

Office of Audit Services



CalPERS

Public Agency Review

City of Union City

CalPERS ID: 2699451559
Job Number: SP15-017

July 2016



California Public Employees' Retirement System
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July 29, 2016

CalPERS ID: 2699451559
Job Number: SP15-017

Mark Carlson, Finance Director
City of Union City
34009 Alvarado-Niles Road
Union City, CA 94587

Dear Mr. Carlson:

Enclosed is our final report on the results of the public agency review completed for the City of Union City (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted 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. 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 Union City
Bonnie Roland-Williams, HR Manager, City of Union City
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 UNION CITY

TABLE OF CONTENTS

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

CITY OF UNION CITY

RESULTS IN BRIEF

The objective of our review was to determine whether the City of Union City (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 three of this report.

- Contributions and special compensation were not reported in accordance with the Government Code and CCR.
- Retroactive adjustments were incorrectly reported.
- 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 April 16, 1968 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.

CITY OF UNION CITY

OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency did not pay contributions and report special compensation in accordance with the Government Code and CCR.

Condition:

- A. The Agency incorrectly reported the value of Employer Paid Member Contributions (EPMC) as special compensation for contributions reimbursed by police and management employees in the pay period ended June 30, 2013. Specifically, the Memorandum of Understanding (MOU) for the Police Officers Association, Police Management Association, and Management Employees stated the Agency would pay the member contributions for the employees. The MOU also stated the Agency would report the value of the EPMC as special compensation. However, the employees were required to reimburse the Agency for the contributions. The Government Code Sections 20691 and 20636(c)(4) state that a contracting agency can pay all or a portion of the member contributions and the same amount of the contributions can be reported as special compensation. By requiring the employees to reimburse the contributions, the Agency did not comply with Government Code Section 20691, and, therefore the contributions were not reportable as special compensation.
- B. The Agency incorrectly reported Education Pay as special compensation for police safety employees. Specifically, the Education Pay did not meet the definition of special compensation as defined in the Government Code Section 20636 and CCR Section 571. The Agency's Police Officers Association MOU stated that police safety employees who obtained certain certificates or degrees would receive Educational Incentive Pay in increments of 2.5 percent, 5 percent, and 7.5 percent. OAS determined that 2.5 percent Educational Incentive Pay was reportable; however, the Education Incentive Pay of 5 percent and 7.5 percent were not reportable because employees were required to work for a certain number of years before they could qualify for the Education Incentive Pay. Education Incentive Pay is defined in CCR Section 571 as compensation to employees for completing educational courses, certificates, and degrees that enhance their ability to do their job. There is no requirement in the definition to work for a specified period of time in order to qualify for the pay. Therefore, Education Incentive Pay of 5 percent and 7.5 percent did not meet the definition listed in the Government Code and CCR and were not reportable as special compensation.

CITY OF UNION CITY

- C. The Agency over reported special compensation. Specifically, the Agency doubled the amount of Education Incentive Pay, Longevity Pay, and Special Investigator Pay reported to CalPERS for three police safety employees in pay periods ended October 27, 2013, August 4, 2013, and January 5, 2014. The Agency reported the pays as special compensation and also included the pays as part of the employees' payrate. In some cases, the pays did not meet the definition of special compensation and should not have been reported as referenced in Finding 1B. The Agency should report the pays once as special compensation separate from payrate.

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.

Recommendation:

The Agency should only report compensation that complies with the Government Code and the CCR.

The Agency should report special compensation separate from payrate.

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, § 20691

CCR: § 569, CCR: § 571

CITY OF UNION CITY

2: The Agency incorrectly reported retroactive pay adjustments.

Condition:

The Agency incorrectly reported a retroactive salary adjustment for a police safety employee that covered the period February 7, 2014 through August 17, 2014. Specifically, the Agency reported special compensation as part of regular earnings and reported an incorrect payrate. In addition, the Agency reported the adjustment for the period March 3 through March 16, 2014. The Agency should have reported special compensation separate from regular earnings, with the correct payrate, and for the period earned.

Retroactive adjustments for regular earnings and special compensation should be reported to CalPERS separately and in the period earned. In addition, retroactive pay adjustments must be accurately reported as they contain several factors that can affect employees' retirement calculations and benefits.

Recommendation:

The Agency should ensure retroactive adjustments are correctly reported.

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, § 20636
CCR: § 571

CITY OF UNION CITY

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

One employee had a hire date in my|CalPERS of January 22, 2001; however the Agency records indicate the employee's actual hire date was May 23, 2000. OAS recommends the Agency work with the appropriate CalPERS division to make any corrections, if necessary.

CITY OF UNION CITY

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
Alan Feblowitz, CFE, Senior Manager
Cheryl Livingston, Manager
Jose Martinez, Lead Auditor
Patrick McCasland, Lead Auditor
Noah Schreier, Auditor
Monica Bynum, Auditor

CITY OF UNION CITY

APPENDIX A

OBJECTIVES

CITY OF UNION CITY

OBJECTIVES

The objectives of this review were 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 procedures prescribed in the Agency's retirement contract with CalPERS.

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.
- ✓ 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.

CITY OF UNION CITY

APPENDIX B

AGENCY'S WRITTEN RESPONSE



34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA 94587
(510) 471-3232

July 25, 2016

Beliz Chappuie, Chief
Office of Audit Services
CalPERS
POB 942701
Sacramento, CA 94229-2701

Please allow this letter to serve as the city of Union City's official response to your audit findings letter of June 30, 2016. We are in agreement with the findings of the audit and will be taking all necessary steps to comply with those findings.

One item that was not addressed in your findings is the significant overpayment by the City to CalPERS as it relates to the EPMC calculation. The City will begin an internal process to determine the amount of the overpayment and will be in contact with CalPERS accordingly.

Sincerely,

Mark Carlson, CPA
Finance Director

Original signed by Mark Carlson