



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

March 3, 2011

Employer Code: 0030
Job Number: P10-002

City of Santa Clara
Gary Ameling, Finance Director
1500 Warburton Avenue
Santa Clara, CA 95050

Dear Mr. Ameling:

Enclosed is our final report on the results of the public agency review completed for the City of Santa Clara. Your agency's written response indicates agreement with the issues noted in the report, except for one item under Risk 5. The written response is 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, CPA, CIA, 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
Don Martinez, Interim Chief, EMHS, CalPERS
Honorable Council Members, City of Santa Clara
Elizabeth Brown, Director of Human Resources, City of Santa Clara

City of Santa Clara



Public Agency Review



Office of Audit Services

**Employer Code: 0030
Job Number: P10-002**

March 2011

CITY OF SANTA CLARA

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RESULTS IN BRIEF

We reviewed the City of Santa Clara's (City) enrolled individuals, health and retirement contributions, compensation 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:

- A work schedule code was incorrectly reported.
- An excluded individual was enrolled in CalPERS membership.
- Temporary/part-time employees were not enrolled in CalPERS membership.
- Industrial disability retirement determinations were not completely timely.
- Eligibility verification for dependents enrolled in CalPERS Health Benefits Program was not provided.
- Required ACES user forms were not maintained.

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

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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, also known as the Mission City, is a charter city incorporated in 1852 under the laws of the State of California. The City's powers are exercised through a Council/Manager form of government. The City Council is made up of seven Council members serving as the legislative authority, including a directly elected Mayor. The City Council appoints a City Manager who is responsible for the overall management and administration of the City. Within the administration, the Police Chief and the City Clerk are also publicly elected officials. 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, 1943, to provide retirement benefits for miscellaneous, fire and police employees. The City's current contract amendment identifies the length of the final compensation period as twelve months for miscellaneous and police, and three years for fire employees. The City contracted with CalPERS effective August 1, 1987, to provide health benefits to all eligible employees.

SCOPE

As part of the Board approved plan for fiscal year 2010/2011, 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 on August 9, 2010 through August 13, 2010.

The review period was limited to the examination of sampled records and processes from July 1, 2007 through June 30, 2010. To accomplish the review objectives, we performed the following:

CITY OF SANTA CLARA

- ✓ 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 earnable.
- ✓ 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.
- ✓ Reviewed the City's enrollment practices pertaining to temporary/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 employees and their dependents to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health contribution payment information to determine whether the City remitted payments 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
<p>1. The City may not accurately report compensation earnable to CalPERS.</p>	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of 24 employees over two service periods. The service periods reviewed were the second service period of December 2009 (12/09-4) and the first service period of June 2010 (6/10-3).</p> <p>The earnings reported to CalPERS were reconciled to the City's payroll records. The City accurately reported compensation to CalPERS for the employees in our sample.</p>	<p>None.</p>
<p>2. The City may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed payrates reported to CalPERS and reconciled the payrates to the City's public salary information and determined payrates for the sampled employees were properly authorized and reported report to CalPERS.</p>	<p>None.</p>
<p>3. The City may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll information reported to CalPERS for service periods 12/09-4 and 06/10-3, including examination of payroll reporting elements. Our sample testing revealed that the City correctly reported the payroll information to CalPERS except for the following instance:</p>	<p>The City should report work schedule code 242 for employees who work an average 56 hours per week.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The City may not accurately report payroll information to CalPERS. (continued)</p>	<p>The City reported an incorrect work schedule code of 173 for two employees who worked an average of 56 hours per week. The City should have reported a work schedule code of 242.</p> <p>CalPERS Procedures Manual, page 99, describes a work schedule code as a 3-digit numeric code used in calculating both employer rate and the member's retirement benefit. It identifies what the employer considers to be full-time employment for employees in the same work group, such as by department or duties but not by individual employees. Approved work schedule codes range from 34 to 60 hours per week. Page 293 identifies the correct work schedule code as 242 for full-time employees who work 56 hours per week.</p>	<p>The City should work with CalPERS ERSD to determine the impact of this issue and what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>
<p>4. The City may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>We reviewed the payroll information for service periods 12/09-4 and 6/10-3 and found that payroll information and contributions were submitted within required timeframes.</p>	<p>None.</p>
<p>5. The City may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract between CalPERS and the City describes CalPERS membership exclusions as, "All Crossing Guards and Employees of the Recreation Department and City Library who normally are employed on a less than</p>	<p>The City should stop enrolling individuals excluded by contract in CalPERS membership.</p>

CITY OF SANTA CLARA

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>half-time basis notwithstanding the fact that they may at times be employed temporarily on a greater than half-time basis.”</p> <p>The City erroneously enrolled one excluded employee in CalPERS membership. The employee worked less than half-time as a Library Assistant II in the City Library. The City enrolled the employee upon hire based on prior CalPERS membership. However, the employee was not eligible for CalPERS membership while employed with the City due to the contract exclusion.</p> <p>Government Code § 20305, states, in part “(a) An employee is excluded from this system unless: (1) He or she is a member at the time he or she renders that service and is not otherwise excluded pursuant to this article or by a provision of a contract.”</p> <p><u>Optional Membership</u></p> <p>The City’s elected officials were eligible for optional CalPERS membership. We reviewed the City’s enrollment practices to determine whether the elected officials were offered optional membership. Our sample testing revealed that the City properly offered and enrolled the sampled officials into CalPERS membership.</p>	<p>The City should work with CalPERS ERSD to assess the consequences of this reporting error, and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> <p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Temporary/Part-Time Employees</u></p> <p>We selected a sample of fifteen temporary/part-time employees to determine whether they met CalPERS membership eligibility requirements. Our sample testing revealed that twelve of the fifteen sampled employees met eligibility requirements and were not enrolled by the City in CalPERS membership. Three of these twelve were hired by the City and nine were working for the City through various temporary agencies.</p> <p>The following three part-time employees were hired by the City:</p> <ul style="list-style-type: none"> • One individual working as an Associate Planner for the City had been a CalPERS member since October 2002 and should have been enrolled upon hire. • A second individual worked as a Recreation Leader II in fiscal year 2008/2009 and worked a total of 2,095.50 hours. This individual met CalPERS eligibility in December 2008 by exceeding the 1,000 hours worked and was not enrolled. • A third individual worked as a Laborer in fiscal year 2009/2010 and worked a total of 1,042 hours. This individual met CalPERS eligibility in January 2010 by exceeding 1,000 hours worked and was not enrolled. 	<p>The City should enroll the twelve employees who met CalPERS eligibility requirements and review the hours worked by all other part-time employees and enroll those that worked 1,000 hours or more in a fiscal year.</p> <p>Additionally, the City should review its procedure for tracking the hours worked by temporary/part-time employees to ensure employees exceeding the 1,000 hour threshold are identified and enrolled into CalPERS membership.</p> <p>The City should also work with CalPERS ERSD to assess the impact of not enrolling eligible employees, and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>The remaining nine temporary/part-time employees were working for the City through various temporary employment agencies. We determined these nine employees were in an employer/employee relationship with the City, met CalPERS membership eligibility requirements by exceeding 1,000 hours worked in fiscal year 2008/2009 and should have been enrolled into CalPERS membership by the City.</p> <p>Government Code § 20305, states, in part “(a) 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:...(B) The person completes...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.”</p> <p>Government Code § 20028(b), defines employee as, “Any person in the employ of any contracting agency.”</p> <p>Government Code § 20370(a), defines member as, “An employee who has qualified for membership in this system and on whose behalf an employer has become obligated to pay contributions.”</p>	<p>employees mentioned in this report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Independent Contractor</u></p> <p>We reviewed the City's IRS 1099 Miscellaneous Income forms for calendar years 2008 and 2009 in order to identify employees that may be misclassified as independent contractors. We determined the selected individuals were properly classified as independent contractors and correctly excluded from CalPERS membership.</p>	<p>None.</p>
<p>6. The City may unlawfully employ retired annuitants.</p>	<p>We reviewed the hours worked for five retired annuitants in fiscal years 2008/2009 and 2009/2010 and determined the annuitants did not exceed the 960 hour threshold.</p> <p>We also determined that a bona fide separation from employment, per Government Code § 21220.5, was not needed as the sampled retired annuitants' ages were beyond the normal retirement age.</p>	<p>None.</p>
<p>7. The City may not appropriately report members under the proper coverage group code.</p>	<p>Our sample testing revealed that the City reported individuals under the appropriate coverage group code.</p>	<p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members.</p>	<p>We reviewed the City’s procedures for processing applications for industrial disability retirement for six sampled individuals. We found the City had administrative procedures in place for processing industrial disability determinations; however, the City did not timely process the determinations for five of the individuals tested.</p> <p>Government Code § 21157, states, “The governing body of a contracting agency shall make its determination within six months of the date of the receipt by the contracting agency of the request by the board pursuant to Section 21154 for a determination with respect to a local safety member. A local safety member may waive the requirements of this section.”</p>	<p>The City should work with CalPERS BNSD to assess the impact of the late determinations and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p>
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>We reviewed a sample of 12 employees to assess the health benefits eligibility and enrollment of members and their dependents.</p> <p>Our sample testing revealed the City properly enrolled eligible employees and their dependents in CalPERS Health Benefits Program, except that the City did not provide a copy of a birth certificate to support the enrollment of a sampled member’s dependent child.</p> <p>Government Code § 20085, states, in part, “(a) It is unlawful for a person to do any of the following: (1) Make,</p>	<p>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.</p> <p>Please send an email to: <i>HBB_Audit_Services@calpers.ca.gov</i> once the requested documentation is on file. The CalPERS HBB may be contacted at (916) 795-3836 with</p>

CITY OF SANTA CLARA

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>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."</p> <p>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, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children."</p>	<p>any questions.</p> <p>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.</p>

CITY OF SANTA CLARA

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>California Code of Regulations § 599.500, states, “(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.”</p>	
<p>10. The City may not contribute the appropriate health contribution amounts for active employees.</p>	<p>We reviewed the health contributions reported for June 2010. We determined that the City contributed the appropriate health contribution amount as part of the sampled members’ total monthly contribution amount.</p>	<p>None.</p>
<p>11. The City may not remit health contributions within the required timeframe.</p>	<p>We determined that the City remitted the health contribution payments within the appropriate timeframe.</p>	<p>None.</p>
<p>12. The City may not maintain appropriate ACES security procedures.</p>	<p>We reviewed the security procedures for the City’s ACES users to determine whether reasonable security precautions were maintained and to determine whether the required security documents were properly completed and filed for ACES users.</p> <p>We determined the City maintained reasonable security precautions. However, the City did not properly complete</p>	<p>The City should follow appropriate procedures to ensure the security of CalPERS ACES. Employer User Security Agreements should be completed timely and retained in a secure worksite location for the life of the Agreements and for</p>

CITY OF SANTA CLARA

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>12. The City may not maintain appropriate ACES security procedures. (continued)</p>	<p>nine Employer User Security Agreement (AESD-43) forms and did not submit a Delete Aces User Access (AESD-42) form for one individual.</p> <p>During the field work, the City was proactive in completing and submitting the required documentation and has agreed to maintain the forms as required. CalPERS ACES Security procedures outlined on the CalPERS website at www.calpers.ca.gov require agencies to keep a signed copy of security documents on file for ACES users. An AESD-43 must be completed for each employee using CalPERS on-line access and be available to CalPERS upon request. In addition, an AESD-42 must be completed for each ACES user who no longer requires access to ACES or who has terminated employment with the City. Forms must be retained in a secure work site location of the employer, for the life of the Agreement and for two years following the deactivation or termination of the agreement. CalPERS is to be notified immediately in the event that any of its sensitive or confidential information is subject to unauthorized disclosure, modification or destruction.</p>	<p>two years following the deactivation or termination of the Agreements.</p> <p>A confidential list identifying the employees mentioned in this report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p>

CITY OF SANTA CLARA

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

Date: March 2011

Staff: Michael Dutil, CIA, Senior Manager
Jacque Conway, CPA, CIA, CGFM, Manager
Adeeb Alzanoon
Jodi Epperson

APPENDIX A

STATUS OF PRIOR REVIEW

**FOLLOW UP ON PRIOR REVIEW FINDINGS
CITY OF SANTA CLARA EMPLOYER CODE 0030
PRIOR REVIEW P3-062, DATED NOVEMBER 1994**

Prior Review Finding	Prior Review Recommendation	Status of Prior Recommendation
1. Eligible employees not reported	<p>The City should implement a system to monitor the hours worked by temporary and part-time employees to ensure that employees who meet membership criteria are enrolled into CalPERS membership.</p> <p>The City should review the payroll records of all persons employed on a temporary or part-time basis during the audit period and subsequently and should ensure that any employees who meet membership criteria are enrolled.</p>	Similar finding noted in the current report. The City did not enroll temporary/part-time employees who met CalPERS eligibility.
2. Eligible contract employee not reported	The City should examine all independent contractor agreements it entered into during the audit period and subsequently. When the agreements represent an employee rather than independent contractor relationship with the City, the City should ensure that the employee is enrolled into CalPERS when enrollment requirements are met.	Implemented. There were no findings in the current review related to independent contractors.
3. Reinstatement of a retired annuitant	<p>The City should implement a system to monitor the hours worked by the retired annuitants employed by the City and ensure that employees are reinstated if they work more than 960 hours in a year.</p> <p>The City should review the payroll records of all retired annuitants employed by the City during the audit period and subsequently and should ensure that any retired annuitants who work over 960 hours in a year are reinstated.</p>	Implemented. There were no findings in the current review related to retired annuitants.

Conclusion: The City implemented two of the recommendations from our prior review; however, they did not implement one of the recommendations. Specifically, the City did not enroll temporary/part-time individuals who met CalPERS eligibility.

APPENDIX B

CITY'S WRITTEN RESPONSE

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February 16, 2011

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

Dear Ms. Junker:

The following are the responses of the City of Santa Clara to the findings of the CalPERS audit.

Risk/Recommendation: 3. The City may not accurately report payroll information to CalPERS. The City should report work schedule code 242 for employees who work an average of 56 hours per week.

Response: The City has used the work schedule code 173 to report 56-hour firefighter employees for at least the last 25 years. During the CalPERS Audit conducted in November 1994, the schedule code was not brought up as a concern. Code 173 is identified as one of the most common work schedule codes, used for Monthly reporting of employees with a pay code of "01" for "40 hours" worked. If the City has been incorrectly reporting the code, we will be happy to correct this on our PERS report.

The City's IT Team will need to update the PERS report used to submit payroll information to CalPERS for all 56-hour employees. CalPERS should confirm the report modification is immediately necessary since CalPERS will be updating the format for payroll reporting starting next year ("PERT" Project). The City will work with the CalPERS ERSD to make any prior pay period adjustments for the 56-hour employees (currently 120 employees), if required.

Risk/Recommendation: 5. The City may not enroll all eligible employees into CalPERS membership. The City should stop enrolling individuals excluded by contract in CalPERS membership.

Response: The City needs clarification from CalPERS. Our current enrollment procedures require that as-needed employees be enrolled in CalPERS if they are an active CalPERS member.

The City's current procedures for hiring an as-needed employee include having the employee complete the "As-Needed CalPERS Membership Questionnaire" (attached). Human Resources staff confirms the responses through ACES. If the employee has funds on deposit with CalPERS, he/she is enrolled in CalPERS. If the employee does not have funds on deposit with CalPERS, he/she is enrolled in our alternate retirement system, PARS. If the employee is hired into an excluded classification, he/she is enrolled in our alternate retirement system, PARS, regardless of prior or current CalPERS membership. The City currently employs two individuals who are members of both CalPERS and PARS because they have multiple jobs, at least one of which is an excluded classification.

The City developed and distributed a list of "excluded classifications" on December 14, 1994 to respond to the last CalPERS audit (attached). The excluded classifications are:

Crossing Guard; Library Monitor; Lifeguard; Nutrition Site Manager; Recreation Leader I, II, or III; Recreation Specialist; Library Page; Sr. Library Page; Nutrition Meal Server; Pool Manager; and Recreation Program Coordinator. The list was revised on December 19, 1994 (attached) and the classification of Instructor-Lifeguard was added.

The City will work with CalPERS to determine if the list of excluded classifications is still accurate based upon our contract and revise as appropriate. The City will need to work with CalPERS to determine if we have made any reporting errors and if so, how to rectify the enrollment.

Risk/Recommendation: 5. The City may not enroll all eligible employees into CalPERS membership. The City should enroll the twelve employees who met CalPERS eligibility requirements and review the hours worked by all other part-time employees and enroll those that worked 1,000 hours or more in a fiscal year.

Response: The City will need to examine its process for monitoring the number of hours worked by temporary and contract agency employers (attached). The City currently provides a list of as-needed employees with 750 hours or more to departments on a bi-weekly basis. Human Resources staff may need to evaluate employees who are approaching 920 hours (approximately 80 hours below the 1,000 hour threshold) to determine if their assignment will terminate or if the City will enroll in CalPERS the following pay period.

Ms. Margaret Junker
February 16, 2011
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The City currently monitors the number of hours worked by employees of one temporary employment agency. The City will need to expand this process to include individuals employed through an outside employment agency contract. The Human Resources Department, with the assistance of the Department, will implement a procedure to monitor the hours worked.

Risk/Recommendation: 5. The City may not enroll all eligible employees into CalPERS membership. The City should review its procedure for tracking the hours worked by temporary/part-time employees to ensure employees exceeding the 1,000 hour threshold are identified and enrolled into CalPERS membership.

Response: See response above.

Risk/Recommendation: 5. The City may not enroll all eligible employees into CalPERS membership. A confidential list (of three part-time employees) identifying the employees mentioned in the report (who were hired by the City and not enrolled in CalPERS) has been sent to the City and CalPERS ERSD as an appendix.

Response: The City has resolved the issue with the individual working as an Associate Planner. The employee was enrolled in CalPERS effective 8/31/2009. The adjustments were made to CalPERS with the payroll submitted for 12/31/2010.

The City disagrees with the assessment that the individual working as a Recreation Leader II should be enrolled in CalPERS. The City believes that this classification is excluded and employees working in this role should not be enrolled in CalPERS because of the contract exclusion. Please see the attached memorandums dated 12/14/1994 and 12/19/1994.

The City will need to enroll the individual working as a Laborer in CalPERS effective January 2010.

The City will need to work closely with CalPERS to clarify excluded classifications. The City has not enrolled individuals in CalPERS based upon a list of excluded classifications developed in 1994. The City will work with CalPERS to determine if the list of excluded classifications is still accurate based upon our contract and revise as appropriate.

Risk/Recommendation: 5. The City may not enroll all eligible employees into CalPERS membership. A confidential list (of nine employees) identifying the employees mentioned in the report (who are in an employer/employee relationship with the City) has been sent to the City and CalPERS ERSD as an appendix.

Response: The City will need to work with CalPERS to clarify how enrollments must be completed. Since the individuals are employees of temporary and/or contract agency employers, the City does not know the employee pay rate. The City will need to evaluate the employment relationship and determine if the assignment should end or if the individuals should be brought onto the City's payroll as an as-needed employee enrolled in CalPERS.

Risk/Recommendation: 8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members. The City should work with CalPERS BNSD to assess the impact of late determinations and determine what adjustments, if any, are needed.

Response: The City will need to work with CalPERS BNSD to determine if any employees filing for industrial disability retirement were adversely impacted. The City will update our internal procedures and provide additional training to staff assigned to work on industrial disability retirement applications. The procedures will include a date tickler for follow up with the employee and CalPERS after a specified number of days (for example, 150 days) and perhaps drafting a request for extension at the time the initial request is made.

Risk/Recommendation: 9. The City may not properly enroll eligible employees and their dependents into health benefits. 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.

Response: The City has made requests from the employee to submit the required birth certificate; we will continue to do so until it has been received within the 60 day requirement.

If the recommendation is to provide enrollment documentation (i.e., birth certificates) for all dependent enrollments, the City will request an extension. This request requires manual verification of all benefit enrollments for employees with dependents.

CalPERS has not updated the PERS Health Benefits Procedures Manual since March 2006. The City has updated procedures to include information provided by CalPERS on November 9, 2009 indicating that employees who wish to add a child are required to provide a copy of the birth certificate. In addition, the City will be requesting birth certificates for all dependents when a request is made to change, add, or delete health dependents.

Ms. Margaret Junker
February 16, 2011
Page 5

The City can add a request in the Open Enrollment memo for Calendar Year 2012 and in the upcoming Human Resources newsletters to request employees provide copies of birth certificates for all dependents covered by a PERS Health Plan.

Risk/Recommendation: 12. The City may not maintain appropriate ACES security procedures. The City should follow appropriate procedures to ensure the security of CalPERS ACES Employer User Security Agreements should be completed timely and retained in a secure worksite location for the life of the Agreements and for two years following the deactivation or termination of Agreements.

Response: The City's ACES Administrators have reviewed the instructions for proper User Security Agreements (AEDS-43). The City will conduct an annual review of all CalPERS ACES Users to ensure compliance. The City will designate a locked file in Human Resources for ACES User Security Agreements. In addition, the City will evaluate if the ACES Security Agreements should be added to the City's retention schedule for Human Resources.

The "Delete User" Agreement (AEDS-42) for the individual named in the draft report was submitted electronically on August 9, 2010 with an effective date of October 30, 2008.

The City's ACES Administrators will ensure that all ACES User Security Agreements submitted are completed timely and signed by the employee's manager/supervisor. All of the forms were signed by the employee who had user permissions. The City has received management signatures for the eight security agreements requested for ACES User Security Agreements.

Prior Review Finding & Status: Eligible employees not reported. A similar finding is noted in the current report. The City did not enroll temporary/part-time employees who met CalPERS eligibility.

Response: See responses above.

Very truly yours,



Elizabeth C. Brown,
Director of Human Resources

ECB/sli
Attachments

City of Santa Clara
As-Needed CalPERS Membership Questionnaire



1. Are you a retiree under the California Public Employees' Retirement System (CalPERS)?
 Yes No

If you answered yes, please specify the following:

Retirement Date: _____ Agency of Retirement: _____

2. Are you a current CalPERS member or have you had any public employment under the CalPERS system?
 Yes No

If you answered yes, please specify the following:

Agency Name(s) and Dates: _____

3. Have you ever been employed by the City of Santa Clara in an As-Needed or Regular position?
 Yes No

If you answered yes, please specify the following:

Dates of As-Needed Employment: _____

Dates of Regular Employment: _____

4. Are you currently working under:
 F-1 (Student Visa)
 J-1 (Exchange Visitor Visa)
 Other _____
 Not Applicable

5. Are you currently working in another CalPERS agency?
 Yes No

If you answered yes, please specify the following:

Agency Name: _____

Approximate number of hours worked in a fiscal year (July-June): _____

PLEASE NOTE: IF YOU ACCEPT EMPLOYMENT WITH ANOTHER CALPERS AGENCY AFTER THE COMMENCEMENT OF YOUR EMPLOYMENT WITH THE CITY OF SANTA CLARA, YOU MUST NOTIFY THE CITY OF SANTA CLARA HUMAN RESOURCES DEPARTMENT IMMEDIATELY. _____

Initial

Name

Date

Social Security Number

Classification

INTEROFFICE MEMORANDUM
CITY OF SANTA CLARA

DATE: December 14, 1994 INFO ONLY
TO: As Needed Employees PLEASE REPLY
FROM: Director, Personnel Services CONFIDENTIAL
SUBJECT: PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) REQUIRED MEMBERSHIP

California Public Employees' Retirement System (PERS) recently completed an audit of the City's PERS membership and reporting procedures. The City has been notified that As Needed employees, except for certain exempt classes, must be enrolled in PERS when the employee has worked a total of 1,000 hours for the City in any fiscal (July-June) year. ENROLLMENT IN PERS DOES NOT MEAN THAT AN AS NEEDED EMPLOYEE BECOMES A PERMANENT CITY EMPLOYEE.

If you are working in one or more of the excluded classifications and are not working in any other regular City employment class, you are excluded from this membership requirement and there will be no change in your status as far as PERS membership is concerned. The excluded classes are as follows:

Crossing Guard	Library Page
Library Monitor	Sr. Library Page
Lifeguard	Nutrition Meal Server
Nutrition Site Manager	Pool Manager
Recreation Leader I, II or III	Recreation Program <i>Program</i> Coordinator
Recreation Specialist	Instruction - <i>Lifeguard</i>

If you are working in any other classification, or if you are working in both an excluded classification and a non-excluded classification, you are subject to the following requirements.

- ▶ If you have worked more than 1,000 hours for the City in a covered assignment during any fiscal year and you continue your employment with the City of Santa Clara, you will be enrolled in both PERS and Social Security effective with the pay period beginning January 1, 1995.
- ▶ If you have not yet worked more than 1,000 hours for the City in a covered assignment, but continue to work and go over 1,000 hours during a fiscal year, you will be enrolled in both PERS and Social Security at the time you exceed 1,000 hours.

Both the City and the employee are required to contribute into the PERS system. Employee contributions are credited to the employee and are available to the employee for withdrawal if they leave PERS covered employment with less than five years service credit or if they have more than five years service credit and choose to withdraw from the system without retiring. City contributions remain in the system, even if an employee withdraws from membership.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) MEMBERSHIP (Continued)

Additionally, since PERS is coordinated with Social Security, the affected employee and the City are each required to pay into Social Security. This contribution is not refundable, even if the employee withdraws from PERS.

The impact of PERS and Social Security is about 13.2% for the employee and about 15% on the City.

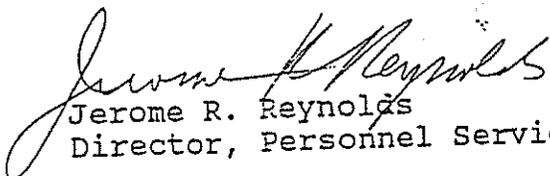
Employees who are enrolled in the APPLE program who become eligible for PERS membership are no longer eligible for APPLE membership. Therefore, this 7.5% payroll deduction will be eliminated for the affected employees.

The pay impact on As Needed employees who are required to be enrolled under PERS membership will be as follows:

The employee enrolled in PERS will be subject to: 1) a 7% tax-deferred PERS contribution deduction; 2) a 6.2% Social Security deduction; 3) no longer be subject to the 7.5% APPLE deduction; 4) for a net increase in deductions of 5.7%.

The City Manager has appointed a staff committee that is currently working with PERS Member Services division to work out the enrollment procedures for as-needed employees who worked more than 1,000 hours in prior years. The process and the impact on employees will be explained as soon as we have worked it out with PERS. The first meeting with PERS is scheduled for December 22, 1994 and these issues will be discussed at that time.

It is expected that we will be able to update you on your status and help you understand this process by mid-January. You may contact either the Director of Personnel Services at extension 5122 or the Accounting Services Division Manager in Finance at extension 3026 if you need information on a more urgent basis.


Jerome R. Reynolds
Director, Personnel Services

APPROVED:

Jennifer Sparacino
City Manager

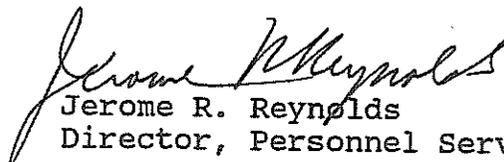
INTEROFFICE MEMORANDUM
CITY OF SANTA CLARA

DATE: December 19, 1994
TO: Personnel, Records & Benefits
FROM: Director, Personnel Services
SUBJECT: Modification of Basic Range in Wage Class File for Excluded As-Needed Classes

INFO ONLY
PLEASE REPLY
CONFIDENTIAL

The following are the wage classes that are excluded from the PERS 1,000 hour membership requirements. Please change the basic range on the wage classes file to "ANE" from "AN".

- | | |
|-----------------------------|-------------------------------|
| 362 Crossing Guard | 542 Library Page |
| 541 Library Monitor | 756 Sr. Library Page |
| 541L Library Monitor | 246 Book Processor |
| 501 Instructor-Lifeguard | 543 Lifeguard |
| 608 Nutrition Meal Server | 609 Nutrition Site Manager |
| 666 Pool Manager | 681 Recreation Leader I |
| 682 Recreation Leader II | 683 Recreation Leader III |
| 684 Rec Program Coordinator | 686 Recreation Specialist |


Jerome R. Reynolds
Director, Personnel Services

cc: Accounting Services

AS-NEEDED PERS ENROLLMENT

First thing in the morning on payday Friday, you will need to go up to the printer room to pick up your two reports. One will be for the Calendar Year, and one is for the Fiscal Year.

CALENDAR YEAR

For this report, we are only concerned with our retired employees (RPA) who have come back on an As-Needed basis. Retirees can not exceed 960 hours in a calendar year without losing their Social Security benefits, so it is very important that their hours be monitored.

- 1) Look at the printout to determine whether or not any of the employees on the list are retirees. (Retirees have "RPA" in the "Cobr Code" column next to their name.)
- 2) Both the supervisor and the employee need to be notified of their current hourly status. Once you have contacted both the supervisor and the employee, or left messages on their voice mail, this needs to be documented on the printout, and dated. Make sure to remind them both that he/she cannot exceed 960 hours in a calendar year.

FISCAL YEAR

This report is run to determine which of our As-Needed employees are approaching 1,000 hours in a fiscal year. (Our fiscal year is from July 1st to June 30th.) At 1,000 hours, they need to be either terminated, or enrolled into PERS with the City Manager's approval.

- 1) For each employee on this list who has not reached 1,000 hours and does not already have an approval memo from the City Manager, a letter needs to go to their Department Head informing them of the amount of hours they have worked to date. On the letter, you will need to indicate whether or not this is the second notice, third notice, etc. (Please see example that follows.) Once the memos have been printed with appropriate information filled in, set aside until you have completed all paperwork for those employees being enrolled in PERS. You will submit all of your paperwork at one time paperclipped to your fiscal and calendar year reports to Vita. She will then forward the letters to the Assistant Director for signature. Vita will review the paperwork for PERS enrollment, initial, and return to you for data entry. You need to do data entry in the Finance System's Personnel Master File Maintenance screen as soon as you receive the worksheet and paperwork back from Vita with her initials. You then need to order your data sheets. (Once those are signed, you need to give Lisa your worksheet for PERS enrollment in the COMET system. The PERS printouts and worksheet will be returned to you once entered.) Once the letters are returned signed by Joanne, you must make a photocopy of each one. The original is sent to the employee's Department Head in a sealed envelope that is placed in an inter-facility envelope. The photocopy is placed on the left side of the yellow folder. We keep those until we receive approval to enroll the employee from the City Manager.

- 2) If a memo of approval comes from the City Manager, document that on the printout, and the date it was received. You will not send any more letters to that employee's supervisor. (You will also make note of the approval memo and date it was received on every printout that follows until the employee is enrolled in PERS.) You will then pull forward all copies of letters we have sent out to the employees Dept. Head, and paperclip them behind the approval memo. All approval letters are placed on the right side of the yellow folder.
- 3) Once the employee reaches or exceeds 1,000 hours, verify whether or not we have received a memo of approval. If we did, the employee will need to be enrolled in PERS effective the beginning of the pay period following having reached 1,000 hours. (See procedures for PERS enrollment, and the examples that follow.) If we have not received a memo of approval, and the employee shows up on the printout with 1,000 hours or more, notify Joanne Hollender, the Assistant Director of Personnel Services. She will then contact the Dept. Head to inform them that the employee absolutely cannot continue to work without being enrolled in PERS. The Dept. Head will then need to obtain the approval memo from the City Manager for us to enroll him/her in PERS.
- 4) Once the employee is enrolled in PERS, all of the letters, the memo of approval, the copy of the PARS form, the original signed data sheet and the PERS COMET enrollment sheet need to go into the employee's Personnel file. This must be logged in the PERS MSD-I binder. The enrollment must be logged on the AS-NEEDED PERS MSD-1 ENROLLMENT/SEPARATION form, and the PARS form needs to be logged in the same binder on the PARS Distribution form as a PERS Enrollment.
- 5) Once this is all together, make a copy of the PERS printout, and paperclip the copy to Payroll's copy of the data sheet to send up.

Please see the following procedures and examples on how to:

1. Complete the enrollment memo
2. Enroll in PERS in the Santa Clara Finance System
3. Complete the PARS form.