California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (916) 795-3240
(916) 795-0900 phone, (916) 795-4023 fax
www.calpers.ca.gov

August 13, 2012

Employer Code: 0719
CalPERS ID: 4069543728
Job Number: P11-001

City of Santa Maria
Rick Haydon, City Manager
110 East Cook Street,
Santa Mara, CA 93454-5190

Dear Mr. Haydon:

Enclosed is our final report on the results of the public agency review completed for the City of Santa Maria. Your agency's written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 1 (auto allowance). After reviewing your agency's response pertaining to Finding 1 and a discussion with the CalPERS Customer Account Services Division (CASD) regarding the auto allowance, our recommendations remain as stated in the report. If your agency locates the CalPERS communication authorizing the auto allowance conversion, please submit it to CASD for further review. 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, including resolution of Finding 1. 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 City Council, City of Santa Maria
Alicia Lara, Acting Assistant City Manager, City of Santa Maria
Rene Vise, Director of Administrative Services, City of Santa Maria
Mary Harvey, Accounting and Budget Manager, City of Santa Maria

Office of Audit Services

Public Agency Review

City of Santa Maria

Employer Code: 0719
Job Number: P11-001

August 2012

CITY OF SANTA MARIA

TABLE OF CONTENTS

SUBJECT PAGE

Results in Brief 1

City Background 1

Scope 2

Office of Audit Services Review Results 3

Finding 1: Compensation Earnable 3

Finding 2: Payroll Reporting Elements 6

Finding 3: Temporary Agency and Part-Time Employees 7

Finding 4: Retired Annuitant 8

Conclusion 9

CalPERS Background ..... Appendix A

Objectives ..... Appendix B

Criteria ..... Appendix C

Agency Response ..... Appendix D

CITY OF SANTA MARIA

RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Santa Maria 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:

- Auto allowance was incorrectly included in payrate.
- Non-reportable compensation (K-9 pay and motorcycle pay) was reported.
- Reduced earnings due to a mandatory time-off program were not reported.
- Uniform allowance was not reported in the period earned and the labor agreement did not indicate the amount or methodology for calculating the value of uniforms.
- Service period type code and payrate was incorrectly reported.
- Work schedule code was incorrectly reported.
- Eligible employees hired through a temporary employment agency and part-time employees were not enrolled in CalPERS membership.
- Retired annuitant exceeded the 960-hour threshold and was not reinstated.

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 Santa Maria was formed in 1905 under the council-manager form of government and is governed by a four-member City Council and a Mayor. The City's major operations include police and fire protection, street maintenance, public transportation, recreation and parks, water, wastewater, refuse services, planning, building and safety services, and general government activities. 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, 1968, to provide retirement benefits for miscellaneous, fire, and police employees. The City's current contract identifies the length of the final compensation period as twelve months for all coverage groups. The City contracted with CalPERS effective February 1, 1988, to provide health benefits to all eligible employees.

CITY OF SANTA MARIA

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

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

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 April 1, 2008, through March 31, 2011. The on-site fieldwork for this review was conducted on July 25, 2011, through August 2, 2011. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed in Appendix B.

CITY OF SANTA MARIA

OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: The City incorrectly reported compensation to CalPERS.

Recommendations:

The City should cease converting automobile allowance to salary. In addition, the City should identify all retired employees who converted automobile allowance to payrate prior to retirement.

The City should cease reporting non-reportable compensation of K-9 pay and motorcycle pay for work performed outside of normal working hours.

The City should report the Mandatory Time-Off program reduction in earnings, and uniform allowance for employees required to wear uniforms in the period earned. The City should work with CalPERS CASD to outline the conditions for payment of the value of uniforms.

Only compensation earnable, as defined under Government Code Section 20636 and the corresponding regulations, can be reported to CalPERS and considered in calculation retirement benefits. OAS recommends CASD deny all incorrectly reported compensation and make any necessary adjustments to members' accounts and other areas needing adjustment pursuant to Government Code Section 20160.

Condition:

Auto Allowance

The City paid a monthly automobile allowance in varying amounts to City Council Members, City Directors, City Department Heads and City Division Heads. OAS found that the automobile allowances were paid separately from base payrate and regular earnings and the allowances were appropriately not reported to CalPERS, except for two employees. The City Manager and the Assistant City Manager each requested that the City convert their $585 monthly automobile allowance to salary effective November 2008. The automobile allowance was added to the employees' base payrate and reported to CalPERS beginning with the 11/08-4 service period. As a result of the conversion, the City Manager's payrate reported to CalPERS increased from $16,836.45 to $17,421.45, and the Assistant City Manager's payrate reported to CalPERS increased from $13,075.79 to $13,660.79. CalPERS records show the City Manager retired on December 31, 2011, subsequent to the review

period. The Assistant City Manager has not retired. Automobile allowance is not reportable compensation.

City staff stated the City had received approval for the conversion from CalPERS. OAS reviewed documentation provided by City staff, and records at CalPERS, but found no documentation from CalPERS approving the conversion. However, during a review of the documentation, OAS identified an additional three employees who converted automobile allowance to salary prior to the review period. The three employees have since retired from the City.

Compensation earnable for retirement purposes is defined as a member's payrate and special compensation. Payrate is defined as the base payrate pursuant to publicly available pay schedules. Auto allowance does not meet the definition of payrate because the pay is not part of the normal monthly rate of pay or base pay. Government Code Section 20636(c) and Section 571(a) of the California Code of Regulations exclusively identify and define the reportable items of special compensation. Auto allowance does not meet the definition of special compensation as auto allowance is not included among reportable pay types specified in Section 20636(c) or in regulation Section 571.

K-9 Pay

The Police Officers' Association MOU stated that K-9 Officers were given a pro-rated stipend of $80.77 per pay period "in recognition of the additional time and labor associated with maintaining the canine during off-duty." One sampled employee received $80.77 of K-9 pay in service period 3/11-4, which the City reported to CalPERS. Canine Officer/Animal Premium pay is listed in the California Code of Regulations, § 571(a), as a reportable item of special compensation. However, the City's K-9 pay was for work performed outside of normal working hours. Therefore, this K-9 pay was not a reportable item of special compensation.

Motorcycle Pay

The Police Officers' Association MOU stated, "Motor Officers who are certified to operate department issued motorcycles and who operate said vehicles in their daily operation will be eligible to receive a pro-rated stipend of $80.77 per pay period in recognition of the additional time and labor associated with maintaining the motorcycle while off-duty." One sampled employee received $80.77 of motorcycle pay in service period 3/11-4, which the City reported to CalPERS. Motorcycle Patrol Premium pay is listed in the California Code of Regulations § 571(a) as a reportable item of special compensation. However, the City's motorcycle pay was for work performed outside of normal working hours. Therefore, this motorcycle pay was not a reportable item of special compensation.

Mandatory Time-Off Program Reduction in Earnings

All employee group MOU's indicated that effective December 18, 2010, through December 16, 2011, the City applied a five percent negative premium charged to employees' base salary per pay period in lieu of providing additional hours off during the calendar year. For fire employees covered under the Fire Fighters' Union Local #2020 MOU, the Mandatory Time-Off program only applied to fire prevention employees. For police employees covered under the Police Officers' Association MOU, the Mandatory Time-Off program only applied to non-sworn employees (excluding dispatcher personnel). The City reduced the earnings paid to employees every pay period by five percent; however, the full amount of earnings was reported to CalPERS for 15 sampled employees in service periods 1/10-3 and 3/11-4.

Monetary Value of Uniforms and Methodology for Calculating Value of Uniforms

The Police Officers' Association MOU stated that employees who are required to wear uniforms are provided with an initial uniform and replacement of normally worn or damaged uniforms. However, there was no labor policy or agreement approved by the governing body that contained the conditions for payment, such as, methodology and amounts. The City explained the methodology used was to calculate the cost of uniforms provided for a one year period for non-sworn employees and then divide the total cost by the number of employees per classification and report a lump sum amount for the prior one year period. The City reported the $243.99 uniform allowance for the 2009 calendar year for a non-sworn Senior Dispatcher in service period 6/10-4.

Per the California Code of Regulations Section 571(b), the amount being reported for the monetary value of uniforms and uniform maintenance must be contained in a written labor policy or agreement that has been duly approved and adopted by the employer's governing body, and it must indicate the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation. In addition, when compensation is reported to CalPERS, including the monetary value of employer provided uniforms, the employer must identify the period in which the compensation was earned regardless of when reported or paid.

Criteria:

Government Code § 20160, § 20630(a), § 20636(b)(1), § 20636(c)(2)(3)(5)(6)(7)

California Code of Regulations § 571(a), § 571(b)(1)(A), §571(B)(3)(4) § 571(c)

CalPERS Circular Letter 200-016-09 (March 19, 2009)

Finding 2: The City incorrectly reported payroll reporting elements.

Recommendation:

OAS recommends CASD work with the City to determine the impact of the incorrect payroll reporting elements and determine what adjustments, if any, are needed.

Condition:

Service Period Type and Payrate

Council members were paid on a bi-weekly basis, but were reported to CalPERS on a monthly basis. The City should have reported a service period type 0 with a monthly payrate of $1,050.00. In service period 3/11-4, the City incorrectly reported a payrate of $2,275.02, regular earnings of $1,050.01, and a tax-deferred contribution code 11 for one council member.

For council members that received a monthly amount of compensation, the City should have reported tax-deferred contribution code 13 instead of 11 and reported compensation earned for the month as both pay rate and earnings.

Work Schedule Code

In service period 3/11-4, the City incorrectly reported a work schedule code of 173 for five shift fire employees that worked an average normal work schedule of 56 hours per week. The correct work schedule code to report when reporting a monthly payrate and a 56-hour work week is 243.

Criteria:

Government Code § 20160, § 20636(b)(1)

CITY OF SANTA MARIA

Finding 3: the City did not enroll part-time employees or employees hired through a temporary employment agency when membership eligibility requirements were met.

Recommendation:

The City should monitor the hours worked for all temporary/part-time employees, including employees hired through a temporary employment agency, in order to enroll employees into CalPERS membership upon meeting membership eligibility requirements.

OAS recommends CASD work with the City to assess the impact of these membership enrollment issues and determine what adjustments are needed.

Condition:

The City hired employees to work in part-time/limited service positions. In addition, the City hired employees through a temporary employment agency. OAS found that the City did not enroll nine sampled part-time employees and four sampled employees hired through a temporary employment agency into membership. In addition, one employee hired through a temporary employment agency was not enrolled timely.

Criteria:

Government Code § 20160, § 20028, § 20125, § 20305(a)

CITY OF SANTA MARIA

Finding 4: The City unlawfully employed a retired annuitant.

Recommendation:

The City should monitor the hours worked by retired annuitants in order to limit the hours worked to 960 hours in a fiscal year, or immediately reinstate a retired annuitant into CalPERS membership if the retired annuitant's employment continues to work beyond the 960-hour threshold.

OAS recommends BNSD have the City pay CalPERS the employer contributions, which should have been paid during the period the retired annuitant was unlawfully employed, plus interest and administrative expenses.

In addition, OAS recommends BNSD have the retired annuitant reimburse CalPERS for any retirement allowance received during the period of unlawful employment, pay CalPERS employee contributions that should have been paid during the period of unlawful employment, and reimburse CalPERS for administrative expenses incurred in handling the situation.

Condition:

We identified one retired annuitant who retired from the City on September 3, 2005, and was re-employed by the City through a temporary employment agency during the review period. The retired annuitant worked 1,858.25 hours in the 2009/2010 fiscal year. However, the retired annuitant was unlawfully employed as the City did not reinstate the retired annuitant when the 960-hour threshold was reached in the pay period ending January 17, 2010.

Government Code § 21220 provides that a retired member receiving a monthly allowance from CalPERS, shall not, except as otherwise provided, be employed in any capacity thereafter by a CalPERS employer unless the member has first been reinstated from retirement. Any person employed in violation of § 21220 shall be reinstated to CalPERS membership as of the date the unlawful employment began.

Criteria:

Government Code §20160, § 21220, § 21224(a)

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. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, California Code of Regulations.

Respectfully submitted,

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

Date: August 2012
Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIA, CIDA, Manager
Kelly Dotters-Rodriguez
Nuntawan Camyre

APPENDIX A

BACKGROUND

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 eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

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

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

APPENDIX B

OBJECTIVES

CITY OF SANTA MARIA

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 April 1, 2008, through March 31, 2011.

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:
  - o Provisions of the Contract and contract amendments between the City and CalPERS
  - o Correspondence files maintained at CalPERS
  - o City Council minutes and City Council resolutions
  - o City written labor policies and agreements
  - o City salary, wage and benefit agreements including applicable resolutions
  - o City personnel records and employee hours worked records
  - o City payroll information including Summary Reports and PERS listings
  - o Other documents used to specify payrate, special compensation and benefits for all employees
  - o Health Benefits Program enrollment records and supporting documentation
  - o City ordinances as necessary
  - o Various other documents as necessary

- ✓ Reviewed City payroll records and compared the records to data reported to CalPERS to determine whether the City properly reported compensation.

CITY OF SANTA MARIA

Sample Size and Period: Reviewed 24 sampled employees in the first service period of January 2010 (1/10-3), the second service period of March 2011 (3/11-4), and the second service period of June 2010 (6/10-4) for one sampled employee for the uniform allowance test.

See Finding 1: The City incorrectly reported compensation earnable.

The City erroneously reported non-reportable compensation (K-9 pay and motorcycle pay).

The City did not report Mandatory Time Off (MTO) Program reduction in earnings.

The City did not report uniform allowance in the period earned.

The labor agreement did not state the amount and methodology for calculating the value of uniforms.

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 second service period of March 2011 (3/11-4) and five sampled employees in the scope of the review period.

No Finding

✓ 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 second service period of March 2011 (3/11-4).

CITY OF SANTA MARIA

See Finding 2: The City reported incorrect payroll elements.

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

  Sample Size and Period: Reviewed 12 part-time employees in fiscal year 2008/2009, four part-time employees in fiscal year 2009/2010, and five employees hired through a temporary employment agency in fiscal year 2009/2010.

  See Finding 3: The City did not enroll part-time (Limited Service) and employees hired through a temporary employment agency into membership when they reached 1,000 hours worked in a fiscal year.

- ✓ 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 year 2009/2010.

  See Finding 4: The City did not reinstate one retired annuitant who exceeded the threshold of 960 hours worked in a fiscal year.

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

  Sample Size and Period: Reviewed eight independent contractors in calendar years 2009 and 2010.

  No Finding

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

  No Finding

CITY OF SANTA MARIA

- ✓ Reviewed the City's calculation and reporting of unused sick leave balances.

  Sample Size and Period: Reviewed nine retiring members covering the review period.

  No Finding

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

  Sample Size and Period: Reviewed eight employees and their dependents in the review period.

  No Finding

APPENDIX C

CRITERIA

CITY OF SANTA MARIA

CRITERIA

Government Code § 20028, states, in part:

"Employee" means all of the following: (b) Any person in the employ of any contracting agency.

Government Code § 20125, states:

The board shall determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system.

Government Code § 20160, states:

a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part. Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 20164.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this

section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:
(1) That the correction cannot be performed in a retroactive manner.
(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.
(3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

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

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 service and is not otherwise excluded pursuant to this article or by a provision of a contract. (2) His or her position requires regular, part-time service for one year or longer for at least an average of 20 hours a week, or requires service that is equivalent to at least an average of 20 hours a week for one year or longer, unless he or she elects membership pursuant to Section 20325. (3) His or her employment is, in the opinion of the board, on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis, and is compensated and meets one of the following conditions: (B) The person completes... 1000 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 ...1000 hours of service were completed.

Government Code § 20630, subdivision (a), states, in part:

As used in this part, "compensation" means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal work hours….

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

Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules….

Government Code § 20636, subdivision (c)(3), states:

Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

Government Code § 20636, subdivision (c)(5), states:

> (5) The monetary value of a service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, is not special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

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, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 et seq. of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

Government Code § 20636, subdivision (c)(7), states:

> (7) Special compensation does not include any of the following:
> (A) Final settlement pay.
> (B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.
> (C) Any other payments the board has not affirmatively determined to be special compensation.

Government Code § 21202, states:

> A person employed in violation of Section 21220 shall be reinstated to membership in the category in which, and on the date on which, the unlawful employment occurred.

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

> A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon temporary appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired employee has specialized skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

California Code of Regulations § 571, subdivision (a), states:

> The following list 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 written labor policy or agreement.

California Code of Regulations § 571, subdivision (b)(1)(A), states:

(b)The Board has determined that all items of special compensation listed in subsection (a) are: (1) Contained in a written labor policy or agreement as defined at Government Code section 20049, provided that the document: (A) Has been approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws.

California Code of Regulations § 571, subdivision (B)(3)(4), in part, states:

(B) Indicates the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation…(3) Part of normally required duties; (4) Performed during normal hours of employment.

California Code of Regulations § 571, subdivision (d), states:

(d) If an item of special compensation is not listed in subsection (a) or is out of compliance with any of the standards in subsection (b) as reported for an individual, then it shall not be used to calculate the final compensation for that individual.

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).

CalPERS Circular Letters

CalPERS Circular Letter 200-016-09 (March 19, 2009) provided information which documented the impacts of furloughs on member benefits, member/employer contributions, as well as the proper reporting of furloughed time. Member/Employer Contributions: The Public Employees' Retirement Law provides that member contribution rates are to be applied to actual earnings, not compensation earnable. Therefore, when the member contribution rate is multiplied by the furlough-reduced member earnings, it will result in reduced member contributions payable to CalPERS….Proper Payroll Reporting: Under a furlough plan, employers should continue to report the full time pay rate for their members. They should also report the actual earnings as they have been reduced due to the furlough.

APPENDIX D

AGENCY RESPONSE

Santa Maria
All-America City

CITY OF SANTA MARIA
DEPARTMENT OF ADMINISTRATIVE SERVICES

Admin/Finance, Room 6, Ext. 215
Utility Billing, Room 9, Ext. 217/218
Information Technology, Room 7, Ext. 236
Special Projects, Room 2, Ext. 118
Business License, Room 5, Ext. 422
Purchasing, Room 6, Ext. 215

110 EAST COOK STREET • SANTA MARIA, CALIFORNIA 93454-5190 • (805) 925-0951 • FAX (805) 925-2243

June 28, 2012

Margaret Junker, Chief
CalPERS
Office of Audit Services
PO Box 942701
Sacramento, CA 94229-2701

RE: City of Santa Maria
Employer Code: 0719
Job Number: P11-001

Dear Ms. Junker:

Enclosed is the City of Santa Maria's response to the draft report of compliance in relation to the City's contract with California Public Employees' Retirement Systems (CalPERS). We appreciate the opportunity to respond to your findings and Nuntawan Camyre's flexibility in extending the deadline from the original date to June 28, 2012.

If you have any questions about the City's response, please do not hesitate to contact me at (805) 925-0951, extension 214 or Alicia Lara at extension 395.

Sincerely,

Mary Harvey
City of Santa Maria
Accounting and Budget Manager

Enclosure

Cc: Rick Haydon, City Manager, City of Santa Maria
Alicia Lara, Acting Assistant City Manager, City of Santa Maria
Rene Visé, Director of Administrative Services, City of Santa Maria

City of Santa Maria
Response to CalPERS Public Agency Review
Employer Code: 0719
Job Number: P11-001

CalPERS Finding 1: The City incorrectly reported compensation to CalPERS.

a) Auto allowance was incorrectly included in payrate.
b) Non-reportable compensation (K-9 pay and motorcycle pay) was reported.
c) Reduced earnings due to a mandatory time-off program were not reported.
d) Uniform allowance was not reported in the period earned and the labor agreement did not indicate the amount or methodology for calculating the value of uniforms.

City Response to Finding 1:

a) Auto Allowance: The City disagrees with this finding because the City sought CalPERS approval prior to converting auto allowance for the first department head who requested conversion of auto allowance to salary. Although the City was not able to locate a hard copy of communication from CalPERS authorizing this conversion, the City did request authorization from CalPERS through a letter, (a copy of which was provided to the audit team) that had a hand-written note documenting a telephone conversation with CalPERS staff indicating auto allowance was eligible for conversion to salary. CalPERS did not deny receipt of this document, nor the validity of City staff notations.

   In addition, three employees who requested and had auto allowance converted to salary, retired prior to the audit period and compensation was reviewed by CalPERS at the time of their respective retirement dates. Those employee names are included in appendix D. The City provided all documents requested by CalPERS to allow CalPERS to determine the employees' retirement allowance at the time they retired. The City was not advised by CalPERS of any concerns regarding the payrate or special compensation as a result of their reviews; thus all retired with approved auto allowance conversion (as reportable and) factored into their payrate. The fourth employee (not noted in appendix D) is retiree . Ms was hired with a salary rate that included converted auto allowance, which her predecessor had converted less than two years prior to her hire. She then retired during the audit period (11/06/09) with the converted auto allowance as part of base pay, and did not receive auto allowance while employed.

the pay period earned. However, due to the fluctuation of costs of replacement of worn or damaged POA uniforms, the City has historically reported the method whereby the average annual cost of replacement uniforms per eligible employee is calculated and reported to CalPERS once a year. Although the City understood that reporting non-monetary uniform allowance each pay period was the preferred method, the City believed the annual reporting method was acceptable to obtain a more accurate cost. The City was unaware that the amount being reported for the monetary value of uniforms and uniform maintenance must be contained in a written labor agreement that has been duly approved and adopted by City Council, which must also indicate the conditions (such as eligibility) for payment of the special compensation. The City will work with CASD to outline the conditions for payment of the value of uniforms and include agreed upon language in Police Officers' Association MOU which will then be recommended to City Council for approval.

CalPERS Finding 2: The City incorrectly reported payroll reporting elements.

a) Service Period Type and Payrate: Service period type code and payrate was incorrectly reported for Council members.

b) Work Schedule Code: Work schedule code was incorrectly reported for shift fire personnel.

City Response to Finding 2:

a) Service Period Type and Payrate: The City agrees with this finding and identified that the reporting error began December 2010 through July 2011, as a result of the code and payrate not being manually changed to reflect the monthly reporting. The City reports all other employees on a bi-weekly basis and was informed by CalPERS auditors that it is now acceptable to report elected officials on that same basis. Therefore, the City opted to switch to bi-weekly reporting for Council members and will work with CASD to ensure payrates and service period codes from December 2010 through July 2011 are corrected.

b) Work Schedule Code: The City agrees with this finding and will work with CASD to determine if any adjustments are required for this reporting error. CalPERS auditors informed the City that the shift code is used for actuarial analysis and that the shift code is no longer reported in the new MyCalPERS reporting system.

CalPERS Finding 3: The City did not enroll part-time employee or employees hired through a temporary employment agency when membership eligibility requirements were met.

a) Part-time and Temporary Employees: Eligible employees hired through a temporary employment agency and part-time employees were not enrolled in CalPERS membership.

City Response to Finding 3:

a) Part-time and Temporary Employees: The City acknowledges that some part-time (limited service) employees hired by the City to work on average 19 hours per week exceeded 1,000 hours in a fiscal year and should have been enrolled in PERS. Although the City does track the number of hours worked by limited service employees, the City believed the 1,000 hour rule applied to biweekly pay periods that fell within the fiscal year, rather than the literal fiscal year dates (July 1 through June 30). The City is now tracking limited service employees' hours worked from July 1 through June 30.

   In regard to individuals providing services for the City and whose employ is with a temporary employment agency, the City determined that some staff had been misinformed and they thought employees hired through a temporary employment agency were not subject to the 1,000 hour rule. The City has communicated with staff that all temporary employees, including those hired through a temporary employment agency are subject to the 1,000 hour rule and any hours worked trough the temporary agency (to provide service to the City) count toward the employee's total hours worked for the City in the fiscal year. The City has implemented a requirement for departments to submit to Human Resources, on a regular basis the names and number of hours worked by individuals hired through temporary agencies. In addition, the City is working with temporary employment agencies to provide the City with reports to validate City records.

   Upon the advice from CalPERS auditors, the City has waited for these audit report results before enrolling those limited service and temporary employees hired through a temporary agency that were identified as having exceeded 1,000 hours. The City will work with CASD to obtain any special instructions related to enrolling these employees in CalPERS and determine reporting entries and employer required contributions for activity after their respective enrollment dates.

CalPERS Finding 4: The City unlawfully employed a retired annuitant.

a) Monitor Retired Annuitant: Retired annuitant exceeded the 960-hour threshold and was not reinstated.

City Response to Finding 4:

a) Monitor Retired Annuitant: The City disagrees with this finding in respect to the term "unlawfully" employed because it is not unlawful to hire a retired annuitant. The City acknowledges the retired annuitant did provide services to the City, and that when he exceeded 960 hour worked in a fiscal year he should have been reinstated. However, City department staff (in this case Utilities Department) thought, at the time the retired annuitant was hired through the temporary employment agency, that because he did not hold "City employee status" hours worked did not count toward the 960 hours limit in a fiscal year.

The City's intent when it obtained the retired annuitant's services was to fill a temporary staffing shortage that was based on a demand for special services and he possessed the skill set; therefore he was hired through a temporary employment agency. In addition, the City was implementing an automation process that would reduce the number of positions needed to complete the duties the retired annuitant was providing. This automation would eliminate the staff shortage and the need for the retired annuitant's services.

Furthermore, as stated in the City's response to Finding 3, the City discovered that some staff had been misinformed about temporary employees hired through a temporary agency (including retired annuitants) being subject to an annual limitation of number of hours worked for any CalPERS agency, regardless of whom the "employer" may be.

The City has communicated with staff regarding the restrictions associated with hiring retired annuitants and will be requiring departments to provide a list to Human Resources of the individual's names (including retired annuitants) and number of hours worked when they are hired through temporary employment agencies. The City also currently reports through the new MyCalPERS system, the number of hours worked by retired annuitants as required by CalPERS.

Upon the advice from CalPERS auditors, the City has waited for this audit report before reinstating the retired annuitant. However, as of January 30, 2012, the retired annuitant is no longer working for the City through the temporary employment agency, nor in any other capacity. There is no

notation of what information was provided to this annuitant from CalPERS upon retirement in regard to returning to work part-time.

The City respectfully requests that CalPERS reconsider sanctions against the retiree, as he believed employment through a temporary agency, (that could have provided him work with other non-CalPERS employers) did not violate the terms of his retirement with CalPERS.

The City will work with CalPERS Benefit Services Division to obtain instruction on how to address this finding and determine reporting entries and employer required contributions for activity after the reinstatement date up to the date of separation.