

Office of Audit Services



CalPERS

Public Agency Review

City of Irvine

CalPERS ID: 2425341898
Job Number: P14-003

April 2015



California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (877) 249-7442
(916) 795-0802 phone, (916) 795-7836 fax
www.calpers.ca.gov

April 24, 2015

CalPERS ID: 2425341898
Job Number: P14-003

Teri Washle, Finance Administrator
City of Irvine
P.O. Box 19575
Irvine, CA 92623-9575

Dear Ms. Washle:

Enclosed is our final report on the results of the public agency review completed for the City of Irvine (Agency). CalPERS received your written response to the draft report, and a copy of the response is included as an appendix to the final report. We appreciate the additional information you provided in the response, and after consideration of this information we removed Finding 2C from the report. The removal of Finding 2C resulted in Findings 2D and 2E changing to Finding 2C and 2D in the final report. Additionally, we added clarifying language to Finding 3B.

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 Young Hamilton

YOUNG HAMILTON, Acting Chief
Office of Audit Services

Enclosure

cc: City Council Members, City of Irvine
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

CITY OF IRVINE

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
Scope.....	1
Office of Audit Services Review Results	2
1: Pay Schedule	2
2: Special Compensation	4
3: Earnings	6
4: Membership	8
5: Retired Annuitants.....	9
Conclusion	10
Objectives	Appendix A
Agency Response	Appendix B

CITY OF IRVINE

RESULTS IN BRIEF

The primary objective of our review was to determine whether the City of Irvine (Agency) complied with applicable sections of the California Government Code, 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 the Government Code and CCR requirements.
- Special compensation was incorrectly calculated and reported.
- Non-reportable compensation was reported as regular earnings.
- Eligible part-time employees were not enrolled into CalPERS membership.
- The Agency unlawfully employed a retired annuitant.

OAS recommends the Agency comply with applicable sections of the California Government Code, 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 February, 2, 2002 to provide retirement benefits for local miscellaneous and Police 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 Board approved plan for fiscal year 2014-15, the OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled employees, records, and pay periods from January 1, 2011 through December 31, 2013. Some of the employees selected were subject to the Public Employees' Pension Reform Act of 2013. The review objectives and a summary of the procedures performed are listed in Appendix A.

CITY OF IRVINE

OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency did not have an updated pay schedule to reflect an approved salary increase for the City Manager position. In addition, City Council positions were not listed on the pay schedule.

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 pay rate 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 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). There are no exceptions included in Government Code Section 20636(b)(1).

Recommendation:

The Agency should ensure its pay schedule is updated to reflect approved salary increases and positions and meets all Government Code and CCR requirements.

CITY OF IRVINE

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

CITY OF IRVINE

2: The Agency did not correctly calculate or report special compensation as required by the CCR.

Condition:

- A. The Agency incorrectly calculated special compensation of Peace Officer Standard Training (POST) Certificate Pay for Police Safety employees. The Agency's written labor agreement states that special compensation is calculated using base pay. However, the Agency used base pay plus additional special compensation amounts to calculate POST Certificate Pay. As a result, the Agency over reported POST Certificate Pay to CalPERS.
- B. The Agency incorrectly reported Canine and Motorcycle Pay as special compensation for two employees in the pay period ending November 22, 2013. The Agency's written labor agreement states that employees assigned to motorcycle duty are entitled to compensation for the off duty hours spent maintaining the motorcycles. Additionally, canine officers normally spend approximately 15 hours per month performing off-duty work related to their canines that differs from their regular assignment. Although both items of compensation are listed in the CCR Section 571, they do not meet the definition of special compensation since duties are performed outside of the normal hours of employment and are not part of normally required duties. As a result, Canine and Motorcycle Pay are not reportable as special compensation.
- C. The Agency incorrectly reported Holiday Pay for an employee in the pay period ending November 22, 2013. Specifically, the Agency reported Holiday Pay as special compensation for an employee who was not regularly scheduled and did not work on a designated holiday. Holiday Pay is defined as additional compensation for employees who are normally required to work on an approved holiday because their positions required scheduled staffing without regard to holidays. Therefore, Holiday Pay for the employee was incorrectly reported to CalPERS.
- D. The Agency reported the monetary value of the uniforms provided for its employees; however, it did not indicate the amount of the monetary value in a written labor policy or agreement as required by CCR Section 571(b).

Reportable special compensation is exclusively listed and defined in CCR Section 571. Reportable 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

CITY OF IRVINE

with prior payments for the job classification. In addition, special compensation must not be paid exclusively in the final compensation period and not be final settlement pay.

Recommendation:

The Agency should calculate and report special compensation in accordance with the Agency's written labor agreement.

The Agency should ensure that items reported as special compensation meet the definition of special compensation and are contained in a written labor policy or agreement.

The Agency should ensure it reports Holiday Pay only for employees required to work on approved holidays.

The Agency should ensure the monetary value of uniforms is included in a written labor policy or agreement as required.

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: § 571

CITY OF IRVINE

3: Non-reportable compensation was reported as regular earnings.

Condition:

- A. The Agency incorrectly reported four hours of overtime as regular earnings for two employees in the pay period ending November 22, 2013. Due to schedule changes for some employees, four hours were worked in excess of the normally scheduled hours. The Agency incorrectly reported the four hours as regular earnings, which resulted in the regular earnings being overstated.
- B. The Agency incorrectly reported overtime compensation for a City Council Member. OAS found that the Council Member received two monthly payments, each in the amount of \$880, and both payments were reported as regular earnings for the period November 1 through November 30, 2013. One monthly payment was paid in accordance with City Ordinance #08-04, which set the compensation for Council Members at \$880 per month. The ordinance did not require that City Council members serve on the Orange County Great Parks Association as part of their normal required duties. The additional \$880 per month was payment for serving on the Board of the Orange County Great Parks Association. Government Code Section 20899 explains that Council Members who have elected CalPERS membership are deemed to be serving on a full-time basis and receive one year service credit for each year of tenure in office. Government Code Section 20635 explains that if a member renders service in two or more positions, one of which is full-time, service in any concurrent position is deemed overtime and is not reportable compensation. The City Ordinance set the Council Members rate of pay at \$880 per month. Therefore, additional compensation for serving on other boards is overtime and is not reportable compensation.

In addition, it is important to note that the Agency reported an incorrect payrate for the Council Member in the pay period ending November 22, 2013. The monthly payrate reported was overstated, and as a result the Council Member did not receive a full service credit.

Recommendation:

The Agency should stop reporting compensation based on overtime. This includes payment to Council Members for serving on the Board of the Orange County Great Parks Association. In addition, the Agency should ensure monthly payrates are accurately reported.

CITY OF IRVINE

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, § 20635, § 20636, §
20899

CCR: § 571

CITY OF IRVINE

4: The Agency did not enroll eligible part-time employees as required.

Condition:

The Agency did not enroll four part-time employees when membership eligibility requirements were met. Specifically, four employees exceeded 1,000 hours in the final pay period of the fiscal year ended June 30, 2013 and were not enrolled into membership. Government Code Section 20305 requires employees who complete 1,000 hours within a fiscal year to be enrolled into membership effective no 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.

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: § 20160, § 20305

CITY OF IRVINE

5. The Agency unlawfully employed a retired annuitant.

The Agency did not reinstate a retired annuitant who worked over the 960-hour threshold in a fiscal year. Specifically, the retired annuitant worked a total of 979 hours in fiscal year 2012-13, exceeding the 960-hour threshold in final pay period of the fiscal year. Government Code Section 21224 limits the number of hours a retired person works to no more than 960 hours each fiscal year.

Government Code Section 21220 addresses the conditions and consequences of unlawful employment of a person who has been retired under this system. The Government Code states that any retired member employed in violation of this article shall:

- (1) Reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law;
- (2) Pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment plus interest thereon; and
- (3) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

The Government Code also states that any public employer that employs a retired member in violation of this article shall:

- (1) Pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period(s) of time that the member is employed in violation of this article, plus interest thereon; and
- (2) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

Recommendation:

The Agency should monitor the hours worked by retired annuitants in order to ensure the Agency complies with applicable Government Codes.

OAS recommends the Agency work with CalPERS Benefit Services Division (BNSD) to determine the appropriate course of action.

Criteria:

Government Codes: § 20160, § 21202, § 21220, § 21224

CITY OF IRVINE

CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. OAS limited the test of transactions to employee samples selected from the Agency's payroll 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 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 Young Hamilton

YOUNG HAMILTON, CPA, CIA, CISA
Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Chris Wall, Audit Manager
Vincent Antolini, Auditor
Patrick McCasland, CPA, Auditor

CITY OF IRVINE

APPENDIX A

OBJECTIVES

CITY OF IRVINE

OBJECTIVES

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

- Whether the Agency complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the CCR.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

SUMMARY

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 hours worked records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Other documents used to specify payrate, special compensation, and benefits for employees
 - Various other documents as necessary
- ✓ 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.

CITY OF IRVINE

- ✓ 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 entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

CITY OF IRVINE

APPENDIX B

AGENCY RESPONSE

Note: The Agency provided an attachment to the response that was intentionally omitted from this appendix.

City of Irvine
Management Response

Public Agency Review
Job Number: P14-003

February 13, 2015

The City of Irvine's Administrative Services department has provided a response for each of the findings and conditions. We prepared this document in response to the draft Public Agency Review delivered on February 2, 2015.

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

Condition: The Agency did not have an updated pay schedule to reflect an approved salary increase for the City Manager position. In addition, City Council positions were not listed on the pay schedule.

Management Response: Staff will be updating the pay schedule in conjunction with the presentation of this year's proposed budget to the City Council.

Finding 2: The Agency did not correctly calculate or report special compensation as required by the CCR.

Condition A: The Agency incorrectly calculated special compensation amounts by compounding Peace Officer Standard Training (POST) Certificate Pay for Police Safety employees. The Agency's written labor agreement states that special compensation is calculated using base pay rather than a compounding method.

Management Response: The POST pay is correctly calculated. The intent of the MOU and the understanding of the Public Safety bargaining group is that the POST pay is to be compounded. Current labor contracts are due to be renegotiated this summer. During the negotiation of the MOUs with the various bargaining groups the language of how the POST pay is calculated will be clarified.

Condition B: The Agency incorrectly reported Canine and Motorcycle Pay as special compensation for two employees in the pay period ending November 22, 2013. Although both items of compensation are listed and defined in the CCR 571, the Agency's labor agreements define the pay for duties performed outside the normal hours of employment, which does not meet the definition of special compensation.

Management Response: The intent of the MOU is to compensate employees for canine and motorcycle duties that are performed on and off-duty. Staff recognizes the MOU language in place for the time under review states that Canine and Motorcycle pays are in consideration of time spent off-duty, however previous MOUs do not specify that the specialty pays are for off-duty responsibilities. Staff will research the history of the MOU language as they pertain to these pays and work with the Customer Account Services Division to accurately reflect the City's intent in prospective MOUs.

Condition C: The Agency incorrectly reported Special Operation Sergeant Pay as special compensation for an employee. Pursuant to the CCR Section 571(a), Special Operation Sergeant Pay is not exclusively listed or defined as special compensation.

Management Response: The Special Operations Sergeant Pay should be included as special compensation. Special Operations Pay is for those Officers assigned to the SWAT team. The City does not use the word SWAT within the MOU; Special Operations is used instead.

Condition D: The Agency incorrectly reported Holiday Pay for an employee in the pay period ending November 22, 2013. Specifically, the Agency reported Holiday Pay as special compensation for an employee who was not regularly scheduled and did not work on a designated holiday.

Management Response: Staff is in agreement with this finding. This was a coding error in the timekeeping software. The Officer used the incorrect holiday code. There is a specific holiday code for Officers to use when recording a holiday for a non-scheduled work day. Staff will work with the timekeeping software developer to develop a block so that Officers cannot use the incorrect holiday code. Staff will also work with the Customer Account Services Division to correct the holiday reported for this employee.

Condition E: The Agency reported the monetary value of the uniforms provided for its employees; however, it did not indicate the amount of the monetary value in a written labor policy or agreement as required by CCR Section 571(b).

Management Response: Staff concurs with the finding. Staff is working on correcting this finding by including the monetary value of uniforms in the City's Personnel Rules and Procedures.

Finding 3: Non-reportable compensation was reported as regular earnings.

Condition A: The Agency incorrectly reported four hours of overtime as the straight-time rate for two employees in the pay period ending November 22, 2013. Due to schedule changes for some employees, four hours were worked in excess of the normally scheduled hours. The Agency incorrectly reported the four hours as regular earning, which resulted in the regular earning being overstated.

Management Response: Staff agrees with the finding. This was a one-time change of all employee schedules to accommodate the new hours of City Hall operations. Staff will work with CalPERS Customer Account Services Division to make the necessary adjustments to the effected members.

Condition B: The Agency incorrectly reported additional compensation as base pay rate and regular earnings for a City Council Member who received an additional stipend for serving on the Board of the Orange County Great Park Corporation.

Management Response: Staff disagrees with this finding, pursuant to legal advice received, we believe the stipend received for serving on the Board of the Orange County Great Park Corporation is part of regular earnings. See the attached legal opinion from the City's attorney.

Finding 4: The Agency did not enroll eligible part-time employees as required.

Condition: The Agency did not enroll four part-time employees when membership eligibility requirements were met. Specifically, four employees exceeded 1,000 hours in the final pay period of the fiscal year ended June 30, 2013 and were not enrolled into membership.

Management Response: The City has consistently tracked part-time hours from the first pay period of the fiscal year to the last pay period of the fiscal year, ensuring its part-time employees do not work more than 1,000 hours in 26 pay periods or 52 weeks. The timekeeping system is setup to track, report and warn part-time employees and their supervisors when the employee is nearing the 1,000 hour threshold.

The four employees tested for this review each worked under 1,000 hours (Employee A 999 hours, Employee B 998.5 hours, Employee C 994.75 hours, and Employee D 994.5 hours) when calculated by pay periods as the City has consistently applied from year to year.

Finding 5: The Agency unlawfully employed a retired annuitant.

Condition: The Agency did not reinstate a retired annuitant who worked over the 960-hour threshold in a fiscal year.

Management Response: The City has consistently tracked retired annuitant hours from the first pay period of the fiscal year to the last pay period of the fiscal year, ensuring its retired annuitants do not work more than 960 hours in 26 pay periods or 52 weeks. The timekeeping system is setup to track, report and warn retired annuitants and their supervisors when the employee is nearing the 960 hour threshold.

The retired annuitant tested for this review work 959 hours when calculated by pay period as the City has consistently applied from year to year.

Original signed by Kenneth Brown

A solid black rectangular box redacting the signature of Kenneth Brown.

Kenneth Brown
Director of Administrative Services