

The City does not dispute the facts as stated in the Condition to Finding 6 but would like to note that this finding has been resolved. Although the Draft Report brought to light some minor issues with the City's reporting practices, the staff appreciates OAS' review of these practices as this will only improve reporting to CalPERS. Further, please note that the City is now in compliance as it pertains to *reporting* a retired annuitant's payrate and hours worked in my|CalPERS. We note that the reporting is important so as to permit CalPERS to monitor the hours worked by a retired annuitant. However, it is important that we also note that the error was administrative rather than statutory or substantive since reporting is not required by applicable law. In fact, the retired annuitant was hired, and continued his retired annuitant employment with the City, in compliance with the retiree employment rules.

FINDING 7: THE AGENCY DID NOT ENROLL EMPLOYEES UPON MEETING CALPERS MEMBERSHIP ELIGIBILITY.

Response:

The City does not dispute the facts as stated in the Condition to Finding 7 but would like to note that this finding has also been resolved. The City's oversight in enrolling these two employees was an anomaly since seasonal employees don't normally establish eligibility for CalPERS membership. As a result, the City inadvertently missed the fact that these employees worked at least 1,000 hours in a fiscal year. These employees have been enrolled and the City has put practices in place to ensure compliance with the membership provisions of Government Code Section 20305.

FINDING 8: THE AGENCY INCORRECTLY REPORTED SCHEDULED WORK HOURS.

Response:

The City agrees with Finding 8 and will work with designated representatives of CalPERS to make the appropriate corrections. The finding involved the reporting of hours for one individual due to a system error. A temporary manual correction will be made while the City works with the system administrator to ensure correction of system coding.

FINDING 9: THE AGENCY DID NOT MAINTAIN THE REQUIRED MEMBER RECIPROCAL SELF-CERTIFICATION.

Response:

The City does not dispute the facts as stated in the Condition to Finding 9 as it relates to the post-PEPRA period subject to the audit. However, the City is already in compliance with this requirement as it began using the member reciprocal self-certification form in May 2015. The City is currently auditing employees hired between January 1, 2013 and May 2015 to ensure compliance.

OBSERVATION: THE AGENCY'S RECORDS DO NOT AGREE WITH MY/CALPERS INFORMATION.

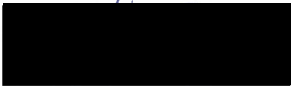
Response:

The Draft Report observes that the City's records do not agree with the information found in the City's my|CalPERS account. Staff confirmed the discrepancies and took the necessary steps to correct them prior to receiving the Draft Report. No further discrepancies were noted.

CONCLUSION

We thank you for the opportunity to submit this written response and we look forward to working with OAS and CASD to ensure that the final recommendations and the implementation of said recommendations are not only appropriate but equitable.

Sincerely,



Original signed by Kelly Stachowicz

Kelly Stachowicz
Assistant City Manager