

# **Office of Audit Services**



# **CalPERS**

## **Public Agency Review**

## **City of Blythe**

**CalPERS ID: 2133011647**  
**Job Number: P13-036**

**September 2014**



California Public Employees' Retirement System  
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September 19, 2014

CalPERS ID: 2133011647  
Job Number: P13-036

Frank J. Luckino, City Manager  
City of Blythe  
235 North Broadway  
Blythe, CA 92225

Dear Mr. Luckino:

Enclosed is our final report on the results of the public agency review completed for the City of Blythe (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report. In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your Agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Phyllis Miller  
PHYLLIS MILLER, Acting Chief  
Office of Audit Services

Enclosure

cc: Council Members, City of Blythe  
Risk and Audit Committee Members, CalPERS  
Matthew G. Jacobs, 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 Blythe (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 schedule did not meet all of the requirements of CCR Section 570.5.
- Payrates were incorrectly reported.
- Special compensation was not reported as required by CCR Section 571.
- The value of Employer Paid Member Contributions was incorrectly reported.
- Eligible employee was not enrolled into CalPERS membership as required.
- Retired annuitants were unlawfully employed.
- Unused sick leave was incorrectly certified.

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 January 1, 1970 to provide retirement benefits for local miscellaneous and safety employees. 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 2013-14, the OAS reviewed the Agency's payroll reporting and member enrollment processes as related to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled employees, records, and pay periods July 1, 2010 through June 30, 2013. The sample selection included employees subject to the Public Employees' Pension Reform Act of 2013 (PEPRA). The on-site fieldwork for this review was conducted from April 28 – May 2, 2014. 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: The Agency's pay schedule did not meet all requirements of the Government Code and CCR.

***Condition:***

The Agency's pay schedule did not meet all of the requirements of CCR Section 570.5. Specifically, the Agency did not have one pay schedule that identified the position title for every employee position. The Agency's Senior Management pay schedule did not list the elected official positions and payrates, omitted the City Manager payrate, and referenced another document in lieu of disclosing the payrates for the Police Chief, Police Captain and Police Lieutenant. Furthermore, the Sworn-Police pay schedule did not list the position and payrate for Police Corporal.

Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. 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.

Pay amounts reported for positions that do not comply with the pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). There are no exceptions included in Government Code Section 20636(b)(1).

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***Recommendation:***

The Agency should ensure its pay schedule meets all of the Government Code and CCR requirements.

The Agency should work with CalPERS Customer Account Services Division (CASD) to make all necessary adjustments, if any, to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

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

CCR: § 570.5

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**2:** The Agency reported incorrect payrates.

***Condition:***

The Agency reported incorrect payrates for two employees during the period under review. Specifically, the Agency reported a payrate of \$50.96 per hour for an employee in the pay period ending June 20, 2012. However, the pay schedule listed a bi-weekly payrate as \$2,674.43 to \$3,873.37, the equivalent of \$33.43 to \$48.42 per hour. As a result, payrate was over reported to CalPERS and did not agree with the payrates listed on the Agency's pay schedule.

In addition, the Agency incorrectly reported a monthly payrate of \$285.00 for an elected official in June 2013. Although the elected official volunteered to take a five percent reduction to compensation of \$300.00, the Agency incorrectly reported the official's payrate at \$285.00. The Agency should have reported the elected official's payrate as \$300.00 and earnings of \$285.00. Further, as mentioned in Finding 1, the elected official's payrate was not listed on a publicly available pay schedule as required.

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 reported for a member.

***Recommendation:***

The Agency should ensure payrates and earnings are correctly reported.

The Agency should work with CASD to make any necessary adjustments to active or retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20630, § 20636

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**3:** The Agency did not report special compensation as required by the CCR.

***Condition:***

- A. The Agency incorrectly reported Holiday Pay for three employees as a lump sum instead of when earned. Specifically, the employees worked in positions that required scheduled staffing without regard to holidays and cashed out holiday pay in pay period ending December 6, 2012. The Agency reported the Holiday cash-out for these employees as a lump sum instead of reporting the Holiday Pay in the period earned. Pursuant to Government Code Section 20636(c)(3), the Agency shall identify the pay period(s) in which compensation is earned.
- B. The Agency reported an incorrect amount of special compensation, Out of Class Pay, for an employee. Specifically, the Agency's written labor agreement allows for Out of Class Pay equal to the first step of the higher position or a five percent increase above the current rate of pay. However, the Agency incorrectly reported 10 percent increase above the current position as Out of Class Pay.
- C. The Agency reported the monetary value of the uniforms as special compensation for employees covered under the Laborers Union. However, the labor policy did not include the uniform provisions that indicate the conditions for payment including, but not limited to, eligibility for, and amount of, the special compensation. CCR Section 571 requires special compensation items be contained in a written labor policy or agreement and indicate the conditions for the payment of the item, including, but not limited to, the eligibility for and amount of the special compensation.

***Recommendation:***

The Agency should ensure special compensation of Holiday Pay is reported in the period earned.

The Agency should ensure Out of Class pay is reported as stipulated in the written labor policy.

The Agency should ensure special compensation items, including the monetary value, are contained in a written labor policy or agreement as required by the CCR.

The Agency should work with CASD make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.



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***Criteria:***

Government Codes: § 20160, § 20636  
CCR: § 571

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**4:** The Agency incorrectly paid and reported the value of Employer Paid Member Contributions.

***Condition:***

The Agency incorrectly paid and reported the value of Employer Paid Member Contributions (EPMC) for an employee subject to PEPRA requirements. The employee had prior CalPERS membership but had a break in service longer than six months. The employee returned to service with the Agency, a new employer, and was considered a new member under PEPRA. As a result, the employee was not eligible for the EPMC benefit. The Agency should not have paid and reported EPMC for the PEPRA employee.

If an Agency determines that an existing labor policy is impaired, the Agency must communicate with a written certification to formally notify and certify to CalPERS that it will not comply with the requirements of one or more provisions of Government Code Section 7522.30 until such times as the labor policy expires under its terms, or is terminated, amended, reviewed, or extended. However, the Agency did not inform CalPERS of the impairment.

***Recommendation:***

The Agency should ensure it does not pay and report EPMC for employees subject to PEPRA unless it notifies CalPERS of the impairment.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 7522.30, § 20120, § 20121, § 20160, § 20691  
CCR: § 571

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**5:** The Agency did not enroll an eligible temporary/part-time employee into membership as required.

***Condition:***

The Agency did not enroll an eligible temporary/part-time employee into membership. A temporary/part-time employee exceeded 1,000 hours of work in fiscal year 2011-12. The employee worked a total of 1,002.5 hours as of June 21, 2012, but was not enrolled into membership. For employees who complete 1,000 hours within a fiscal year, membership shall be effective no 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, pursuant to Government Code Section 20305.

***Recommendation:***

The Agency should monitor the hours worked by temporary/part-time employees to ensure the employees are enrolled when membership eligibility requirements are met.

The Agency should work with CASD to make any necessary adjustments to the active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20044, § 20160, § 20305

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**6:** The Agency unlawfully employed retired annuitants.

**Condition:**

- A. The Agency unlawfully employed a retired annuitant who did not have a bona fide separation in service. Specifically, the individual retired at age 54 with an effective retirement date of December 28, 2012. Based on the applicable retirement formula, the normal retirement age was 55. The Agency hired this annuitant on December 28, 2012. The CCR Section 586.2 states a member who has not attained normal retirement age shall have a bona fide separation in service. A bona fide separation in service includes a separation of service of at least 60 calendar days between the date of the member's retirement and the first day of work for the employer as a retired person. Therefore, the Agency was out of compliance with employment of this retired annuitant since a bona fide separation did not exist.
- B. The Agency hired the retired annuitant mentioned above to perform the duties of the Public Works Director effective December 28, 2012. The retired annuitant's payrate exceeded the maximum amount listed on the pay schedule. Specifically, during fiscal year 2012-13, the retired annuitant's payrate for Public Works Director was \$80.00 per hour or the bi-weekly equivalent of \$6,400.00, which exceeded the maximum bi-weekly payrate of \$3,873.37 shown on the pay schedule. Effective February 2013, the retired annuitant received an increase of \$2,500.00 or the equivalent of \$125.00 per hour further exceeding the bi-weekly payrate on the pay schedule. Government Code specifies that the compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule, or its hourly equivalent.
- C. The Agency did not report the hours worked and earnings paid to retired annuitants in my|CalPERS to allow for monitoring the 960-hour limit per fiscal year. Although the retired annuitants did not exceed 960 hours in a fiscal year, the Agency did not report the hours and compensation of the retired annuitants in my|CalPERS as required.

Government Code Section 21220 addresses the conditions and consequences of unlawful employment of a person who has been retired under this system. The Government Code states that any retired member employed in violation of this article shall reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law, pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment plus interest thereon and

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contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

The Government Code also states that any public employer that employs a retired member in violation of this article shall pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

***Recommendation:***

The Agency should not employ a CalPERS retired annuitant who has not yet attained normal retirement age, as defined in CCR Section 586.1, unless the annuitant has met the bona fide separation requirements as defined in CCR Section 586.2.

The Agency should enroll and report the retired annuitant hours and earnings in my|CalPERS pursuant to Government Code Section 20121.

The Agency should monitor the payrate of retired annuitants in order to ensure the Agency complies with applicable Government Codes.

OAS recommends the Agency work with CalPERS Benefit Services Division (BNSD) and CASD to determine the appropriate course of action and make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20121, § 20122, § 20160, § 20221(b), 21220, § 21202, § 21221, § 21224

CCR: § 586.1, § 586.2

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7: Retiring member's unused sick leave balance was incorrect.

***Condition:***

The Agency incorrectly reported the unused sick leave balance for a retiree. Specifically, the Agency certified a zero sick leave balance. However, the retiring member had an unused sick leave balance of 720 hours or 90 days. Retiring members are eligible for additional service credit for unused sick leave accrued by the member during the normal course of employment. The total number of unused sick leave hours at retirement is converted to days to determine additional service credit.

***Recommendation:***

The Agency should ensure the correct amount of unused sick leave for retiring members is reported to CalPERS.

The Agency should work with BNSD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20965

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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 Phyllis Miller  
PHYLLIS MILLER, CPA, CIA  
Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Alan Feblowitz, CFE, Manager  
Jose Martinez, Auditor  
Earl Hsu, 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.

## 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 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 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.

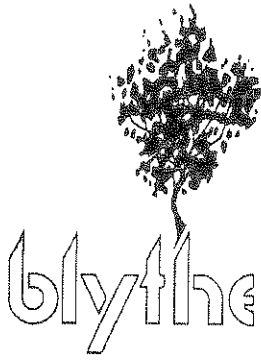
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# **APPENDIX B**

**AGENCY'S WRITTEN REPOSE**



# CITY OF BLYTHE

235 North Broadway / Blythe, California 92225  
Phone (760) 922-6161 / Fax (760) 922-4938

August 18, 2014

Ms. Margaret Junker

Chief

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

**Office of Audit Services**

P.O. Box 942701

Sacramento, CA 94229-2701

RE: Employer Code: 0801  
CalPERS ID: 2133011647  
Job Number: P13-036

Ms. Junker,


Per the letter dated June 30<sup>th</sup>, 2014, the following are the responses to the recommendations:

1. The Agency's pay schedule did not meet all of the requirements of the CCR
  - a. All positions will be paid by adopted pay schedules per California Code of Regulations (CCR) requirements;
2. The Agency reported Incorrect pay rates
  - a. All pay rates and earnings will be reported correctly for appointed and elected employees;
3. The Agency did not report special compensation as required by the CCR
  - a. All compensation will be reported as per the written labor policy/agreements;
4. The Agency incorrectly reported the value of Employer Paid Member Contributions (EPMC)
  - a. The City of Blythe, thru current labor negotiations, will comply with the Public Employees Pension Reform Act (PEPRA) on Employer Paid Member Contributions (EPMC)
5. The Agency did not enroll an eligible temporary/part-time employee into membership as required

- a. The City of Blythe will monitor all temporary/part time employees to ensure they are enrolled in California Public Employees Retirement System (CalPERS) if they exceed 1,000 hours worked in a fiscal year;
6. The Agency unlawfully employed retired annuitants
  - a. The City of Blythe will not employ a CalPERS retired annuitant who has not attained normal retirement age, as defined in CCR Section 586.1, unless the annuitant has met the bona fide separation requirements as defined in CCR section 586.2. The City of Blythe will enroll and report retired annuitant's hours and earnings, as well as monitoring the pay rate.
  - b. The City of Blythe since 2008 has been experiencing severe financial stress and a reduction of staff, with that, the City is requesting the waiving of any contribution, penalty, and interest by both the employer and retiree.
7. Retiring member's unused sick leave balance was incorrect
  - a. The City of Blythe will ensure the correct amount of unused sick will be reported to CalPERS.

If you have any questions or concerns, please give me a call at 760-922-7476.

Thank you



Frank J. Luckino  
City Manager