

# **Office of Audit Services**



# **CalPERS**

## **Public Agency Review**

### **City of Concord**

**Employer Code: 1613  
CalPERS ID: 7341818712  
Job Number: P11-011**

**September 2013**



California Public Employees' Retirement System  
Office of Audit Services  
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September 25, 2013

Employer Code: 1613  
CalPERS ID: 7341818712  
Job Number: P11-011

City of Concord  
Kathy Ito, Director of Human Resources  
1950 Parkside Drive  
Concord, CA 94519

Dear Ms. Ito:

Enclosed is our final report on the results of the public agency review completed for the City of Concord. Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Findings 3, 4, and 11. These issues remain as stated in the report. However, we have added clarifying language to Findings 3, 4, and 11. 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 City and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed By Margaret Junker  
MARGARET JUNKER, Chief  
Office of Audit Services

Enclosure

cc: City Council, City of Concord  
Karan Reid, Director of Finance, City of Concord  
Patty Kreyborg, Senior Human Resources Analyst, City of Concord  
Risk and Audit Committee Members, CalPERS  
Gina M. Ratto, Interim General Counsel, CalPERS  
Karen DeFrank, Chief, CASD, CalPERS  
Anthony Suine, Chief, BNSD, CalPERS

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## RESULTS IN BRIEF

The California Public Employees' Retirement System (CalPERS) Office of Audit Services (OAS) reviewed the City of Concord's (City) enrolled individuals, member compensation, retirement information and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- Pay schedule did not identify the position title and payrate for each position.
- Payrates were higher than those listed on a publicly available pay schedule.
- Special compensation was reported with payrate and earnings.
- Value of Employer Paid Member Contributions (EPMC) was under-reported.
- Value of EPMC was not reported.
- Value of EPMC was erroneously reported.
- Special compensation was over-reported.
- Value of uniforms was not reported.
- Part-time employee was not enrolled into membership.
- Eligible employees hired through a temporary employment agency were not properly enrolled.
- Retired annuitants' salary exceeded the salary paid to other employees performing comparable duties.

## CITY BACKGROUND

The City was incorporated in 1905, is a general law city, and operates under the Council-Manager form of government. Its governing body, the City Council, is comprised of five elected members. The Council hires the City Manager, who is then responsible for all management functions of the City. Memoranda of Understanding (MOU) and employment agreements outline City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees. The City contracted with CalPERS effective June 21, 1993 to provide retirement benefits for local safety (police) and miscellaneous employees.

All contracting public agencies, including the City, are responsible for the following:

- Determining CalPERS membership eligibility for its employees.
- Enrolling employees into CalPERS upon meeting membership eligibility criteria.
- Enrolling employees in the appropriate membership category.
- Establishing the payrates for its employees.
- Approving and adopting all compensation through its governing body in accordance with requirements of applicable public meeting laws.

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- Publishing all employees' payrates in a publicly available pay schedule.
- Identifying and reporting compensation during the period it was earned.
- Ensuring special compensation is properly identified and reported.
- Reporting payroll accurately.
- Notifying CalPERS when employees meet Internal Revenue Code annual compensation limits.
- Ensuring the employment of a retired annuitant is lawful and reinstating retired annuitants that work more than 960 hours in a fiscal year.

## SCOPE

As part of the Board approved plan for fiscal year 2011/2012, the OAS reviewed the City's payroll reporting and member enrollment processes as these processes relate to the City's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2008 through June 30, 2011. The on-site fieldwork for this review was conducted on December 5, 2011 through December 9, 2011. The review objectives and a summary of the procedures performed are listed in Appendix B.

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# CITY OF CONCORD

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

**Finding 1:** Pay schedule did not identify the position title and payrate for each position.

***Recommendations:***

The City should list all employee payrates on a pay schedule and disclose the information pursuant to California Code of Regulations Section 570.5.

The City should work with CalPERS Customer Account Services Division (CASD) to ensure that the City develop publicly available pay schedules that meet the criteria of California Code of Regulations Section 570.5. In addition, the City should work with CASD to determine the impact of this nondisclosure and make the necessary adjustments to active and retired member accounts, if any, pursuant to Government Code Section 20160.

***Condition:***

The City's pay schedules did not identify the position title and payrate for each position and, therefore were not in compliance with the requirements for publicly available pay schedules. We examined the January 26, 2011 pay schedule, which was in effect during the sampled 6/11-3 service period to determine if it was in compliance with requirements for publicly available pay schedules. OAS determined the pay schedule did not identify seven of the positions for the sampled employees in our testing. The unidentified positions included City Attorney, City Manager, Concord Reuse Project Director, Council Member, Limited Service, Parks Program Manager and Reuse Project Executive Assistant.

When OAS inquired about the payrate for its limited service positions, the City provided another new salary schedule dated December 18, 2012 that listed the limited service positions. However, we found that the pay schedule did not specify the actual position title for the City's limited service positions. In addition, OAS observed that the payrate range for the limited service positions were broad. For example, the Limited Service Professional position, Job Code 0950, went from a low payrate of \$8.0190 an hour to \$161.8740 an hour, a range over 2,000 percent.

***Criteria:***

Government Code: § 20160, § 20636(b)(1), § 20636(d)

California Code of Regulations: § 570.5

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# CITY OF CONCORD

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**Finding 2:** Payrates were higher than those listed on a publicly available pay schedule.

***Recommendation:***

The City should only report payrates that are listed in publicly available pay schedules that have been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws. The City should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Condition:***

Payrates reported to CalPERS were higher than those listed in the City's publicly available pay schedule and/or authorized by employee contract for two of the sampled employees. We traced the payrates reported to CalPERS in the 6/11-3 service period to the publicly available pay schedule and the personnel documentation provided by the City.

A contract employee hired as the Reuse Project Director effective May 15, 2006 received an annual base salary of \$143,480 which converts to \$68.9808 an hour. He received a subsequent salary increase to \$78.9727 an hour on October 6, 2008. For the period of November 2008 through November 2009 the City reported an hourly payrate of \$136.1800 for this employee which was 72 percent higher than the payrate specified in the employee's contract. As a result, the City over-reported the payrate to CalPERS. Based on a review of the personnel forms, this employee was terminated November 14, 2008 and rehired on November 17, 2008 as a Limited Service Professional at \$136.1800 per hour to perform similar duties required of his previous Reuse Project Director position. Because there was no break in the employee's service or a contract amendment, the authorized payrate should remain at \$78.9727.

The second employee, Director of Information Technology, received a merit increase on October 6, 2008 which increased his hourly payrate to \$81.3516 an hour. The publicly available salary schedule in effect listed the top of the salary range at \$80.1613 an hour. Therefore, the hourly payrate reported was \$1.1903 higher than the maximum allowable per the publicly available pay schedule.

***Criteria:***

Government Code: § 20160, § 20630(b), § 20636(b)(1)

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# CITY OF CONCORD

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**Finding 3:** Special compensation was reported with payrate.

***Recommendation:***

The City should report special compensation separately from payrate pursuant to Government Code Section 20636.

The City should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Condition:***

The City included special compensation with base payrate for three of the sampled employees. The employees were in police classifications and had items of special pay added to their base payrate instead of being reported separately as special compensation. The first employee was a Police Officer whose hourly base payrate was listed in the publicly available pay schedule as \$41.1505; however, the City reported an hourly base payrate of \$53.8508. The reported base payrate included 5 percent corporal assignment pay, 10 percent master police officer pay, 10 percent police professionalization pay, and 3 percent special weapons and tactic team pay. The second employee was a Police Sergeant whose hourly base payrate was listed at \$53.2837 on the publicly available pay schedule; however, the City reported an hourly base payrate of \$61.5437. The reported base payrate included 10 percent police professionalization pay and 5 percent master police officer pay. The third employee was a Police Lieutenant whose hourly base payrate was listed at \$76.1469 on the publicly available pay schedule; however, the City reported an hourly payrate of \$81.8549. The reported base payrate included 7.5 percent police professionalization pay. We also noted that the City compounded the special pay items when calculating multiple special compensation amounts.

The City indicated in its response that adjustments to the members' accounts are not warranted since the pays were all CalPERS eligible compensation. However, as stated in the finding, OAS recommends the City report all reportable special compensation separately from payrate.

***Criteria:***

Government Code: § 20160, § 20636(b)(1) and (c)(1)



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**Finding 4:** Value of EPMC was under-reported.

***Recommendation:***

The City should report the correct value of EPMC for all employees.

The City should work with CASD to determine the impact of this under-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Condition:***

The value of EPMC was under-reported for five sampled employees. The City adopted various resolutions for paying and reporting the value of EPMC for certain employee groups, including the Police Management and Police Officer Representation Unit Employees group. Per Resolution No. 10-4735.11, the value of EPMC was to be paid and reported at six and one half percent for both groups effective July 12, 2010. OAS reviewed the value of EPMC reported in the 6/11-3 service period for five of our sampled police employees and determined that the City erroneously paid and reported the value of EPMC at four percent instead of six and one half percent.

Although OAS disclosed the finding to the City on prior to issuance of the draft report, OAS did not receive any additional resolutions or information to demonstrate that the value of EPMC was correctly reported. Subsequent to the issuance of the draft report, the City provided OAS a copy of Resolution 10-4735.19. The Resolution modified the EPMC to four percent for sworn employees. OAS will provide the Resolution to CASD. We continue to recommend the City work with CASD to meet the requirements of the California Code of Regulations section 571(a)(1) which states that a resolution or ordinance of the governing body must be provided to CalPERS indicating the group or class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation. The resolution or ordinance must be formally adopted by the employer's governing body, and submitted to CalPERS for review and approval.

***Criteria:***

Government Code: § 20160, § 20636(c)(4), § 20691

California Code of Regulations: § 571(a), § 571(a)(1)

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**Finding 5:** Value of EPMC was not reported.

***Recommendations:***

The City should report the value of EPMC to CalPERS for all eligible employees.

The City should work with CASD to identify the impact of this non-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Condition:***

The value of EPMC was not reported to CalPERS for two sampled employees. The City adopted various resolutions for paying and reporting the value of EPMC at six percent for certain employee groups, including miscellaneous management and confidential employees. We identified two employees, one in each referenced group, for whom the City did not report the value of EPMC in the sampled 6/11-3 and 12/10-4 service periods. One employee was working as the Reuse Project Director and the employee's contract included language stating that the Director would receive the same benefits as management employees. The other employee was working as the Reuse Project Executive Assistant and the employee's contract included language stating that the Assistant would receive the same benefits as other unrepresented employees. The City should have reported the value of EPMC for these two employees.

***Criteria:***

Government Code: § 20160, § 20636(c)(4), § 20691

California Code of Regulations: § 571(a), § 571(a)(1)

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**Finding 6:** Value of EPMC was erroneously reported.

***Recommendation:***

The City should discontinue reporting the value of EPMC for employees that are not eligible to receive this benefit.

The City should work with CASD to identify the impact of this erroneous reporting and make the necessary adjustments to active and retired City council member accounts pursuant to Government Code Section 20160.

***Condition:***

The City erroneously reported the value of EPMC for a sampled employee in the 12/10-4 and 6/11-3 service periods tested. The employee was a council member and the City did not have a resolution to pay and report the value of EPMC for council members.

***Criteria:***

Government Code: § 20160, 20636(c)(4), § 20691

California Code of Regulations: § 571(a), § 571(a)(1)

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# CITY OF CONCORD

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**Finding 7:** Special compensation was over-reported.

***Recommendation:***

The City should report special compensation separately from payrates and should calculate special compensation using base payrate.

The City should work with CASD to determine the impact of this over-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Condition:***

Special compensation was over-reported in the form of holiday pay and shift differential pay for two sampled employees. The City was incorrectly adding special compensation amounts to base pay (See Finding 3) which inflated the base pay used for calculating holiday pay and shift differential pay. The affected sampled employees were police personnel who were eligible for special compensation, such as, SWAT pay, police professionalization pay, and master police officer pay, which the City included in base payrate. Consequently, when the City calculated holiday pay and shift differential pay, the amounts were calculated using the inflated base payrate. This created an over-reporting of special compensation in the 6/11-3 service period tested.

***Criteria:***

Government Code: § 20160, § 20636 (a), § 20636 (b)(1), § 20636 (c)(1)

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# CITY OF CONCORD

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**Finding 8:** Value of uniforms was not reported.

***Recommendation:***

The City should ensure that the monetary value for the purchase and maintenance of uniforms is reported to CalPERS.

The City should work with CASD to determine the impact of this non-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

The City should work with CASD to ensure the required language is contained in the City's labor policy or agreement pursuant to Government Code Section 20636 and California Code of Regulations Section 571.

***Condition:***

The monetary value for the purchase and maintenance of uniforms was not reported to CalPERS. The City purchases and maintains uniforms for certain employees, including public works, building, and maintenance employees. The Administrative, Technical and Clerical, and Field and Operations MOU include the provisions that indicate the City provide and maintain uniforms. However, the value of uniforms was not reported to CalPERS. Compensation paid or the monetary value for the purchase, rental and/or maintenance of required uniforms must be reported to CalPERS as special compensation and appropriately contained in the City's written labor agreements per section 571 of the California Code of Regulations.

***Criteria:***

Government Code: § 20160, § 20636(c)(6)

California Code of Regulations: § 571(a), § 571(a)(5)

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## CITY OF CONCORD

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**Finding 9:** Part-time employee was not enrolled into CalPERS membership.

***Recommendation:***

The City should implement procedures to review and monitor the number of hours worked in a fiscal year by all temporary/part-time employees in order to enroll and report eligible employees when membership eligibility requirements are met.

The City should work with CASD to assess the impact of the membership eligibility issue and determine what adjustments are needed to all eligible employee accounts pursuant to Government Code Section 20160.

***Condition:***

The City did not enroll one sampled part-time employee when membership eligibility requirements were met. The employee worked a total of 1,004 hours in fiscal year 2010/2011 and met CalPERS eligibility in June 2011. The City did not enroll and report the eligible employee.

***Criteria:***

Government Code: § 20044, § 20160, § 20305(a)(3)(B)

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# CITY OF CONCORD

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**Finding 10:** Eligible employees hired through a temporary employment agency were not properly enrolled.

***Recommendation:***

The City should implement procedures to review and monitor the number of hours worked in a fiscal year by all temporary employment agency employees in order to enroll and report eligible employees when membership requirements are met.

The City should work with CASD to assess the impact of the membership eligibility issue and determine what adjustments are needed to all eligible employee accounts pursuant to Government Code Section 20160.

***Condition:***

Employees hired through a temporary employment agency worked more than 1,000 hours in a fiscal year and were not enrolled properly in CalPERS. We reviewed employee/employer relationship of six individuals that worked through temporary employment agencies. We determined that five of the individuals worked in employer/employee relationship for the City. In addition, we found that these individuals met the CalPERS membership eligibility requirement by working at least 1,000 hours in a fiscal year. However, the City did not enroll these individuals into CalPERS membership. OAS noted the following:

- The first individual worked at the City performing general office work/assistance for the Business License processing area and met CalPERS eligibility in May 2011.
- The second individual worked at the City performing IT Help Desk Phone Support and met CalPERS eligibility in January 2010.
- The third individual worked at the City performing administrative and financial analytical support for the IT Department and met CalPERS eligibility in March 2010.
- The fourth individual worked at the City performing accounts payable processing services and met CalPERS eligibility in February 2010.
- The fifth individual was working at the City performing accounts payable processing services and met CalPERS eligibility in March 2010.

***Criteria:***

Government Code: § 20044, § 20160, § 20305(a)(3)(B)

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**Finding 11:** Retired annuitants' salary exceeded the salary paid to other employees performing comparable duties.

***Recommendation:***

The City should pay retired annuitants in accordance with the criteria of Government Code Section 21224. The City should work with CalPERS Benefit Services Division (BNSD) to determine the impact of this noncompliance issue and make the necessary adjustments to retired annuitant accounts, if any, pursuant to Government Code Section 20160.

***Condition:***

Retired annuitants' salary exceeded pay of employees performing comparable duties. We compared the sampled retired annuitants' classification and payrates to the classification and payrates of comparable positions. OAS determined that three retired annuitants received compensation that was higher than other employees performing comparable duties. Specifically, we noted the following:

- A retired annuitant worked for the City in the 2009/2010 and 2010/2011 fiscal years performing comparable duties of a Confidential Secretary, Job Code 4571. According to the January 26, 2011 pay schedule that was in effect for that period, the salary for the comparable position was \$24.1360 to \$30.8042. The retired annuitant's payrate was \$35.2225.
- The second retired annuitant worked for the City in the 2009/2010 and 2010/2011 fiscal years performing comparable duties of a Programmer, Job Code 3701. According to the January 26, 2011 pay schedule that was in effect for that period, the salary for the comparable position was \$23.7067 to \$28.8143. The retired annuitant's payrate was \$60.6273
- The third retired annuitant worked for the City in the 2009/2010 and 2010/2011 fiscal years. The comparable position for the retired annuitant was a Permit Center Technician III, Job Code 3343. According to the January 26, 2011 pay schedule that was in effect for that period, the salary for the comparable position was \$23.7067 to \$28.8143. The retired annuitant's payrate was \$29.6354.

A retired annuitant's rate of pay shall not exceed that paid by the employer to other employees performing comparable duties.



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The City indicated in its response that one retired annuitant was misclassified and two retired annuitants were paid within the 2012 pay schedule range for the classifications. As stated in the finding, OAS recommends the City work with BNSD to resolve the issue.

***Criteria:***

Government Code § 20160, § 21224

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## CITY OF CONCORD

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**Observation:** Payrate ranges on the publicly available pay schedule were broad.

OAS also noted in the January 26, 2011 pay schedule that seven of our sampled employees had a low payrate amount and a high payrate amount with no payrate amounts listed in the steps in-between, and ranged over 27 percent between the low and high payrate amounts. The classifications of the sampled employees included the Chief of Police, Assistant City Manager, Director of Community/Recreation Services, Director of Finance, Director of Human Resources, Director of Information Technology, and Treasury Manager.

Per Government Code Section 20636(d), pay schedules must be available for public scrutiny. A payrate range cannot be so broad as to render the range unhelpful to the public when inspecting a pay schedule. The broad payrate ranges cause a lack of transparency resulting in insufficient information available to the public. In addition, the payrate is limited to the amount listed on a pay schedule that, among other things, is stated as either a single amount or multiple amounts within a range per section 570.5(a)(3) of the California Code of Regulations. CASD, in its sole discretion, will make a final determination in regard to this observation.

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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 B. OAS limited the test of transactions to employee samples selected from the City'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 Margaret Junker  
MARGARET JUNKER, CPA, CIA, CIDA  
Chief, Office of Audit Services

Date: September 2013

Staff: Cheryl Dietz, CPA, Assistant Chief  
Michael Dutil, CIA, CRMA, Manager  
Alan Feblowitz, CFE, Manager  
Terry Heffelfinger, Auditor  
Jodi Brunner, Auditor

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**CITY OF CONCORD**

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# **APPENDIX A**

## **BACKGROUND**

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# CITY OF CONCORD

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## BACKGROUND

### California Public Employees' Retirement System

CalPERS provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CASD manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides services for eligible members who apply for service or disability retirement. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employer's knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

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**CITY OF CONCORD**

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# **APPENDIX B**

## **OBJECTIVES**

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# CITY OF CONCORD

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## OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the City's retirement contract with CalPERS were followed.

This review covers the period of July 1, 2008 through June 30, 2011.

## SUMMARY

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

- ✓ Reviewed:
  - Provisions of the contract and contract amendments between the City and CalPERS
  - Correspondence files maintained at CalPERS
  - City Council minutes and City Council resolutions
  - City written labor policies and agreements
  - City salary, wage and benefit agreements including applicable resolutions
  - City personnel records and employee hours worked records
  - City payroll information including Summary Reports and CalPERS listings
  - Other documents used to specify payrate, special compensation, and benefits for all employees
  - Various other documents as necessary
- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to City 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 City's governing body in accordance with requirements of applicable public meeting laws.
- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.

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- ✓ Reviewed the City's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the City's enrollment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 960 hours were worked in a fiscal year.
- ✓ Reviewed the City's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the City's affiliated entities to determine if the City shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the City or by the affiliated entity.
- ✓ Reviewed the City'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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**CITY OF CONCORD**

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# APPENDIX C

## CITY'S WRITTEN RESPONSE

NOTE: The City provided attachments to the response which were intentionally omitted from this appendix.

CITY OF CONCORD  
1950 Parkside Drive  
Concord, California 94519-2578  
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Telephone: 925-671-3308



CITY COUNCIL  
Daniel C. Helix, Mayor  
Timothy S. Grayson, Vice Mayor  
Edi E. Birsan  
Laura M. Hoffmeister  
Ronald E. Leone

Thomas J. Wentling, City Treasurer  
Valerie J. Barone, City Manager

August 23, 2013

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

Re: City of Concord Audit  
Employer Code: 1613  
CalPERS I.D. No: 7341818712  
Job No: P11-011

Dear Ms. Junker:

This letter will serve as the City of Concord's response to the above-referenced June, 2013 Public Agency Review prepared by the CalPERS Office of Audit Services (OAS) as respects the City's payroll reporting and member enrollment processes for the period July 1, 2008 through July 30, 2011.

For ease of references, the responses are ordered in the same sequence as the findings in the June, 2013 Report.

#### Responses to OAS Findings

#### **Finding 1: Pay schedule did not identify the position title and pay rate for each position**

#### **City of Concord Response:**

The City agrees with the finding that during the July 1, 2008 to June 30 2011 period covered in the report prepared the CalPERS Office of Audit Services ("OAS Audit"), the City's official pay schedule did not identify the position title and pay rate for each position. Upon the recommendation made by CalPERS, the City has restructured and reformatted its salary schedule to identify all position titles and pay rates.

The contract and limited-service positions sampled by CalPERS during the audit process have been included on the City's publicly available salary schedule.

Our limited-service employees are placed into general classifications (i.e. Administrative Support, Public Safety, Professional, etc.) to allow flexibility in meeting the operational needs of our agency, and assigned pay rates that are in alignment with the pay of comparable positions within our standard classification plan.

The City looks forward to working with CASD to identify the impacts and make necessary adjustments to current limited-service classification and pay schedule structures, limiting the pay ranges that the City currently utilizes.

**Finding 2: Pay rates were higher than those listed on a publicly available pay schedule**

**City of Concord Response:**

The City agrees with the finding of the OAS Audit that actual pay rates were higher than those listed on the publicly available pay schedule. Upon the recommendation made by CalPERS, the City has restructured its salary schedule to list all maximum pay rates.

The contract employee included within the OAS Audit sample had been terminated from his contract position during the audit period due to the cessation of grant funding and rehired into a limited-service position paid through the general fund. Upon the renewal of grant funding the following year, the contract employee returned to his contract position. As referenced in our response to Finding 1, prior to the CalPERS audit, contract and limited-service positions and associated pay rates were not included on the City's publicly available salary schedule.

The executive employee included within the OAS Audit sample was participating in the City's Pay for Performance compensation plan during the audit period. Employees participating in the Pay for Performance program were eligible for incentive compensation awards (ICA) which were paid partly as increases to base salary and partly as lump sum bonuses. The awarded ICA was distributed between base pay rate and lump sum on a 70/30 percentage basis; 70% of the award was temporarily applied to current base pay rate and distributed over twenty-six (26) pay periods.

The ICA awarded to this executive employee provided a temporary increase to his base pay which, in turn, exceeded the maximum pay rate for that position on the City's publicly available salary schedule.

Effective July 2009, the City's Pay for Performance compensation plan was abolished. Currently, all executive and management employees are paid within the pay rates listed on the publicly available salary schedule.

The City looks forward to working with CASD to identify the impacts and make necessary adjustments to current member accounts.

**Finding 3: Special Compensation was reported with pay rate**

**City of Concord Response:**

The City disagrees with the finding; however, the reason the City incorrectly reported special pay was due to limitations in CalPERS' computer system. Specifically, prior to the implementation of the new myCalPERS system, there was no ability to report "Specialty Pays" as described in the attached Memorandum of Understanding (MOU) between the City of Concord and the Concord Police Association separately from base pay and "Special Compensation." In the City's interpretation of the MOU, Specialty Pays are considered a component of base pay. Pages 58-59 of the MOU contain detailed Pay Schedule indicating adjustments the Specialty Pays would have on Base Pay. Page 63 provides a detailed Pay Schedule indicating the impacts police professionalization pay would have on Base Pay. These individual pays were not included in the City's Base Pay Schedule as this simple schedule does not lend itself to the complexity of police Specialty Pays.

Therefore, the City views OAS's finding as improperly suggesting that the City inflated the amount of PERSable compensation reported to CalPERS. Regardless of the labeling of the pay as Base or Special Compensation, these pays are all PERS eligible compensation, and no adjustments to members' accounts are warranted.

With the implementation of the new myCalPERS system and effective as of June 27, 2011, Specialty Pays are now reported separately from base pay and special compensation.

In regard to the method of calculating multiple specialty pays and special compensation, the City's interpretation of the MOU is that multiple special pays and compensation are to be compounded and therefore are appropriately paid and reported.

**Finding 4: Value of EPMC was under reported**

**City of Concord Response:**

The City disagrees with Finding 4. Resolution 10-4735.11 referred to in this finding was superseded by Resolution 10-4735.19 (attached), which was approved by the City Council on November 16, 2010 and became effective January 10, 2011. The resolution modified the EPMC to 4% for sworn employees.

**Finding 5: Value of EPMC was not reported**

**City of Concord Response:**

The City agrees with this finding as the employment agreements state that the contract employees included within the OAS Audit sample are entitled to the same benefits as regular employees and there is no resolution in place stating otherwise. However, as of July 8, 2013, EPMC has been eliminated for miscellaneous employees and those employees now pick up the full employee portion of PERS. Copies of the applicable Resolutions: 13-4735.2, 13-4735.4, 13-4735.6, 13-4735.10 and 13-4735.12, are attached.

The City looks forward to working with CASD to identify the impacts and make necessary adjustments to member accounts on a prospective basis.

**Finding 6: Value of EPMC was erroneously reported**

**City of Concord Response:**

The City agrees with this finding as the City does not have a resolution in place stating that Elected Officials are to receive EPMC. However, as of July 8, 2013, EPMC has been eliminated for miscellaneous employees and those employees now pick up the full employee portion of PERS. Copies of the applicable Resolutions: 13-4735.2, 13-4735.4, 13-4735.6, 13-4735.10 and 13-4735.12 are attached.

The City looks forward to working with CASD to identify the impacts and make necessary adjustments to member accounts on a prospective basis.

**Finding 7: Special Compensation was over reported**

**City of Concord Response:**

The City agrees with this finding. Section 9.7.53 of the July 10, 2007 MOU (page 17) states that “specialty pay shall be paid for non-worked time, such as holidays, sick leave, vacation, or other paid leave.”

However, the reason the City incorrectly reported special pay was due to limitations in CalPERS’ computer system. Specifically, prior to the implementation of the new myCalPERS system, there was no ability to report “Specialty Pays” as described in the attached Memorandum of Understanding between the City of Concord and the Concord Police Association separately from base pay and “Special Compensation”. In the City’s interpretation of the MOU, Specialty Pays are considered a component of base pay. Pages 58-59 of the MOU contain detailed Pay Schedule indicating adjustments the Specialty Pays would have on Base Pay. Page 63 provides a detailed Pay Schedule indicating the impacts police professionalization pay would have on Base Pay. These individual pays were not included in the City’s Base Pay Schedule as this simple schedule does not lend itself to the complexity of police Specialty Pays.

Therefore, the City views OAS’s finding as improperly suggesting that the City inflated the amount of PERSable compensation reported to CalPERS. Regardless of the labeling of the pay as Base or Special Compensation, these pays are all PERS eligible compensation and no adjustments to members’ accounts are necessary.

With the implementation of the new myCalPERS system and effective as of June 27, 2011, Specialty Pays are now reported separately from base pay and special compensation.

**Finding 8: Value of uniforms was not reported**

**City of Concord Response:**

The City agrees with this finding. The City looks forward to working with CASD to identify the impacts and make necessary adjustments to member accounts on a prospective basis.

**Finding 9: Part-time employee was not enrolled into CalPERS membership**

**City of Concord Response:**

The City agrees with the finding that one part-time employee was not enrolled into CalPERS membership upon eligibility in June 2011.

This part-time employee exceeded the 999 hour limit by five (5) hours in fiscal year 2011. It has been determined that an hours tracking oversight was made by the employee's direct supervisor, who in turn, failed to notify the Human Resources Department of the employee's eligibility for enrollment into CalPERS membership. Effective January 7, 2012, the part-time employee in question resigned from employment with the City.

The City's Human Resources Department has implemented a standard bi-weekly report of part-time hours worked, and that report is distributed to the Department Heads for tracking purposes to ensure this oversight does not occur in the future.

The City looks forward to working with CASD to identify the impacts and make necessary adjustments to eligible member accounts on a prospective basis.

**Finding 10: Eligible employees hired through a temporary employment agency were not properly enrolled**

**City of Concord Response:**

The City agrees with this finding. The City will implement procedures to review and monitor the number hours worked in a fiscal year by temporary employment agency employees in order to enroll and report eligible employees when membership requirements are met.

Of the five individuals that CalPERS determined there was an employer/employee relationship, only one individual, Dianne Hoessel remains employed. The other individuals are no longer working with the City in any capacity.

**Finding 11: Retired annuitants' salary exceeded the salary paid to other employees performing comparable duties**

**City of Concord Response:**

The City agrees with the finding that one retired annuitant's salary exceeded the salary paid to other employees performing comparable duties, and also agrees with the CalPERS recommendation.

The retired annuitant included within the OAS Audit sample performing comparable duties of a Programmer was actually performing comparable duties of a Systems & Programming Manager. The City recognizes that this retired annuitant's salary exceeded the maximum salary paid to other employees performing comparable duties.

The City has reduced the retired annuitant's salary below the maximum salary paid to other employees performing comparable duties and will ensure that future retired annuitants are paid accordingly.

The City looks forward to working with CASD to identify the impacts and make necessary adjustments to current member accounts on a prospective basis.

The City disagrees with the finding that a retired annuitant performing comparable duties of a Confidential Secretary was paid a rate that exceeded the salary paid to other employees performing Confidential Secretary duties. The retired annuitant included within the OAS Audit sample was actually performing comparable duties of an Executive Legal Secretary and was paid \$35.2230 per hour, which is below the maximum hourly pay rate (\$35.7924) for that position.

The City disagrees with the finding that a retired annuitant performing comparable duties of a Permit Center Technician III was paid a rate that exceeded the salary paid to other employees performing Permit Center Technician III duties. The retired annuitant sampled by CalPERS during the audit process performing comparable duties of a Permit Center Technician III was paid \$29.6350 per hour, which is below the maximum hourly pay rate (\$29.6787) for that position.

#### Response to OAS Observation

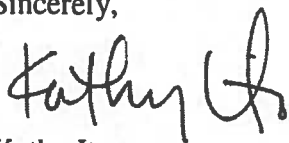
#### **Observation: Pay ranges on pay schedule were broad**

#### **City of Concord Response:**

The City disagrees with the observation that the pay ranges on the City's pay schedule are broad. The City has complied with the requirement set forth in California Code of Regulations §570.5(a)(3) mandating a Publicly Available Pay Schedule, in that the City's salary schedule shows the specific pay rate of each identified position, which may be stated as a single amount or as multiple amounts with a range.

In conclusion, the City of Concord thanks you and your staff for the input provided in the draft audit report, and welcomes any further questions you may have.

Sincerely,



Kathy Ito  
Director of Human Resources



Karan Reid  
Director of Finance

Attachments