

Office of Audit Services



CalPERS

Public Agency Review

City of Lindsay

CalPERS ID: 2019506807
Job Number: P14-041

January 2016



California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (877) 249-7442
(916) 795-0802 phone, (916) 795-7836 fax
www.calpers.ca.gov

January 29, 2016

CalPERS ID: 2019506807
Job Number: P14-041

William Zigler, Interim City Manager
City of Lindsay
251 E. Honolulu Street
Lindsay, CA 93247

Dear Mr. Zigler:

Enclosed is our final report on the results of the public agency review completed for the City of Lindsay (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 2C. We appreciate the additional information regarding Finding 2C that you provided in your response. After consideration of this information, our recommendations remain; however, we added clarifying language. Additionally, we removed Finding 3 from the report and added two observations. As a result, Findings 4 through 7 are now Findings 3 through 6.

In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your Agency. We appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

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

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RESULTS IN BRIEF

The objective of our review was to determine whether the City of Lindsay (Agency) complied with applicable sections of the California Government Code (Government Code), California Public Employees' Pension Reform Act of 2013 (PEPRA), California Code of Regulations (CCR), and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following findings during the review. Details are noted in the Results section beginning on page three of this report.

- Payrate was incorrectly reported.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Member contributions were incorrectly paid and reported.
- Eligible employees were not enrolled into membership.
- A retired annuitant was not enrolled and information was not reported.
- Member reciprocal self-certification information was not maintained.
- Observation 1: City Manager was reported as a safety employee.
- Observation 2: Public Safety employees are reported as Police Officers.

OAS recommends the Agency comply with applicable sections of the Government Code, PEPRA, CCR, and its contract with CalPERS. We also recommend the Agency work with the appropriate CalPERS divisions to resolve issues identified in this report.

SCOPE

The Agency contracted with CalPERS effective January 1, 1960 to provide retirement benefits for local miscellaneous and safety employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the CalPERS Board of Administration (Board) approved plan, OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review was limited to the examination of sampled employees, records, and pay periods from July 1, 2011 through June 30, 2014. The review objectives and methodology are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency incorrectly reported payrate.

Condition:

The Agency incorrectly reported a monthly payrate for a dispatcher in the pay period ended June 21, 2014. The Agency reported a monthly payrate of \$2,258.16. The authorized payrate for the dispatcher was \$2,559.00. As a result, payrate was under reported. Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to this factor.

Recommendation:

The Agency should ensure employee payrates are correctly reported.

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

Criteria:

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

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2: The Agency did not report special compensation in accordance with the Government Code and CCR.

Condition:

- A. The Agency incorrectly reported Salary Differential as special compensation. Specifically, the City Manager received a 3.5 percent Salary Differential for performing additional duties as the Public Safety Director in the pay period ended January 4, 2014. However, the Salary Differential did not meet the requirements of Government Code Section 20636 or CCR Section 571. Pursuant to Government Code Section 20635 if a member concurrently renders services in two or more positions, one or more of which is full time, service in the part-time position shall constitute overtime. Overtime is not reportable compensation. Further, Salary Differential was also not listed or defined as special compensation under CCR Section 571. Therefore, Salary Differential is not reportable as special compensation.
- B. The Agency incorrectly reported Longevity Pay in base payrate and earnings for three employees in the pay period ended January 4, 2014. Although Longevity Pay is listed and defined in CCR Section 571, it did not qualify as special compensation because the written labor agreement was not approved and adopted by the Agency's governing body. Additionally, Longevity Pay was not included in the approved salary schedule. Therefore, Longevity Pay is not reportable as special compensation and should not be included in base payrate and earnings.
- C. The Agency incorrectly reported Educational Incentive, Motorcycle Patrol Premium, and Detective Division Premium Pay as special compensation for three safety police employees in the pay period ended January 4, 2014. The Agency stated the Memorandum of Understanding (written labor policy) was authorized by the City Manager in the capacity of Personnel Director as allowed by the City Charter. The written labor policy was also signed by an employee representative of the bargaining group. However, the compensation did not meet the definition of special compensation because it was never contained in a written labor policy or agreement that was duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meeting laws, as required by CCR Section 571(b).
- D. The Agency did not report Holiday Pay as special compensation for three safety police employees. Safety police employees work in positions that require scheduled staffing without regard to holidays. The Agency

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compensated three employees for Holiday Pay in the pay period ended November 9, 2013. However, the Agency did not report the Holiday Pay as special compensation. Holiday Pay is a statutory item that must be reported as special compensation as required by CCR Section 571.

- E. The Agency did not report Uniform Allowance as special compensation for its classic miscellaneous and safety employees who were required to wear uniforms. Specifically, the Agency compensated a dispatcher Uniform Allowance of \$275.00 and safety police employees a Uniform Allowance of \$425.00 in the pay period ended November 9, 2013. However, the Agency did not report the Uniform Allowance as special compensation. Government Code and CCR require compensation paid for the purchase, rental and/or maintenance of required clothing, be reported as special compensation for classic employees.
- F. The Agency's written labor policy containing the provision for uniforms did not meet all of the requirements of CCR 571(b)(1)(B). Specifically, the policy did not indicate the amount, or the monetary value, of uniforms. CCR Section 571 requires that the written labor policy or agreement must contain the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation.

Reportable special compensation is in CCR Section 571(a) and must be reported if it conforms with all of the requirements listed in CCR Section 571(b). Specifically, special compensation is required to be contained in a written labor policy or agreement indicating the eligibility for and amount of special compensation. Also, special compensation must be available to all members in the group or class, part of normally required duties, performed during normal hours of employment, paid periodically as earned, and historically consistent with prior payments for the job classification.

Recommendation:

The Agency should not report Salary Differential Pay, Educational Incentive, Motorcycle Patrol Premium, and Detective Division Premium Pay as special compensation since these items did not qualify as special compensation pursuant to the Government Code and CCR.

The Agency should stop reporting Longevity Pay in base payrate and earnings. In addition, the Agency should not report Longevity Pay as special compensation since it did not qualify pursuant to the Government Code and CCR.

The Agency should ensure Holiday Pay, a statutory item of special compensation, is reported as required by CCR.

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The Agency should report Uniform Allowance for its classic members, who are required to wear uniforms, as special compensation in accordance with its written labor policy and CCR.

The Agency should ensure its written labor policies include the conditions for payment, including, but not limited to, eligibility for, and the amount of the Uniform Allowance.

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

Criteria:

Government Codes: § 20160, § 20635, § 20636

CCR: § 571

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3: The Agency incorrectly paid member contributions.

Condition:

Although the Agency correctly remitted the appropriate amount of contributions to CalPERS, three safety employees underpaid their portion of contributions and the Agency overpaid its portion of contributions. Specifically, the Agency agreed to split the member contributions on all compensation earnable with the public safety employees pursuant to Resolution 11-61. However, the Agency did not split the contributions paid on the following special compensation items: Education Incentive, Motorcycle Patrol Premium, and Detective Division Premium. Instead, the Agency paid the full amount of the contributions.

Recommendation:

The Agency should ensure that contributions are paid in accordance with its written labor policy and pursuant to the Government Code.

The Agency should work with EAMD to determine the impact of this incorrect reporting and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, 20636, § 20691
CCR: § 569, § 571

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4: The Agency did not enroll eligible employees into membership as required.

Condition:

The Agency did not enroll employees into membership when eligibility requirements were met. Specifically, two employees exceeded 1,000 hours worked in the pay period ended February 2, 2013 and the third employee exceeded 1,000 hours worked in the pay period ended May 25, 2013. In addition, the Agency did not enroll a full-time maintenance employee hired for a limited duration when membership eligibility was met. The employee completed 1,032 hours worked in the pay period ended January 5, 2013. However, the Agency did not enroll the employee until July 21, 2013. Government Code Section 20305 requires employees who complete 1,000 hours within a fiscal year to be enrolled into membership effective no later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.

Recommendation:

The Agency should ensure employees are enrolled when membership eligibility requirements are met.

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

Criteria:

Government Codes: § 20044, § 20160, § 20283, § 20305

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5: The Agency did not enroll and report retired annuitant information as required.

Condition:

The Agency did not report the payrate, hours worked, and earnings paid for a retired annuitant in my|CalPERS to allow monitoring of the 960-hour limit per fiscal year. Although the retired annuitant did not exceed 960 hours in a fiscal year, the Agency did not report the hours and compensation of the retired annuitant in my|CalPERS as required.

Recommendation:

The Agency should report the retired annuitant's information in my|CalPERS.

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

Criteria:

Government Codes: § 20121, § 20122, § 20160

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6: The Agency did not maintain the required member reciprocal self-certification.

Condition:

The Agency did not maintain the required member reciprocal self-certification for three employees hired after January 1, 2013. CCR Section 579.3 requires individuals to self-certify in writing as to whether he or she is also a member of another public retirement system and is eligible for reciprocity. Agencies are required to retain the retirement and benefit-related information provided by the newly-hired individuals.

Recommendation:

The Agency should ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and provide the additional required information if reciprocity exists. Further, the Agency should ensure it retains this information.

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

Criteria:

Government Codes: § 20160, § 7522.02, § 7522.04
CCR: § 579.3

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Observation 1: The Agency reported the City Manager as a safety employee.

Condition:

As mentioned in Finding 2A, the Agency reported a 3.5 percent salary differential for the City Manager for performing additional duties as the Public Safety Director. However, it appears that the Agency may have also reported the City Manager's earnings incorrectly under a safety classification. Specifically, the City Manager's earnings were reported under a police member category. The Agency explained that the CalPERS Membership Unit was aware of this issue and sent a letter to the Agency stating that it could not continue reporting the employee to CalPERS as a safety member because it did not meet the criteria of Government Code Section 20425. The letter also stated the Agency must identify the time worked in two positions separately, with the City Manager time reported under the miscellaneous classification and the Public Safety Director position reported under the safety formula. The Agency informed OAS that the employee worked 90 percent as the Public Safety Director and 10 percent as City Manager. However, based on the individual's employment contract, City Charter, organization chart, and annual budget, it appears the employee worked full-time as the City Manager and provided additional services as the Public Safety Director. The employee was formerly the Public Safety Director and in June 2011 was appointed to the City Manager position. The employee was compensated \$12,000.00 per month, which is listed as the full-time payrate for the City Manager position. Therefore, all of the employee's earnings should have been reported to CalPERS under the miscellaneous classification. OAS recommends that the Agency work with the CalPERS Membership Unit to ensure the employee's earnings are reported under the appropriate membership classification. OAS also recommends that the CalPERS Membership Unit make the necessary adjustments to correct any earnings that were previously reported under the incorrect membership classification.

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Observation 2: The Agency reports Public Safety employees as Police Officers.

Condition:

The Agency's contract with CalPERS provides that local firefighters and local police officers are to become members of the CalPERS retirement system. However, the Agency does not have a police or fire department. Instead, the Agency established a Department of Public Safety (Department) which incorporates both a fire department and a police department into one organization. Employees of the Department, called Public Safety Officers, are cross trained in police services and firefighting techniques and may be called upon to perform police services, fire services and animal control services. OAS noted that Department employees were reported to CalPERS under a Police Officer classification. OAS recommends that the Agency work with the CalPERS EAMD unit to ensure that all Public Safety employees are enrolled and reported in the appropriate safety membership classification.

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CONCLUSION

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

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the Agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, of CCR.

Respectfully submitted,

Original signed by Beliz Chappuie

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, CIDA, Senior Manager
Chris Wall, MBA, Senior Manager
Aileen Wong, MBA, Lead Auditor
Benjamin Banahene, Auditor

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APPENDIX A

OBJECTIVES

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OBJECTIVES

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

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

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

METHODOLOGY

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

- ✓ Reviewed:
 - Provisions of the contract and contract amendments between the Agency and CalPERS
 - Correspondence files maintained at CalPERS
 - Agency Board minutes and Agency Board resolutions
 - Agency written labor policies and agreements
 - Agency salary, wage and benefit agreements including applicable resolutions
 - Agency personnel records and employee time records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Documents related to employee payrate, special compensation, and benefits.
 - Various other relevant document.
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meetings laws.

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- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's employment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when unlawful employment occurs.
- ✓ Reviewed the Agency's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the Agency's affiliated entity organizational structure to determine whether employees of an affiliated entity qualified for CalPERS membership and were enrolled as required.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

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APPENDIX B

AGENCY WRITTEN RESPONSE



City of Lindsay



P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street
November 5, 2015 559 • 562 • 5927
559 • 562 • 7021 fax

California Public Employees' Retirement System
Office of Audit Services -
PO Box 942701
Sacramento, CA 94229-2701

RE: CalPERS ID#: 2019506807
Job Number: P14-041

Response to Findings of Draft Report dated 10-19-2015

Condition:

- 1) The Agency incorrectly reported pay rate

Response:

Recommendation implemented: Staff has enhanced the approved Salary Matrix to include pay rates listed by hour, biweekly, monthly, and annually; these rates have been compared to the payroll system and by the HR Manager to ensure all records match. They are also routinely checked against both the employee paychecks that list the rate by hour and the PERS report. Cross-checking between HR and Payroll has been implemented.

Condition:

- 2) Agency did not report special compensation in accordance with the Gov't Code and CCR.

Response:

- A. Recommendation implemented: Staff is now aware that Salary Differential pay is not PERS reportable and discontinued reporting.
- B. Recommendation implemented: Longevity has been separated from the base pay rate for reporting and it is now included in both written labor agreements as a percentage of base salary (all base salaries are on an approved schedule); both labor agreements have been formally approved.
- C. The City disagrees with this finding as the labor agreements do specify the identified special compensation categories within the Public Safety MOU which remains in effect even after the expiration date as to all previously agreed-upon items contained therein - the questioned pays were contained within the previously approved and adopted MOU - . To use PERS logic of not qualifying one section of the MOU because "the written labor policy was not approved and adopted by its governing body" would negate all sections of the MOU and determine that the Public Safety officers should not have been paid anything. Period.



- D. Recommendation implemented: Holiday Pay for Public Safety officers had been reported previously, but we experienced an error with that code during an upgrade/conversion process of our financial data system. We appreciate the PERS auditor bringing this to our attention and have rectified the condition.
- E. Recommendation implemented: Uniform Allowance for Public Safety officers had been reported previously, but we experienced an error with that code during an upgrade/conversion process of our financial data system. We appreciate the PERS auditor bringing this to our attention and have rectified the condition.
- F. Recommendation being reviewed to correct: Once-upon-a-time, the value of uniforms provided to our city services (MISC) staff was reported to CalPERS in the amount of \$10/pay period. This required a payment to, and then deduction from, the employee in order to have the value show up on our reports. During the negotiations of the MISC MOU, it was agreed that the City would discontinue paying the value of the PERS in exchange for providing the employees with STD/LTD coverage. The administration was unaware this was in violation of CCR 571 (b)(1)(B). We are currently determining the value of the uniforms provided and maintained on behalf of our employees and will bring our agency into compliance on this issue as soon as possible.

Condition:

- 3) The Agency misclassified a miscellaneous employee as a safety employee

Response:

Recommendation implemented: Staff is now aware of the conditions of Government Code Section 20160 and once the PERS auditor made us aware of those conditions did change the affected employee to report as entirely Miscellaneous – the reporting clerk was not able to manage the PERS on-line reporting system to allow the reporting of two rates and two categories. It must be noted that when the former Chief of Police was also appointed to serve as the City Manager, concurrently with his duties as Chief of Police, his contract, *prepared by the city attorney*, did specifically state that he would be reported entirely within the Public Safety category. It was not until we were informed by the CalPERS auditor that we were aware that this was not in compliance with Government Code Section 20160. The employee in question left the City in June 2015.

Condition:

- 4) The Agency incorrectly paid member contributions.

Response:

- A. Recommendation implemented: We experienced an error with that code during an upgrade/conversion process of our financial data system. We appreciate the PERS auditor bringing this to our attention and have rectified the condition so that the proper split of contributions and collections from employees is now in place. As noted, all contributions due to CalPERS were remitted.

Condition:

5) The Agency did not enroll eligible employees into membership as required.

Response:

A. Recommendation implemented: The on-site CalPERS auditor, Aileen Wong, was extremely helpful in educating city staff in eligibility and tracking criteria so this condition would not only be rectified by enrolling all eligible employees currently on city payroll, but implementing better tracking procedures to ensure this condition does not recur in the future.

Condition:

6) The Agency did not enroll and report retired annuitant information as required.

Response:

A. Recommendation in progress: Staff has attempted to create a payroll code specific to annuitants to report the earnings and hours of retired annuitants , but is still having some issues which have been reported to our software providers who are working on a resolution which is expected by the payroll of 11-13-15. Once the code is in place, we will review our payrolls from July 1, 2015 forward to ensure all retired annuitants are being properly reported.

Condition:

7) The Agency did not maintain the required member reciprocal self-certification.

Response:

A. Recommendation implemented: The on-site CalPERS auditor, Aileen Wong, was extremely helpful in educating city staff regarding this requirement of which we were not previously aware. Measures have been put in place to ensure we obtain and retain the reciprocal self-certification documents in accordance with CCR Section 579.3.

The Agency would like to thank CalPERS auditor, Aileen Wong, for her diligence, patience, and education of city staff during the audit process – we learned a great deal from her as well as being directed to continuing educational resources to assist staff with staying informed and in compliance with all PERL sections.

Respectfully submitted and attested to for accuracy by,

Tamara Laken
Director of Finance



Original signed by Tamara Laken