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September 30, 2010

Employer Code: 0003
Job Number: P09-013

City of Beverly Hills
Scott Miller, Chief Financial Operator
455 North Rexford drive, room 250
Beverly Hills, CA 90210

Dear Mr. Miller:

Enclosed is our final report on the results of the public agency review completed for the City of Beverly Hills. Your agency's written responses dated April 23, 2010 and August 5, 2010 indicate agreement with the issues noted in the report with the following exception, Risk 1, relating to management incentive pay not being contained in a publicly available document. The written responses are included as an appendix to the report. As part of our resolution process, 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,

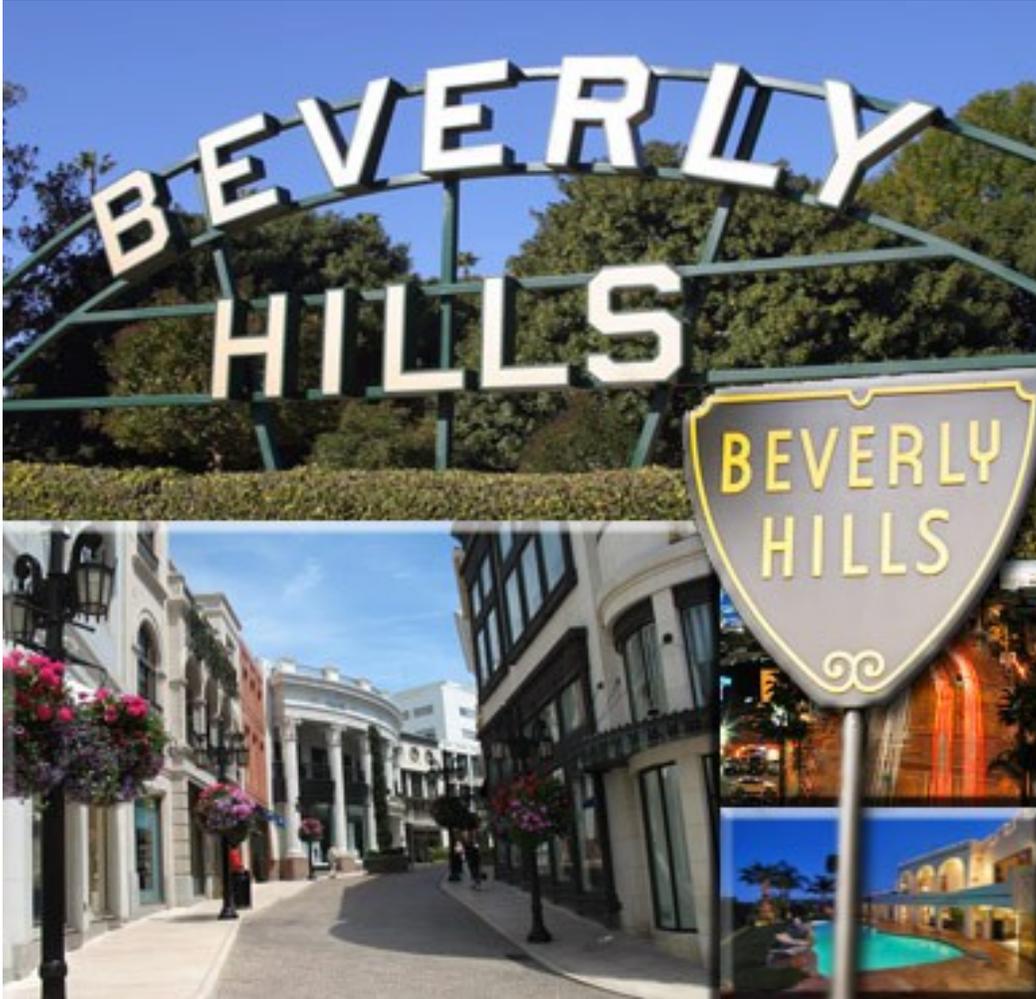
Original Signed by Margaret Junker

Margaret Junker, CIA, CPA, CIDA
Chief, Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Lori McGartland, Chief, ERSD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Holly Fong, Chief, EMHS, CalPERS
Honorable Board Members, City of Beverly Hills

City of Beverly Hills



Public Agency Review



Office of Audit Services

Employer Code: 0003
Job Number: P09-013

September 2010

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RESULTS IN BRIEF

We reviewed the City of Beverly Hills' (City) enrolled individuals, health and retirement contributions, member earnings and required health, retirement and Automated Communications Exchange System (ACES) documentation for employees included in our test sample. A detail of the exceptions is noted in the Risk and Mitigation Table. Specifically, the following exceptions were noted during the review:

- Non-reportable compensation was reported as special compensation.
- Special compensation was incorrectly calculated using a compounding method.
- Special compensation was overstated.
- Amount reported as management incentive pay was not contained in a publicly available document.
- Special compensation was incorrectly reported as regular earnings.
- Payroll reports and contributions were not submitted timely.
- Temporary/part-time employees were not enrolled in CalPERS membership when eligibility requirements were met.
- Industrial disability retirement determinations were not made timely.
- Required health enrollment forms were not maintained.
- Eligibility verification for dependents enrolled in CalPERS Health Benefits Program was not provided.
- Required ACES user security agreement forms were not maintained.

BACKGROUND

The 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.

CalPERS Employer Services Division (ERSD) manages contract coverage for public agencies and receives, processes, and posts payroll information. CalPERS Benefit Services Division (BNSD) provides services for eligible members who apply for service or disability retirement. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Office of Employer and Member Health Services (EMHS), as part of the Health Benefits Branch (HBB), provides eligibility and enrollment services

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to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts.

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 employers' 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.

The City of Beverly Hills was incorporated in 1914 under the general laws of the State of California. The City provides the full range of municipal services, such as public safety (police and fire), street construction and maintenance, sanitation, refuse collection, water and sewer utilities, culture-recreation, public improvements, planning and zoning, and general administrative and support services. Memoranda of Understanding (MOU) and employment agreements outline all 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 July 1, 1941, to provide retirement benefits for local miscellaneous and safety employees. The City's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City contracted with CalPERS effective October 1, 1993, to provide health benefits to all employees.

SCOPE

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the City's payroll reporting and enrollment processes as these processes relate to the City's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures were followed. The on-site fieldwork for this review was

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conducted on August 10, 2009 through August 14, 2009 and August 24, 2009 through August 28, 2009.

The review period was limited to the examination of sampled records and processes from July 1, 2006 through June 30, 2009. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the City had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the City had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the City's payroll register with the data reported to CalPERS to determine whether the City correctly reported employees' compensation.
- ✓ Reviewed the City's payroll information reported to CalPERS for the sampled employees to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the City's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.
- ✓ Reviewed the City's enrollment practices pertaining to temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the City's classification of employees to determine whether the City reported employees in the appropriate coverage groups.
- ✓ Reviewed the City's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed employees and their dependents to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health premium payment information to determine whether the payments were remitted within the required timeframe.

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- ✓ Reviewed health contribution payments to determine whether the City contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the City maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

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RISK AND MITIGATION TABLE

In developing our opinions, we considered the following risks and mitigations. We also include our observations and recommendations.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS.</p>	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of 26 employees over two service periods. The service periods reviewed were the second service period of December 2008 (12/08-4) and the first service period of June 2009 (6/09-3).</p> <p>The earnings reported to CalPERS were reconciled to the City's payroll records. The City accurately reported compensation to CalPERS for the employees in our sample, except for the following:</p> <p><u>Non-Reportable Compensation</u></p> <p>Our sample testing revealed that the City incorrectly reported non-reportable compensation to CalPERS. Specifically, in service period 6/09-3, the City incorrectly reported red light photo enforcement pay on behalf of a police safety employee. This item of special compensation does not meet the definition of reportable compensation and should not be reported to CalPERS.</p> <p>Government Code, § 20636 (b)(1), defines payrate as the</p>	<p>The City should immediately discontinue reporting non-reportable compensation to CalPERS.</p> <p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments,</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours.</p> <p>California Code of Regulations, § 571(a), exclusively identifies and defines special compensation items. This regulation does not include red light photo enforcement as a reportable item of special compensation.</p> <p><u>Special Compensation Incorrectly Calculated Using a Compounding Method</u></p> <p>The City incorrectly utilized a method for calculating special compensation for all groups of employees, with the exception of fire employees, which allowed each item of special compensation to be compounded on previous special compensation. MOU's between the City and all groups, with the exception of fire, state that special compensation is calculated using base pay rather than the compounding method currently being utilized by the City. The method used by the City resulted in special compensation reported to CalPERS being overstated.</p> <p>For example: The special compensation that should have been reported to CalPERS for one sampled employee was</p>	<p>if any, are needed.</p> <p>A confidential list identifying the individual mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> <p>The City should immediately stop reporting special compensation that is calculated using the compounded method.</p> <p>The City should work with CalPERS ERSD to assess the impact of the incorrect reporting and determine what adjustments, if any, are necessary.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>\$477.18; however, the amount reported to CalPERS was \$593.84. The compounding method being utilized by the City caused special compensation to be overstated by \$116.66 on a bi-weekly basis.</p> <p>Government Code, § 20636 (a), defines compensation earnable for a member as the payrate and special compensation of the member.</p> <p>Government Code, § 20636 (c)(1), defines special compensation as a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.</p> <p>California Code of Regulations, § 571(a), states, "The following list exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a written labor policy or agreement."</p> <p><u>Special Compensation was Overstated</u></p> <p>Our sample testing revealed that special compensation was incorrectly reported for one sampled employee. Specifically, the MOU for the technical services employees</p>	<p>The City should work with CalPERS ERSD to determine the impact of this incorrect reporting</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>indicate that miscellaneous employees are entitled to receive shift differential of 3%; however, the City inadvertently paid and reported shift differential of 6% on behalf of the sampled employee.</p> <p>Government Code, § 20630 states, in part, “Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636.”</p> <p>Government Code, § 20636(a), defines compensation earnable as the payrate and special compensation of the member.</p> <p><u>Management Incentive Pay was not Contained in a Publicly Available Document</u></p> <p>The City pays and reports management incentive pay for department heads, assistant directors, and senior management staff; however, the amount being reported to CalPERS was not contained in a public document available for public scrutiny. Subsequent to the completion of the on-site field work the City modified the executive MOU to include the amounts being reported as management incentive pay.</p>	<p>and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the individual mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix.</p> <p>The City should ensure that special compensation is identified in written schedules, ordinances, or similar documents available for public scrutiny.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The City may not accurately report compensation to CalPERS. (continued)</p>	<p>Government Code, § 20630, states, in part, “Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636”.</p> <p>Government Code, § 20636(d), states “Payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.”</p> <p>California Code of Regulations, § 571 (a), states, in part, “The following list exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a written labor policy or written agreement.”</p>	<p>sent to the City and CalPERS ERSD as an appendix.</p>
<p>2. The City may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed payrates reported to CalPERS and reconciled the payrates to the City’s public salary information to determine whether payrates for the sampled employees were properly authorized and reported. The employees’ salaries were properly authorized and reported in accordance with publicly available salary schedules. However, we found that special compensation was included in base payrate. This issue is further discussed in Risk 3.</p>	<p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The City may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll information reported to CalPERS for the sampled service periods. Our sample testing revealed that the City correctly reported the payroll information to CalPERS except for the following instance:</p> <p><u>Special Compensation Reported as Regular Earnings</u></p> <p>The City incorrectly paid and reported special compensation as part of six sampled employees' base payrate and regular earnings, rather than separately as special compensation. The special compensation items incorrectly reported as regular earnings included detective, POST, Bachelors Degree, Crime Prevention Sergeant, Permanent Education, Paramedic, Fire Officer, Firefighter II, Chief Officer, EMT, Administrative, Shift Differential and Urban Search and Rescue.</p> <p>Government Code, § 20636 (a) defines compensation earnable for a member as the payrate and special compensation of the member.</p> <p>Government Code, § 20636 (b)(1), states, in part, "Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours."</p>	<p>The City should immediately begin reporting items of special compensation separately from base payrate and earnings.</p> <p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The City may not accurately report payroll information to CalPERS. (continued)</p>	<p>Government Code, § 20636 (c)(1), defines special compensation as a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.</p> <p>CalPERS Procedure Manual, (pg. 71), states, “All special compensation is required to be reported separately as special compensation, as it is earned.”</p>	
<p>4. The City may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>We reviewed payroll information for service periods 12/08-4 and 6/09-3 to determine if this information was submitted to CalPERS within the required timeframes. Payroll information consists of CalPERS summary reports and payment of contributions. The summary reports and contributions were submitted late for both sampled service periods.</p> <ul style="list-style-type: none"> ▪ Service period 12/08-4: The pay period closed December 19, 2008. The summary report was due in the CalPERS Sacramento office by January 18, 2009. It was transmitted to CalPERS on February 10, 2009, which exceeded the 30-day time frame. The payroll contributions were due in the CalPERS Sacramento office by January 3, 2009. The City correctly transmitted 90% of the payroll contributions on January 2, 2009; however, the remaining 10% was due in the CalPERS office by January 18, 2009 and 	<p>The City should develop procedures to submit contributions and payroll information in a timely manner. In addition, the City should work with CalPERS ERSD to assess the impact of the untimely reporting.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The City may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>was transmitted on February 10, 2009, which was beyond the due date by 23 days.</p> <ul style="list-style-type: none"> ▪ Service period 6/09-3: The pay period closed June 5, 2009. The summary report was due in the CalPERS Sacramento office by July 5, 2009. It was transmitted to CalPERS on July 7, 2009, which exceeded the 30-day time frame. The payroll contributions were due in the CalPERS Sacramento office by June 20, 2009. The City correctly transmitted 90% of the payroll contributions on June 18, 2009; however, the remaining 10% was due in the CalPERS office by July 5, 2009 and was transmitted on July 7, 2009, which was beyond the due date by 4 days. <p>California Code of Regulations, § 565, states, "Member and employer contributions shall be received in the System's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer."</p> <p>California Code of Regulations, § 565.1(a), states, "For employers reporting on tape or punched cards, a complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The City may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>calendar days following the last day of the period to which it refers."</p>	
<p>5. The City may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract between the Board of Administration of CalPERS and the Board of Directors of the City does not exclude any employees from CalPERS membership. Our sample testing revealed that the City did not exclude any group of employees from CalPERS membership.</p> <p><u>Optional Membership</u></p> <p>The City's elected officials were eligible for optional CalPERS membership. We reviewed the City's enrollment practices to determine whether the elected officials were offered optional membership. Our sample testing revealed that the City properly offered and enrolled the sampled official into CalPERS membership.</p> <p><u>Temporary/Part-time Employees</u></p> <p>We selected a sample of 10 temporary/part-time employees and examined the number of hours worked in</p>	<p>None.</p> <p>None.</p> <p>The City should review all hours worked in a fiscal year by all</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>fiscal years 2007/2008 and 2008/2009 to determine if they met membership eligibility requirements, and if so, were timely enrolled into CalPERS membership. We also reviewed CalPERS databases to determine if the sampled employees met eligibility requirements through membership with another CalPERS agency. The City properly enrolled temporary/part-time employees; however, they did not enroll temporary employees, hired through a temporary employment agency, when membership eligibility requirements were met.</p> <p>Specifically, our testing revealed that in fiscal year 2006/2007 one employee, hired through a temporary employment agency, was identified who met eligibility requirements by working 1,000 hours in a fiscal year and was not enrolled into membership. Also, in fiscal 2007/2008 one employee, hired through a temporary employment agency, was identified who met eligibility requirements by working 1,000 hours in a fiscal year and was not enrolled into membership. In addition, in fiscal year 2008/2009 one employee, hired through a temporary employment agency, was identified who met eligibility requirements by working 1,000 hours in a fiscal year and was not enrolled into membership.</p> <p>Government Code, § 20305(a)(3)(B), states, in part, “An</p>	<p>temporary/part-time employees and enroll those that meet membership eligibility criteria.</p> <p>In addition, the City should implement procedures to monitor the hours worked for temporary/part-time employees in order to identify which employees must be enrolled once membership eligibility requirements are met.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>employee serving on a less than full-time basis is excluded from this system unless the person works more than 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.”</p> <p>Government Code, § 20044, states, “Fiscal year is any year commencing July 1st and ending June 30th next following.”</p> <p>CalPERS’ Procedure Manual, (pg. 26), states, in part, “Membership becomes effective no later than the first day of the first pay period of the month in which 1,000 hours or 125 days were completed.”</p> <p><u>Independent Contractor</u></p> <p>We reviewed the City’s IRS 1099 Miscellaneous Income forms for calendar years 2007 and 2008 in order to identify employees that may be misclassified as independent contractors. The selected individuals were properly classified as independent contractors and correctly excluded from CalPERS membership.</p>	<p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The City may unlawfully employ retired annuitants.</p>	<p>We reviewed the hours worked for two retired annuitants in fiscal year 2007/2008, and four retired annuitants in fiscal year 2008/2009. Our sample testing revealed that the retired annuitants did not exceed the 960-hour threshold.</p> <p>We also determined that a bona fide separation from employment, per Government Code Section 21220.5, was not needed for three of the four sampled retired annuitants as their age at retirement was beyond the normal retirement age. The fourth retired annuitant, retired prior to the bona fide separation regulation effective date of September 19, 2004.</p>	<p>None.</p>
<p>7. The City may not appropriately report members under the proper coverage group code.</p>	<p>Our sample testing revealed that the City reported individuals under the appropriate coverage group code.</p>	<p>None.</p>
<p>8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members.</p>	<p>We reviewed the City's procedures for processing applications for Industrial Disability Retirement. We found that the City had appeals procedures in place; however, two of the sampled employees did not have a determination made within the required six month timeframe. The City did not obtain waivers for two of the sampled applicants.</p>	<p>The City should monitor the requirement for timely determinations of industrial disability retirement applicants. A waiver of the requirement can be obtained from the member if a delay is anticipated.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members. (continued)</p>	<p>Government Code, § 21157, states, “The governing body of a contracting agency shall make its determination within six months of the date of the receipt by the contracting agency of the request by the board pursuant to Section 21154 for a determination with respect to a local safety member. A local safety member may waive the requirements of this section.”</p>	<p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p>
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>We reviewed a sample of eight employees to assess the health benefits eligibility and enrollment of members and their dependents. Our sample testing revealed that the City properly enrolled eligible employees and their dependents in CalPERS health benefits program, except for the following instances:</p> <p>The City did not provide required health benefit forms for eligible employees who were enrolled into CalPERS health benefits plan. Specifically, the City did not maintain the required Declaration of Health Coverage form (HB-12A). The City did not have an Affidavit of Eligibility (HBD-35) on file for one employee, and the City was unable to obtain documentation to support dependent eligibility, such as marriage and birth certificates, for one sampled employee.</p> <p>Government Code, § 22775, states, “Family member means an employee’s or annuitant’s spouse or domestic partner and any unmarried child, including an adopted</p>	<p>The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60-days from the date of our final report.</p> <p>Please send an email to: <i>HBB_Audit_Services@calpers.ca.gov</i> once the requested documentation is on file. The CalPERS HBB may be contacted at (916) 795-3836 with any questions.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the City and CalPERS HBB as an appendix to our draft</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.”</p> <p>California Code of Regulations, Title 2, § 599.500, states, in part, “(f) ‘Enroll’ means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan...(k) ‘Eligible’ means eligible under the law and this subchapter to be enrolled.”</p> <p>Government Code, § 20085, states, in part, “(a) It is unlawful for a person to do any of the following: (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system. (2) Present, or cause to be presented, any knowingly false material statement or material representation for the purpose of supporting or opposing an application for any benefit administered by this system. (b) For purposes of this section, ‘statement’ includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or</p>	<p>report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>continued eligibility for a benefit or the amount of a benefit administered by this system. (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine. (d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system, or to any other person determined by the court, for the amount of the benefit unlawfully obtained, unless the court finds that restitution, or a portion of it, is not in the interests of justice. Any restitution order imposed pursuant to this section shall be satisfied before any criminal fine imposed under this section may be collected."</p> <p>Public Agency Health Benefits Procedure Manual, Page 12-01, states, in part, "The Declaration of Health Coverage (HB-12A) provides information on enrollment options and consequences for non-enrollment. The HB-12A is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes Open Enrollment changes, changing health plans when moving; adding or deleting a dependent, or canceling health</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the Health Benefit Plan Enrollment (HBD-12) form. The employer also must provide the employee a copy of the signed form and keep the original in the employee's file.”</p>	
<p>10. The City may not contribute the appropriate health contribution amounts for active employees.</p>	<p>We reviewed the health contributions reported for June 2009. We determined that the City contributed the appropriate health contribution amount as part of the sampled members' total monthly premium amount.</p>	<p>None.</p>
<p>11. The City may not remit health contributions within the required timeframe.</p>	<p>We determined that the City remitted the health contribution payments within the appropriate timeframe.</p>	<p>None.</p>
<p>12. The City may not maintain appropriate ACES security procedures.</p>	<p>We reviewed the security procedures for the City's ACES users to determine if reasonable security precautions were maintained and to determine if the required security documents were properly completed and filed for ACES users. We found that the City did not maintain ACES Employer User Security Agreement (AESD-43) for its authorized users, and did not complete a <i>Delete ACES User Access</i> form for an individual who was no longer employed by the City. The City completed the AESD-43</p>	<p>The City should follow appropriate procedures to ensure the security of CalPERS ACES. Employer User Security Agreements should be completed timely and retained in a secure worksite location for the life of the Agreements and for two years following the</p>

CITY OF BEVERLY HILLS

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>12. The City may not maintain appropriate ACES security procedures. (continued)</p>	<p>and the <i>Delete ACES User Access</i> form prior to the completion of the on-site field work.</p> <p>CalPERS ACES Security procedures outlined on the CalPERS website at www.calpers.ca.gov require agencies to keep a signed copy of security documents on file for ACES users. An AESD-43 must be completed for each employee using CalPERS on-line access and be available to CalPERS upon request. Forms must be retained in a secure work site location of the employer, for the life of the Agreement and for two years following the deactivation or termination of the Agreement. CalPERS is to be notified immediately in the event that any of its sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.</p>	<p>deactivation or termination of the Agreements.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

CITY OF BEVERLY HILLS

CONCLUSION

We limited this review to the areas specified in the scope section of this report. We limited our test of transactions to samples of the City's payroll reports and personnel records. The sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code, except as noted above.

Respectfully submitted,

Original Signed by Margaret Junker
MARGARET JUNKER, CIA, CPA
Interim Chief Auditor,
Office of Audit Services

Date: September 2010

Staff: Michael Dutil, CIA, Senior Manager

Diana Thomas, CIDA, Manager

Adeeb Alzanoon

Chris Wall

APPENDIX A

STATUS OF PRIOR REVIEW

**FOLLOW UP ON PRIOR REVIEW FINDINGS
CITY OF BEVERLY HILLS
EMPLOYER CODE 0003, PRIOR REVIEW P02-012**

Prior Review Finding	Prior Review Recommendation	Status of Recommendation
1. Fair Labor Standards Act (FLSA).	The City should begin reporting only the reportable portion of FLSA pay for fire employees. Also, the City should work with AESD to determine what adjustments are necessary for the employees who have had FLSA pay reported incorrectly.	No similar situations were noted during the review.
2. Plain clothes allowance.	The City should immediately stop reporting plain clothes allowance as the allowance does not provide for uniforms replacing personal attire. The City should work with CalPERS AESD to assess the impact of this incorrect reporting and determine what adjustments, if any, may be needed.	Criterion has changed so that plain clothes allowance is reportable compensation.
3. Independent contractor.	The City should ensure that all individuals who are employees and meet CalPERS eligibility criteria are properly enrolled into CalPERS membership.	No similar situations were noted during the review.
4. Industrial disability determinations were not made timely.	The City should monitor the requirement for timely determinations of industrial disability retirement applicants. A waiver of the requirement from the member can be obtained if a delay is anticipated.	A similar issue was noted in the current review.
<p>Conclusion:</p> <p>The City had implemented the recommendations of the prior report dated February 2, 2004; however, the City did not make industrial disability retirement determinations timely for two employees.</p>		

APPENDIX B

CITY'S WRITTEN RESPONSES



Scott Miller, Chief Financial Officer
Administrative Services

August 5, 2010

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

Employer Code: 0003
Job Number: P09-013

Dear Ms. Junker:

Enclosed is the amended response to your draft audit report received March 15, 2010. The changes on the report reflect the items that we discussed in our telephone conference call on June 29, 2010.

I appreciated the opportunity you afforded the City to discuss the draft report. If you have any questions regarding our response, please contact me.

Sincerely,


Scott Miller
Chief Financial Officer
Administrative Services Director

Enclosure

Cc: Jeff Kolin, City Manager, City of Beverly Hills
Mary Lynn Fisher, Chief, Benefit Services Division, CalPERS
Holly Fong, Chief, Office of Employer and Member Services Division, CalPERS

City of Beverly Hills

Risk	Finding	City Action
<p>1. The City may not accurately report compensation to CalPERS</p>	<p>Non-reportable compensation red light photo enforcement pay. <u>Special compensation incorrectly calculated using a compounding method</u> MOU's between the City and all groups, with the exception of Fire, state that special compensation is calculated using base pay rather than the compounding method currently being utilized by the City. <u>Special compensation was overstated</u> A miscellaneous employee was incorrectly paid a 6% shift differential rather than the entitled 3% differential. <u>Management incentive pay not contained in a publicly available document</u> The City pays and reports management incentive pay for department heads, assistant directors, and senior management staff; however, the amount being reported to CalPERS was not contained in a public document available for public scrutiny.</p>	<p>The City agrees with the auditors findings and has taken action to correct this error. While the City understands the auditor's position and has taken steps to correct this item, we don't necessarily agree with the auditor's conclusion. The City's intent for all of its groups in respect to special pay is the same as that included in the Fire MOU. It is unfortunate that the language of the other MOU's did not contain the same language as that of Fire.</p>
<p>2. The City may not report pay rates in accordance with publicly available salary schedules</p>	<p><u>Special compensation was overstated</u> A miscellaneous employee was incorrectly paid a 6% shift differential rather than the entitled 3% differential. <u>Management incentive pay not contained in a publicly available document</u> The City pays and reports management incentive pay for department heads, assistant directors, and senior management staff; however, the amount being reported to CalPERS was not contained in a public document available for public scrutiny.</p>	<p>The City agrees with the finding. This was an error and has been corrected. Further, the City has reviewed all shift differentials to make certain there were no other reporting errors.</p>
<p>3. The City may not accurately</p>	<p><u>Management incentive pay not contained in a publicly available document</u> The City pays and reports management incentive pay for department heads, assistant directors, and senior management staff; however, the amount being reported to CalPERS was not contained in a public document available for public scrutiny.</p>	<p>The City disagrees with this finding. The City had adopted the management incentive pay, as a portion of the overall management pay, at a regularly scheduled City Council meeting, and it was included in the oral and written reports to the City Council in closed session and in open session. This is also included in the Management Pay Compensation Plan which is on the City's website</p>
	<p>Pay rates were reconciled and properly authorized The City properly authorized all salaries in accordance with publicly available salary schedules. <u>Special compensation reported as</u></p>	<p>None. The City agrees with the audit findings. For fire personnel this issue</p>

City of Beverly Hills

Risk	Finding	City Action
<p>report payroll information to CalPERS</p>	<p>regular earnings The City incorrectly paid and reported special compensation as part of base payrate and regular earning rather than separately as special compensation.</p>	<p>had been corrected prior to the auditors visit. For Police personnel this item has been addressed and is currently being corrected.</p>
<p>4 The City may fail to or did not submit payroll in a timely manner to CalPERS</p>	<p>The <u>summary reports and contributions were submitted late for both service periods</u> The City should develop procedures to submit contributions and payroll in a timely manner.</p>	<p>The City agrees with the finding and has reviewed its procedures and training. New procedures are being developed and will be implemented to address this problem. It should be noted however that the 2 periods related to this finding were January 2009, the start up the new calendar year and W-2 processing period and the July 4th Holiday period.</p>
<p>5 The City may not enroll all eligible employees into CalPERS membership</p>	<p><u>Temporary/Part-time Employees</u> The City properly enrolled temporary/part-time employees; however, they did not enroll temporary employees, hired through a temporary employment agency, when membership eligibility requirements were met.</p>	<p>The City had developed internal procedures to ensure that all temporary employees and other eligible employees are enrolled as CalPERS members. The City will continue to not enroll independent consultants and employees of vendors and other providers of services who do not meet the eligibility criteria for CalPERS membership.</p>
<p>6. The City may unlawfully employ retired annuitants</p>	<p><u>Reemployment of Retired Annuitants</u> The City did not inappropriately hire and exceed the 960 hour threshold.</p>	<p>None.</p>
<p>7. The City may not appropriately report members under the proper coverage group</p>	<p><u>Reporting of employees in appropriate groups</u> The City reported individuals in the appropriate groups.</p>	<p>None.</p>
<p>8. The City may not appropriately process industrial disability retirement determinations and appeals of safety members.</p>	<p><u>Filing of disability retirements for Safety Employees</u> The City did not have a determination made within the required six month timeframe.</p>	<p>The City agrees with the finding, however the City would like to point out that there is no way for the City to meet this requirement. The City processes disability determination letters as quickly as possible. Members of the Safety group normally retire on a service pending disability status. Because the workers' compensation process and the</p>

City of Beverly Hills

Risk	Finding	City Action
		<p>primary treating physician can take months to declare that the employee has reached the maximum medical improvement (MMI) with work restrictions that the City can't accommodate, the City is forced to wait for the doctor's reports. Once the doctor's report is received, the determination letter is quickly processed within a reasonable time. Employees opting for Service pending Disability retirements are told in advance of the possibility of delays.</p> <p>The City will develop procedures to have written acknowledgements of the possibility of delays, and a written waiver for the six month window. Procedures will be in place within 30 days of this response.</p>
	<p><u>Obtaining waivers from applicants for the six month window to file a letter of determination</u> The City did not obtain waivers from the sampled applicants, waiving the six month determination period.</p>	
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits.</p>	<p><u>Filing of appropriate CalPERS health benefit forms</u> The City must ensure that the proper member and dependent enrollment documentation is on file.</p>	<p>The City has begun the process to verify that personnel folders for each employee has the necessary CalPERS forms and dependent eligibility documentation and expects to conclude the project by the end of May 2010.</p>
<p>10. The City may not contribute the appropriate health contribution amounts for active employees.</p>	<p><u>Health contributions for active employees</u> The City contributed the appropriate health contributions.</p>	<p>None.</p>
<p>11. The City may not remit health contributions within the required timeframes</p>	<p><u>Remittance of health contributions</u> The City remitted health contribution payments within the appropriate timeframe</p>	<p>None.</p>
<p>12. The City may not maintain appropriate ACES security Procedures.</p>	<p><u>Employer security procedures</u> The City did not maintain ACES Employer User Security Agreements appropriately and did not delete inactive users.</p>	<p>The City agrees with this finding. The City will audit existing users of the ACES system and will develop a list of authorized users and complete the AESD-43 forms for each user. All inactive employees will be removed from the System. The City anticipates that this will be completed within 30 days of this response.</p>



Scott Miller, Chief Financial Officer
Administrative Services

April 23, 2010

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

Employer Code: 0003
Job Number: P09-013

Dear Ms. Junker:

Enclosed is the response to your draft audit report received March 15, 2010. We have reviewed the materials and explanations in the draft report. While some of the audit methodology was a surprise to us (one example being that the test data to be sampled was not chosen from random as is indicated in Professional Audit Standards, but pre-determined by a Cal-PERS staffer before the audit was even conducted) we appreciate the openness and time your auditor, Chris Wall, took to understand the intricacies of how we do things at the City and his patience in getting materials and listening to staff explanations.

As I suspect in most of your audits (being a former auditor myself) the City agrees with certain findings and disagrees with others. We have tried to outline our disagreements in the attached materials. In our agreements with your findings you will notice in the vast majority of cases, the City has taken quick and decisive action to correct the findings and comply with your requirements. One instance will take the City longer to work out, but corrective action is underway. However, in our disagreements with your findings, two disagreements are based on actual State or Federal Laws and/or Statutes, and we feel it's important that we meet in person to discuss these issues with you and your staff before the report becomes final.

We are prepared to come to Sacramento if you wish for these discussions, or have you come to Beverly Hills- I will leave the choice up to you. Please let me know which option you would prefer and the name of a contact person and phone number so our staff can arrange specific details with your staff for the meeting. I appreciate your consideration in working this out and making this a positive experience for both public entities. I look forward to meeting with you and your staff.

Sincerely,



Scott Miller
Chief Financial Officer

Administrative Services Director

Enclosure

Cc: Jeff Kolin, City Manager, City of Beverly Hills
Mary Lynn Fisher, Chief, Benefit Services Division, CalPERS
Holly Fong, Chief, Office of Employer and Member Services Division, CalPERS

City of Beverly Hills

Risk	Finding	City Action
<p>1. The City may not accurately report compensation to CalPERS</p>	<p><u>Non-reportable compensation</u> red light photo enforcement pay. <u>Special compensation incorrectly calculated using a compounding method</u> MOU's between the City and all groups, with the exception of Fire, state that special compensation is calculated using base pay rather than the compounding method currently being utilized by the City. <u>Special compensation was overstated</u> A miscellaneous employee was incorrectly paid a 6% shift differential rather than the entitled 3% differential.</p>	<p>The City agrees with the auditors findings and has taken action to correct this error. While the City understands the auditor's position and has taken steps to correct this item, we don't necessarily agree with the auditor's conclusion. The City's intent for all of its groups in respect to special pay is the same as that included in the Fire MOU. It is unfortunate that the language of the other MOU's did not contain the same language as that of Fire.</p>
<p>2. The City may not report pay rates in accordance with publicly available salary schedules</p>	<p><u>Management Incentive pay not contained in a publicly available document</u> The City pays and reports management incentive pay for department heads, assistant directors, and senior management staff; however, the amount being reported to CalPERS was not contained in a public document available for public scrutiny. <u>Pay rates were reconciled and properly authorized</u> The City properly authorized all salaries in accordance with publicly available salary schedules.</p>	<p>The City agrees with the finding. This was an error and has been corrected. Further, the City has reviewed all shift differentials to make certain there were no other reporting errors. The City disagrees with this finding. The City had adopted the management incentive pay, as a portion of the overall management pay, at a regularly scheduled City Council meeting, and it was included in the oral and written reports to the City Council in closed session and in open session. This is also included in the Management Pay Compensation Plan which is on the City's website</p>
<p>3. The City may not accurately report compensation reported as</p>	<p><u>Special compensation reported as</u></p>	<p>None. The City agrees with the audit findings. For fire personnel this issue</p>

City of Beverly Hills

Risk	Finding	City Action
report payroll information to CalPERS	<u>regular earnings</u> The City incorrectly paid and reported special compensation as part of base payrate and regular earning rather than separately as special compensation.	had been corrected prior to the auditors visit. For Police personnel this item has been addressed and is currently being corrected.
4 The City may fail to or did not submit payroll in a timely manner to CalPERS	<u>The summary reports and contributions were submitted late for both service periods</u> The City should develop procedures to submit contributions and payroll in a timely manner.	The City agrees with the finding and has reviewed its procedures and training. New procedures are being developed and will be implemented to address this problem. It should be noted however that the 2 periods related to this finding were January 2009, the start up the new calendar year and W-2 processing period and the July 4 th Holiday period.
5 The City may not enroll all eligible employees into CalPERS membership	<u>Temporary/Part-time Employees</u> The City properly enrolled temporary/part-time employees; however, they did not enroll temporary employees, hired through a temporary employment agency, when membership eligibility requirements were met.	The City has followed current laws and has correctly reported temporary and part-time employees as the auditor found. There is no Retirement Law, Government Code or Labor Code that requires the City to enroll staff from an outside agency in CalPers.
6. The City may unlawfully employ retired annuitants	<u>Reemployment of Retired Annuitants</u> The City did not inappropriately hire and exceed the 960 hour threshold.	None.
7. The City may not appropriately report members under the proper coverage group	<u>Reporting of employees in appropriate groups</u> The City reported individuals in the appropriate groups.	None.
8. The City may not appropriately process industrial disability retirement determinations and appeals of safety members.	<u>Filing of disability retirements for Safety Employees</u> The City did not have a determination made within the required six month timeframe.	The City disagrees with the finding. The City processes the disability determination letters as quickly as possible. However, members of the Safety group normally retire on a service pending disability status. Because the workers' compensation process and the primary treating physician can take months to declare the employee permanent and

City of Beverly Hills

Risk	Finding	City Action
		stationary with work restrictions that the City can't accommodate, the City is forced to wait for the doctor's reports. Once the doctor's report is received, the determination letter is quickly processed. Employees opting for Service pending Disability retirements are told in advance of the possibility of delays.
	<p><u>Obtaining waivers from applicants for the six month window to file a letter of determination</u></p> <p>The City did not obtain waivers from the sampled applicants, waiving the six month determination period.</p>	<p>The City will develop procedures to have written acknowledgements of the possibility of delays, and a written waiver for the six month window. Procedures will be in place within 30 days of this response.</p>
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits.</p>	<p><u>Filing of appropriate CalPERS health benefit forms</u></p> <p>The City must ensure that the proper member and dependent enrollment documentation is on file.</p>	<p>The City has begun the process to verify that personnel folders for each employee has the necessary CalPERS forms and dependent eligibility documentation and expects to conclude the project by the end of May 2010.</p>
<p>10. The City may not contribute the appropriate health contribution amounts for active employees.</p>	<p><u>Health contributions for active employees</u></p> <p>The City contributed the appropriate health contributions.</p>	<p>None.</p>
<p>11. The City may not remit health contributions within the required timeframes</p>	<p><u>Remittance of health contributions</u></p> <p>The City remitted health contribution payments within the appropriate timeframe</p>	<p>None.</p>
<p>12. The City may not maintain appropriate ACES security Procedures.</p>	<p><u>Employer security procedures</u></p> <p>The City did not maintain ACES Employer User Security Agreements appropriately and did not delete inactive users.</p>	<p>The City agrees with this finding. The City will audit existing users of the ACES system and will develop a list of authorized users and complete the AESD-43 forms for each user. All inactive employees will be removed from the System. The City anticipates that this will be completed within 30 days of this response.</p>