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November 5, 2012

Employer Code: 0347
CalPERS ID: 2072700019
Job Number: P09-050

City of Claremont
Adam Pirrie, Finance Director
P.O. Box 880
Claremont, CA 91711-0880

Dear Mr. Pirrie:

Enclosed is our final report on the results of the public agency review completed for the City of Claremont. Your City's written response, included as an appendix to the report, indicates disagreement with Finding 1, Finding 2, Finding 3, Finding 4 and Finding 6. We reviewed the information contained in your City's response pertaining to the Findings and based on this information, our recommendations remain as stated in the report. However, we expanded Finding 4 to further clarify the issue. In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed by Margaret Junker
MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: Risk and Audit Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Honorable City Council Members, City of Claremont

Office of Audit Services



Public Agency Review

City of Claremont

Employer Code: #0347
Job Number: P09-050

November 2012

CITY OF CLAREMONT

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RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Claremont's (City) enrolled individuals, member compensation, required retirement information and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- The City erroneously reported a miscellaneous employee under a safety coverage group and membership classification.
- Final settlement pay was erroneously reported.
- Pay schedules did not meet all requirements of a publicly available pay schedule.
- The reported payrate for one sampled employee exceeded the amount stated in the publicly available pay schedule.
- The value of Employer Paid Member Contributions (EPMC) was not properly reported.
- Training pay was over-reported for one sampled employee.
- Uniform allowance was not properly reported.
- Incorrect work schedule codes were reported.
- Eligible temporary/part-time employees were not enrolled in CalPERS membership timely.
- Council members were not offered optional membership.

CITY BACKGROUND

The City of Claremont, incorporated in 1907, has operated under the council-manager form of government since 1948. Policy-making and legislative authority are vested in a governing council consisting of five members. 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, 1956, to provide retirement benefits for local miscellaneous employees. The City amended the contract effective July 1, 1978 to include local safety police. The City's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City did not contract for health benefits during the review period.

All contracting public agencies, including the City, are responsible for the following:

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- Determining CalPERS membership eligibility for its employees.
- Enrolling employees into CalPERS upon meeting membership eligibility criteria.
- Enrolling employees in the appropriate membership category.
- Establishing the payrates for its employees.
- Approving and adopting all compensation through its governing body in accordance with requirements of applicable public meeting laws.
- Publishing all employees' payrates in a publicly available pay schedule.
- Identifying and reporting compensation during the period it was earned.
- Ensuring special compensation is properly identified and reported.
- Reporting payroll accurately.
- Notifying CalPERS when employees meet Internal Revenue Code annual compensation limits.
- Ensuring the employment of a retired annuitant is lawful and reinstating retired annuitants that work more than 960 hours in a fiscal year.
- Ensuring only eligible members and their dependents are enrolled for health coverage.
- Keeping accurate and up to date records of all health enrollment related information such as enrollment forms, parent-child relationship affidavits, divorce decrees, and other documentation.

SCOPE

As part of the Board approved plan for fiscal year 2010/2011, the OAS reviewed the City's payroll reporting and member enrollment processes as these processes relate to the City's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from January 1, 2007, through December 31, 2009. The on-site fieldwork for this review was conducted on October 11, 2010, through October 14, 2010. The review objectives and a summary of the procedures performed are listed in Appendix B.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: The City erroneously reported an employee in a safety classification.

Recommendations:

The City should report employees under the appropriate member classification based on position's job duties. The City should not report employees as safety members unless the position's primary duties are to engage in active law enforcement.

OAS recommends CASD reclassify the member to the correct miscellaneous classification and make the necessary adjustment to the member's account. CASD should work with the City to make any necessary adjustments pursuant to Government Code Section 20160.

Conditions:

OAS determined a sampled employee was incorrectly classified and reported under a safety coverage group 75002, which resulted in overpayment of retirement benefits. The determination was based on a review of the employee's personnel file, established performance goals, and duties performed. The following was noted:

- A prior CalPERS audit that was issued in April 2003 included a finding identifying this individual held the position of Information System Manager, a miscellaneous position, and was incorrectly classified and reported under a safety coverage group.
- Subsequent to the issuance of the audit report, the City re-classified the employee from Information System Manager in the Administrative Services Department to Lieutenant/Information System Manager in the Police Department. However, City records indicated the re-classification was a "title change only."
- During the current review period, the City reported the employee under the safety coverage group code 75002.
- Documents provided by the City failed to substantiate that the sampled employee's primary duties were to engage in active law enforcement.
- The employee retired effective October 1, 2009.

The City contended the employee maintained a sworn status from his previous position; therefore, was correctly classified as safety. However, OAS determined that once the employee accepted a position as Information System Manager the

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primary job duties performed did not qualify as providing active law enforcement. Therefore, the employee was incorrectly classified under a safety coverage group and should have been reported under a miscellaneous coverage group from the time the Information System Manager position was accepted.

The City failed to provide the information necessary to substantiate that the sampled employee's primary duties were to engage in the active law enforcement and accordingly have failed to demonstrate eligibility for safety status.

Compensation earnable was overstated due to the erroneous classification

As a result of the erroneously reported coverage group and membership classification, OAS determined the City incorrectly reported compensation earnable for the sampled employee. In the year prior to the employee's retirement on October 1, 2009, the City paid and reported a payrate of \$10,236 per month up to August 2009 and reported a payrate of \$10,653 for service periods ending August 23, September 6, September 20 and September 29, 2009. The payrates were listed for the position of Police Lieutenant in the City's July 1, 2008, and July 1, 2009 pay schedules. The payrate for an Information Systems Manager was not listed on City salary schedules reviewed by OAS. However, an Information Systems Officer position was listed in the City's October 5, 2009 pay schedule, in effect four days after the employee retired, listed a maximum monthly payrate of \$8,812.

In addition, reported items of special compensation, including education pay (\$200 per month), longevity (five percent of base payrate), and the value of EPMC (at a value of nine percent) were paid and reported based on benefits authorized for police management employees under the Claremont Police Management Association (CPMA). However, OAS determined the employee was not correctly classified under this group or position; therefore, the City should not have reported the items of compensation as compensation earnable.

Furthermore, the City paid and reported final settlement pay prior to the employee's retirement. The pay was authorized for members of the CPMA classification group and is discussed further in Finding 2.

Criteria:

Government Code: § 20085 § 20160, § 20383, § 20420, § 20425, § 20630(b), § 20636(b)(1), § 20636(c)(1), § 20636(c)(6)

California Code of Regulations: § 571(a) § 571(b)

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Finding 2: Final settlement pay was erroneously reported.

Recommendations:

The City should ensure that only compensation earnable, as defined under Government Code Section 20636 and corresponding regulations, is reported to CalPERS. The City should work with the CalPERS CASD to determine the impact of this incorrect reporting and determine what adjustments are needed.

OAS recommends CASD deny final settlement pay that was erroneously reported and make the appropriate compensation adjustments to members' accounts pursuant to Government Code Section 20160.

Condition:

In March 2009, the City informed employees of the CPMA group that a July 1, 2009 four percent Cost of Living Adjustment (COLA) was to be replaced with a four percent adjustment to salary ranges for all CPMA group members. However, an exception was to be made for members of the group who were within one year of retirement. These members were to receive the four percent COLA if they provided a formal written notification of their intent to retire and set a retirement date.

The City received a formal written intent to retire on August 5, 2009, from the employee discussed in Finding 1. CalPERS records showed the City reported the employee's four percent salary increase as part of base salary and regular earnings for the service periods ending August 23, September 6, September 20, and September 29, 2009. The employee retired effective October 1, 2009.

Final settlement pay is described in California Code of Regulations Section 570 as pay or a cash conversion of employee benefits that are in excess of compensation earnable, that are awarded to a member in connection with, or in anticipation of, a separation from employment. OAS determined the compensation was final settlement pay and, therefore, was a non-reportable item of compensation.

Criteria:

Government Code: § 20630(b), § 20636 (b)(1), § 20636 (f)

California Code of Regulations: § 570

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Finding 3: The City did not report payrates in accordance with publicly available pay schedules.

- a) Pay schedules did not meet the requirements of publicly available pay schedules as outlined in California Code of Regulations Section 570.5.
- b) Reported payrates for one sampled employee were not on the publicly available salary schedule or properly authorized during the review period.

Recommendation:

Only compensation earnable, as defined under Government Code Section 20636 and corresponding regulations, can be reported to CalPERS and considered in calculating retirement benefits. The City should ensure that the reported payrate for each position is clearly set forth in publicly available pay schedules and must be included in public documents available for public scrutiny.

OAS recommends CASD deny all incorrectly reported payrates and earnings, and when unable to determine correct payrates based on documentation provided, the determination should be based on the proper interpretation of compensation earnable. CASD should work with the City to make any necessary adjustments to reported payrates, service credit or other areas needing adjustment pursuant to Government Code Section 20160.

Condition:

(a) Pay schedules did not meet the requirements of publicly available pay schedules

Payrates shall be limited to the amount listed on a pay schedule. The City's pay schedules were not compliant with California Code of Regulations Section 570.5, which requires, among other things, that a pay schedule show the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range. The City's pay schedules listed payrates as a minimum and maximum; however, the pay schedule did not include stated amounts within the range. All sampled employees' payrates were within the salary range during the 12/09-4 sampled period with the exception of one. The sampled employee's payrate was not within the range for the position during the review period.

(b) Reported payrate was not on the publicly available salary schedule or properly authorized during the review period

OAS sampled employees' payrates to determine if payrates were properly authorized in council meetings and listed in publicly available pay schedules. OAS determined the payrate for the City Manager was not properly reported pursuant to Government Code Section 20636. Specifically,

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- Effective February 13, 2007, the City entered into an amended employment contract with the City Manager which stated an annual salary of \$187,236 (equates to \$15,603 monthly) and the City provided council approval authorizing the payrate. The pay schedule effective January 1, 2007, listed a maximum payrate of \$15,956 monthly; therefore, the contracted payrate was within the pay schedule range. However, the City reported a payrate of \$15,641.44, which was greater than the contracted amount of \$15,603 monthly; therefore, the payrate was overstated by \$38.44 per month. In addition, the City processed a retroactive payroll adjustment to the 12/06-3 service period with the increased payrate of \$15,641.44 and earnings of \$2,913.16. The approved contract and council minutes stated the pay increase was effective February 13, 2007; therefore, the City incorrectly reported an earnings adjustment for the 12/06-3 through 2/07-3 service periods. Consequently, payrate and earnings were overstated during the 12/06-3 through 2/07-3 service periods.
- A second amendment to the City Manager's employment contract, effective November 30, 2007, stated an annual salary of \$205,000 (equates to \$17,083.33 monthly). The City Council authorized the increase in payrate; however, the publicly available pay schedule in effect listed a maximum payrate of \$15,956 monthly; therefore, the reported monthly payrate of \$17,109.81 exceeded the pay schedule by \$1,153.81.
- Effective January 13, 2009, the City Council approved a contract for the City Manager with an annual salary of \$211,150 (equates to \$17,595.83 monthly); however, the City Manager deferred the increase in pay. Therefore, the City continued to pay and report the same payrate of \$17,109.81 until December 2009. As previously noted, the \$17,109.81 monthly payrate exceeded the publicly available pay schedule by \$1,153.81 until the City amended the salary schedule effective July 1, 2009, with a maximum payrate of \$17,110 monthly.
- The City reduced employees' salaries by five percent effective October 5, 2009, and amended the pay schedules to reflect the decrease in pay. During the 10/09-4 sampled service period, the City reported a payrate of \$16,277.35; which was in line with the publicly available pay schedule. In December 2009, the City reported a payrate of \$17,629.57 for the City Manager, based on the contract approved January 13, 2009, authorizing an annual salary of \$211,150. Despite the contract's approval in January 2009, the publicly available pay schedule, revised October 5, 2009, stated a maximum monthly payrate of \$16,277 (equates to an annual payrate of \$195,324). Therefore, the reported monthly payrate of \$17,629.57 exceeded maximum pay stated on the publicly available pay schedule.

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OAS determined the payrates were not properly reported pursuant to Government Code Section 20636, and the pay schedules were not compliant with California Code of Regulations Section 570.5. In addition to improperly reporting payrates, it was noted during the review process the City incorrectly reported payroll information during this review period. Specifically, retroactive adjustments were incorrectly reported, earnings were overstated, and payrates were rounded up and exceeded amounts authorized. OAS recommends CASD assess the impact of the incorrect reporting and make corrections to improperly reported payrates and compensation.

Criteria:

Government Code: § 20160, § 20630 (b), § 20636 (a), § 20636 (b)(1)

California Code of Regulations: § 570.5

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Finding 4: The City incorrectly reported the value of EPMC.

- (a) The City incorrectly included the value of EPMC calculated on base payrate in the reported base payrate and regular earnings.
- (b) The value of EPMC was over-reported for miscellaneous employees based on the City's resolution on file with CalPERS.
- (c) The City incorrectly reported the value of EPMC without having proper authorization in a written labor agreement.

Recommendations:

- (a) The City should report items of special compensation separately from base pay rate and regular earnings.
- (b) The City should pay and report the value of EPMC for eligible employees equal to the amount the City authorized to pay for its employees.
- (c) The City should ensure items of special compensation are included in a written labor policy.

OAS recommends CASD deny the value of EPMC that was improperly over-reported and make the necessary adjustments to members' accounts pursuant to Government Code Section 20160.

Conditions:

EPMC was incorrectly reported in base payrate and regular earnings

- (a) The City incorrectly reported the value of EPMC on base payrate in the employees' reported payrate and regular earnings in the 6/09-3 service period. All special compensation is required to be reported separately as special compensation, as it is earned.

The City's EPMC resolution authorized the City to pay and report EPMC at seven percent for miscellaneous employees.

- (b) The City had resolutions on file authorizing the City to pay and report the value of EPMC. Resolution 95-103 stated, "The City of Claremont elects to pay seven percent for civilian employees and nine percent for sworn employees of employees' compensation earnable as Employer Paid Member Contributions and report the same percent ...as additional compensation." However, the City paid and reported the value of EPMC at eight percent for miscellaneous

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employees; therefore, the City over reported the value of EPMC for miscellaneous employees.

The City incorrectly reported the value of EPMC

- (c) The City did not include the benefit of paying and reporting the value of EPMC as a provision in the San Bernardino Public Employees Association (SBPEA) and the Claremont Professional Employees Association (CPEA) MOU's or other written labor policy or agreement for these groups; therefore, the City incorrectly reported the value of EPMC for these employees. In order for the value of EPMC to be reported as special compensation, it must be contained in a written labor policy or agreement as outlined in California Code of Regulations Section 571.

The following information was added subsequent to the issuance of the draft report to provide clarification:

As stated above, the City's Resolution No 95-103 provided for the paying and reporting the value of EPMC. At the time the Resolution was adopted, the applicable Government Code Sections were 20023 (c)(4) and 20615. Subsequently, the Government Code Sections were renumbered to 20636 (c)(4) and 20691, respectively. These Government Code Sections provide for paying and reporting the value of EPMC as special compensation on all compensation earnable as it is earned. However, the language in the City's MOU's applies to Government Code Section 20692 for the conversion of EPMC to payrate during the final compensation period which is not the provision that the City adopted through its Resolution. Therefore, the language in the MOU's does not reflect the language applicable to the City's Resolution.

Criteria

Government Code: § 20160, § 20636 (a), § 20636 (b)(1), § 20636 (c)(1), § 20636 (c)(4), 20691

California Code of Regulations: § 569, § 569 (a)(1), § 571 (a)(1)(A), § 571 (a)(1)(B)

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Finding 5: Special compensation in the form of training pay was over-reported for one sampled employee.

Recommendations:

The City should ensure items of special compensation are reported in accordance with the amounts authorized in a written labor agreement.

OAS recommends CASD deny the portion of training pay that was improperly over-reported and make the appropriate adjustments to members' accounts and other areas needing adjustment pursuant to Government Code Section 20160.

Condition:

One sampled employee received training pay during the sampled 6/09-3 and 12/09-4 service periods. The training pay was paid and reported at seven percent of base payrate; however, the employee's bargaining unit MOU authorized training pay at five percent of base payrate. Specifically, the MOU stated, in part, "Record Clerks assigned to training duties shall be compensated an additional five percent during time they are actually conducting training for new employees." Therefore, the City should have reported training pay at a value of five percent of base payrate.

Criteria:

Government Code: § 20160, § 20636 (c)(1), § 20636 (c)(6)

California Code of Regulations: § 571(a), § 571(b), § 571(c)

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Finding 6: Uniform allowance was incorrectly reported.

Recommendations:

The City should not report uniform allowance for personnel not required to wear uniforms and receiving an allowance for the purchase and maintenance of business casual attire.

The City should report the value of uniforms at the time a uniform is issued or replaced as stipulated in California Code of Regulations Section 571.

OAS recommends CASD make the appropriate adjustments to members' accounts and other areas needing adjustment pursuant to Government Code Section 20160.

Conditions:

Uniform allowance was incorrectly reported for a sampled CPMA employee who was not required to wear a uniform. The allowance was for business casual attire, not a required City uniform. Specifically, the employee received a uniform allowance under the CPMA MOU indicating the payment was for the purchase and maintenance of business casual attire. The City clarified that "...all unit employees assigned to a regular position requiring business attire other than a police uniform shall receive \$20 per month..." The section of the MOU "...refers to employees who are assigned to safety positions requiring non-uniformed attire and are required to purchase and maintain business casual attire. The \$20 monthly allowance is intended to cover these costs. This allowance is reported as special compensation to PERS for the first two pay periods each month. (\$10 per pay period)."

California Code of Regulations Section 571 defines uniform allowance as "the compensation paid or the value for...required clothing...that is a ready substitute." The City should not report uniform allowance for personnel not required to wear uniforms and receiving an allowance for the purchase and maintenance of business casual attire.

Secondly, the City's CPMA MOU stated, "The City shall supply employees with needed and required uniforms, safety equipment and any other equipment which is mandatory for a particular job assignment." OAS determined the value of uniforms supplied by the City was not reported as additional compensation at the time the uniforms were issued. In addition, the value of replacement uniforms supplied by the City on an as-needed basis was not reported. The City should report the value of uniforms supplied at the time of issue and at the time of replacement as stipulated in California Code of Regulations Section 571.

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Criteria:

Government Code: § 20160, § 20636(c)(6),

California Code of Regulations: § 571(a)(5)

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Finding 7: The City reported an incorrect work schedule code for employees who regularly worked 38 hours per week.

Recommendations:

The City should report work schedule codes that correspond to the hours of the normal full-time work schedule for employees in the same work group.

OAS recommends CASD make the appropriate adjustments to members' accounts and other areas needing adjustment pursuant to Government Code Section 20160.

Condition:

Effective October 5, 2009, the City reduced the full-time employees in the CPEA, SBPEA, CMA, and CEA groups to a 38-hour workweek. The City continued to report a full-time work schedule code of 173 for the sampled employees in these bargaining groups during the 12/09-4 service period. However, the City should have reduced the work schedule code to 164 to properly reflect the hours worked.

The work schedule code is a three-digit numeric code used in calculating both the employer rate and member's retirement benefit. It identifies what the employer considers to be full-time employment for employees in the same work group, such as by department or duties, but not by individual employee.

Criteria:

CalPERS Procedure Manual: Page P31

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Finding 8: Two sampled part-time employees met membership eligibility criteria and were not enrolled into membership.

Recommendations:

The City should enroll all eligible employees into CalPERS membership when membership eligibility requirements are met pursuant to Government Code Section 20305.

OAS recommends that CASD identify the impact of this enrollment issue and work with the City to make the necessary adjustments pursuant to Government Code Section 20160.

Conditions:

Two sampled part time employees completed 1,000 hours worked in fiscal year 2008/2009. Specifically,

- One sampled employee worked 1,006.5 hours in fiscal year 2008/2009, completing 1,000 hours worked on June 29, 2009.
- One sampled employee worked 1,012 hours in fiscal year 2008/2009, completing 1,000 hours worked between June 15 and June 28, 2009.

Subsequent to the on-site fieldwork, the City enrolled the two sampled employees into membership with the correct effective date.

Criteria:

Government Code: § 20160, § 20305 (a)(3)(B), § 20044

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Finding 9: Eligible elected officials were not offered optional membership.

Recommendations:

The City should ensure elected officials are advised of their CalPERS optional membership rights when first elected and file the appropriate election in writing with CalPERS for those who elect to be members.

OAS recommends CASD work with the City to ensure that elected officials are offered optional membership in CalPERS.

Condition:

The City's elected officials were eligible for optional membership and could elect to be enrolled and have earnings reported. The City did not inform its council members of their optional membership rights when they were elected.

Government Code Section 20322 states that an elective officer is excluded from membership in the CalPERS retirement system unless the officer files an election in writing with CalPERS to become a member. An optional member must be advised of CalPERS rights to membership when first eligible for membership. The member may elect membership at any time during membership. OAS found no record that the council members were advised of their membership rights or the right to opt into membership at any time.

Criteria:

Government Code: § 20322 (a), § 20322 (b)

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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 B. OAS limited the test of transactions to employee samples selected from the agency's payroll and health 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 thirty days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, California Code of Regulations.

Respectfully submitted,

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

Date: November 2012

Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIA, CIDA, Manager
Alan Feblowitz, CFE, Manager
Jodi Epperson
Karen Harlan, CIA, CGAP

CITY OF CLAREMONT

APPENDIX A

BACKGROUND

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BACKGROUND

California Public Employees' Retirement System

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 Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides services for eligible members who apply for service or disability retirement. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

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 employer's 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.

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APPENDIX B

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the City's retirement and health benefits contracts with CalPERS were followed.

This review covers the period of January 1, 2007, through December 31, 2009. OAS completed a prior review covering the period of January 1, 2000, to December 31, 2002.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
 - Provisions of the Contract and contract amendments between the City and CalPERS
 - Correspondence files maintained at CalPERS
 - City Council minutes and City Council resolutions
 - City written labor policies and agreements
 - City salary, wage and benefit agreements including applicable resolutions
 - City personnel records and employee hours worked records
 - City payroll information including Summary Reports and CalPERS listings
 - Other documents used to specify payrate, special compensation and benefits for all employees
 - City ordinances as necessary
 - Various other documents as necessary
- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City correctly reported compensation.

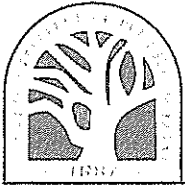
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- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to City public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the City's governing body in accordance with requirements of applicable public meeting laws.
- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the City's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the City's enrollment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 960 hours were worked in a fiscal year.
- ✓ Reviewed the City's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the City's affiliated entities to determine if the City shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the City or by the affiliated entity.
- ✓ Reviewed the City's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick.
- ✓ Reviewed health records to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program, if contracted for Health Benefits.

APPENDIX C

CITY'S WRITTEN RESPONSE

Note: The City provided attachments to the response which were intentionally omitted from this appendix.



CITY OF CLAREMONT

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October 2, 2012

California Public Employees' Retirement System
Office of Audit Services
Attn: Margaret Junker, Chief
PO Box 942701
Sacramento, CA 94229-2701

Dear Ms. Junker:

City of Claremont Response to CalPERS Review

Please find enclosed the City's response to the findings outlined in the draft report on CalPERS' review of the City of Claremont.

Should you require additional information, or have any questions regarding our response, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Pirrie".

Adam Pirrie
Finance Director

CITY OF CLAREMONT
RESPONSE TO FINDINGS
CALPERS PUBLIC AGENCY REVIEW
JUNE 2012

Finding 1: The City erroneously reported an employee in a safety classification.

City Response:

The City has provided documents justifying the employee's status in a safety classification.

On April 18, 2003, the City responded to a prior CalPERS audit, providing a background of the employee in question's tenure with the City, as well as justification for his classification as a safety employee. This justification included the fact that the employee maintained a locker, with his police uniforms, weapons and related equipment, at the Police Department. Additionally, the employee was required to adhere to police training standards and complete Police Officer Standards and Training (POST) courses. The employee's classification meant that he would be required to serve in the capacity of an active police officer during public safety emergencies and/or work slow-downs/stoppages. A copy of the City's response from 2003 is included as Attachment A.

On January 14, 2004, the City reiterated its position with regard to this employee. This correspondence is included as Attachment B.

On May 11, 2011, the City provided a response during the fieldwork for the current audit. This response included a letter from Police Chief [REDACTED] confirming the City's position that the employee in question was justifiably classified as a safety employee. In addition to the letter from the Police Chief, the response included a locker inventory taken upon the employee's retirement from the Police Department. The City's May 11, 2011 correspondence and the above-referenced documents are included as Attachment C.

Given the information relating to the employee's safety classification during his employment with the City of Claremont, the City maintains its position that the employee was appropriately placed and reported in a safety classification for his entire tenure with the City of Claremont Police Department.

Finding 2: Final settlement pay was erroneously reported.

City Response:

The City provided all possessed information relating to the receipt of a 4% COLA by the employee effective August 5, 2009.

This action of issuing the COLA was in compliance with Claremont Police Management Association (CPMA) MOU side letter agreement provided for your review in our February 27, 2012 correspondence.

Finding 3: The City did not report payrates in accordance with publicly available pay schedules.

- a) Pay schedules did not meet the requirements of publicly available pay schedules as outlined in California Code of Regulations Section 570.5.
- b) Reported payrates for one sampled employee was not on the publicly available salary schedule or properly authorized during the review period.

City Response:

February 2007 City Manager Salary Adjustment

The City Manager contract approved at the February 13, 2007 City Council meeting established the monthly salary at \$15,603. Implementation of this salary required incorporation within the existing compensation structure which is comprised of set salary ranges. [REDACTED] contracted salary was placed at the closest salary within that pay structure. This closest salary was that of \$15,641.44 per month. This is \$38.44 per month more than that established in the contract. This salary placement was documented in [REDACTED] personnel file with the use of a Personnel Action Form (Attachment D). You will note that the "comment" section of the Personnel Action Form clearly discloses this salary difference. As with any public employee, [REDACTED] salary and attached Personnel Action Form is public record and available for public review. Further it is the City's consistent practice to at all times keep a copy of the current salary schedule at the City Hall front counter in the "Job Book" for the public to review at their discretion. This job book includes not only the current salary schedule but also all City job descriptions, and City employment opportunities.

In regard to the retro of [REDACTED] \$15,641.11 monthly salary to December 1, 2006, this was completed per the attached Personnel Action Form (Attachment D). This was completed upon the verbal request of [REDACTED] as the City Manager evaluation and salary adjustment typically occurs in November/December of each calendar year.

November 2007 and January 2009 City Manager Salary Adjustments

The City Manager contract effective November 30, 2007 established the monthly salary at \$17,083.33. As noted above with the previous increase for [REDACTED] implementation of this salary required incorporation within the existing compensation structure which is comprised of set salary ranges. Therefore, [REDACTED] contracted salary was placed at the closest salary within that pay structure. This closest salary was that of \$17,109.81 per month. This is \$26.82 per month more than that established in the contract. This salary placement was documented in the [REDACTED] personnel file with the use of a Personnel Action Form (Attachment E). You will note that the "comment" section of the Personnel Action Form clearly discloses this salary difference. As with any public employee, [REDACTED] salary and attached Personnel Action Form is public record and available for public review.

As noted in our previous correspondence [REDACTED] deferred his monthly salary increase to \$17,595.83 that was to originally be effective January 13, 2009. [REDACTED] elected to defer his salary increase at that time because other employees in the City were receiving pay cuts and layoffs. Again, as stated above, the slight salary deviation to fit the contract salary within the City compensation pay ranges was documented with a Personnel Action Form (Attachment F).

October 2009 and January 2010 City Manager Salary Adjustments

The City incorrectly adjusted the City Manager salary and range in October 2009 to implement the 5% reduction in pay (38 hr work week). As [REDACTED] employment contract did not indicate that he would receive the 5% reduction, the October 2009 salary schedule showing the reduced monthly salary of \$16,277 is in correct. Therefore, the City corrected this in December 2009 by adjusting the City Manager salary back to \$17,629.57.

Finding 4: The City incorrectly reported the value of EPMC.

- a) The City incorrectly included the value of EPMC calculated on base payrate in the reported base payrate and regular earnings.
- b) The value of EPMC was over-reported for miscellaneous employees based on the City's resolution on file with CalPERS.
- c) The City incorrectly reported the value of EPMC without having proper authorization in a written labor agreement.

City Response:

- a) The City incorrectly included the value of EPMC calculated on base payrate and regular earnings.

The City identified the erroneous reporting of EPMC in base payrate and regular earnings in October 2009 and began reporting EPMC as special compensation starting with the pay period beginning on October 19, 2009. EPMC has been correctly reported as special compensation since that date. The identification of this error was made prior to the CalPERS' audit staff's fieldwork, and corrected prior to the beginning of the audit.

- b) The value of EPMC was over-reported for miscellaneous employees based on the City's resolution on file with CalPERS.

The City's CalPERS contract amendment to implement the 2.5% at 55 formula for all miscellaneous employees took place in February 2004. Due to an oversight by City staff at the time, the appropriate resolution increasing the value of EPMC reported from 7% to 8% was not adopted. Although a resolution was not in place, staff did begin immediately paying and reporting 8%, as required by the contract amendment.

The current value of EPMC reported by the City for miscellaneous employees is supported by appropriate resolutions. The City has adopted resolutions for miscellaneous employees in all bargaining groups that have adjusted employee contributions toward EPMC since August 2011. Currently, employees contribute 6% toward the employee share and the City pays and reports 2% in EPMC for those in the 2.5% at 55 formula and 1% for those in the 2% at 55 formula. In July 2013 all employees will begin paying the full 7% and 8% employee share, thus eliminating the paying and reporting of EPMC.

- c) The City incorrectly reported the value of EPMC without having proper authorization in a written labor agreement.

CalPERS audit findings state that the City did not include the benefit of paying and reporting the value of EPMC as a provision in the San Bernardino Public Employees' Association (SBPEA) and the Claremont Professional Employees' Association (CPEA) MOU's or other written labor policy or agreement.

City staff's review of the SBPEA MOU for the time frame in question shows salary conversion language (paying and reporting of EPMC) in Article 12 – Retirement, Section A (Attachment D). This language states "In addition to the employer's share, the City will also contribute 8% of the employee's salary into the retirement system. These contributions shall, at the time of termination belong to the employee. Claremont participates in the "PERS Conversion" Program allowing employees to convert the 8% City paid employee contribution to compensation during the final year of employment, thereby increasing one's single highest year compensation when

the final pension is calculated." The SBPEA MOU for this time period showing this language had previously been provided for PERS review.

Staff's review of the CPEA MOU for the audited time frame shows that while the salary conversion language is not directly stated in this MOU, Article XI indicates that "The City shall continue to provide the 2.5% at 55 contract option with the California Employees' Retirement System (CalPERS) and shall continue to contribute 8% of the salary of each employee covered by this Agreement into the retirement system (note City contribution maximum below), as provided for in the benefit packet for CPEA employees in effect as of July 1, 2008." The benefit packet in question is the list of core benefits for employees in this bargaining unit. This document (Attachment E) has been included for reference. It specifically states that the City "participates in the PERS Conversion" Program, allowing employees to convert their 8% City paid employee contribution to compensation during the final year of employment, thereby including one's single highest year compensation when the final pension is calculated." Additionally, Article XXII of the CPEA MOU states that "The terms of this Agreement, together with those matters within the scope of representation in effect on the effective date of this Agreement, shall continue for the term of this Agreement." As documented in Attachment E, the paying and reporting of EPMC was a benefit that was clearly in effect and of course is a matter that would be within the scope of representation. As both City and PERS records show, a resolution implementing salary conversion for all miscellaneous and safety employees had been completed prior to the CPEA MOU in question, clearly demonstrating that this benefit was adopted, documented and implemented for miscellaneous CPEA employees.

Finding 5: Special compensation in the form of training pay was over-reported for one sampled employee.

City Response:

Due to payroll processing errors, the sampled employee received training pay in an amount that exceeded that specified in the employee's bargaining unit MOU. In future, staff will more closely monitor specialty pays to ensure that they are properly paid and reported.

Finding 6: Uniform allowance was incorrectly reported.

City Response:

All CPMA unit members are required to maintain a police uniform, regardless of their assignment.

The \$20 per month allowance is for the maintenance and cleaning of City-provided uniforms required of all unit employees. It is paid to members whose primary duties are in safety positions requiring non-uniformed attire. However, these employees are required to maintain a police uniform, and are frequently required to wear uniforms in performing other public safety-related duties. Officers in this bargaining unit are frequently called upon to provide service in the City's Patrol and Traffic Bureaus when overtime assignments are required.

Finding 7: The City reported an incorrect work schedule code for employees who regularly worked 38 hours per week.

City Response:

Between October 9, 2009 and June 26, 2011, the City incorrectly reported the work schedule for employees who regularly worked a 38-hour work week. With the pay period beginning June 27, 2011, the City began using the MyCalPERS website to report payroll information, and began to correctly report the work schedule for all employees, including those working 38 hours per week.

Correct work schedules are currently being reported for all employees and staff will continue to ensure that this is the case.

Finding 8: Two sampled part-time employees met membership eligibility criteria and were not enrolled into membership.

City Response:

As noted in the PERS audit report "subsequent to the on-site fieldwork, the City enrolled the two sampled employees into membership with the correct effective date." Therefore, this correction has been completed.

In future, the City will more closely monitor part-time employee hours and promptly enroll eligible employees upon reaching 1,000 hours in a given fiscal year.

Finding 9: Eligible elected officials were not offered optional membership.

City Response:

The City will update City Administrative Policy 10-26, City Council Member Benefits and related benefit election/decline form to allow current and future City Council members the option to enroll in PERS.