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Circular Letter: 200-025-16  
Distribution: IV, V, VI, X, XII, XVI

## Circular Letter

July 12, 2016

TO: **ALL CALPERS EMPLOYERS**

SUBJECT: **ADMINISTRATION OF CALPERS EMPLOYER COMPLIANCE REVIEWS**

The purpose of this Circular Letter is to provide information on the CalPERS compliance review process, finding resolution, and the most common findings.

### **Employer as Defined by Government Code Section 20030:**

The state, university, school employer, and any contracting agency employing an employee.

### **Background:**

CalPERS Office of Audit Services (OFAS) has conducted employer (agency) compliance reviews since 1991 to determine whether agencies comply with applicable sections of the California Government Code (GC), California Public Employees' Pension Reform Act of 2013, California Code of Regulations (CCR), and CalPERS contracts. OFAS performs these reviews to provide assurance to both CalPERS and contracting agencies of compliance with the Public Employees' Retirement Law and agencies' retirement contracts with CalPERS.

### **Authority to Review:**

CalPERS' authority to review agencies for compliance is stipulated in each agency's contract and in GC sections 20222.5, 22797, 7522.34(c)(11,12), 7522.72(g), and 7522.74(g).

### **Selection of Agencies to Review:**

CalPERS may select agencies to review based on the following factors:

- Annual risk assessments
- Direction from CalPERS management
- Anonymous tips
- Requests from the CalPERS Board
- Agency requests
- Other indications of non-compliance

**Scope of Reviews:**

The scope of the compliance review is defined in the beginning of each review and identifies the specific compliance areas to be examined.

**Compliance Review Process – What to Expect:**

1. Initial contact: OFAS auditor informs the agency staff of an upcoming review via telephone call.
2. Engagement letter: Within a few days of the initial contact, OFAS provides an engagement letter officially notifying the agency of the review, and detailing information expected to be available for the review.
3. Entrance conference: After sending the engagement letter, the auditor schedules an in-person or conference call meeting with OFAS and agency management to discuss the review objectives, process, and timeframes. The auditor asks questions about the agency and answers any agency questions about the review.
4. Planning: In this phase, the auditor gathers relevant information about the agency to prepare for review.
5. Fieldwork: The auditor interviews agency staff members to understand the agency's business processes and reviews selected records. The auditor then tests various transactions/records to achieve the review objectives.
6. Post-Fieldwork: The auditor may contact agency staff to seek further clarification, obtain additional information/documentation, or provide updates on audit findings.
7. Exit conference: At the completion of the review, the auditor summarizes the issues identified during the review. This is an opportunity for the agency to provide additional documentation or clarification that may have an impact on the compliance report.
8. Quality review: OFAS management performs a quality review to ensure all the issues identified during the review are supported. If issues are revised or added during this phase, the auditor contacts the agency to provide clarification and to explain those changes.

**Examples of information required to be provided either before or during the on-site visit:**

- Memorandum of Understanding, employment contracts, salary agreements
- Governing body meeting minutes
- Resolutions related to employee benefits
- Publicly available pay schedules
- Roster of employees who are CalPERS members, temporary/part-time employees, temporary agency employees, independent contractors, and retired annuitants
- IRS forms, 1099-Misc
- Audited financial statements and management letters
- Payroll registers
- Health benefit enrollment documents such as birth and marriage certificates and divorce decrees

**The compliance review program varies based on the type of assignment, and can include, but is not limited to, the following compliance areas:**

- Pay schedule
- Salary and compensation
- Contributions
- Excluded and optional positions
- Temporary and/or part-time employees
- Retired annuitants
- Employees of affiliated entities
- Retiring member unused sick leave certifications
- Health benefits
- Accuracy of data reported in my|CalPERS
- Processes related to disability retirement determinations

**Reporting of Findings:**

OFAS prepares a formal draft report, taking into account any revisions resulting from the exit conference and quality review. The draft report is considered confidential and provides the agency an opportunity to respond in writing prior to issuance of the final report. Once OFAS issues the draft report, the agency has 15 days to provide a written response.

The final report includes the agency's response and is issued to the agency's governing body and staff as well as relevant CalPERS divisions. The final report is publicly available and posted on [www.calpers.ca.gov](http://www.calpers.ca.gov).

**Compliance Review Follow-up and Finding Resolution:**

In accordance with the International Standards for the Professional Practice of Internal Auditing Standards, OFAS has a follow-up process to monitor findings and ensure management actions have been implemented effectively. The appropriate CalPERS division will contact the agency after the final report has been issued to ensure resolution of the findings.

**Common Compliance Review Findings:**

- Pay schedule does not meet all of the California GC and/or CCR requirements.
- Special compensation is not reported in accordance with the GC and CCR.
- Non-reportable compensation is reported or included in pay rate and earnings.
- Payroll information, such as number of work week hours, is incorrectly reported.
- Earnings and pay rates are reported incorrectly or exceed the maximum listed on a publicly available pay schedule.
- Retroactive adjustments are reported incorrectly.
- Retirement contributions are paid or reported incorrectly.
- Part-time employees or temporary agency staff deemed to be agency employees are not enrolled into membership when eligible.
- Eligible employees are not enrolled into CalPERS membership as required.
- Member reciprocal self-certification is not maintained by the agency.

- Elected officials as defined by retirement law are not offered optional membership.
- Unused sick leave is not reported or reported incorrectly.
- Retired annuitant employment does not comply with all legal requirements, such as the requirements for bona fide separation, the limit of 960 hours allowed per fiscal year, or payrate exceeding the maximum rate on the agency's pay schedule.
- Retired annuitant information is not reported as required.

**Additional Resources:**

For additional information regarding **Common Membership Findings found in CalPERS Public Employer Reviews**, refer to Circular Letter: **200-065-14**, October 27, 2014.

For additional information regarding **Common Misreported Items of Compensation**, refer to Circular Letter: **200-064-14**, October 27, 2014.

Log in to your my|CalPERS account and select the Education Tab for Business Rules and my|CalPERS Employer Training, including Student Guides. You can attend training at our Regional Offices or through Online Classes.

For more information on these topics, please refer to the 'Public Agency & Schools Reference Guide' or the 'State Reference Guide' which are located on the CalPERS website.

If you have questions that are not addressed within the resources provided, please call our CalPERS Customer Contact Center at **888 CalPERS** or **(888-225-7377)**.

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