Office of Audit Services

Public Agency Review

City of Cerritos

CalPERS ID: 3202987374
Job Number: P14-020

December 2015

California Public Employees' Retirement System
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December 28, 2015

CalPERS ID: 3202987374
Job Number: P14-020

Patricia Leyva, Risk/Personnel Manager
City of Cerritos
P.O. Box 3130
Cerritos, CA 90703-3130

Dear Ms. Leyva:

Enclosed is our final report on the results of the public agency review completed for the City of Cerritos (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report with the exception of the Observation. We appreciate the additional information regarding the Observation that you provided in your response. After consideration of this information, the Observation will remain as stated 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. We appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

cc: City Council Members, City of Cerritos
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Renee Ostrander, Chief, EAMD, CalPERS
Carene Carolan, Chief, MAMD, CalPERS

CITY OF CERRITOS

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RESULTS IN BRIEF

The objective of our review was to determine whether the City of Cerritos (Agency) complied with applicable sections of the California Government Code (Government Code), California Public Employees' Pension Reform Act of 2013 (PEPRA), 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 and observation 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 the Government Code and CCR.
- Special compensation was not reported as required by Government Code and CCR.
- Payrates and earnings were not correctly reported.
- Retroactive adjustments were incorrectly reported as lump sum amounts and included items that were not reportable.
- Contributions were reported incorrectly to CalPERS.
- Observation: Individual was erroneously enrolled as an optional member.

OAS recommends the Agency comply with applicable sections of the Government Code, PEPRA, 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 February 1, 1963 to provide retirement benefits for local miscellaneous 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 CalPERS Board of Administration (Board) approved plan, OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The period was limited to the examination of sampled employees, records, and pay periods from October 1, 2011 through September 30, 2014. The review objectives and methodology 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 of the Government Code and CCR requirements.

Condition:

The Agency did not maintain a pay schedule that met all of the Government Code and CCR requirements. Specifically, the Agency did not have a Board approved pay schedule that identified the position title for every employee. The Agency had multiple Board approved Memorandum of Understandings (written labor agreements) that listed Board approved payrates for various positions with the exception of the payrates for Appointed City Officials and City Council positions. The Appointed City Officials and City Council pay schedules also did not indicate an effective date or date of any revisions. In addition, some written labor agreements did not include a time-base for the payrates such as hourly, monthly, etc.

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; and
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the payrate definition and 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). When an employer does not meet the requirements for a

publicly available pay schedule, CalPERS, in its sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

Recommendation:

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

The Agency should work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636
CCR: § 570.5

2: The Agency did not report special compensation as required by the Government Code and CCR.

Condition:

A. The Agency did not report the monetary value for the provision of uniforms as special compensation for classic employees in Fiscal Year 2013-14. Specifically, certain classic non-exempt and part-time employees were provided and required to wear uniforms. However, the monetary value of the uniforms provided was not reported to CalPERS. Government Code Section 20636 and CCR Section 571 requires that the monetary value for the purchase, rental, and/or maintenance of required clothing, a statutory item, be reported as special compensation for classic employees.

B. The Agency's non-exempt and part-time written labor policy agreements containing the provision for uniforms did not meet all of the requirements of CCR 571(b)(1)(B). Specifically, it did not indicate the conditions for payment of the uniforms. CCR requires that the written labor policy or agreement must contain the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation.

Recommendation:

The Agency should ensure the monetary value for the purchase, rental, and/or maintenance of required clothing for classic employees is reported as special compensation.

The Agency should ensure the conditions for the payment of the purchase and/or maintenance of uniforms are contained in a written labor policy or agreement.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code section 20160.

Criteria:

Government Codes: § 20160, § 20630, § 20636
CCR: § 571

3: The Agency incorrectly reported payrate and earnings.

Condition:

A. The Agency reported a payrate and corresponding earnings for the Finance Manager in the pay period ended July 5, 2014 that was less than the pay range listed in the employee's written labor policy. The Agency reported a monthly payrate of $8,373.73. However, the written labor policy listed a monthly payrate range for this position as $9,244.00 - $11,539.00.

B. The Agency incorrectly reported a Senior Lifeguard's payrate. Specifically, the Agency reported a monthly payrate of $3,655.00 as hourly in the pay period ended May 11, 2013. The Senior Lifeguard's correct hourly payrate was $20.88.

C. The Agency incorrectly reported the value of Employer Paid Member Contribution (EPMC) as part of base payrate and regular earnings for full-time employees hired before July 1, 2011. The Agency had a resolution in place for full-time employees hired before July 1, 2011 to pay and report all of employees' member contributions. The value of EPMC is an item of special compensation per Government Code Section 20636(c)(4) and CCR Section 571(a). As a result it should be reported separate from base payrate and regular earnings.

D. The Agency over reported payrate and earnings for a part-time Senior Lifeguard. Specifically, the Agency incorrectly added an extra one percent of base salary to the part-time employee's payrate and reported the overstated payrate to CalPERS. The Agency's written labor policy for part-time temporary employees stated that one percent of the employee's base salary is applied by the Agency for the employee's contribution to the Public Employee's Retirement System. Agency staff explained that the one percent was applied to the reported payrate to account for EPMC. The Agency paid the employee a payrate of $22.53 per hour and earnings of $1,278.58 in the pay period ended July 5, 2014. However, the Agency reported a payrate of $22.76 per hour and regular earnings of $1,291.37. Government Code Section 20636 defines payrate as the normal monthly rate of pay or base pay of a member. An employee's payrate should not be increased in order to apply the amount towards the retirement plan.

E. The Agency over reported the base payrate of its temporary and part-time employees by seven percent. Specifically, the applicable written labor policy stated the base salary for temporary and part-time employees was increased by seven percent so that the Agency could apply the seven percent towards

the employee's retirement plan, as applicable. Government Code Section 20636 defines payrate as the normal monthly rate of pay or base pay of a member. An employee's payrate should not be increased in order to apply the amount towards the retirement plan.

Payrate and earnings are important factors in computing a member's retirement allowance because service credit and final compensation are directly related to these factors.

Recommendation:

The Agency should ensure payrates and earnings are correctly reported.

The Agency should ensure special compensation items are reported separately from base payrate and regular earnings.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20120, § 20121, § 20160, § 20630, § 20636
CCR: § 569, § 570.5

4: The Agency incorrectly reported retroactive salary adjustments.

Condition:

The Agency incorrectly reported retroactive salary adjustments for its Community Development Director, City Librarian, and Custodial Supervisor. Specifically, the Agency reported retroactive salary adjustments as lump sum amounts in the period adjusted rather than in the periods in which the compensation was earned. For instance, the Agency paid a retroactive salary adjustment of $19,422.89 in the bi-weekly pay period ended July 5, 2015 that was for the period of October 1, 2009 through July 6, 2014. Retroactive adjustments should be reported in each pay period in which the compensation was earned. It is important to note that the Agency also included the value of EPMC as part of payrate and regular earnings when reporting the retroactive salary adjustments. This issue was previously discussed in Finding 2C. When reporting retroactive salary adjustments, the Agency should ensure the value of EPMC is reported as special compensation.

Recommendation:

The Agency should ensure retroactive salary adjustments are correctly reported.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Code: § 20120, § 20121, § 20160, § 20630, § 20636

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5: The Agency incorrectly reported member contributions.

Condition:

Although the Agency paid all of the normal member contributions for full-time employees hired before July 1, 2011, the total amount of contributions were reported as member paid contributions instead of EPMC. For example, the Agency paid eight percent EPMC in the amount of $508.03 for the Director of Public Works. However, the Agency reported the amount as member paid contributions for the pay period ended July 5, 2014.

Recommendation:

The Agency should ensure it correctly reports member contributions.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Code: § 20120, § 20121, § 20160, § 20691

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Observation: The Agency enrolled an individual who was not eligible for membership.

The Agency incorrectly enrolled the City Attorney into membership with CalPERS. Specifically, the Agency enrolled the City Attorney as an optional member in 2006; however, the City Attorney did not qualify for optional membership. The City Attorney was employed as a Deputy City Attorney with the Agency for a period of time between July 1, 1994 and December 30, 2006. Government Code Section 20322(d) states that in order to qualify for optional membership a person must hold the office of City Attorney or Assistant City Attorney on a continuous basis after July 1, 1994. Prior employment as Deputy City Attorney did not qualify the City Attorney for optional membership.

Furthermore, EAMD denied the City Attorney's enrollment as an optional member and provided the Agency and the City Attorney with appeal rights. Both the Agency and the City Attorney have appealed the determination. The outcome of the administrative appeal is pending a response from the administrative law judge.

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. The procedures performed provide reasonable, but not absolute, assurance that the Agency complied with the specific provisions of the PERL and CalPERS contract 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, of California Code of Regulations.

Respectfully submitted,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, CPA, MBA
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Alan Feblowitz, CFE, Senior Manager
Mike Obad, Lead Auditor
Earl Hsu, Auditor

APPENDIX A

OBJECTIVES

CITY OF CERRITOS

OBJECTIVES

The objectives of this review were limited to determine whether the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting and enrollment procedures prescribed in the Agency's retirement contract with CalPERS.

Effective January 1, 2013, new enrollments are checked against the PEPRA definition of "new member," regardless of whether the enrollment is for a first time CalPERS member or an existing member. All members that do not fit within the definition of a new member are referred to as "classic members."

METHODOLOGY

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:
  - o Provisions of the contract and contract amendments between the Agency and CalPERS
  - o Correspondence files maintained at CalPERS
  - o Agency Board minutes and Agency Board resolutions
  - o Agency written labor policies and agreements
  - o Agency salary, wage, and benefit agreements including applicable resolutions
  - o Agency personnel records and employee time records
  - o Agency payroll information including Contribution Detail Transaction History reports
  - o Documents related to employee payrate, special compensation, and benefits
  - o Various other relevant documents

- ✓ 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 meetings laws.

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- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.
- ✓ 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 unlawful employment occurs.
- ✓ 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 entity organizational structure to determine whether employees of the affiliated entity qualified for CalPERS membership and were enrolled as required.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide additional service credits for unused sick leave.

APPENDIX B

AGENCY'S WRITTEN RESPONSE

CITY OF CERRITOS SM

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Cerritos All-America City 2008

December 7, 2015

Beliz Chappuie, Chief
Office of Audit Services
California Public Employee's Retirement System
P. O. Box 942701
Sacramento, CA 94229-2701

Re: City of Cerritos Response to CalPERS Draft Public Agency Review
CalPERS ID: 3202987374
Job Number: P14-020

Dear Ms. Chappuie:

The City of Cerritos received the draft public agency review via e-mail on Wednesday, November 25, 2015. The City has reviewed this report and, although we do not agree with all of the proposed findings, the City is prepared to and looking forward to working with CalPERS to make the required adjustments. The Office of Audit Services documented five findings and one observation in this report. The following are the City responses to the review results:

Finding 1: The Agency's pay schedule did not meet all of the Government Code and CCR requirements.

City Response: The period that was reviewed by the CalPERS Office of Audit Services was from October 1, 2011 through September 30, 2014. During this timeframe the City had a current Memorandum of Understanding that was approved to begin on July 1, 2011 to June 30, 2014. The pay schedules that were provided to CalPERS were those that had been approved with the MOU. These pay schedules were approved by City Council prior to CalPERS adopting CCR 570.5 on August 19, 2011. The auditors were informed of this discrepancy but they moved forward with listing this item as a finding.

Effective with our current MOU which is in effect from July 1, 2014 to June 30, 2016 all of the City's pay schedules comply with CCR 570.5. You will find that all of our pay schedules are in compliance by visiting the City's website at www.cerritos.us. Furthermore, it should be noted that the only difference between the current pay schedules and the pay schedules provided to the CalPERS auditors are the words "hourly"

CAROL K. CHEN, MAYOR · GEORGE RAY, MAYOR PRO TEM · JIM EDWARDS, COUNCILMEMBER · MARK E. PULIDO, COUNCILMEMBER · NARESH SOLANKI, COUNCILMEMBER

and/or "monthly" by the salary. Although these terms are missing from the past pay schedules it is obvious which is the hourly rate versus the monthly rate.

Finding 2: The Agency did not report special compensation as required by the CCR.

City Response: The City was not aware that uniforms are to be reported as special compensation due to the fact that our employees do not receive a dollar amount to purchase their uniforms. On the contrary, our employees receive fifteen uniform pieces a year which are purchased by the City. In addition, every employee's uniform order and cost is different. The City will work with CalPERS staff to make the necessary corrections.

Finding 3: The Agency incorrectly reported payrate and earnings.

City Response: The reporting of a Senior Lifeguard's payrate was simply a one time clerical error. For your information, this error was corrected soon after it was discovered by City staff and prior to the auditors review.

This is the first time the City is told by CalPERS that we "incorrectly reported the value of Employer Paid Member Contribution (EPMC) as part of base payrate and regular earnings for full-time employees hired before July 1, 2011". The City has undergone two payroll system conversions, in 1999 and in 2011. Before both system conversions were completed, a CalPERS staff analyst was contacted to request direction as to how the EPMC for full-time employees should be reported. All these years the City has been following the direction given by the CalPERS staff analyst and reporting EPMC as we were instructed. This information was shared with the auditors but they indicated that CalPERS essentially provided the City with wrong information and direction. The City will work with CalPERS staff to make the necessary corrections. However, the City requests that CalPERS provide knowledgeable staff members to assist us with this matter so we are provided with accurate direction and correct information.

This is also the first time the City is told by CalPERS that we "incorrectly added an extra one percent of base salary to the part-time employee's payrate and reported the overstated payrate to CalPERS" and we "over reported the base payrate of its temporary and part-time employees by seven percent". All these years the City was processing and reporting payrates for part-time employees according to the instructions provided to us by a CalPERS staff analyst. Moving forward, the City will work with CalPERS staff to make the necessary corrections.

Finding 4: The Agency incorrectly reported retroactive salary adjustments.

City Response: This is the first time the City is told by CalPERS that the "Agency reported retroactive salary adjustments as lump sum amounts in the period adjusted rather than in the periods in which the compensation was earned". The salary adjustments for the three employees mentioned in this finding were the result of late merit reviews. When these reviews were completed, the City once again contacted a CalPERS staff analyst and asked for direction on how to report the retroactive salary adjustments. The City processed these adjustments according to CalPERS instructions. Going forward the City will work with CalPERS staff to make the necessary corrections. However, the City requests that CalPERS provide knowledgeable staff members to assist us with this matter so we are provided with accurate direction and correct information.

Finding 5: The Agency incorrectly reported member contributions.

City Response: As stated in the responses above, the City was reporting member contributions in the manner and direction given by a staff analyst at CalPERS. Once again, the City will work with CalPERS staff to make the necessary corrections. The City requests that CalPERS provide knowledgeable staff members that are able to provide accurate direction and correct information when assisting with this matter.

Observation: The Agency enrolled an individual who was not eligible for membership.

City Response: The Draft Report correctly sets forth that for an individual to be eligible for optional membership pursuant to Government Code section 20322(d), the person must hold the office of City Attorney or Assistant City Attorney on a continuous basis after July 1, 1994. Contrary to the Draft Report, the City Attorney was <u>not</u> "employed as a Deputy City Attorney with the Agency for a period of time between July 1, 1994 and December 30, 2006". The Cerritos City Attorney that enrolled as an optional member in 2006 was, in fact, the Assistant City Attorney prior to July 1, 1994, and was the Assistant City Attorney continuously until being appointed City Attorney in 2006. Thus, the observation by CalPERS that the "Agency enrolled an individual who was not eligible for membership" is based on a false factual premise and, therefore, the conclusion reached in the Draft Report is wrong. The observation in the Draft Report should be revised to state that the City Attorney was eligible to enroll in optional membership in 2006.

It should be noted that when the City contacted a staff analyst at CalPERS in 2007 to confirm that this employee was eligible for optional membership, the CalPERS staff analyst stated "Yes". Therefore, the City sent CalPERS the completed Election Of Optional Membership form signed by this employee and was instructed by the staff analyst at CalPERS that they were in receipt of everything they needed in order to properly enroll this employee into the CalPERS system.

The City is currently working with CalPERS to resolve this matter.

In conclusion, it is important to the City to ensure regulations are followed as required and we are in compliance at all times. Therefore, and as stated above, the City is prepared to work with CalPERS staff to make the necessary corrections and bring this matter to conclusion.

You may contact me at (562) 916-1321 if you have further questions.

Sincerely,

Original signed by Patricia Leyva

[redacted]

Patricia Leyva
Personnel/Risk Manager

pp