

Office of Audit Services



CalPERS

Public Agency Review

City of Livermore

CalPERS ID: 1440106162
Job Number: SP15-016

February 2016



California Public Employees' Retirement System
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February 26, 2016

CalPERS ID: 1440106162
Job Number: SP15-016

Douglas Alessio, Administrative Services Manager
City of Livermore
1052 S. Livermore Avenue
Livermore, CA 94550

Dear Mr. Alessio:

Enclosed is our final report on the results of the public agency review completed for the City of Livermore (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 1 and 2B. We appreciate the additional information regarding Finding 1 and 2B that you provided in your response. After consideration of this information, we clarified and revised Finding 1 and 2B.

In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your Agency. We appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

cc: City Council Members, City of Livermore
Bhavna Chaudhary, Financial Services Manager
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 Livermore (Agency) complied with applicable sections of the California Government Code (Government Code), California Public Employees' Pension Reform Act of 2013 (PEPRA), California Code of Regulations (CCR), and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following findings during the review. Details are noted in the Results section beginning on page two of this report.

- Pay schedule did not meet all of the Government Code and CCR requirements.
- Special compensation was not reported as required by the Government Code and CCR.
- 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.

The Agency's response will be included as an Appendix to the Final Report.

SCOPE

The Agency contracted with CalPERS effective January 1, 1952 to provide retirement benefits for local miscellaneous and safety (police) employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the CalPERS' Board of Administration (Board) approved plan, OAS reviewed the Agency's compliance with the PERL and its contract related to compensation and payroll reporting. Additionally, 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 review was limited to the examination of the sampled employees, records, and pay periods from July 1, 2013 through June 30, 2014. OAS did not review the Agency's compliance with membership enrollment or employment after retirement. The review objectives and methodology are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency's pay schedule effective in Fiscal Year 2013-14 did not meet all the requirements of the Government Code and CCR. Although the Agency posted a pay schedule with every employee position on the Agency's website, the pay schedule posted was not duly approved and adopted by the Agency's governing body in accordance with requirements of applicable public meeting laws. In addition, the pay schedule did not indicate the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually for Appointed Management employees.

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 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

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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.

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 did not report special compensation as required by the CCR.

Condition:

- A. The Agency incorrectly reported Holiday Pay as a lump sum amount for police management employees. Specifically, the Agency reported Holiday Pay of \$9,338.22 in the pay period ended June 1, 2014 as a lump sum amount instead of in the pay periods in which the holiday hours were earned.
- B. The Agency incorrectly reported Uniform Allowance as a lump sum amount for police safety employees who were required to wear uniforms. Specifically, the Agency reported an annual Uniform Allowance of \$1,200.00 pursuant to the Police Officers Association's Memorandum of Understanding that indicated the annual Uniform Allowance will be provided to Police Officers and Police Sergeants and paid annually in October of each year. The Agency reported the Uniform Allowance in the pay period ended October 6, 2013. However, when reporting to CalPERS, the Agency should have identified the pay period(s) in which the special compensation was earned.

Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which special compensation was earned.

Recommendation:

The Agency should report special compensation in the period(s) earned.

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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Observation: The Agency's records do not agree with 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 a discrepancy between the Agency's records and my|CalPERS database. Specifically, one employee had a hire date that was different from the hire date in my|CalPERS. The Agency should 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
Diana Thomas, CIA, CIDA, Senior Manager
Chris Wall, MBA, Senior Manager
Vincent Antolini, Auditor
Monica Bynum, Auditor
Nuntawan Camyre, Auditor

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APPENDIX A

OBJECTIVES

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OBJECTIVES

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

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting procedure prescribed in the Agency's retirement contract with CalPERS.

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 correct.
- ✓ 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



February 9, 2016

Beliz Chappuie
Chief, Office of Audit Services
PO Box 942701
Sacramento, CA 94229-2701

Dear Ms. Chappuie:

We appreciate the opportunity to respond to the review conducted by Nuntawan Camyre. We have reviewed the information in the report and would like to further present the City's position on the observations made.

Response to Observation # 1: The Agency's pay schedule did not meet all of the Government Code and CCR requirements.

The City maintains a salary plan that includes every classification's applicable pay range. The salary plan is updated as salary schedules are approved at a public meeting by resolution of the City Council of the City of Livermore throughout the year. The approval of a salary schedule may come through the approval of an MOU with future salary increases included in the MOU. Other classifications may also be added or removed from a salary schedule with a resolution being approved by the City Council of the City of Livermore at a public meeting. It is the City of Livermore's opinion that this meets the requirement of the regulation as all salary increases are approved by the City Council at a public meeting.

It was also mentioned that the pay schedule for the Appointed Management employees did not indicate the time basis. The City agrees with this observation and has already made changes to comply with the regulations and the recommendation made. Specifically, the pay schedule now mentions the salaries for the City Manager and City Attorney are annual salaries.

Response to Observation #2: The Agency did not report special compensation as required by the CCR.

- A. Effective September 22, 2014, the City has started paying and reporting Holiday-in-Lieu pay each pay period for the Police Management employees. This condition has been corrected.

- B. The City disagrees with this condition. It is the City's position that the Uniform Allowance is not accrued in different pay periods. The City pays this allowance in a lump sum on the first pay date in October every year to active employees only. Employees who terminated before this pay period do not receive a uniform allowance. Therefore, it is the City's position that the Uniform Allowance is earned only in the period it is paid and reported.

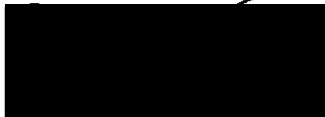
Response to Observation #3: The Agency's records do not agree with CalPERS information.

The information in our payroll database reflects the date the employee noted in Appendix B became a volunteer Reserve Police Officer with the City. This was a volunteer position and does not qualify for CalPERS membership. The employee was hired by the City on 11/21/1988 in a full time sworn Police Officer position which qualifies for the CalPERS membership. The employee was enrolled into CalPERS on 11/21/1988.

The City believes in complying with the regulations set forth and is willing to work with CalPERS to resolve any outstanding issues.

If you wish to discuss further, please contact me at (925) 960-4113.

Sincerely,

A black rectangular redaction box covering the signature of Douglas Alessio.

Original signed by Douglas Alessio

Douglas Alessio
Administrative Services Director