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April 13, 2012

CalPERS ID: 5061097655  
Employer Code: 0088  
Job Number: P10-010

City of Culver City  
Jeff Muir, Chief Financial Officer  
9770 Culver Blvd.  
Culver City, CA 90232

Dear Mr. Muir:

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

Sincerely,

Original Signed by 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  
Mary Lynn Fisher, Chief, BNSD, CalPERS  
Honorable Board Members, City of Culver City  
Serena Wright, Human Resources Director, City of Culver City

# **Office of Audit Services**



## **Public Agency Review**

### **City of Culver City**

**Employer Code: 0088  
Job Number: P10-010**

**April 2012**

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# CITY OF CULVER CITY

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## RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Culver City's (City) enrolled individuals, member compensation, required health and retirement documentation 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:

- Fair Labor Standards Act (FLSA) premium pay was not reported.
- Overtime, disability, and holiday pay were erroneously reported as compensation.
- Regular earnings were incorrectly reported as special compensation.
- A prior period earnings adjustment was incorrectly reported.
- Payrates were incorrectly reported.
- Temporary/part-time employees were not enrolled in CalPERS membership.
- A retired annuitant was not reinstated.
- Eligibility verification for a dependent enrolled in the CalPERS Health Benefits Program was not provided.

The pertinent sections of the California Government Code and California Code of Regulations for each finding are listed in Appendix C.

## CITY BACKGROUND

The City of Culver City was incorporated in 1917 and adopted its current City Charter in 1947. The City Charter establishes the form of government, states the powers and duties of the City Council and established the City's various executive offices. The City provides the following services as authorized in its Charter: public safety (police and fire), planning, public works, human services, bus lines, refuse collection, sewers and community development. 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 August 1, 1945, to provide retirement benefits for local miscellaneous, police, and fire employees. The City's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City contracted with CalPERS effective July 1, 1987, to provide health benefits to all eligible employees.

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## 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 and health contracts with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2007, through June 30, 2010. The on-site fieldwork for this review was conducted on October 4, 2010, through October 15, 2010. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed in Appendix B.

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

**Finding 1:** The City did not report Fair Labor Standards Act (FLSA) premium pay to CalPERS as earnable compensation.

### ***Recommendations:***

The City should ensure FLSA premium pay is reported as special compensation for fire shift employees.

The City should work with CalPERS CASD to assess the impact of and to correct this non-reporting issue.

### ***Conditions:***

The City based the firefighters' FLSA premium pay on a 28-day work period. The FLSA threshold for a 28-day work period is 212 hours. The City paid an average of six hours FLSA premium pay at the half-time rate of pay for employees who were regularly scheduled to work 56 hours per week. Specifically, the City paid FLSA premium pay on behalf of three sampled employees; however, the additional compensation was not reported to CalPERS in either the 1/09-3 or the 12/09-3 service periods.

Another fire safety employee who was regularly scheduled to work 56 hours per week was not paid FLSA premium pay nor was the compensation reported to CalPERS in either the 1/09-3 or the 12/09-3 service periods.

### ***Criteria:***

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

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

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**Finding 2:** The City erroneously reported overtime, disability, and holiday pay to CalPERS as compensation.

***Recommendations:***

The City should immediately discontinue erroneously reporting overtime, disability, and holiday pay as compensation to CalPERS.

The City should work with CalPERS CASD to assess the impact of this erroneous reporting and determine what adjustments are needed.

***Condition:***

Overtime Pay

OAS found that bus operators work various shifts ranging from 41 to 43 hours per week. The City considers all hours, ranging from 40 hours up to a maximum of 43, to be regular earnings depending on what schedule the employee bids to work. The City's current practice is to pay 40 hours as regular earnings and any hours in excess of 40 and up to 43 hours, based on the shift bid, as special compensation. Specifically, the City paid and incorrectly reported \$26.01 as special compensation for one hour of overtime in the 6/10-3 service period on behalf of one sampled employee. The City did not define a normal work week which exceeded 40 hours per week in a written labor policy or agreement for this group of employees; therefore, the additional compensation is considered overtime and is not reportable to CalPERS.

Disability Pay

The City incorrectly reported disability pay on behalf of a miscellaneous employee. Specifically, in the 12/09-3 service period, the City paid and incorrectly reported \$1,999.68 as regular earnings and an additional \$18,542.03 as special compensation. The amounts reported were for 183 days of disability payments that began on May 11, 2009, and concluded on November 9, 2009. Temporary disability payments for miscellaneous employees do not meet the definition of reportable "compensation" and should not be reported to CalPERS.

Holiday Pay

OAS found that in service periods 1/09-3 and 12/09-3, the City paid and incorrectly reported holiday pay for two sampled employees who were not

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normally required to work on holidays. Additional compensation for holiday pay in excess of the normal work schedule is not reportable for employees that are not normally required to work during holidays as it does not meet the definition of holiday pay.

***Criteria:***

Government Code: § 20630(b), § 20635, § 20636(a), § 20636(c)(1), § 20636(c)(2)

California Code of Regulations: § 571(a), § 571(a)(5), § 571(b), § 571(c)

CalPERS Procedures Manual, Page 70



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**Finding 3:** The City incorrectly reported base payrate and regular earnings as special compensation.

***Recommendations:***

The City should immediately begin reporting all hours worked up to 80 hours per pay period as regular earnings.

The City should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

***Condition:***

OAS found that in service period 1/09-3, the City under-reported regular earnings for one sampled employee. Specifically, the sampled employee worked a normal schedule of 80 hours bi-weekly which equates to a bi-weekly payrate of \$1,999.68; however, in the 1/09-3 service period the City incorrectly reported \$1,524.76 as regular earnings which resulted in the payrate being under-reported. This under-reporting was a result of the employee working 19 hours during two scheduled holidays for which the employee was paid at the time and a half rate of pay for a total of \$712.39. The City paid and incorrectly reported the 19 hours worked on the holiday as special compensation. The City should have reported regular earnings of \$1,999.68 and the holiday premium pay in the amount of \$474.92 as special compensation. As a result of the incorrect reporting, the City under-reported regular earnings in the 1/09-3 service period by \$474.92 and over-reported special compensation by the same amount.

***Criteria:***

Government Code: § 20636(a), § 20636(c)(1), § 20636(c)(2)

California Code of Regulations: § 571(a)

CalPERS Procedures Manual Page 71

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**Finding 4:** The City did not report a prior period earnings adjustment to CalPERS.

***Recommendations:***

The City should immediately discontinue reporting disability pay and report a prior period earnings adjustment when leave credits have been restored.

The City should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

***Condition:***

OAS found that while an employee was out on disability, the City correctly reported 213 hours of compensation to CalPERS, including sick leave, vacation, and floating holidays. In service period 12/09-3, the City received compensation in the amount of \$5,324.15 from the employee's disability insurance. As a result of the disability payment, the City restored the employee's various leave banks that were previously reported to CalPERS. Specifically, the City restored a total of 213 hours, including sick leave, vacation, and floating holidays and subtracted earnings in the amount of \$5,324.15. We reviewed the 5/09-4 service period and found that the employee was paid \$2,049.87 for 82 hours of sick leave and the compensation was reported to CalPERS. However, the City did not process a prior period earnings adjustment to correct compensation that was over-reported once the leave credits were restored.

***Criteria:***

Government Code: § 20630(b)

CalPERS Procedures Manual, page 70 and 107

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**Finding 5:** The City reported incorrect payrates to CalPERS.

***Recommendations:***

The City should immediately begin reporting changes in payrates to CalPERS as separate line entries with the corresponding payrate and earnings for each position.

The City should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

***Condition:***

OAS found that two employees received salary increases in the 7/07-3 service period that were incorrectly reported to CalPERS. The City incorrectly reported the combined earnings for both payrates as a single payroll entry. The City should have reported the increase in payrates and corresponding earnings for each position as separate line entries to CalPERS.

***Criteria:***

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

CalPERS Procedures Manual, page 104

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**Finding 6:** The City did not enroll temporary/part-time employees who met CalPERS membership eligibility requirements.

***Recommendations:***

The City should begin enrolling and reporting eligible CalPERS members when membership eligibility requirements are met. The City should also implement procedures to review and monitor the number of hours worked in a fiscal year by all temporary/ part-time employees.

The City should work with CalPERS CASD to assess the impact of this enrollment issue and determine what adjustments, if any, are needed.

***Condition:***

The City properly enrolled or excluded many temporary/part-time employees; however, it failed to enroll temporary employees hired through a temporary employment agency even though those employees met membership eligibility requirements. Specifically, our testing revealed that in fiscal year 2008/2009, nine employees hired through a temporary employment agency met eligibility requirements by working at least 1,000 hours in a fiscal year but were not enrolled into membership. Additionally, in fiscal year 2009/2010, six employees hired through a temporary employment agency met eligibility requirements by working at least 1,000 hours in a fiscal year but were not enrolled into membership.

***Criteria:***

Government Code: § 20305(a)

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**Finding 7:** A retired annuitant's payrate exceeded amounts paid to other employees performing comparable duties.

**Recommendations:**

The City should ensure that compensation paid to retired annuitants does not exceed the amount paid to other employees performing comparable duties. The City should also ensure that retired annuitants who work under the direction and control of the City are correctly classified as employees, and that these employees work under the terms and conditions established by the Government Code sections contained in Article 8 of the Public Employee Retirement Law (PERL), entitled *Employment after Retirement*. The City should request CalPERS' approval to employ a retired annuitant as an independent contractor by submitting the independent contractor's employment agreement to CalPERS BNSD prior to the retired annuitant accepting the employment.

The City should work with CalPERS BNSD to assess the impact of the retired annuitant's unlawful employment and/or payrates and determine what adjustments are needed.

**Condition:**

OAS found that one retired annuitant was incorrectly classified as an independent contractor. The individual should have been classified as a retired annuitant because the individual was hired to fill a City established position, the City determines the hours and location where the individual is required to work, and the individual's employment contract states, "The City shall provide the consultant indemnification and liability insurance as are to be provided to an employee of the City."

For the purposes of the PERL and for the programs administered by the Board of Administration of CalPERS (the Board), the standard used for determining whether an individual is the employee of another person or entity is the California common law employment test as set forth in the California Supreme Court case entitled *Tieberg v. Unemployment Ins. App. Bd.*, (1970) 2 Cal. 3d 943, which was cited with approval in *Metropolitan Water Dist., v. Superior Court (Cargill)* (2004) 32 Cal. 4<sup>th</sup> 491, and which was adopted by the Board in a precedential decision, *In the Matter of Lee Neidengard*, Precedential Dec. No. 05-01, effective March 22, 2005.

Applying the California common law, the most important factor in determining whether an individual performs services for another as an employee is the right

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of the principal to control the manner and means of job performance and the desired result, whether or not this right is exercised. Where there is no clear independent evidence that the principal has the right to control the manner and means of performing the service in question, CalPERS, applying the common law, will consider the following additional factors in determining whether an individual is an employee:

- (a) whether or not the one performing the services is engaged in a City occupation or business;
- (b) the kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of a principal or by a specialist without supervision;
- (c) the skill required in the particular occupation;
- (d) whether the principal or the individual performing the services supplies the instrumentalities, tools, and the place of work for the person doing the work;
- (e) the length of time for which the services are to be performed;
- (f) the method of payment, whether by the time or by the job;
- (g) whether or not the work is part of the regular business of the principal; and
- (h) whether or not the parties believe they are creating the relationship of employer-employee.

Additionally, as a retired annuitant, the individual's payrate exceeded the amounts paid to other employees performing comparable duties. Specifically, the City hired the individual to serve as an interim traffic engineer with a hourly payrate of \$57.65 on September 20, 2005. The individual retired from the City as a traffic engineering manager on January 30, 2004, with a monthly payrate of \$6,785.00, which equates to an hourly payrate of \$39.14. However, upon returning to work for the City, the individual was compensated with an hourly payrate of \$80.00 in fiscal year 2008/2009, and \$90.00 in fiscal year 2009/2010. The individual did not exceed the 960 hour threshold; however, the hourly payrate exceeded the amount established for the interim traffic engineer which was \$44.119 per hour as of January 1, 2007.

**Criteria:**

Government Code: § 20085, § 21220.5, § 21224(a)

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**Finding 8:** The City did not provide eligibility verifications for dependents enrolled in the CalPERS Health Benefits Program.

***Recommendations:***

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 the final OAS report.

The City should work with CalPERS CASD to obtain the missing documentation and to cancel enrollment of any person who is found to be ineligible to participate in the CalPERS Health Benefits Program. The CalPERS CASD may be contacted at 1-888-CalPERS (1-888-227-7377) with any questions.

***Condition:***

OAS found that the City had not properly enrolled an individual's spouse in the CalPERS Health Benefits Program. OAS was unable to determine whether the enrollment for this individual's spouse was proper because the City failed to provide required documentation. Specifically, the City did not provide a marriage certificate for one sampled employee.

***Criteria:***

Government Code: § 20085, § 22775,

California Code of Regulations § 599.500(f), § 599.500(k), § 599.500(n)

CalPERS Health Benefits Procedures Manual, page 03-03

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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 City'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.

Respectfully submitted,

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

Date: April 2012  
Staff: Michael Dutil, CIA, Senior Manager  
Diana Thomas, CIDA, Manager  
Chris Wall



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# **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 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.

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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 July 1, 2007, through June 30, 2010. OAS completed a prior review covering the period of July 1, 2000, to June 30, 2002.

## SUMMARY

### Procedures, Sample Sizes, Sample Periods, and Findings

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. Related sample sizes, sample periods and findings are listed.

- ✓ 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 PERS listings
  - Other documents used to specify payrate, special compensation and benefits for all employees
  - Health Benefits Program enrollment records and supporting documentation
  - 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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Sample Size and Period: Reviewed 24 employees covering two sampled service periods - the first service period in January 2009 (1/09-3), and the first service period in December 2009 (12/09-3).

**See Finding 1:** Fair Labor Standards Act (FLSA) premium pay was not reported to CalPERS.

**See Finding 2:** Non-reportable compensation in the form of overtime, disability, and holiday pay was incorrectly reported to CalPERS.

**See Finding 3:** Base payrate and regular earnings (holiday pay) was incorrectly reported as special compensation.

**See Finding 4:** Prior period earnings adjustment was not reported to CalPERS.

- ✓ 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.

Sample Size and Period: Reviewed 24 sampled employees in the first service period in December 2009 (12/09-3).

**See Finding 5:** Incorrect payrates were reported to CalPERS for employees who received a salary increase.

- ✓ Reviewed PERS listing reports to determine whether the following payroll reporting elements were reported correctly: contribution code, pay code, work schedule code, service period, and member contributions.

Sample Size and Period: Reviewed 24 sampled employees in the first service period in December 2009 (12/09-3).

**No Finding**

- ✓ Reviewed PERS listing to determine whether contribution codes were reported correctly.

**No Finding**

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- ✓ Reviewed PERS listing to determine whether pay codes were reported correctly.

## **No Finding**

- ✓ Reviewed the City's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.

Sample Size and Period: Reviewed 18 temporary/part-time employees in fiscal years 2008/2009 and 2009/2010.

**See Finding 6:** Temporary/part-time employees who qualified to become CalPERS members were not enrolled.

- ✓ Reviewed the City's enrollment practices for retired annuitants to determine if retirees were reinstated when 960 hours were worked in a fiscal year.

Sample Size and Period: Reviewed one retired annuitant in fiscal years 2008/2009 and 2009/2010.

**See Finding 7:** Retired annuitant's rate of pay exceeded amounts paid to other employees performing comparable duties.

- ✓ Reviewed the City's enrollment practices for independent contractors to determine whether individuals met CalPERS membership requirements.

Sample Size and Period: Reviewed five independent contractors in calendar years 2008 and 2009.

## **No Finding**

- ✓ Reviewed health records to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.

Sample Size and Period: Reviewed nine employees and their dependents in the review period, which covered July 1, 2007, through June 30, 2010.

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**See Finding 8:** The City did not provide eligibility verification for a dependent enrolled in the CalPERS Health Benefits Program.

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# **APPENDIX C**

## **CRITERIA**



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## CRITERIA

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 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.

Government Code § 20305, subdivision (a), states:

An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless: (1) He or she is a member at the time he or she renders that services and is not otherwise excluded pursuant to this article of by a provision of a contract.... (3)(B) 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 hours of service were completed.

Government Code § 20630, subdivision (b), states:

Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636.

Government Code § 20635, states:

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work

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considered normal for employees on a full-time basis, and for which monetary compensation is paid.

Government Code § 20636, subdivision (a), defines compensation earnable by a member as, “The payrate and special compensation of the member.”

Government Code § 20636, subdivision (b)(1), defines payrate as:

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.

Government Code § 20636, subdivision (c)(1), states:

Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

Government Code § 20636, subdivision (c)(2), states:

Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

Government Code § 20636, subdivision (c)(6), states:

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....

Government Code § 21220.5, states:

A retired person who has not attained the normal retirement age shall have a bona fide separation in service to the extent required by the Internal Revenue code and the regulations promulgated thereunder, before working after retirement pursuant to this article.

Government Code § 21224, subdivision (a), states:

A retired may serve without reinstatement from retirement or loss of interruption of benefits... during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing

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work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year.

Government Code § 22775, defines family member as:

"Family member" means an employee's or annuitant's spouse or domestic partner and any unmarried child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

California Code of Regulation § 571, subdivision (a) provides a list that exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a labor policy or agreement. This regulation does not include statutory dues pay as an item of special compensation.

California Code of Regulations § 571, subdivision (a)(5), 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.

California Code of Regulations § 571, subdivision (a)(5), defines Holiday Pay as:

Additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. If these employees are paid over and above their normal monthly rate of pay for approved holidays, the additional compensation is holiday pay and reportable to CalPERS.

California Code of Regulations § 571, subdivision (b), states, in part:

The Board has determined that all items of special compensation listed in subsection (a) are:

- (1) Contained in a written labor policy or agreement;
- (2) Available to all members in the group or class;
- (3) Part of normally required duties;
- (4) Performed during normal hours of employment...

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California Code of Regulations § 571, subdivision (c), states,  
Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).

California Code of Regulations § 599.500, contains definitions that apply to the Public Employees' Medical and Hospital Care Act, including the following pertinent provisions:

(f) "Enroll" means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan....

(k) "Eligible" means eligible under the law and this subchapter to be enrolled....

(n) A child attains the status of "family member" at birth.... "family member" includes any unmarried child who is economically dependent upon the employee or annuitant, when there exists a parent-child relationship with the employee or annuitant....

## ***CalPERS Procedures Manual***

CalPERS Procedures Manual, Page 70, states, in pertinent part, "Workers' Compensation temporary disability payments and employer payments in lieu of Workers' Compensation benefits are not reportable to CalPERS. However, if a miscellaneous member uses accrued leave credits such as vacation, sick leave or compensated time off (CTO) the compensation attributable to the used leave credits is reportable to CalPERS."

CalPERS Procedures Manual, Page 71, states, "All special compensation is required to be reported separately as special compensation, as it is earned."

CalPERS Procedures Manual, page 104, states, "If a person receives a salary increase or decrease during the current service period, both payrates must be reported. This will require two line entries, reporting the proper amount earned under each pay rate."

CalPERS Procedures Manual, P107, states, "To correct pay rate and earnings or Coverage Group for an entire entry that was previously reported in error enter the original transaction including the original service period, but use contribution code 03 or 13 and report member earnings, contribution amount and survivor contribution as negative amounts. This removes the incorrect entry. Now enter the correct transaction, again using the original service period and contribution code 03 or 13."

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## **CITY OF CULVER CITY**

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CalPERS Public Agency Health Benefits Procedures Manual, 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."

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**CITY OF CULVER CITY**

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# **APPENDIX D**

## **STATUS OF PRIOR REVIEW**

**FOLLOW UP ON PRIOR REVIEW FINDINGS  
CITY OF CULVER CITY  
EMPLOYER CODE 0088, PRIOR REVIEW P02-008**

Prior Review Finding	Prior Review Recommendation	Status of Recommendation
<p>1. The City may not accurately report all member earnings and contributions to CalPERS.</p>	<p><u>Holiday Pay</u></p> <p>The City should continue reporting holiday pay for the eligible employees. Also, the City should work with AESD to determine what adjustments are necessary for impacted employees.</p> <p><u>Fair Labor Standards Act (FLSA) Pay</u></p> <p>The City appropriately reported straight time portion of the FLSA pay but should work with AESD and begin reporting the premium portion of the FLSA pay for eligible employees to CalPERS.</p> <p><u>Canine or Motor Pay</u></p> <p>The City should begin reporting canine and motor pay for the eligible employees or code the pay as overtime if appropriate. Also, the City should work with AESD to determine what adjustments are necessary for impacted employees.</p>	<p>Implemented.</p> <p>A similar issue was noted in this review.</p> <p>Implemented.</p>
<p>Conclusion:</p> <p>The City implemented most of the recommendations in the prior report dated October 2002; however, FLSA premium pay was not reported to CalPERS for the sampled employees.</p>		

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**CITY OF CULVER CITY**

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# **APPENDIX E**

**CITY'S WRITTEN RESPONSE**





JEFF S. MUIR  
Chief Financial Officer

FINANCE DEPARTMENT

CITY OF CULVER CITY

9770 CULVER BOULEVARD, CULVER CITY, CALIFORNIA 90232-0507

(310) 253-5865

FAX (310) 253-5880

April 2, 2012

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

Dear Ms. Junker:

As requested, below are the City of Culver City responses to the October 2010 CalPERS Audit.

Finding 1: The City did not report Fair Labor Standards Act (FLSA) premium pay to CalPERS as earnable compensation.

CC Response: *This recommendation will be implemented. If prior adjustments are necessary, the City will work with CASD to determine them.*

Finding 2: The City erroneously reported (a) overtime, (b) disability, and (c) holiday pay to CalPERS as compensation.

CC Response: *(a) The City sought clarification from CalPERS on its practice of reporting regular hours worked in excess of 40 hours per week for bus operators in 1994. The City was not notified at that time that its practice was not in line with CalPERS requirements, and has continued following it. The City will seek to amend the existing labor agreement to include language that a normal work week can exceed 40 hours per week for bus operators. The City will also work with CASD to determine any necessary adjustments.*

*(b) The correction made to the affected employee's record was believed to be correct at the time. We will await the assistance of the CASD to help us correct this entry.*

*(c) The City agrees that the holiday pay incorrectly applied to the two affected Safety employees should be corrected.*

Finding 3: The City incorrectly reported base pay rate and regular earnings as special compensation.

CC Response: *The City will await the assistance of the CASD to help us correct this entry.*

Finding 4: The City did not report a prior period earnings adjustment to CalPERS.

CC Response: *The City will await the assistance of the CASD to help us correct this entry.*

Responses continued:

Finding 5: The City reported incorrect pay rates to CalPERS.

CC Response: *The City has begun reporting pay rate changes that occur in the middle of a pay period appropriately. If any adjustments are needed, the City will work with CASD to determine what they are.*

Finding 6: The City did not enroll temporary/part-time employees who met CalPERS membership eligibility requirements.

CC Response: *The individuals referred to in this finding are no longer employed by the City through temporary agencies. The City has implemented stringent policies to monitor the use of temporary employees by Departments to ensure this no longer occurs.*

Finding 7: A retired annuitant's pay rate exceeded amounts paid to other employees performing comparable duties.

CC Response: *We will work with BNSD to address this issue.*

Finding 8: The City did not provide eligibility verifications for dependents enrolled in the CalPERS Health Benefits Program.

CC Response: *The affected employee has been contacted and is unable to produce required/requested documentation. This employee will be retiring in May 2012. We would like to take the proper steps to remove the spouse from coverage, and will work with CASD on what steps are necessary to do so.*

Should you have any questions or comments, please do not hesitate to contact Mary Noller at 310-253-6012 or [mary.noller@culvercity.org](mailto:mary.noller@culvercity.org).

Sincerely,



Jeff Muir  
Chief Financial Officer  
City of Culver City