Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
Telecommunications Device for the Deaf - (916) 795-3240
(916) 795-0900, FAX (916) 795-7836

September 13, 2010

Employer Code: 1081
Job Number: P08-073

City of Guadalupe
Carolyn Galloway-Cooper, Interim Finance Director
918 Obispo Street
Guadalupe, CA 93434

Dear Ms. Galloway-Cooper:

Enclosed is our final report on the results of the public agency review completed for the City of Guadalupe. Your agency's written responses dated July 12, 2010 and August 12, 2010 indicate agreement with the issues noted in the report with the exception of two issues listed under Risk 1. The written responses are included as an appendix to the report. As part of our resolution process, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed by Margaret Junker

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

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Lori McGartland, Chief, ERSD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Holly Fong, Chief, EMHS, CalPERS
Honorable Board Members, City of Guadalupe
Amelia Villegas, Director of Human Resources, City of Guadalupe

City of Guadalupe

Public Agency Review

CalPERS

Office of Audit Services

Employer Code: 1081
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September 2010

CITY OF GUADALUPE

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RESULTS IN BRIEF

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

- The monetary value of uniforms and uniform reimbursements was not reported.
- The value of Employer Paid Member Contributions (EPMC) was not reported for eligible employees.
- A resolution to pay and report the value of EPMC did not specifically identify eligible employees.
- Earnings were not reported.
- Fire employees Fair Labor Standard Act (FLSA) premium pay was not reported.
- Shift differential pay was not always reported.
- On-call pay and compensation for accrued leave absences were incorrectly reported.
- An incorrect payrate was reported.
- Employees' earnings were incorrectly reported as special compensation.
- Special compensation was incorrectly reported.
- Incorrect work schedule codes were reported for fire shift employees.
- Payroll information was not submitted timely.
- Eligible part-time employees were not enrolled into membership.
- Unused sick leave was not correctly reported for additional service credit.
- Declaration of Health Coverage (HB-12A) forms were not maintained.
- Verification of eligibility for dependents enrolled in CalPERS Health Benefits Program was not always provided.
- Health contributions were not remitted timely.
- Required ACES user security agreements (AESB-43) were not maintained and an ACES deletion form (AESB-42) was not submitted.

BACKGROUND

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract

with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

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

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

The City of Guadalupe was incorporated on August 3, 1946. The City is a general law city under the laws of the State of California and operates under a Council-Administrator form of government. The City provides the following services: public safety (police and fire), construction and maintenance of highways and streets, sanitation, culture and recreation, public improvements, planning, zoning and general administration. Enterprise funds, operated in a manner similar to a private business, include water and wastewater. 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 January 1, 1976, to provide retirement benefits for police and miscellaneous employees. The City later

amended the contract to include fire employees effective September 17, 1980. The City contracted with CalPERS effective June 1, 1990, to provide health benefits to all employees.

SCOPE

As part of the Board approved plan for fiscal year 2008/2009, we reviewed the City's payroll reporting and enrollment processes as these processes relate to the City's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures were followed. The on-site fieldwork for this review was conducted from May 4, 2009 through May 7, 2009.

The review period was limited to the examination of sampled records and processes from April 1, 2006 through March 31, 2009. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the City had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the City had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the City's payroll register with the data reported to CalPERS to determine whether the City correctly reported employees' compensation.
- ✓ Reviewed the City's payroll information reported to CalPERS for the sampled employees to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the City's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.

CITY OF GUADALUPE

- ✓ Reviewed the City's enrollment practices pertaining to temporary/part-time employees, part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the City's classification of employees to determine whether the City reported employees in the appropriate coverage groups.
- ✓ Reviewed the City's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the City's calculation and reporting of unused sick leave balances for retiring employees.
- ✓ Reviewed employees and their dependents to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health premium payment information to determine whether the payments were remitted within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the City contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the City maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

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RISK AND MITIGATION TABLE

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

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS.	Payroll records and compensation reported to CalPERS were reviewed for a sample of ten employees for two service periods. The selected service periods were the first service period of January 2008 (1/08-3) and the second service period of March 2009 (3/09-4). Earnings reported to CalPERS were reconciled to the City's payroll records. Our sample testing revealed the following exceptions: <u>Uniform Allowance</u> The City did not report uniform reimbursements for police employees nor was the value of uniforms provided to maintenance employees reported. Government Code, § 20636(c)(6), states, in part, "The board shall promulgate regulations that delineate more specifically and exclusively what constitutes 'special compensation' as used in this section. A uniform allowance, the monetary value of employer-provided uniforms… shall be included as special compensation."	The City should immediately report uniform reimbursements and the monetary value of uniforms provided to employees. The City should work with CalPERS ERSD to assess the impact of this non-reporting and determine what adjustments, if any, are needed.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	California Code of Regulations, § 571(a)(5) defines uniform allowance as "…Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes." <u>Employer Paid Member Contributions</u> The MOU between the City and the Service Employees International Union (SEIU) group of employees stated, "The employee portion of the PERS contribution, made by the City, shall be reported to PERS as income." However, the value of EPMC was not reported for SEIU employees. It was noted the City submitted resolution #2006-25 to CalPERS in November 2006 to pay and report the value of EPMC. However, the resolution stated, "This benefit shall apply to all employees of PERS (Membership Category OR Group or Class)." It appeared the resolution was not properly completed as this language was used as an example in the resolution template found in the CalPERS Procedures Manual. Government Code, § 20636(c)(4), states, "Special	The City should immediately re-submit the appropriate resolution to pay and report the value of EPMC to CalPERS. The resolution should identify which groups of employees are authorized for this benefit. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20691, if the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation earnable." California Code of Regulations, § 571(a)(1), defines the value of EPMC as the full monetary value of EPMC paid to CalPERS and reported as compensation on behalf of all members in a group or class. California Code of Regulations, § 571(a)(1)(A), states, “A resolution or ordinance of the governing body must be provided to CalPERS indicating the group or class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation. The resolution or ordinance must be formally adopted by the employer's governing body, and submitted to CalPERS for review and approval.” California Code of Regulations, § 571(a)(1)(B), states, in part, “The resolution or ordinance must specify that the value of EPMC will be reported as an item of special compensation consistently, for all members in the affected group or class of employment ...."	

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	<u>Earnings Not Reported</u> The City reported earnings for 106 hours worked by a sampled fire captain in service period 3/09-4. However, timesheets and the Fire Department's "2009 Shift Calendar" showed the Fire Captain's normal full-time work schedule was 56 hours per week. The City should have reported compensation for 112 hours on a straight time basis in the biweekly period. Government Code, § 20636(a), defines compensation earnable for a member as the payrate and special compensation of the member. Government Code, § 20636(b)(1), states, in part, "Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours…"	The City should immediately begin reporting the correct amount of regular earnings for fire shift employees. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed. A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.
	<u>Fair Labor Standard Act Premium Pay</u> As mentioned above, the City paid and reported regular earnings for 106 hours for a fire shift employee in service period 3/09-4; however, earnings for 112 hours should have been reported. In addition to the reported earnings being understated, FLSA premium pay was not reported to CalPERS as special compensation.	The City should immediately begin to report FLSA premium pay as special compensation. The City should work with CalPERS ERSD to assess the

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	Government Code, § 20636, defines FLSA premium pay as additional half-time pay, paid for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period established by FLSA. California Code of Regulations, § 571(a)(5) further defines FLSA as, “Compensation paid for normal full-time work schedule including premium pay required by FLSA. For example, a firefighter’s normal work schedule is 56 hours per week. FLSA states premium pay must be paid on all hours worked above 53 hours per week up to what is considered normal for employees on a full-time basis. In this example, the firefighter works 56 hours in a normal work week. Therefore compensation would be reported for 53 hours per week and FLSA premium pay would be reported for 3 hours per week. Any work performed above 56 hours per week would be considered overtime and would not be reported to PERS.” <u>Shift Differential</u> The MOU between the City and the Guadalupe Police Officers Association stated, "An employee whose shift contains four or more hours between midnight and 0700 shall be paid a shift differential of $1.00 per hour for the duration of said shift." One sampled employee was paid a shift differential of $80.00 in service period 1/08-3 and	impact of this non-reporting and determine what adjustments, if any, are needed. The City should immediately begin to report shift differential pay as special compensation. The City should work with CalPERS ERSD to assess the

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	$21.00 in service period 3/09-4. However, the shift differential pay was not reported to CalPERS as special compensation. California Code of Regulations, § 571(a)(4), defines shift differential as, "Compensation to employees who are routinely and consistently scheduled to work other than a standard 'daytime' shift, e.g. graveyard shift, swing shift, shift change, rotating shift, split shift or weekends." <u>Emergency Pager Pay</u> Emergency pager pay was incorrectly reported for two of the sampled employees. Specifically, emergency pager pay in the amount of $512.00 was reported for one employee in service period 1/08-3 and for another employee in service period 3/09-4. The pay was identified by City administrative staff and in an MOU as "on-call" pay. On-call pay does not meet the definition of special compensation and the pay should not have been reported. California Code of Regulations, § 571(a), contains an exclusive list that identifies and defines special compensation items. This list does not include on-call or emergency pager pay as an item of special compensation.	impact of this non-reporting and determine what adjustments, if any, are needed. A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report. The City should immediately stop reporting "on-call" pay as special compensation. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed. A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	<u>Compensation for Accrued Leave Time</u> Compensation for accrued vacation time, sick time and compensatory time were reported for three employees. ➢ One employee cashed out 20 hours of vacation time in the 3/09-4 service period. The cash out amount of $621.92 was incorrectly reported as special compensation. ➢ Another employee cashed out vacation, sick time, and compensatory time in the amount of $23,906.86 upon terminating employment with the City. A portion of the cash out, $2,593.60, was incorrectly reported as regular earnings, and the remainder, $21,313.26, was incorrectly reported as special compensation. ➢ The third employee cashed out vacation, sick time, and compensatory time in the amount of $22,845.43 upon retiring from the City. A portion of the cash out, $2,915.20, was incorrectly reported as regular earnings, and the remainder, $19,930.23, was incorrectly reported as special compensation. Cash outs of accumulated vacation time, sick time and compensatory time are not reportable as regular earnings or special compensation.	The City should immediately stop reporting cash outs of accrued vacation, sick and compensatory leave time. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed. A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The City may not accurately report compensation to CalPERS. (continued)	California Code of Regulations, § 570, states, in part, "Final Settlement Pay means any pay or cash conversions of employee benefits in excess of compensation earnable, that are granted or awarded to a member in connection with or anticipation of a separation of employment. Final pay is excluded from payroll reporting to PERS, in either pay rate or compensation earnable." California Code of Regulations, § 571(a), contains an exclusive list that identifies and defines special compensation items. This list does not include cash out of vacation, sick leave or compensatory time as items of special compensation.	
2. The City may not report payrates in accordance with publicly available salary schedules.	Payrates reported to CalPERS in the 3/09-4 service period for a sample of nine employees were reconciled to City public salary schedules. The sampled employees' payrates were reported in accordance with publicly available salary information except in one instance. Specifically, the City reported an incorrect payrate for a sampled employee fire captain in service period 3/09-4. The City's salary schedule and the employee's personnel action form both showed an authorized payrate of $19.718 per hour. The City converted the hourly payrate to a monthly payrate and reported $3,418.133 in service period 3/09-4. However, this payrate was not correct. The payrate was derived by multiplying the $19.718 X 173.33 hours, the normal monthly hours worked by an employee	The City should ensure accurate payrates are reported for all employees. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed. A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
2. The City may not report payrates in accordance with publicly available salary schedules. (continued)	who works a 40 hour workweek. The fire captain worked a normal schedule of 56 hours per week which converted to an average 242.667 hours worked per month. Therefore, the City should have multiplied the hourly payrate by 242.667 and reported a monthly payrate of $4,784.908. Government Code, § 20636(a), defines compensation earnable for a member as, "The payrate and special compensation of the member." Government Code, § 20636(b)(1), states, in part, "Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules."	ERSD as an appendix to our draft report.
3. The City may not accurately report payroll information to CalPERS.	Payroll information reported to CalPERS was reviewed for the sampled service periods. The City correctly reported the payroll information to CalPERS except in the following instances: <u>Regular Earnings Reported as Special Compensation</u> One of the sampled employees worked 24-hour shifts and was paid $1,652.55 for 88 regular hours of work in service period 1/08-3. Earnings for 80 hours in the amount of $1,502.40 were reported as regular compensation, and	The City should immediately stop reporting regular earnings as special compensation. The City should work with

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The City may not accurately report payroll information to CalPERS. (continued)	earnings for 8 hours in the amount of $150.15 were incorrectly reported as special compensation. The $150.15 should have been reported as regular earnings. Also, the same employee was paid $2,090.11 for 106 hours of work in service period 3/09-4. The City reported earnings for 80 hours in the amount of $1,577.60 as regular compensation, and reported earnings for 26 hours in the amount of $512.51 as special compensation. The $512.51 should also have been reported as regular compensation. Government Code, § 20636(c)(1), defines special compensation as a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions. Government Code, § 20636 (c)(2), states, in part, "Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement …to similarly situated members of a group or class of employment that is in addition to payrate." <u>Special Compensation Reported in Base Payrate and Regular Earnings</u> Three sampled employees' payrates and regular earnings erroneously included special compensation. Specifically, payrates and earnings included educational pay, K-9 pay,	CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed. A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report. The City should not report special compensation as part of base payrate and regular

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The City may not accurately report payroll information to CalPERS. (continued)	interim and advanced POST (Peace Officer Standards and Training) pay, and FTO (Field Training Officer) pay. Special compensation should be reported separate from base payrate and regular earnings. Government Code, § 20636(a), defines compensation earnable for a member as the payrate and special compensation of the member. Government Code, § 20636(b)(1), states, in part, "Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours." Government Code, § 20636(c)(1), defines special compensation as a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions. CalPERS Procedure Manual, page 71, states, "All special compensation should be reported separately as special compensation, as it is earned."	earnings. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed. A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The City may not accurately report payroll information to CalPERS. (continued)	Payroll Reporting Elements The City correctly reported payroll reporting elements to CalPERS in sampled service period 3/09-4, except for the following instance: The City reported a work schedule code 173 for fire shift employees; however, fire employees worked an average of 243 hours per month. The City should have reported work schedule code 243. The CalPERS Procedure Manual, page 99-100, states, in part, "The 'Work Schedule Code' is a 3-digit numeric code, used in calculating both employer rate and the members retirement benefit. It identifies what you, the employer, consider to be full-time employment for employees in the same work group, such as by department or duties, but not by individual employee. Approved work schedule codes range from 34 to 60 hours per week... The work schedule code typically will not vary from report to report." The following formula is used to determine the work schedule code for a full-time monthly paid employee: $\frac{\text{Number of hours per week X 52 weeks per year}}{\text{12 months per year}}$	The City should immediately begin to report work schedule code 243 for fire shift employees. The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The City may not accurately report payroll information to CalPERS. (continued)	$\frac{56 \times 52}{12}$ = 243 Work Schedule Code	
4. The City may fail to or did not submit payroll in a timely manner to CalPERS.	Service periods 10/07-3, 1/08-3, 1/08-4, 2/08-3 and 3/09-4 were reviewed to determine if payroll summary reports and retirement contribution payments were submitted to CalPERS within required timeframes. Required timeframes are 30-days from the close of the pay period for submitting payroll summary reports and 15-days from the close of the pay period for remitting contributions. Retirement contributions were remitted timely to CalPERS; however, the summary report for the 10/07-3 service period was 158 days late, and the summary report for the 02/08-3 period was one day late. California Code of Regulations, § 565.1 (a) and (b) state, in pertinent part, "A complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30 calendar days following the last day of the period to which it refers."	The City should implement procedures to ensure summary reports are submitted timely to CalPERS. The City should work with CalPERS ERSD to assess the impact of late payroll reporting and determine what adjustments, if any, are needed.
5. The City may not enroll all eligible employees into CalPERS membership.	<u>Optional Membership</u> The City's elected officials were eligible for optional membership. We did not identify any elected officials who	None.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The City may not enroll all eligible employees into CalPERS membership. (continued)	opted for CalPERS membership; however, City staff was aware that the officials had optional membership rights. <u>Temporary/Part-time Employees</u> Hours worked by a sample of five temporary/part-time employees were reviewed to determine if the employees reached or exceeded the 1,000 hour membership eligibility criteria. Two of the employees worked more than 1,000 hours in fiscal year 2007/2008 and were not enrolled into membership. Specifically, ➢ One employee worked a total of 1,029 hours during fiscal year 2007/08. This employee reached the 1,000 hour membership eligibility criteria as of the pay period ending June 27, 2008. ➢ The other employee worked a total of 1,204 hours during fiscal year 2007/08. This employee reached the 1,000 hour membership eligibility criteria as of January 11, 2008. Government Code, § 20305(a)(3)(B), states, in part, "An employee serving on a less than full-time basis is excluded from this system unless the person works more than 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 1,000	The City should enroll temporary/part-time employees into CalPERS membership when they have reached the membership eligibility criteria. The City should work with CalPERS ERSD to assess the impact of this non-reporting and determine what adjustments, if any, are needed. A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The City may not enroll all eligible employees into CalPERS membership. (continued)	hours of service were completed." CalPERS Procedure Manual, page 26 states, in part, "Qualification for membership is reached when the person works 1,000 hours in a fiscal year (if paid on other than a per diem basis). Any overtime hours worked are counted towards these 1,000 hours. Time during which the member is paid for time excused from working due to vacation, holiday pay, sick leave, etc., is included in the 1,000 hours… membership becomes effective no later than the first day of the first pay period of the month in which 1,000 hours or 125 days were completed." Government Code, § 20044, defines a fiscal year as any year commencing July 1st and ending June 30th next following. <u>Independent Contractor</u> IRS 1099 Miscellaneous Income forms were reviewed for calendar years 2007 and 2008 in order to identify employees that might have been misclassified as independent contractors. The selected individual was properly classified as an independent contractor and correctly excluded from CalPERS membership.	None.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
6. The City may unlawfully employ retired annuitants.	Hours worked by a retired annuitant were reviewed for the period, September 8, 2008 (the annuitant's hire date) through March 31, 2009, the last day of the period under review. The annuitant worked 394 hours, which was under the 960-hour threshold for this period. In addition, we reviewed the annuitant's separation after retirement. The separation time was greater than 60 days; therefore, the annuitant met the bona-fide separation requirements.	None.
7. The City may not appropriately report members under the proper coverage group code.	Membership classifications were reviewed for a sample of ten employees. The employees were reported in sampled service period 3/09-4 with the correct coverage group code and under the appropriate membership classification.	None.
8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members.	Procedures for processing applications for industrial disability retirement for safety members were reviewed. The City made the determination for one sampled applicant within the required six-month timeframe and the City had appropriate appeals procedures in place.	None.
9. The City may not accurately report unused sick leave balances for retiring CalPERS members.	The City contracted for the optional provision Government Code, § 20965 (credit for unused sick leave). Unused sick leave was reviewed for two sampled employees. The sick leave balance was accurately converted to days and reported upon retirement for one employee. However, unused sick leave was not accurately reported for the other employee.	The City should submit a corrected certification form for the employee. An amended certification form (PERS-BSD-200) may be used to submit the corrected certification information.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
9. The City may not accurately report unused sick leave balances for retiring CalPERS members. (continued)	Specifically, the City certified 71.468 days of unused sick time on the employee's retirement application which was submitted to CalPERS prior to retirement. The employee subsequently cashed out 42.966 days of sick time leaving a remainder of 28.502 days. As a result, the employee's unused sick leave credit was over-stated by 42.966 days. CalPERS should have been informed of the subsequent cash-out to ensure the employee received the appropriate sick leave credit in their retirement calculation. Government Code, § 20965, provides for a local miscellaneous member and local safety member of a contracting agency who has contracted for this provision, whose effective date of retirement is within four months of separation from employment, to be credited at the time of retirement with 0.004 years of service credit for each unused day of sick leave certified to the board by his employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.	The City should work with CalPERS BNSD to assess the impact of this issue and determine what adjustments, if any, are needed. A confidential list identifying the retiree mentioned in this section of the report has been sent to the City and CalPERS BNSD as an appendix to our draft report.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
10. The City may not properly enroll eligible employees and their dependents in health benefits.	Six employees were selected for review to assess health benefits eligibility and enrollment of the members and their dependents. The City properly enrolled eligible employees and their dependents in CalPERS' Health Benefits Program, except in the following instances: ➢ Declaration of Health Coverage forms (HB-12A) were not on file for five sampled employees. ➢ A marriage certificate was not provided to support the enrollment of one employee's spouse and birth certificates were not provided for two employees who enrolled children. The Public Agency Health Benefits Procedure Manual, page 12-01, states, in part, "The Declaration of Health Coverage (HB-12A) provides information on enrollment options and consequences for non-enrollment." The HB-12A is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes Open Enrollment changes, changing health plans when moving, adding or deleting a dependent, or canceling health benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the	The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60 days from the date of our final report. Please send an email to: *HBB_Audit_Services@ calpers.ca.gov* once the requested documentation is on file. The CalPERS HBB may be contacted at (916) 795-3836 with any questions. A confidential list identifying the employees mentioned in this report has been sent to the City and CalPERS HBB as an appendix to our draft report.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)	Health Benefit Plan Enrollment (HBD-12) form. The employer also must provide the employee a copy of the signed form and keep the original in the employee's file. Government Code, § 22775, defines “Family Member” as the employee’s or annuitant’s spouse or domestic partner and any unmarried child, including an adopted child, stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to married children. California Code of Regulations, § 599.500 titled “Definitions”, states, in part, the following, “(k) Eligible means eligible under the law and this subchapter to be enrolled… (n) A child attains the status of ‘family member’ at birth….” CalPERS Public Agency Health Benefits Procedures Manual, Dependent Eligibility Verification, page 03-03, states, in part, “CalPERS, as well as the contracting agency, have the right to request any documentation needed to support dependent eligibility at the time of enrollment, or any time thereafter." Government Code, § 20085, states, in part, “(a) It is unlawful for a person to do any of the following: (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to	

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)	disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system. (b) For purposes of this section, 'statement' includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system. (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine. (d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system…for the amount of the benefit unlawfully obtained."	
11. The City may not contribute the appropriate health contribution amounts for active employees.	Health premium contributions reported for a sampled employee were reviewed during reporting period 1/08-3. The City contributed more than the minimum health contribution amount as part of the sampled members' total monthly premium amount as required by its contract and pursuant to the Government Codes § 22890 and § 22892.	None.
12. The City may not remit health contributions within the required timeframe.	Health contributions for thirteen months were reviewed, from March 2008 through March 2009, to determine if monthly health contribution payments were remitted timely. Contribution payments should be received by	The City should ensure health contribution payments are received by CalPERS no later than the 10th of the month in

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
12. The City may not remit health contributions within the required timeframe. (continued)	CalPERS no later than the 10th day of the month in which they are due. Payments for three periods were received late. For the periods March 2008, October 2008, and January 2009, the dates that payment checks cleared the bank were 7, 6 and 17 days, respectively, past the payment due dates. Government Code, § 22899 (a), specifies that the contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due.	which the payments are due.
13. The City may not maintain appropriate ACES security procedures.	Security procedures for the City's ACES users were reviewed to ensure reasonable security precautions were maintained and to determine if required security documents were properly completed and filed for ACES users. Reasonable precautions appeared to be in place to maintain the secrecy of the employees' passwords and user IDs. However, copies of the Employer User Security Agreements (AESB-43) for the City's ACES users were not provided. Additionally, one user had separated employment with the City and was appropriately disabled from the system; however, a Delete ACES User Access form (AESB-42) was not completed and submitted to CalPERS. The ACES User Security Agreement, states, in pertinent	The City should ensure appropriate procedures are followed to assure the security of CalPERS on-line inquiry system. ACES User Security agreements should be completed for any employee who will have access to ACES and the agreements should be retained in a secure worksite location for the life of the Agreement and for two years following the deactivation or termination of the Agreement. In addition, the City should

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
13. The City may not maintain appropriate ACES security procedures. (continued)	part, "…this form must be completed…and a copy retained at the work site of the employer in a secure location for the life of the Agreement and for two years following the deactivation or termination of the Agreement." CalPERS ACES security procedures require agencies to keep a signed copy of security documents on file for ACES users. A Delete ACES User Access form must be completed and submitted to CalPERS when requesting the deletion of a user account. Agencies must complete and submit this form to notify CalPERS when an employee will no longer be an ACES user. CalPERS must be notified immediately in the event that any of its sensitive or confidential information is subject to unauthorized disclosure, modification or destruction.	immediately submit a deletion form for employees who no longer require ACES access. The City should work with CalPERS ERSD to assess the impact of this issue and determine what adjustments, if any, are needed. A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.

CONCLUSION

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

Respectfully submitted,

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

Date: September 2010
Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIDA, Manager
Adeeb Alzanoon
Alan Feblowitz
Kesh Braeger

APPENDIX

CITY’S WRITTEN RESPONSES

CITY OF GUADALUPE
918 Obispo Street
Guadalupe, CA 93434
Phone (805) 356-3895
Fax (805) 343-0542
Finance Department

July 12, 2010

Margaret Junker, CIA, CPA
CalPERS - Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Subject: City of Guadalupe – Employer Code: 1081
Response to Draft Report – Public Agency Review dated January 2010

Dear Ms. Junker,

This letter is in response to the above referenced report. The following responses correspond to your "Risk and Mitigation" Table.

1. The City may not accurately report compensation to CalPERS.

   - Uniform Allowance Observation: The City did not report uniform reimbursements for police employees nor was the value of uniforms provided to maintenance employees reported.

Response: Uniform allowance is paid to public safety employees and is correctly reported to CalPERS. Uniform reimbursements are paid to public safety employees but not to maintenance employees. The City reimburses public safety employees through the check disbursement/vendor payment method. The City will change the method to begin correctly reporting the compensation and be in compliance with Government Code, Section 20686.

In order to clarify maintenance employees' uniform benefits, the City owns the maintenance employees' uniforms and the employee upon termination returns them to the City. There are two job classifications under the SEIU MOU that require uniform maintenance reimbursement. The positions are unfilled at this time. The City will correctly report the compensation if the positions are filled.

- Employer Paid Member Contributions(EPMC): The value of EPMC was not reported for SEIU employees.

Response: The City approved Ordinance No. 2007-387 on October 23, 2007 and referenced Resolution No. 2006-25. A new resolution will be prepared to correct the wording to "the benefit shall apply to Service Employees International Union (SEIU) employees and specifying the "value of EPMC". It will be reported as an item of special compensation. Once approved, it will be submitted to CalPERS. City staff will ensure earnings codes are set up for subsequent payrolls and contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Earnings not Reported: Fire Captains' normal full-time work schedule was 56 hours per week. The City reported and paid earnings of 106 hours for a two-week period. The City should have reported compensation of 112 hours on a straight time basis in the biweekly report.

Response: Fire Captains' will be paid straight time for normal full-time shifts at the correct number of hours (56 hours per week – to be determined) or 112 hours of straight time biweekly. The City requests thirty (30)days to consult with the City Attorney prior to final agreement with the finding. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Fair Labor Standards Premium Pay: As mentioned above, the City paid and reported regular earnings for 106 hours per biweekly timecard for a fire shift employee. Earnings for 112 hours should have been reported. Earnings were understated and FLSA premium pay was not reported to CalPERS as special compensation.

Response: The City will report Fire Captains' FLSA premium pay as special compensation. FLSA states premium pay must be paid on all hours worked above 53 hours. Fire Captains work schedule is 56 hours per week and they should be paid 53 hours at straight time and 3 hours at FLSA premium pay (overtime rate). All hours over 56 hours should be paid at FSLA premium pay (overtime rate). The City requests thirty (30)days to consult with the City Attorney prior to final agreement with the finding. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Shift Differential: The City did not report shift differential as special compensation.

Response: The City will report shift differential as special compensation. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Emergency Pager: The City reported Emergency Pager pay as "on-call" pay and as such should not be reported as special compensation.

Response: The City will stop reporting "on-call" pay as special compensation. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Accrued Leave Time: An employee cashed out vacation time and the city incorrectly reported it as special compensation. Another employee cashed out vacation, sick time and compensatory time upon terminating employment with the City and a portion was incorrectly reported as regular earnings and the remainder incorrectly reported as special compensation. A third employee cashed out vacation, sick time and compensatory time and a portion was incorrectly reported as regular earnings and the remainder was incorrectly reported as special compensation.

Response: The City will stop reporting cash outs of accumulated vacation time, sick time and compensatory time as regular earnings or special compensation. Final Settlement Pay is excluded from payroll reporting to PERS. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

2. The City may not report pay rates in accordance with publicly available salary schedules.

    - Conversion tables: The City converted the hourly pay rate to a monthly pay rate incorrectly. Conversion should be based on normal monthly hours worked.

Response: The City will base monthly pay rates on normal weekly schedules. The fire captains' work schedule of 56 hours per week should convert to an average of 242.66 hours per month. A 40-hour workweek converts to 173.33 hours per month. The pay rate will be multiplied by the correct number of hours to calculate the correct monthly pay rate. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

3. The City may not accurately report payroll information to CalPERS.

    - Regular earnings versus special compensation: The City incorrectly reported regular earnings as special compensation for an employee who worked a 24-hour shift.

Response: The City will review the definition of special compensation and pay to ensure payments are made to employees for special skills, knowledge, abilities, work assignment, workdays or hours or other work conditions. Clarification will be made in order to report correctly to CalPERS. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

    - The City incorrectly reported special compensation in base pay rate and regular earnings. The City did not separate base pay rate and regular earnings.

Response: The City will review the employees who earn incentive pay and other special compensation earnings. The City will work with the Financial Management software technicians to assist us in separating the normal monthly rate of pay or base pay

in order to report all special compensation separately. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Payroll reporting elements: Work schedule codes for fire shift employees were incorrect.

Response: The City will use the correct formula to determine the work schedule code for a full-time monthly paid employee (number of hours per week X 52 weeks per year divided by 12 months per year).

4. The City may fail to or did not submit payroll in a timely manner to CalPERS.

- Summary Reports: A summary report was submitted 158 days and another summary report was one day late.

Response: The City will ensure a complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30 calendar days following the last day of the period to which it refers. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

5. The City may not enroll all eligible members in CalPERS membership.

- Temporary/Part-time employees: Two employees exceeded the 1,000-hour membership eligibility criteria.

Response: The City reviewed the files of the employees and found one terminated employment shortly after exceeding the limit. The City will back out the overage to bring the employee into compliance. The other employee is still employed and excess hours occurred one time in one fiscal year. City will discuss the membership criteria with CalPERS. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

#6-8 (no recommendations)

9. The City may not accurately report unused sick leave balances for retiring CalPERS members.

- Sick leave balances: Sick leave balance was not accurately reported for retirement purposes.

Response: The City certifies sick leave balances prior to retirement. In the case of Police employees, a portion of sick leave may be cashed out prior to leaving employment. The City will require employees to sign an internal form stating they do not intend to cash their sick leave if the City certifies unused sick leave on the employee's retirement application. Staff will verify subsequent sick leave balance when employee leaves employment with the City as an added control. Staff has corrected this error and verified with CalPERS BNSD to confirm an adjustment was made.

10. The City may not properly enroll eligible employees and their dependents in health benefits.

- Eligibility verification: Member and dependent documentation not on file.

Response: The City is requiring all existing employees to provide member and dependent enrollment documentation. Staff is making form HBD-12A part of all new hires' enrollment procedures. An email to HBB_Audit_Services@calpers.ca.gove will be forthcoming once documentation is on file.

#11 (no recommendation)

12. The City may not remit health contributions within the required timeframe.

- Health contributions: Payments for three periods were remitted late.

Response: The City will ensure all contributions withheld from salaries from employees be submitted no later than the 10th day of the month for which the contribution is due.

13. The City may not maintain appropriate ACES security procedures.

- ACES users: Security of on-line inquiry system appeared to be in place. Employer User Security Agreements (AESB-43) not on file.

Response: The City will complete an AESBB-43 form and file with Human Resources. The City will complete addition/deletion forms for users and non-users. All forms will be maintained on file and a list monitored to ensure security of the system.

The City appreciates the professionalism of the audit staff who conducted this review. If you have any questions please contact me at 805-356-3895.

Yours truly,

Carolyn Galloway-Cooper
Interim Finance Director

c: Regan Candelario, City Administrator
Dave Fleishman, City Attorney
Amelia Villegas, Human Resources Director
Angie Pereyra-Leon, Business Manager

CITY OF GUADALUPE
918 Obispo Street
Guadalupe, CA 93434
Phone (805) 356-3895
Fax (805) 343-0542
Finance Department

August 12, 2010

Margaret Junker, CIA, CPA
CalPERS - Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Subject: City of Guadalupe – Employer Code: 1081
Response on two findings in Draft Report after consultation with City Attorney – Public Agency Review dated January 2010

Dear Ms. Junker,

This letter is a follow up to the two incomplete responses listed in our first response dated July 12, 2010. The City asked for additional time and the following responses are provided:

- Earnings not Reported: Fire Captains' normal full-time work schedule was 56 hours per week. The City reported and paid earnings of 106 hours for a two-week period. The City should have reported compensation of 112 hours on a straight time basis in the biweekly report.

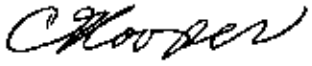
Response: The City does not agree with the finding. The 56-hour workweek for Fire Captains is a calculated average based the "7K exemption" for fire employees under the Fair Labors Standards Act (FLSA). The City uses a 106-hour threshold and will pay overtime after 106 hours in a 14-day work period for each employee. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

- Fair Labor Standards Premium Pay: As mentioned above, the City paid and reported regular earnings for 106 hours per biweekly timecard for a fire shift employee. Earnings for 112 hours should have been reported. Earnings were understated and FLSA premium pay was not reported to CalPERS as special compensation.

Response: The City does not agree with the finding. The 56-hour workweek for Fire Captains is a calculated average based the "7K exemption" for fire employees under the Fair Labors Standards Act (FLSA). The City uses a 106-hour threshold and will pay overtime after 106 hours in a 14-day work period for each employee. The City will contact CalPERS ERSD to assess the impact of this incorrect reporting, if any.

The City appreciates the professionalism of the audit staff that conducted this review. If you have any questions please contact me at 805-356-3895.

Yours truly,



Carolyn Galloway-Cooper
Finance Director

c: Regan Candelario, City Administrator
Dave Fleishman, City Attorney
Amelia Villegas, Human Resources Director
Angie Pereyra-Leon, Business Manager