

Office of Audit Services



Public Agency Review

City of San Leandro

CalPERS ID: 7713051229
Job Number: P13-005

September 2014



California Public Employees' Retirement System
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September 19, 2014

CalPERS ID: 7713051229
Job Number: P13-005

LaTanya L. Bellow, Human Resources Manager
City of San Leandro
835 E. 14th Street, Civic Center
San Leandro, CA 94577

Dear Ms. Bellow:

Enclosed is our final report on the results of the public agency review completed for the City of San Leandro (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues except for Finding 2. We appreciate the additional information regarding Finding 2. However, after consideration of the information, our recommendations 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 Phyllis Miller
PHYLLIS MILLER, Acting Chief
Office of Audit Services

Enclosure

cc: Council, City of San Leandro
David Baum, Finance Director, City of San Leandro
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Renee Ostrander, Assistant Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

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RESULTS IN BRIEF

The primary objective of our review was to determine whether the City of San Leandro (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 schedule did not meet all the Government Code and CCR requirements.
- Employer Paid Member Contributions were incorrectly reported.
- Special compensation was not reported as required by CCR Section 571.
- Payrates were incorrectly 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 July 1, 1944, to provide retirement benefits for local fire fighters, local police officers and miscellaneous 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 2013-14, 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, 2010 through June 30, 2013. The employees selected were not subject to the Public Employees' Pension Reform Act of 2013. The on-site fieldwork for this review was conducted from July 29, 2013 through August 2, 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: Agency's pay schedule did not meet all the requirements of the Government Code and CCR.

Condition:

The Agency's pay schedule effective January 1, 2013 that listed the City Manager position and payrate was not duly approved and adopted by the City Council in accordance with requirements of applicable public meeting laws. Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered when 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. According to 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.
- 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).

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Recommendation:

The Agency should ensure pay schedules are approved by the Agency's governing body as required by the Government Code and CCR.

The Agency should work with CalPERS Customer Account Services Division (CASD) to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636(a), § 20636(b)(1), § 20636(d)
CCR: § 570.5

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2: The Agency incorrectly reported Employer Paid Member Contributions.

Condition:

Although statutorily allowed, the Agency incorrectly reported the value of Employer Paid Member Contributions (EPMC) as special compensation for three non-represented management employees and one police officer in the pay period ending June 30, 2013. The value of EPMC was not reportable as special compensation because the Agency did not have a resolution to pay and report the value of EPMC for non-represented management. In addition, the Agency had a resolution to pay six percent EPMC for the Police Officers' Association members, but it did not specify to report value as special compensation. Therefore, the value of EPMC is not reportable as special compensation.

Recommendation:

The Agency should only report the value of EPMC if the governing body has approved a resolution to report this value as an item of special compensation.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636(c)
CCR: § 569, § 571

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3: The Agency did not report special compensation as required by CCR.

Condition:

- A. The Agency did not report the monetary value for the purchase of uniforms as special compensation for employees required to wear uniforms. The Agency provides uniforms for Public Work employees. CCR Section 571 requires that the monetary value for the purchase, rental and/or maintenance of required clothing, a statutory item, be reported as special compensation. Additionally, the conditions for payment of the uniforms, including, but not limited to, eligibility for, and amount of, was not contained in a written labor policy.
- B. The Agency incorrectly included \$223.73 of Management Incentive Pay in the reported regular earnings for an employee in the pay period ending June 30, 2013. Management Incentive Pay is exclusively listed as special compensation and must be reported separate from base payrate and regular earnings.
- C. The Agency incorrectly reported Temporary Upgrade Pay as special compensation during the pay period ending June 30, 2013 for a management employee. The conditions of the Temporary Upgrade Pay were not contained in a written labor policy or agreement duly approved and adopted by the Agency's governing body. As a result, the Temporary Upgrade Pay should not be included as special compensation.
- D. The Agency did not report special compensation of Holiday Pay earned by an employee who worked on a holiday in the pay period ending May 31, 2013. The employee was required to work without regard to holidays and received additional compensation. Pursuant to CCR Section 571, Holiday Pay is a statutory item and should have been reported to CalPERS as special compensation.

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, available to all members in the group or class, part of normally required duties, performed during normal hours of employment, paid periodically as earned, historically consistent with prior payments for the job classification, not paid exclusively in the final compensation period, and not final settlement pay.

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Recommendation:

The Agency should report Holiday Pay and Uniform Allowance as special compensation.

The Agency should ensure special compensation items are contained in a written labor policy or agreement as required by the CCR.

The Agency should discontinue reporting special compensation as base payrate and regular earnings.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20120, § 20121, § 20160, § 20630(b), § 20636
CCR: § 571

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4: The Agency incorrectly reported payrates.

Condition:

- A. The Agency incorrectly included the value of member paid contributions in an elected official's reported payrate in the pay period ending June 30, 2013. The Agency should not report the value of member paid contributions in payrate. As a result, payrates were over reported to CalPERS and did not agree with the payrate listed in the Agency's pay schedule.
- B. The Agency incorrectly included the value of EPMC in payrates for its employees in the pay period ending June 30, 2013. As a result, the payrates were over reported to CalPERS and did not agree with the payrates listed in the Agency's pay schedule.

Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to the payrate and earnings reported for a member.

Recommendation:

The Agency should ensure payrates are correctly reported and in accordance with approved pay schedules.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20630, § 20636
CCR: § 570.5

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as 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, California Code of Regulations.

Respectfully submitted,

Original signed by Phyllis Miller

PHYLLIS MILLER, CPA, CIA

Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Alan Feblowitz, CFE, Manager
Adeeb Alzanoon, Auditor
Terry Heffelfinger, 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 meeting 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 960 hours were worked in a fiscal year.
- ✓ 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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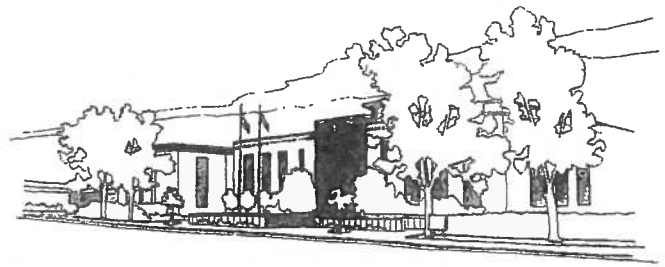
APPENDIX B

AGENCY RESPONSE

NOTE: The names of some individuals mentioned in the Agency's response were intentionally redacted from the response.

City of San Leandro

Civic Center, 835 E. 14th Street
San Leandro, California 94577
www.sanleandro.org



July 22, 2014

Margaret Junker, Chief
California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Re: City of San Leandro response to CalPERS' audit draft report

Dear Ms. Junker,

Please find below the City of San Leandro's response to the draft report on CalPERS' compliance review of our agency.

- **CalPERS Finding #1: Agency's pay schedule did not meet all the requirements of CCR Section 570.5.** The finding asserts that the pay schedule listing the City Manager's position and payrate was not approved and adopted by the City Council.

City Response: The City agrees with this finding. Although not in the format of a salary schedule, the City Council did approve the City Manager's position and payrate when the governing body approved the City Manager's employment contract on November 19, 2012.

- **CalPERS Finding #2: The Agency incorrectly reported Employer Paid Member Contributions.** The finding asserts that the City incorrectly reported the value of Employer Paid Member Contributions (EPMC) as special compensation for three non-reported management employees and one police officer.

City Response: The City agrees with the finding on the three non-reported management employees. However, the City was consulted with a CalPERS contract analyst at the time the contracts were adopted and was not advised to submit a resolution. The City will work with CalPERS to create the appropriate resolution for this employee group.

The City disagrees with the finding on the police officer. The City submitted a draft resolution for the San Leandro Police Officer's Association EPMC to _____, CalPERS contract analyst, in June 2013 prior to City Council approval and submission to CalPERS. _____ was asked to review the draft resolution and was provided the MOU provisions. She would have also been aware of the City's historical and current provision to report EPMC as special compensation. However, _____ did not inform or counsel the City that special language needed be included in the

Stephen H. Cassidy, Mayor

City Council:

Pauline Russo Cutter
Jim Prola

Michael J. Gregory
Ursula Reed

Benny Lee
Diana M. Souza



did not inform or counsel the City that special language needed be included in the resolution to CalPERS. The City relies on CalPERS subject matter experts to ensure that submitted documentation is in compliance with the appropriate regulations and codes.

- **CalPERS Finding #3A: The Agency did not report special compensation as required by the CCR.** The finding asserts that the Agency did not report the monetary value of uniforms as special compensation.

City Response: The City agrees with this finding. However, the value of the uniform was not reported because the City determined that the T-shirt that Public Works employees receive is a de minimis amount.

- **CalPERS Finding #3B:** The finding asserts that the Agency incorrectly included \$223.73 of Management Incentive Pay in the report regular earnings for an employee.

City Response: The City agrees with this finding. However, the practice of reporting special compensation with regular earnings was historically an accepted practice by CalPERS. The City also frequently communicates with the CalPERS Compensation Review Unit on reporting and uploading issues, yet this issue has never been brought to the City's attention for correction.

- **CalPERS Finding #3C:** The finding asserts that the Agency incorrectly reported Temporary Upgrade Pay as special compensation.

City Response: The City agrees with this finding. The conditions of the City's temporary upgrade pay are contained in an administrative policy, but the policy was not approved by the City Council. The City understands that language regarding temporary upgrade pay should be contained in a labor agreement approved by the City Council.

- **CalPERS Finding #3D:** The finding asserts that the Agency did not report special compensation of Holiday pay.

City Response: The City agrees with this finding. The City's procedure in paying holiday pay was in accordance with provisions contained in the MOU between the City and the San Leandro Police Officers' Association. The City now understands that the procedure is not in compliance with CalPERS' reporting requirements. .

- **CalPERS Finding #4A: The Agency incorrectly reported payrates.** The finding asserts that the City incorrectly included the value of member paid contributions in an elected official's reported payrate.

City Response: The City agrees with this finding. The City believes this was a one-time system error caused by our payroll software. The City is aware that the value of a member's contributions should not be reported in the payrate.

- **CalPERS Finding #4B:** The finding asserts that the City incorrectly included the value of EPMC in payrates for its employees in the pay period ending June 30, 2013.

City Response: The City agrees with this finding. However, the practice of reporting special compensation with regular earnings was historically an accepted practice by CalPERS. The also City frequently communicates with the CalPERS Compensation Review Unit on reporting and uploading issues, yet this issue has never been brought to the City's attention for correction.

If there are questions regarding our responses, please contact me at (510) 577-3399.

Sincerely,

A handwritten signature in black ink, appearing to read 'LaTanya Bellow', with a long horizontal flourish extending to the right.

LaTanya Bellow

Human Resources Manager