

Office of Audit Services



CalPERS

Public Agency Review

City of Cypress

**Employer Code: 0537
CalPERS ID: 4977412527
Job Number: P13-015**

June 2014



California Public Employees' Retirement System
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June 20, 2014

Employer Code: 0537
CalPERS ID: 4977412527
Job Number: P13-015

City of Cypress
Cathy R. Thompson, Human Resource Director
5275 Orange Ave
City of Cypress, CA 90630

Dear Ms. Thompson:

Enclosed is our final report on the results of the public agency review completed for the City of Cypress (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for part of Finding 1, part of Finding 2 and Finding 4B. We appreciate the additional information regarding these findings that you provided in your response, and after consideration of this information we have added clarifying language to the condition of Finding 1. Additionally, we revised the recommendation related to Finding 4B. 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 Margaret Junker
MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: Council Members, City of Cypress
Matt Burton, Assistant Finance Director, City of Cypress
Risk and Audit Committee Members, CalPERS
Gina M. Ratto, Interim General Counsel, CalPERS
Renee Ostrander, Assistant Division 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 Cypress (Agency) complied with applicable sections of the California Government Code, California Code of Regulations (CCR) and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following findings during the review. Details are noted in the Results section beginning on page two of this report.

- Pay schedules did not meet all requirements of the CCR.
- Payrate for an elected official was incorrectly reported.
- Special compensation was not reported in accordance with applicable Government Code sections and the CCR.
- Payroll information was 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 May 1, 1964 to provide retirement benefits for local miscellaneous employees, local police and local firefighters. 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 2013/2014, OAS reviewed the Agency's payroll reporting and member enrollment processes as these processes relate to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2010 through June 30, 2013. The on-site fieldwork for this review was conducted from September 9, 2013 through September 12, 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: Pay schedules did not meet all requirements of the CCR.

Condition:

The Agency approved a future cost of living increase based on the consumer price index for the Maintenance Employees Association and the Employees Association. However, the governing body did not duly approve and adopt the updated pay schedules once the percentage change in the consumer price index was identified. In addition, the Agency's pay schedule did not list the position titles for the executive management employees under the Department Director classification, such as Police Chief, Director of Public Works and Director of Recreation and Parks. For purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount identified on a publicly available pay schedule.

Per CCR section 570.5, a pay schedule, among other things, must:

- Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws.
- Identify the position title for every employee position.
- Show the payrate as a single amount or multiple amounts within a range for each identified position.
- Indicate the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually.
- Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website.
- Indicate an effective date and date of any revisions.
- Be retained by the employer and available for public inspection for not less than five years.
- Not reference another document in lieu of disclosing the payrate.

Recommendation:

The Agency must ensure that all employees' payrates reported to CalPERS are included on pay schedules that are duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws.

The Agency should ensure publicly available pay schedules identify the position title for all employee positions and show the full-time payrate for each position.

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The Agency should work with CalPERS Customer Account Services Division (CASD) to ensure position titles for every employee position are identified in a publicly available pay schedule that has been duly approved and adopted by the employer's governing body in accordance with requirements CCR section 570.5.

Criteria:

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

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2: Payrate for an elected official was incorrectly reported.

Condition:

The Agency incorrectly reported a payrate of \$768.00 for a Council Member in June 2013. The amount reported as the Council Member's payrate should have been \$832.00 pursuant to the publicly available pay schedule. The Agency paid the elected official on a bi-weekly basis. However, the Agency incorrectly reported the earnings for two bi-weekly pay periods in one pay period, rather than reporting the actual full-time monthly payrate and corresponding earnings for each pay period as earned.

Recommendation:

The Agency should report payrates pursuant to publicly available pay schedules.

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

Criteria:

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

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3: Special compensation was not reported as required.

Conditions:

- A. The Agency incorrectly reported special compensation of uniform allowance for Police Officers. The Agency's Police Memorandum of Understanding allows for a uniform allowance of \$500.00. However, the Agency did not report the uniform allowance as earned. Government Code section 20630 requires that Agencies identify the pay period in which the compensation was earned regardless of when reported or paid.
- B. The Agency's Maintenance labor agreement does not address the monetary value of uniforms purchased and laundered for maintenance employees. The Agency's maintenance labor agreement only states that the Agency will provide and launder uniforms as determined by the Agency Personnel Officer. The CCR section 571 requires a written labor policy or agreement to include the condition for payment of uniform allowance, including, but not limited to, eligibility for, and the amount of the uniform allowance.
- C. The Agency incorrectly included special compensation of Lead Worker Pay in an employee's payrate and earnings. Specifically, the pay schedule listed the maximum monthly payrate for a maintenance worker as \$4,572.00. However, the Agency included special compensation of Lead Worker Pay in the payrate, which resulted in a reported payrate of \$4,799.00 and earnings of \$2,214.92 in the pay period ending June 20, 2013. Pursuant to CCR section 571, Lead Worker Pay is defined and listed as special compensation and should be reported separately from base pay and earnings.

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, not final settlement pay and not creating an unfunded liability over and above CalPERS actuarial assumptions.

Recommendation:

The Agency should ensure special compensation is reported in the periods in which it is earned and reported to CalPERS separate from payrate and regular earnings.

The Agency should work with CASD to ensure labor agreements contain all the required provisions for uniform allowance.

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

Criteria:

Government Codes: § 20049, § 20160, § 20630, § 20636(a), § 20636(c)(1),
§ 20636(c)(6)
CCR: § 571(a), § 571(b)

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4: The Agency reported incorrect payroll information.

Condition:

- A. The Agency incorrectly reported the work week hours for Police Officers. Specifically, the Agency reported 40 scheduled hours per week (2,080 hours per year) for the Police Officers. However, the Memorandum of Understanding (MOU) requires the Police Officers to work an average of 40.625 hours per week (2,112.50 hours per year), resulting in the under-reporting of the Police Officer's required average work week hours.
- B. The monthly payrates listed in the July 6, 2012 pay schedule did not agree with the hourly payrates listed in the same schedule for Police Officers and Police Sergeants. The payrates listed in the pay schedule did not match because the monthly payrates reflected an annual work schedule of 2,080 hours, and the hourly payrates listed reflected an annual work schedule of 2,112.50 hours. Payrates listed in a pay schedule should be consistent and reflect the appropriate rate of pay based on the employees normal work schedule. Government Code Section, 20636(b)(1) defines payrate as the normal rate of pay or base pay rendered during normal working hours and pursuant to public pay schedules. 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 for a member.

Recommendation:

The Agency should ensure the scheduled hours per week reported to CalPERS are pursuant to its MOU.

The Agency should ensure correct payrates are listed in the public pay schedules.

The Agency 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.

Criteria:

Government Codes: § 20121, § 20160, § 20630, § 20636(b)(1) § 20636(c)(2), § 20636(c)(6), § 20636.1(b)(1)
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 Margaret Junker
MARGARET JUNKER, CPA, CIA, CIDA
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, CIDA, Manager
Alan Feblowitz, CFE, Manager
Terry Heffelfinger, Auditor
Jose Martinez, 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.

This review covers the period of July 1, 2010 through June 30, 2013.

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 all 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 listing 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'S WRITTEN RESPONSE



CITY of CYPRESS

5275 Orange Avenue, Cypress, California 90630

Phone 714-229-6700 www.ci.cypress.ca.us

February 4, 2014

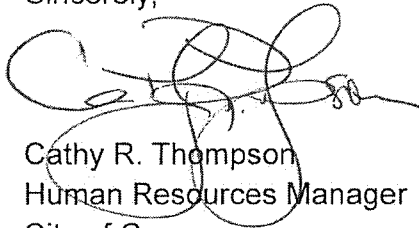
Margaret Junker, Chief – Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-7836

Dear Ms. Junker:

Thank you for giving the City of Cypress additional time to prepare a response to your "Public Agency Review" of the City of Cypress. Please find the City's written response to the "draft" audit report attached.

Please contact me at 714-229-6687 or by email at cthompson@ci.cypress.ca.us should you have any questions, concerns or require additional information in regard to the City's written response.

Sincerely,



Cathy R. Thompson
Human Resources Manager
City of Cypress

Enclosure

Leroy Mills, Mayor

Rob Johnson, Mayor Pro Tem
Prakash Narain, M.D., Council Member

Doug Bailey, Council Member
Mariellen Yarc, Council Member

1: Pay schedules did not meet all requirements of the CCR.

Response to Condition/Recommendation:

The City of Cypress does not agree with all the conditions asserted as part of the audit review. Specifically, the results state that "The Agency did not have pay schedules that were duly approved and adopted by its Board for employees of the Maintenance Employees Association and the Employees Association." This statement is misleading. During the meet and confer process, both the Maintenance Employees Association (MEA) and the Cypress Employees Association (CEA) agreed to a future Cost of Living Adjustment that was based upon a specified CPI factor as of a future date. The amount of the increase would range between 2% and 3%, based on this CPI factor. The City Council approved these increases as part of the Memorandum of Understandings between the City and the Employee Associations by formal action at regular meetings of the City Council. Once the CPI information became available, the information was shared with both the MEA and CEA and the new rates were calculated and distributed. The statement above can be perceived as if employee pay rates lacked the proper channel of approvals – which is not the case. All parties were aware of the negotiated pay rates. In the future if an MOU includes a pay increase that is tied to the CPI, the revised salary table that is created when the CPI factor becomes available will be formally presented to the City Council. This should satisfy the condition above and ensure that all pay schedules are formally submitted to the Council prior to the new pay rates going into effect.

The other condition noted in the audit related to the pay schedule of executive management and the City agrees to meet the recommendation. Several years ago, the City Council approved a resolution having a single salary range for all executive management (department director) positions. The resolution did not identify the individual department head position titles (Police Chief, Director of Public Works, etc.) since all executive management positions had the same salary range. However, the individual position titles (Police Chief, Director of Public Works, etc.) were maintained on the employee's personnel records and for CalPERS reporting and budget purposes. In response to this audit, the City has recently revised the resolution relating to executive management (department directors) and has listed each of the individual positions to match the personnel records, the approved budget and CalPERS reporting purposes.

2: Pay rate for an elected official was incorrectly reported.

Response to Condition/Recommendation:

The City was not aware that a Council Member's payrate is required to be reported as the monthly amount pursuant to the approved pay schedule, regardless of the timing of when earnings are actually paid. In August of 2003, the City of Cypress was contacted by CalPERS regarding payroll reporting for elected officials. At that time, the City was reporting elected officials' earnings to CalPERS to mirror how they were being processed in our payroll system, biweekly using an hourly pay rate. The hourly pay rate was based on the annual salary divided by the standard 2,080 hours (80 hours per each of the 26 biweekly periods in a year). CalPERS indicated that because the hourly rate was below minimum wage, the City needed to change the reporting to monthly – but the City could continue to report elected officials with other biweekly, hourly employees using the monthly CalPERS pay type and pay code. To comply with the request from CalPERS, the City began reporting elected officials as monthly beginning with the second biweekly payroll for the month of September 2003.

This new reporting of September 2003 resulted in the Council Member's pay being reported monthly, based on 26 biweekly payments. This resulted in having 10 periods reporting "four weeks" of CalPERS compensation (totaling \$768) and two periods reporting "six weeks" of CalPERS compensation (totaling \$1,152). On an annual basis, the total compensation reported for all Council Members has been correct.

The City will work with CalPERS to report elected officials pursuant to the approved pay schedules required of CalPERS. However, we do not agree that any adjustments to active and retired member accounts are necessary. The annual earnings reported for elected officials are correct.

3: Special compensation was not reported as required.

Response to Condition/Recommendation:

- A. The City was not aware that the uniform allowance for police officers needed to be reported as compensation in each pay period, regardless of when the allowance is paid. The City has reported the special compensation during the period the uniform allowance is paid (in accordance with the terms of the Memorandum of Understanding between the City and the Cypress Police Officers Association) and the amount reported for each individual police officer has always been correct (in total for each six month period). Therefore, the comment that the special compensation for uniform allowance was incorrect is somewhat misleading. The only reporting error relates to the timing of when the compensation was earned and reported to CalPERS, not the amount of the total

compensation. The City is open to making the necessary internal software changes which would provide for the suggested reporting to CalPERS of the special compensation for uniform allowance in each pay period.

- B. Many years ago, the City was instructed by CalPERS to report the value of any uniforms provided to maintenance workers – which resulted in the City reporting an imputed uniform special compensation amount since that time. The amount is based on the actual amount the City is invoiced by the uniform provider and changes periodically based on vendor pricing. The City was unaware that this imputed uniform allowance benefit (and associated value) needed to be incorporated into the labor agreement (Memorandum of Understanding between the City and Maintenance Employees Association). The City will work towards ensuring that future Memorandum of Understandings will incorporate the necessary language to document the terms of the uniform allowance benefit and associated value of such benefit.
- C. The City was unaware that the additional compensation for the lead worker assignment needed to be broken out as special compensation, rather than reported as part of the base payrate. Once again, it is important to note that the total compensation reported for each employee is correct. However, the City understands CalPERS position and is open to reporting the amount associated with the lead worker assignment as special compensation in the future.

4: The Agency reported incorrect payroll information.

Response to Condition/Recommendation:

- A. Regarding incorrect reporting of the work week hours for Police Officers, the City agrees that the scheduled full time hours per week have been incorrectly reported as 40.0 instead of 40.6. Although the flat file created from the City's payroll system for CalPERS reporting contains the correct information for the scheduled full time hours per week (40.6 hours), it appears the information is not translating correctly into the XML file which produces the payroll information that is sent to CalPERS via the MyCalPERS system. As a result, only 40 hours are being reported. This error has occurred each pay period since the City transitioned to the new CalPERS reporting in September 2011. The City will work to correct this internal software issue, which will result in the proper hours being reported to CalPERS.
- B. The City does not agree with the assertion that payrates and earnings were over-reported for police officers. The payrates and earnings reported for the police

officers used the correct hourly rate – that is correctly determined from the monthly amount reflected on the approved salary schedule. Police Officers are hourly employees, and are paid correctly based on the hourly rate shown on the salary schedule. As indicated in item A (above), Police Officers work an average of 40.6 hours per week (81.25 in a biweekly pay period). These hours are based on work schedules approved and documented as part of the Memorandum of Understanding (MOU) between the City and Police Officers Association. In annual terms, these work schedules result in 2,112.50 hours being worked (rather than the standard 2,080 for regular full-time employees). Because work schedules can be amended over time to meet the needs of the department, it is important to note that the calculated hourly rate is “driving” rate in determining annual compensation. The monthly amounts reflected in the salary schedule are based on annual hours of 2,080 and are for informational purposes only*. As mentioned above, the hourly rate is the negotiated and agreed upon rate for determining compensation. Police Officers have always been correctly reported to CalPERS using the agreed upon hourly pay rate included in the salary schedule. In order to avoid any confusion in the future, the City is agreeable to removing the monthly rate from Police Officer salary schedules in the MOU. However, the City is adamant that no adjustments to compensation are necessary for any active and retired members as a result of this issue.

*As an hourly employee, each month would have a different total salary based on scheduled work days. So whether monthly salary was based on 2080, 2112.50 or another amount of annual hours – the monthly reported amount would never be an exact monthly salary.