

# Office of Audit Services



## Public Agency Review

## City of Westminster

CalPERS ID: 5339970252  
Job Number: SP15-012

March 2016



California Public Employees' Retirement System  
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March 30, 2016

CalPERS ID: 5339970252  
Job Number: SP15-012

Mike Harary, Director of Human Resources and Risk Management  
City of Westminster  
8200 Westminster Blvd  
Westminster, CA 92683

Dear Mr. Harary:

Enclosed is our final report on the results of the public agency review completed for the City of Westminster (Agency). Your written response is included as an appendix to the report. We appreciate the additional information provided in the response. After consideration of this information, we added clarifying language to Finding 1C, 1D, 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, City of Westminster  
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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# CITY OF WESTMINSTER

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## TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
Scope.....	1
Office of Audit Services Review Results .....	2
1: Special Compensation .....	2
2: Retroactive Salary Adjustment .....	4
Observation: Census Data Reporting.....	5
Conclusion .....	6
Objectives .....	Appendix A
Agency's Written Response .....	Appendix B

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# CITY OF WESTMINSTER

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## RESULTS IN BRIEF

The objective of our review was to determine whether the City of Westminster (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.

- Special compensation was not reported in accordance with the Government Code and CCR.
- Payrate and earnings were not reported in accordance with 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.

## SCOPE

The Agency contracted with CalPERS effective June 20, 1965 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 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 purposes pursuant to 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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# CITY OF WESTMINSTER

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: 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 for the purchase and maintenance of uniforms during Fiscal Year 2013-14. The Agency provided uniforms and laundered required clothing for police safety employees as specified in the labor agreements. However, the Agency did not report the monetary value for the purchase and maintenance of the uniforms. Government Code Section 20636 and CCR Section 571(a)(5) require the monetary value for the purchase, rental, and/or maintenance of required clothing be reported as special compensation for classic employees.
- B. The Agency's labor policies for safety employees did not include the condition for payment of uniforms. CCR Section 571(b) requires the written labor policy or agreement contain the conditions for payment of, including, but not limited to, eligibility for, and amount of the special compensation.
- C. The Agency incorrectly reported Continuous Meritorious Service Pay as special compensation. Specifically, a public works employee and two police employees received Continuous Meritorious Service pay in pay periods ended August 23, 2013 and November 29, 2013. The Agency reported Continuous Meritorious Service Pay as Longevity Pay. However, the Agency's written labor policy defined the pay as an incentive for outstanding continuous service for maintaining evaluations of satisfactory or better after a specified length of service. As a result, the pay does not meet the definition of Longevity Pay, or any other definition of special compensation pursuant to Government Code Section 20636 and CCR Section 571.
- D. The Agency incorrectly reported a Special Assignment Pay entitled Metro-Community Oriented Policing Team as special compensation. Specifically, a police employee received Metro-Community Oriented Policing Team Pay in pay period ended November 29, 2013. However, this type of pay is not exclusively identified and defined as reportable special compensation pursuant to Government Code Section 20636 and CCR Section 571. As a result, special compensation was over reported.

In addition, the Metro-Community Oriented Policing Team pay was not listed or defined in the Agency's written labor policy. Instead, the written labor policy stated that employees would receive Special Assignment Pay, which cover, but does not define, numerous types of pay. All special compensation must be

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## CITY OF WESTMINSTER

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contained in a written labor policy or agreement and must indicate the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation. It must also not reference another document in lieu of disclosing the item of special compensation. Furthermore, the special compensation must be exclusively identified and defined as reportable special compensation pursuant to Government Code Section 20636 and CCR Section 571. If the compensation does not meet any of these requirements it does not qualify as special compensation and should not be reported 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 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 report the monetary value for the purchase and maintenance of uniforms as special compensation.

The Agency should ensure the conditions for payment of special compensation items are contained in a written labor policy or agreement as required.

The Agency should only report items that qualify as special compensation as stated in the Government Code and CCR.

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: § 571

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# CITY OF WESTMINSTER

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2: The Agency incorrectly reported payrate and earnings for a retroactive salary adjustment.

**Condition:**

- A. The Agency reported a payrate that exceeded the maximum payrate listed in the Agency's pay schedule. Specifically, the Agency reported a monthly payrate of \$17,701.53 for the City Manager in the pay period ended November 29, 2013. However, the Agency's pay schedule effective July 24, 2013 listed a monthly payrate of \$17,583.33. The definition of a payrate in Government Code Section 20636 requires that payrates reported to CalPERS are pursuant to a publicly available pay schedule. The Agency should not report amounts that exceed amounts reflected on its publicly available pay schedule. Similarly, Section 570.5 of the CCR limits payrate to the amount listed on a pay schedule that meets all of the enumerated requirements.
- B. In addition to reporting a payrate in excess of the maximum amount listed in the Agency's pay schedule as stated above, the Agency also reported an incorrect retroactive salary adjustment. Specifically, the City Manager received a retroactive pay increase of \$1,691.11 that was effective during the August 23, 2013 through October 17, 2014 period. The retroactive salary adjustment was determined using a payrate that exceeded the maximum amount listed on the pay schedule.

**Recommendation:**

The Agency should limit payrate to the amount listed on a pay schedule that meets all the Government Code and CCR requirements.

The Agency should ensure it reports retroactive adjustments to salaries that are within the amounts listed on the Agency's pay schedule as specified by the Government Code and CCR.

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.

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## CITY OF WESTMINSTER

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

**Condition:**

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

OAS identified discrepancies between the Agency's records and my|CalPERS database. Specifically, OAS identified four employees who had hire dates that were different from the hire dates in my|CalPERS. In addition, OAS identified four individuals who were retired; however, they had active or on leave of absence appointments in my|CalPERS. The Agency should work with the appropriate CalPERS division to make any corrections, if necessary.



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# CITY OF WESTMINSTER

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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

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BELIZ CHAPPUIE, CPA, MBA  
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Chris Wall, Senior Manager  
Rebecca Honeywell, Auditor  
Noah Schreier, Auditor  
Chris Lee, Auditor

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**CITY OF WESTMINSTER**

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# **APPENDIX A**

## **OBJECTIVES**

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# CITY OF WESTMINSTER

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## OBJECTIVES

The objectives of this review were limited to determine whether the Agency complied with:

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

Effective January 1, 2013, new enrollments are checked against the PEPRA definition of "new member," regardless of whether the enrollment is for a first time CalPERS member or an existing member. All members that do not fit within the definition of a new member are referred to as "classic members."

## METHODOLOGY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the Agency's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
  - Provisions of the contract and contract amendments between the Agency and CalPERS
  - Correspondence files maintained at CalPERS
  - Agency Board minutes and Agency Board resolutions
  - Agency written labor policies and agreements
  - Agency salary, wage, and benefit agreements including applicable resolutions
  - Agency personnel records and employee time records
  - Agency payroll information including Contribution Detail Transaction History reports
  - Documents related to employee payrate, special compensation, and benefits
  - Various other relevant documents
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meetings laws.

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## CITY OF WESTMINSTER

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- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's records to determine whether member census data agreed with my|CalPERS information.

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**CITY OF WESTMINSTER**

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# **APPENDIX B**

## **AGENCY'S WRITTEN RESPONSE**

Note: Names of individuals mentioned in the Agency's response were intentionally omitted from this appendix.



# City of Westminster

8200 Westminster Boulevard, Westminster, CA 92683 714.898.3311  
www.westminster-ca.gov

March 15, 2016

**CalPERS ID: 5339970252**  
**Job Number: SP15-012**

California Public Employees' Retirement System  
Office of Audit Services  
P.O. Box 942701  
Sacramento, CA 94229-2701  
Attn: Beliz Chappuie, Chief, Office of Audit Services

Dear Beliz,

I am providing this letter in response to your draft report of the audit CalPERS recently conducted on the City of Westminster's compliance with CalPERS regulations and the provisions of the Public Employees' Retirement Law (PERL).

Please see the attached information and let me know if you have any other additional questions.

Thank you,  
CITY OF WESTMINSTER

Original signed by Mike Harary

Mike Harary  
Director of Human Resources & Risk Management  
[mharary@westminster-ca.gov](mailto:mharary@westminster-ca.gov)  
714-548-3194

Cc: Eddie Manfro, City Manager  
Sherry Johnson, Accounting Manager

TRI TA  
Mayor

SERGIO CONTRERAS  
Mayor Pro Tem

DIANA LEE CAREY  
Council Member

TYLER DIEP  
Council Member

MARGIE L. RICE  
Council Member

EDDIE MANFRO  
City Manager

**CITY OF WESTMINSTER**  
**RESPONSE TO CALPERS DRAFT AUDIT**  
**MARCH 15, 2016**

The information below includes a summary of the CalPERS recommendations as noted in the draft audit dated February 26, 2016 for the City to achieve compliance, and the City's response to each of the recommendations:

**CalPERS Recommendations:**

1. The Agency should report the monetary value for the purchase and maintenance of uniforms as special compensation.
  - *City Response: Concur. The City of Westminster concurs and will include language in the next MOU between the City and the Westminster Police Officers' Association (and the Westminster Administrative Employees Salary Resolution for the Police Chief position) that includes a specific \$ value of these uniforms and will immediately begin reporting this value to CalPERS on a go-forward basis as another element of "special compensation."*
  
2. The Agency should ensure the conditions for payment of special compensation items are contained in a written labor policy or agreement as required.
  - *City Response: Concur. The City of Westminster will include language in the next MOU between the City and the Westminster Police Officers' Association that includes a specific \$ value for uniforms. In addition, the City will be referencing a specific pieces of Section 571(a) of the CalPERS Regulations for each item of special compensation noted in each MOU to ensure each item is considered compensation earnable by CalPERS in the future. Our current practice is to include the \$ amount actually expended by each employee who purchases their uniforms on an as-needed basis. We will change this pursuant to an agreement with the Police Association during the next negotiations.*
  
3. The Agency should only report items that qualify as special compensation as stated in the Government Code and CCR.
  - *City Response: Further Discussion Needed.*
    1. *Continuous Meritorious Service Pay (CMS): The City of Westminster has always paid and reported the value of "Continuous Meritorious Service Pay" as "special compensation" and CalPERS has always recognized this as a legitimate form of "special compensation" for prior City retired annuitants. The City has also paid the PERS 'tax' on top of this element of compensation to CalPERS for all employees who receive this benefit. While the City recognizes this CMS pay doesn't qualify as a true form of "longevity pay" in CalPERS's opinion since an employee needs to qualify*

*for this pay based on service and merit, the fact remains every City employee who met the minimum service level of 21 years to 25 years has been granted this benefit. The City respectfully requests CalPERS continue to honor this CMS pay as “special compensation” for those employees who retire with this CMS pay as part of their final year of compensation. In the meantime, the City will need to re-negotiate this benefit and update the language in the MOU so it fits with the CalPERS guidelines of “longevity pay” and qualifies as “special compensation” once these employee MOU’s are next finalized.*

2. Special Assignment Pay – Metro-Community Oriented Policing Team: *The City of Westminster has always paid and reported the value of 10% special assignment pay for special assignments within the Police Department for employees covered by the WPOA MOU as “special compensation.” CalPERS has always recognized these as legitimate forms of “special compensation” for City retired annuitants. The City recognizes the existing MOU language for “Special Assignment Pay” within the Police Association contract is very broad (allowing for “Special Assignment pay enhancement at the rate of 10% of base salary to be received upon the completion of one year in a special assignment.” However, the Police Department has numerous functions within their operation that qualify as “special assignments” with its corresponding compensation qualifying as “special compensation” pursuant to Section 571(a) of the CalPERS Regulations. Delineating each form of special assignment in the next MOU (i.e., detectives, motors, K-9, administration, professional standards unit, etc.) will require some discussions during the next upcoming labor contract discussions with the Police Association. The City will commit to including more specific language that meets these CalPERS definitions of special compensation in the next MOU with the Police Association, subject to agreement by the labor group. In the meantime, the City respectfully requests CalPERS continues to acknowledge this 10% pay for all City “special assignments” as compensation earnable for current and future retirees.*

4. 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.

- City Response: Further Discussion Needed. *The City is highly concerned that any adverse adjustments made toward a retired annuitant’s pension benefits could result in legal action against the City, and CalPERS for that matter. The City would respectfully suggest that CalPERS does NOT make any negative adjustments to pension benefits for existing retired annuitants. As far as future retirees, we are willing to discuss those issues further with CalPERS to ensure compliance with CalPERS regulations.*



5. The Agency should limit payrate to the amount listed on a pay schedule that meets all the Government Code and CCR requirements.

- City Response: Concur. *The City Manager and staff recognizes the payrate noted for the City Manager in the salary Resolution (\$17,583.33) is less than the payrate being reported to CalPERS (\$17,701.53) that the City is currently paying the City Manager. The City will include the actual payrate of \$17,701.53 in the next Salary Resolution that covers the City Manager's compensation.*

6. The Agency should ensure it reports retroactive adjustments to salaries that are within the amounts listed on the Agency's pay schedule as specified by the Government Code and CCR.

- City Response: Concur

7. 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.

- City Response: Further Discussion Needed. *As noted above under item #4, the City is concerned that any adverse adjustments made toward a retired annuitant's pension benefits could result in legal action against the City, and CalPERS for that matter. The City would respectfully suggest that CalPERS does NOT make any negative adjustments to pension benefits for existing retired annuitants. As far as future retirees, we are willing to discuss those issues further with CalPERS to ensure compliance with CalPERS regulations.*

8. The Agency's records do not agree with CalPERS records.

- City Response: The hire date discrepancies for the following four (4) City employees as referenced on page #2 of Appendix B of the audit are due to those employees beginning City employment as part-time, non-benefited employees and then being promoted to full time:





**Conclusion**

This concludes the City's response to this draft report. Please feel free to contact me directly at 714-548-3194 or via e-mail at [mharary@westminster-ca.gov](mailto:mharary@westminster-ca.gov) Thank you.