

Office of Audit Services



CalPERS

Public Agency Review

City of Loma Linda

CalPERS ID: 3955868421
Job Number: P14-043

May 2015



California Public Employees' Retirement System
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May 7, 2015

CalPERS ID: 3955868421
Job Number: P14-043

Diana DeAnda, Finance Director/Treasurer
City of Loma Linda
25541 Barton Rd
Loma Linda, CA 92354

Dear Ms. DeAnda:

Enclosed is our final report on the results of the public agency review completed for the City of Loma Linda (Agency). Your written response, included as an appendix to the report, indicates disagreement with Finding 2C and a request for language to be removed for Finding 1. We appreciate the additional information regarding Finding 2C that you provided in your response. As a result, we have removed Finding 2C from the report. Finding 1 will remain as stated in the report.

In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your Agency, 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 Loma Linda
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 primary objective of our review was to determine whether the City of Loma Linda (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.

- Pay schedules did not meet all of the Government Code and CCR requirements.
- Special compensation was not reported as required by the CCR.
- Payroll information was incorrectly reported.
- An eligible part-time employee was not enrolled into membership as required.
- Retired annuitants were unlawfully employed.
- Unused sick leave was not reported.

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 December 28, 1970 to provide retirement benefits for miscellaneous and safety (fire) employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by 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 July 1, 2011 through June, 30, 2014. 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.

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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 did not identify the position title for every employee position and did not indicate the time base. Specifically, the Agency did not update its pay schedule upon establishing the Emergency Services Coordinator position. Therefore, during our review we noted the position and time base were not included on the Agency's pay schedule. However, the Agency did subsequently update the pay schedule to include the position the following fiscal year, and the pay schedule was duly approved by its governing body.

Additionally, the Agency did not maintain one pay schedule that identified the position title for every employee position as required by the CCR. Multiple pay schedules were needed to locate sampled position titles.

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

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Section 20636(b)(1). There are no exceptions included in Government Code Section 20636(b)(1). When an employer does not meet the requirements for a publicly available salary 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 incorrectly reported special compensation.

Condition:

- A. The Agency incorrectly reported Floating Holiday Cash-Out Pay as special compensation. Floating Holiday Cash-Out Pay is not reportable compensation because it does not meet the definition of Holiday Pay pursuant to CCR Section 571.
- B. The Agency incorrectly reported special compensation of Uniform Allowance for classic members. Specifically, the Agency paid and reported the Uniform Allowance on a quarterly basis for maintenance workers and once a year for fire management employees. Government Code Section 20636 (c)(3) requires the Agency to identify the pay period in which the special compensation was earned regardless of when reported or paid.

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 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 ensure all items reported as special compensation meet the definition of special compensation in accordance with CCR Section 571.

The Agency should report special compensation for the pay period in which it was 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: § 7522.32, § 20120, § 20121, § 20160, § 20630, § 20636
CCR: § 571

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3: The Agency reported incorrect payroll information.

Condition:

- A. The Agency reported incorrect hourly payrates for fire shift employees. Specifically, the pay schedule for fire shift employees lists an annual pay range. The fire shift employees are assigned to a 56-hour work week. However, the Agency reported an incorrect hourly payrate using a 40-hour work week, instead of a 56-hour workweek, when converting the annual payrate to an hourly payrate.
- B. The Agency incorrectly reported the average work week hours for fire shift employees. Specifically, the Agency reported 40 hours per week for fire shift employees. However, the Agency requires fire shift employees to work an average of 56 hours per week. This resulted in fire shift employee's required average work week hours being underreported

Recommendation:

The Agency should ensure it reports the correct payrates to CalPERS for all enrolled members.

The Agency should report the scheduled full-time hours per week that reflects the normal full-time work schedule for employees in the same work group.

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, § 20636

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4: The Agency did not enroll an eligible part-time employee into membership.

Condition:

The Agency did not enroll a part-time employee when the membership eligibility requirement was met. Specifically, the part-time employee completed 1,000 hours worked in the pay period ending June 14, 2014 during fiscal year 2013-14 and was not enrolled. Employees who work 1,000 hours within a fiscal year shall 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.

Recommendation:

The Agency should monitor the number of hours worked by part-time employees to ensure 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, § 20305

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5: The Agency unlawfully employed retired annuitants.

Condition:

- A. The Agency did not reinstate a retired annuitant who exceeded the 960-hour threshold in fiscal year 2012-13. Specifically, a retired annuitant exceeded the 960-hour threshold on June 20, 2013. Pursuant to Government Code Section 21224, a retired person may serve without reinstatement as long as they do not exceed a combined total of 960 hours for all employers in a fiscal year.
- B. The Agency unlawfully employed a retiree who did not meet bona fide separation requirements. Specifically, the individual retired with an effective date of December 29, 2012 at the age of 54 returned to work three days after retirement on January 1, 2013. The individual's normal retirement age was 55 per CCR Section 586.1. CCR Section 586.2 requires a member who has not attained normal retirement age to have a bona fide separation in service of at least 60 calendar days between the date of the member's retirement and the first day of work for the employer as a retired person.

Recommendation:

The Agency should monitor the hours worked by retired annuitants in order to limit the hours worked to 960 hours in a fiscal year, or immediately reinstate a retired annuitant into CalPERS membership if the retired annuitant's employment continues beyond the 960-hour threshold.

The Agency should work with Benefit Services Division (BNSD) to identify and reimburse CalPERS for any retirement allowance received during the period of unlawful employment, pay CalPERS employee contributions that should have been paid during the period of unlawful employment, and reimburse CalPERS for administrative expenses incurred in handling the situation per Government Code Section 21220(b).

The Agency should work with BNSD to identify the employer contributions plus interest and administrative expenses, which should have been paid during the period the retired annuitant was unlawfully employed, and pay that amount to CalPERS per Government Code Section 21220(c).

The Agency should not employ CalPERS retirees who have not yet attained normal retirement age, as defined in the California Code of Regulations section 586.1, unless the retirees have met the bona fide separation requirements.

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The Agency should work with the CalPERS BNSD to determine the appropriate course of action and make any adjustments, if necessary, pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 7522.56, § 20160, § 21220, § 21220.5, § 21224
CCR: § 586

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6: The Agency did not report unused sick leave.

Condition:

The Agency did not report the balance of unused sick leave for a retiree. Specifically, the retiree had an unused sick leave balance of 344 hours remaining at retirement; however, the Agency did not report any remaining unused sick leave to CalPERS. Retiring members are eligible for additional service credit for unused sick leave accrued by the member during the normal course of employment.

Recommendation:

The Agency should ensure unused sick leave balances are certified and reported for retiring 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, § 20965

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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. 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
Alan Feblowitz, CFE, Senior Manager
Diana Thomas, CIA, CIDA, Senior Manager
Vincent Antolini, Auditor

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APPENDIX A

OBJECTIVES

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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.

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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 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.

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APPENDIX B

AGENCY RESPONSE



City of Loma Linda

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April 27, 2015

Young Hamilton, Acting Chief
CalPERS
Office of Audit Services
P O Box 942701
Sacramento, CA 94229-2701

Dear Mr. Hamilton:

The draft CalPERS compliance review report was received and has been reviewed. The City of Loma Linda's response is enclosed.

Thank you for the opportunity to participate in this process. Your consideration of the comments and clarifications noted is appreciated. Please do not hesitate to contact me should you require additional information.

Sincerely,

Original signed by Diana DeAnda

Diana DeAnda
Finance Director/Treasurer

CITY OF LOMA LINDA
RESPONSE TO CALPERS AUDIT DRAFT FINDINGS

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

Response – Agree. Modification is being made to the pay schedule to comply with the Government Code and CCRs. All position titles will be maintained on one pay schedule. Pay schedules adopted by the City Council from here forward will comply.

The Emergency Services Coordinator position was established after the adoption of the pay schedule and was included in subsequent adopted pay schedules. In the future when establishing a new position, the pay schedule will be updated and adopted at the same time. Respectfully ask that this portion of this finding be removed.

2. The Agency incorrectly reported special compensation.

Response –

A. Agree. The Floating Holiday Cash-out pay was reported in error and procedures have been implemented to ensure it does not happen again. The Agency is willing to work with EAMD to make adjustment to the identified impacted employee if deemed necessary.

B. Agree. Uniform allowance for Classic members has been reported quarterly for maintenance workers and once a year for fire management. Reporting of uniform allowance for Classic members will be corrected with the 2015-2016 fiscal year.

C. Disagree. Longevity steps paid by this Agency are considered part of base pay; and used in calculations for items such as Special Certification Pay and Staff Premiums, which are a percentage of base pay. Steps will be included on future publicly available pay schedules, and through current labor negotiations this Agency is looking to convert what is currently labeled as longevity pay to regular merit steps. Respectfully ask that this portion of this finding be removed.

As the total PERS reportable earnings reported would add up to the same \$ amount, i.e. longevity pay combined or not combined with base pay and uniform allowance being reported quarterly or annually vs biweekly, respectfully request no adjustment be required for previous payrolls.

3. The Agency reported incorrect payroll information.

Response – A & B – Agree. Correction has been made to the reported hourly payrates for fire shift employees. As the resulting total PERS reportable biweekly earnings have been correct, respectfully request no adjustments be required for previous payrolls.

4. The Agency did not enroll an eligible part-time employee into membership.

Response – Agree. Every effort is made to monitor the hours worked by part time employees and to bring them into membership upon reaching 1,000 hours in a fiscal year. Future monitoring will be more closely scrutinized. Agency error in calculation for this affected employee was due in part to confusion when hours worked are reported. Agency is willing to work with EAMD to make adjustments to the identified affected employee if deemed necessary.

5. The Agency unlawfully employed retired annuitants.

Response –

A. Agree. The Agency makes every effort to carefully monitor the hours worked by a retired annuitant. The identified employee did inadvertently exceed that 960 hours by 1 hour in fiscal year 2012-13. The Agency will more carefully monitor the hours for retired annuitants, and as subsequent years have not exceeded the 960 hours, respectfully request for this affected retiree no action be taken to reinstate.

B. Agree. The Agency was unaware for the age restriction and resulting requirement for a 60 day break in employment. The affected retired annuitant was entered into the CalPERS online enrollment system as a retired annuitant and enrollment was allowed. The Agency will not employ CalPERS retirees who have not yet attained normal retirement age unless the retirees have met the bona fide separation requirements. The affected employee is no longer employed by this Agency. The Agency is willing to work with BNSD to make adjustments if deemed necessary.

6. The Agency did not report unused sick leave.

Response – Agree. Care is taken by this Agency to report unused sick leave. This error happened prior to online reporting of unused sick leave balances. It can only be presumed that the retiree did not bring the retirement application to the Agency, or the unused sick leave would have been reported. The Agency is willing to work with EAMD to make adjustment to the impacted identified member account if deemed necessary.