Office of Audit Services

Public Agency Review

City of Tulare

CalPERS ID: 7326372145
Job Number: P14-078

February 2016

California Public Employees' Retirement System
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February 29, 2016

CalPERS ID: 7326372145
Job Number: P14-078

Janice Avila, HR Director
City of Tulare
411 K Kern Avenue
Tulare, CA 93274

Dear Ms. Avila:

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

Sincerely,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

cc: Council Members, City of Tulare
Don Dorman, City Manager, City of Tulare
Darlene Thompson, Finance Director, City of Tulare
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Renee Ostrander, Chief, EAMD, CalPERS
Carene Carolan, Chief, MAMD, CalPERS

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RESULTS IN BRIEF

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

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

- Pay schedule did not meet all of the requirements of the Government Code and CCR.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Retroactive salary adjustment was incorrectly reported.
- Retired annuitants' employment did not comply with Government Code requirements.
- Eligible part-time employees were not enrolled into membership.
- Member reciprocal self-certifications were not maintained.
- Elected officials were not offered optional membership.
- Unused sick leave was incorrectly reported.
- Observation: Agency records did not agree with my|CalPERS database.

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

SCOPE

The Agency contracted with CalPERS effective July 1, 1962 to provide retirement benefits for local miscellaneous and safety employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

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

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency's pay schedule did not meet all of the Government Code and CCR requirements.

Condition:

The Agency's pay schedule effective July 12, 2014 did not meet all the requirements of the Government Code and CCR. Specifically, the pay schedule did not identify the position titles and payrates for the Chief Plant Operator, Council Members, and seasonal/temporary positions.

Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. For purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount identified on a publicly available pay schedule. Per CCR Section 570.5, a pay schedule, among other things, must:

- Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identify the position title for every employee position;
- Show the payrate as a single amount or multiple amounts within a range for each identified position;
- Indicate the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicate an effective date and date of any revisions;
- Be retained by the employer and available for public inspection for not less than five years; and
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the payrate definition and pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). When an employer does not meet the requirements for a publicly available pay schedule, CalPERS, in its sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

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Recommendation:

The Agency should ensure its pay schedule meets all of the Government Code and CCR requirements.

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

Criteria:

Government Codes: § 20160, § 20636
CCR: § 570.5

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

Condition:

A. The Agency incorrectly reported Uniform Allowance as a lump sum amount for classic employees who were required to wear uniforms. Specifically, the Agency reported an annual Uniform Allowance in the amount of $900.00 for fire employees, $1,100.00 for police employees, and $350.00 for miscellaneous employees in the pay period ended July 25, 2014. The Agency also incorrectly reported the monetary value for the purchase, rental and/or maintenance of required uniforms as a lump sum amount for classic employees required to wear uniforms. Specifically, the Agency reported $158.00 in the pay period ended June 27, 2014 for each classic maintenance employee. Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which special compensation was earned.

B. The miscellaneous employees' written labor policy containing the provisions for uniforms did not meet all of the requirements of CCR Section 571(b)(1)(B). Specifically, it did not indicate the conditions for payment of the uniforms. CCR requires that the written labor policy or agreement contain the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation.

C. The Agency incorrectly reported Holiday Pay as a lump sum amount for safety employees. Specifically, the Agency reported Holiday Pay in the pay period ended November 28, 2014 as a lump sum amount instead of in the pay periods in which the holiday hours were earned. Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which special compensation was earned.

D. The Agency did not report Holiday Pay as special compensation for a miscellaneous employee who worked as a Wastewater Treatment Plant Operator III. This employee worked in a position that requires scheduled staffing without regard to holidays. The Agency compensated the Wastewater Treatment Plant Operator III $714.81 for Holiday Pay in the pay period ended December 26, 2014. However, the Agency did not report the Holiday Pay as special compensation. Holiday Pay is a statutory item that must be reported as special compensation pursuant to Government Code Section 20636 and CCR Section 571.

E. The Agency reported an incorrect amount of special compensation for a Wastewater Treatment Plant Operator III. Specifically, the Agency's written

labor policy indicated that miscellaneous employees who work in a higher classification for a period of seven or more calendar days receive compensation of 7.5 percent of base payrate. The Wastewater Treatment Plant Operator III acted as the Chief Plant Operator from December 13, 2014 through December 22, 2014. However, the Agency incorrectly calculated the amount of Acting Pay in the pay period ended December 26, 2014.

F. The Agency incorrectly reported Physical Fitness Program pay as special compensation for police employees. Although Physical Fitness Program pay is exclusively defined within CCR Section 571, it was not included in a written labor policy or agreement as required. Therefore, the Physical Fitness Program pay is not reportable as special compensation.

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

Recommendation:

The Agency should ensure that special compensation is reported in the pay periods earned.

The Agency should ensure that all items of special compensation are contained in a written labor policy or agreement including the conditions for payment.

The Agency should ensure Holiday Pay is reported as special compensation for employees required to work holidays.

The Agency should ensure the correct amount of Acting Pay is reported as special compensation.

The Agency should only report special compensation that meets all of the Government Code and CCR requirements.

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

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Criteria:

Government Codes: § 20160, § 20630, § 20636
CCR: § 571

3: The Agency incorrectly reported a retroactive salary adjustment.

Condition:

The Agency incorrectly reported a retroactive salary adjustment for a police employee as a lump sum amount in the period paid rather than in the periods in which the compensation was earned. Specifically, a police employee received a salary increase of $241.06 effective August 13, 2011. The Agency incorrectly reported a retroactive salary adjustment of $1,557.62 in the pay period ended August 26, 2011. The Agency should have reported the retroactive salary adjustment in each earned period. For retroactive pay increases, the Agency should provide the inclusive dates of the increase as well as the new payrate, total earnings, contributions for the pay period increase.

Recommendation:

The Agency should ensure retroactive salary adjustments are reported in the correct earned pay periods.

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

Criteria:

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

4: Retired annuitants' employment did not comply with all Government Code requirements.

Condition:

A. The Agency did not reinstate a retired annuitant who worked over the 960-hour threshold in Fiscal Year 2013-14. Specifically, the retired annuitant exceeded 960-hours worked in the pay period ended April 18, 2014, but was not reinstated into CalPERS membership. Pursuant to Government Code Section 21224, a retired person may serve without reinstatement as long as he or she does not exceed a combined total of 960 hours for all employers in a fiscal year.

B. The Agency employed a retired member who did not meet the bona fide separation and employment after disability requirements. Specifically, the Agency employed an individual who retired from a safety classification under an Industrial Disability Retirement (IDR) on August 6, 2011 at the age of 40. The retiree returned to work at the Agency on August 29, 2011 in a miscellaneous position. However, CalPERS had not determined that the retiree was eligible to return to work in the miscellaneous position as required by Government Code Section 21228. CCR Section 586.2 requires a member who has not attained normal retirement age to have a bona fide separation in service of at least 60 calendar days between the date of the member's retirement and the first day of work for the employer. Furthermore, the Agency incorrectly applied Government Code Section 21224 and did not obtain CalPERS approval prior to hiring an employee who received an IDR benefit.

C. The Agency did not report the payrate, hours worked, and earnings paid for retired annuitants in my|CalPERS to allow for monitoring of the 960-hour limit per fiscal year as required. As noted in Finding 4A, one retired annuitant exceeded the 960 hours in Fiscal Years 2013-2014. Government Code 21221(h) specifies that a retired annuitant shall not exceed a total of 960 hours in any fiscal year. Government Code Section 20222.5 requires the Agency to provide information deemed necessary by CalPERS to determine the correctness of retirement benefits, including enrollment in and reinstatement to the system.

Government Code Section 21220 addresses the conditions and consequences of unlawful employment of a person who has been retired under this system. The Government Code states that any retired member employed in violation of this article shall reimburse this system for any retirement allowance received during the

period or periods of employment that are in violation of law, pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment plus interest thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

The Government Code also states that any public employer that employs a retired member in violation of this article shall pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

Pursuant to Government Code Section 20283 any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars ($500) per member.

Recommendation:

The Agency should ensure employment of retirees comply with the Government Code and CCR.

The Agency should ensure retirees meet the bona fide separation requirements prior to working after retirement.

The Agency should obtain approval from CalPERS prior to employing a retired annuitant who is receiving Industrial Disability Retirement benefits.

The Agency should track hours worked by retired annuitants and report retired required information in my|CalPERS.

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

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Criteria:

Government Codes: § 20160, § 20283, § 21220, § 21220.5, § 21221, § 21224, § 21228
CCR: § 586.2

5: The Agency did not enroll part-time employees upon meeting CalPERS membership eligibility.

Condition:

The Agency did not enroll a part-time employee who exceeded 1,000 hours worked in the pay period ended June 24, 2012. Subsequent to scheduling the CalPERS audit, the Agency enrolled the employee into CalPERS membership on April 6, 2015 with an effective date of June 19, 2012. Additionally, all of the employees earnings between June 19, 2012 and March 20, 2015 were posted as prior period adjustments on April 17, 2015. Government Code Section 20305 requires employees who complete 1,000 hours of service within a fiscal year to be enrolled into membership 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.

Pursuant to Government Code Section 20283 any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars ($500) per member.

Recommendation:

The Agency should ensure part-time employees who meet eligibility are enrolled and report compensation when earned.

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

Criteria:

Government Codes: § 20160, § 20283, § 20305

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

Condition:

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

Recommendation:

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

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

Criteria:

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

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7: The Agency did not offer optional membership to its Council members.

Condition:

The Agency did not advise its Council members of their optional CalPERS membership rights. Government Code Section 20322 states that an elective officer is excluded from membership in the CalPERS retirement system unless the officer files with the board an election in writing to become a member. Government Code Section 20283 states, in part, that an employer must enroll an employee into membership when he or she becomes eligible. An elective officer includes persons elected to a City Council.

Recommendation:

The Agency should work with EAMD to ensure elective officers are advised of their CalPERS optional membership rights when first elected and file the appropriate election in writing with CalPERS for those who elect to be members.

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

Criteria:

Government Codes: § 20160, § 20283, § 20322

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8: The Agency incorrectly reported the unused sick leave balance for a retiring member.

Condition:

The Agency incorrectly reported the balance of unused sick leave days for a retiring member. Specifically, the retiree had an unused sick leave balance of 1,280.49 hours or 160.06 days at retirement. However, the Agency reported an unused sick leave balance of 114 days. Retiring members are eligible for additional service credit for unused sick leave accrued by the member during the normal course of employment. The total number of unused sick leave hours at retirement is converted to days to determine additional service credit.

Recommendation:

The Agency should ensure the correct unused sick leave balance is reported for retiring members.

The Agency should work with EAMD to make any necessary adjustments to the retired member's account pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20965

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Observation: The Agency's records did not agree with my|CalPERS information.

OAS reviewed active safety and miscellaneous member census data used to calculate pension liability for the financial reporting purpose under the Governmental Accounting Standards Board (GASB) Statement No. 67: Financial Reporting for Pension Plans. The significant census data elements include, but are not limited to, date of birth, date of hire or years of service, marital status, gender, employment status (active, inactive, or retired), class of employee, and eligible compensation.

OAS identified discrepancies between the Agency's records and my|CalPERS database. Specifically, one employees name did not agree with my|CalPERS. A name change for the employee was submitted to CalPERS on July 2, 2012. In addition, another employee's hire date was different from the hire date in my|CalPERS. The Agency should work with EAMD to correct the information for impacted employees.

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CONCLUSION

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

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

Respectfully submitted,

Original signed by Beliz Chappuie

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, Senior Manager
Edward Fama, Lead Auditor
Janice Ng, Auditor

APPENDIX A

OBJECTIVES

CITY OF TULARE

OBJECTIVES

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

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

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

METHODOLOGY

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

✓ Reviewed:
- o Provisions of the contract and contract amendments between the Agency and CalPERS
- o Correspondence files maintained at CalPERS
- o Agency Board minutes and Agency Board resolutions
- o Agency written labor policies and agreements
- o Agency salary, wage, and benefit agreements including applicable resolutions
- o Agency personnel records and employee time records
- o Agency payroll information including Contribution Detail Transaction History reports
- o Documents related to employee payrate, special compensation, and benefits
- o Various other relevant documents

✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.

✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meetings laws.

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

APPENDIX B

AGENCY'S WRITTEN RESPONSE

NOTE: An attachment to the Agency's response was intentionally omitted from this appendix.

Agri-Center Of The World

HUMAN RESOURCES

February 16, 2016

Beliz Chappuie, Chief
Office of Audit Services
CalPERS
P. O. Box 942701
Sacramento, CA 94229-2701

SUBJECT: **City of Tulare's Response to Draft Audit Report Received 2/14/2016 – Amended Response after Communication with Edward Fama**

We have reviewed the draft audit report dated January 12, 2016, and are providing our written response to each of the eight (8) audit results as requested. We appreciate the assistance and patience from CalPERS staff as we have moved through this audit process. The City of Tulare is committed to ensuring that all findings in the draft audit report have been responded to, corrected and procedures implemented to prevent such from happening again.

Understanding agency requirements as to CalPERS reporting has been difficult for our agency at best. Often times we have been faced with conflicting information being provided by CalPERS, and we have found there is no one-stop shopping or easily understood manual for agencies to follow. We know the rules and regulations set by CalPERS and outlined in our agreements are complex. To make sure we are more informed regarding reporting requirements, we see this as an opportunity to learn from these audit findings, intend to attend CalPERS employer seminars and not hesitate to ask for clarification or guidance when needed. We are providing the following comments regarding each of the eight (8) findings listed. We generally agree with the recommendations in the report and look forward to working with the appropriate CalPERS divisions to resolve and correct these issues.

Finding 1: The Agency's pay schedule effective July 12, 2014 did not meet all of the Government Code and CCR requirements.

The City has corrected this and our current pay schedule identifies all positions/pays for each classification. In addition, City Council members are added at the bottom of the schedule. Seasonal/temporary classifications for our Parks and Recreation department are included at the end of the schedule. The City's Position Control Budget and Compensation is approved by City Council with the adoption of each fiscal year budget. Any changes, additions, and/or deletions

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during the fiscal year to the City's allocated positions and/or salary schedule are approved through Resolution approved by City Council.

The time base is listed on the salary schedule as Monthly salary. Each classification has 5 steps – A through E and the salary for each step is listed. The City's salary schedule is currently posted in the Human Resources Department and on the City's website in addition to our internal intranet. Copies are also posted on the City's official departmental bulletin boards. We do track any changes to the salary schedule, but will include more detailed information as to the specific change/addition/deletion to the salary schedule and indicate the date that change took effect. Past salary schedules are kept in the Human Resources office at a minimum of five (5) years.

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

Response A: As outlined in the MOU, the employees earn and are paid the uniform allowance at the first full pay period of July of each year. The $158 noted in the audit is paid by the City for uniform cleaning services. This amount varies depending upon assignment and will be reported on a bi-weekly basis. We are not in agreement with your position, however we will move to report on a pay period by pay period basis.

Response B: The City has recently entered into a new MOUs with the labor unions and has included correct language to reflect the conditions for payment of the uniforms, including eligibility for and the amount of the special compensation.

Response C: As outlined in the MOUs, Holiday Pay is a lump sum for public safety employees and is reported to PERS when paid. Public Safety personnel receive this pay in lieu of taking a holiday off due to the nature of their job. This pay is outlined in the MOUs which specifically outline that holiday pay is paid on a specific date on an annual basis. The City will work with EAMD to correctly report Holiday Pay for Police and Fire employees if needed.

Response D: The City was unaware of the Holiday Pay as special compensation for miscellaneous positions. As per the MOU, the employee was paid overtime if worked on a holiday and overtime is considered non-PERS wages. City will work with EAMD to further understand this and correct if necessary.

Response E: The Wastewater Treatment Plant Operator III was not acting as the Chief Plant Operator during the full pay period. He was acting only for six (6) days out of the fourteen (14) days, so the City prorated the acting pay for the actual days. After our discussion with CalPERS auditor we have determined that the City incorrectly calculated this pay. We will work with EAMD to correct.

Response F: In previous communications with CalPERS, the documentation and method of reporting was accepted for this pay. (See copies attached.) We are currently in negotiations with our Police Union and will ensure correct language regarding this will be included in the new MOU.

Finding 3: The Agency incorrectly reported a retroactive salary adjustment.

Response: This was a clerical error on the City's behalf and we will work with EAMD to correct. The City will ensure that retroactive salary adjustments are reported in the correct earned pay periods.

Finding 4: Retired annuitants' employment did not comply with all Government Code requirements

Response A: A retired annuitant that worked over the nine hundred and sixty (960) hours threshold was an oversight of the City. The employee left shortly after this threshold was exceeded and has not worked for the City of Tulare since that time.

Response B: This was an oversight by the City. The Police Chief rehired an employee into a miscellaneous hourly position. This employee retired under an Industrial Disability Retirement (IDR). We were unaware that our agency needed to obtain CalPERS approval prior to hiring an employee who received an IDR. This has since been corrected and in the future should the City be considering such, we will discuss with CalPERS and obtain prior approval.

Response C: The City will report all retired annuitants who are working for the City in an hourly/seasonal capacity at time of hire. The City is implementing the use of the Member Reciprocal Self-Certification Form as a requirement for all new hires – regular and hourly/seasonal. Those employees who have had prior CalPERS membership will be entered into My CalPERS upon hire. The City will work with EAMD to correct any back issues. In addition, the City will ensure that retirees meet the bona fide separation requirements prior to working after retirement.

Finding 5: The Agency did not enroll part-time employees upon meeting CalPERS membership eligibility.

Response: Once the City was aware that the part employee exceeded the 1,000 hour threshold, adjustment reports were processed to correct and pay the PERS benefits. The City has implemented a process to track hourly/seasonal employee hours to ensure the 1,000 will NOT be exceeded and if they are, the City will report and pay the PERS benefits if necessary to work that employee more than the 1000 hour limit.

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

Response: The City was unaware of this form requirement for temporary employees hired after January 1, 2013, but will ensure that it is completed at time of hire. This form was used only for full-time regular employees. The Member Reciprocal Self-Certification Form will be attached to the application form for seasonal/hourly employees and monitored for completion and return within the required ten (10) day period. Once received, the City will process as appropriate with CalPERS.

Finding 7: The agency did not offer optional membership to its Council members.

Response: The City has historically provided City Council members with PARS Membership rights. We were unaware that elected officials should be given an option. In the future, elected officials will be advised of their right for the optional CalPERS membership. If a Council member elects CalPERS, the appropriate election documents will be filed with CalPERS for those members who elect to be members.

Finding 8: The Agency incorrectly reported the unused sick leave balance for a retiring member.

Response: The City interpreted circular letter 450-067 (attached) that shift employee whose work day consists of twenty-four (24) hours would receive the equivalent of three days of service credit. The City converted the sick leave balance to an equivalent of an eight (8) hour day to PERS based on the fact that a 24 hour shift employee accrues only 8 hours of sick per month. If corrections are necessary, the City will work with EAMD to make the required adjustment.

In closing, we look forward to resolving any outstanding issues with the Office of Audit Services and are committed to implementing procedures necessary to prevent these actions from happening in the future. We are appreciative for the extension granted in our response deadline. If you need clarification or additional information relating to our response to this audit, please contact us.

[redacted]

Original signed by Janice Avila

Janice Avila
Human Resources Director

Cc: Don Dorman, City Manager
Darlene Thompson, Finance Director