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June 30, 2011

Employer Code: 0688  
Job Number: P09-070

City of Tustin  
Kristi Recchia, Director of Human Resources  
300 Centennial Way  
Tustin, CA 92780

Dear Ms. Recchia:

Enclosed is our final report on the results of the public agency review completed for the City of Tustin. Your agency's written response, included as an attachment to the report, indicates agreement with Finding #2 in the report, but notes that the hourly exclusion applied to the sampled employee in Finding #1. However, the sampled employee's position was not included in the hourly exclusion, so the employee should have been enrolled into CalPERS membership. This issue can be further discussed and resolved with CalPERS' Customer Account Services Division.

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, Chief  
Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS  
Peter Mixon, General Counsel, CalPERS  
Darryl Watson, Chief, CASD, CalPERS  
Mary Lynn Fisher, Chief, BNSD, CalPERS  
Don Martinez, Interim Assistant Chief, HAS, CalPERS  
Honorable Board Members, City of Tustin

# Office of Audit Services



## Public Agency Review

### City of Tustin

Employer Code: 0688  
Job Number: P09-070

June 2011

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# CITY OF TUSTIN

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## RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City of Tustin's (City) enrolled individuals, member compensation, required health and retirement documentation and other documentation for individuals included in test samples. The City appropriately enrolled individuals and accurately reported compensation for the sampled individuals, except for the instances noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- A part-time employee was not enrolled into CalPERS membership timely.
- Two retired annuitants exceeded 960 hours and were not reinstated into CalPERS membership.

The pertinent sections of the Government Code and California Code of Regulations for each finding are described in greater detail under Appendix C.

A confidential list identifying the individuals mentioned in this report has been sent to the City and CalPERS Customer Account Services Division (CASD) and Benefit Services Division (BNSD) under Appendix D.

## CITY BACKGROUND

The City was incorporated on November 7, 1927, as a general law city of the State of California. The City operates under the Council-Administrator form of government. The services provided by the City include police, street and park maintenance, water, recreation, traffic/transportation, public improvements, zoning, and administrative services. Memoranda of Understanding (MOU), employment agreements, and Position and Salary Schedules outline City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees.

The City contracted with CalPERS effective August 1, 1967, to provide retirement benefits for local miscellaneous and local safety employees. Effective January 1, 1994, the City contracted with CalPERS to provide health benefits to all eligible employees. The City amended its contract for retirement benefits to identify the length of the final compensation period as twelve months for all coverage groups. The City amended its retirement contract for local police safety employees, effective June 30, 2003 to enhance retirement benefits by increasing the benefit formula to 3 percent at 50 years of age.

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## SCOPE

As part of the Board approved plan for fiscal year 2010/2011, the OAS reviewed the City's payroll reporting and member enrollment processes as these processes relate to the City's retirement and health contracts with CalPERS. The review period was limited to the examination of sampled records and processes from April 1, 2007 through March 31, 2010. The on-site fieldwork for this review was conducted from August 23, 2010 through August 27, 2010. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed under Appendix B.

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

**Finding 1:** The City did not enroll a part-time employee into CalPERS membership timely.

**Recommendation:**

The City should monitor temporary/part-time employee hours and enroll employees that work non-excluded part-time positions into CalPERS membership when the membership eligibility requirement is met.

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

**Condition:**

In early 1999, CalPERS implemented an “Hourly Exclusion Resolution Project” (HERP). HERP permitted employers to identify specific groups of hourly paid classifications that would be excluded from membership. On March 17, 1999, CalPERS notified the City of its obligations under HERP as it pertained to its hourly related or hourly employees. The City responded in a letter dated March 23, 1999 and identified the following positions that would be excluded from membership: crossing guards, recreation leaders, recreation program assistants, part-time clerk typists, part-time custodians, crossing guard coordinator, and administrative interns.

OAS reviewed the time reports of the hours worked for the sampled temporary/part-time employees employed in positions with the City not excluded per the HERP in the fiscal years selected. OAS determined that four of the sampled temporary/part-time employees did not exceed the CalPERS membership eligibility requirement of working 1,000 hours in a fiscal year and were properly excluded. However, one part-time employee who was a police cadet was not enrolled into CalPERS membership timely. Specifically, a part-time employee was enrolled into CalPERS membership with an effective date of August 18, 2009, when he was hired as a full-time employee in a Police Recruit position. After a review of the sampled employee’s hours, OAS determined that the employee met the CalPERS membership eligibility requirement by working in

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excess of 1,000 hours by the end of June 2008, when he was employed in a Police Cadet position. The Police Cadet position was not listed in the City's contract list of part-time excluded positions, and therefore is subject to the 1,000 hour criteria. The same employee also worked a total of 1,002.5 hours in the following fiscal year. The sampled employee should have been enrolled no later than July 1, 2008.

***Criteria:***

Government Code § 20305(a)(3)(B)

Government Code § 20044

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**Finding 2:** The City did not reinstate two retired annuitants that exceeded 960- hours worked in a fiscal year.

**Recommendation:**

The City should monitor the hours worked by retired annuitant in a fiscal year and reinstate retired annuitants when the 960-hour threshold is exceeded.

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

**Condition:**

We determined that two retired annuitants exceeded the 960-hour threshold and were not reinstated into CalPERS membership. Specifically, one retired annuitant worked 962 hours in fiscal year 2007/2008 and another worked 967 hours in fiscal year 2008/2009.

**Criteria:**

Government Code §21224 (a)

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix B. OAS limited the test of transactions to employee samples selected from the City's payroll and health records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared.

Respectfully submitted,

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

Date: June 2011

Staff: Michael Dutil, CIA, Senior Manager

Diana Thomas, CIDA, Manager

Nancy Sayers

Jose Martinez

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**CITY OF TUSTIN**

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# **APPENDIX A**

## **BACKGROUND**

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## BACKGROUND

### California Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. 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 Health Account Services section, as part of 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.

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. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

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

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# **APPENDIX B**

## **OBJECTIVES**

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## OBJECTIVES

The objectives of this review were to determine:

- 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, 2007 through March 31, 2010.

## SUMMARY

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

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

- ✓ Reviewed:
  - Contracts and subsequent amendments the City had with CalPERS
  - Correspondence files maintained at CalPERS
  - City Council minutes
  - Memoranda of Understanding and those employment agreements provided between the City and its employees
  - Salary, wage and benefit agreements including applicable resolutions
  - City personnel records and employee hours worked records
  - City generated payroll information - Summary Reports and PERS listings
  - Other documents used to specify the payrate, special compensation and benefits of represented and unrepresented employees
  - Health Benefits Program enrollment and supporting documentation files
  - City ordinances
  - Various other documents as necessary

We performed the following procedures. Related sample sizes, sample periods and findings are listed.

- ✓ 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.

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Sample Size and Period: Reviewed payroll records and compensation reported to CalPERS for a sample of 17 employees. Reviewed the first service period of December 2009 and the second service period of March 2010.

**No Finding.**

- ✓ Reviewed the City's payroll information reported to CalPERS for the sampled employees to determine whether employees' payrates were reported pursuant to publicly available pay schedules and employment contracts.

Sample Size and Period: Reviewed the City's payroll information reported to CalPERS for 17 employees for the second service period of March 2010.

**No Finding.**

- ✓ Reviewed the City's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.

Sample Size and Period: Reviewed accuracy in the reporting of various payroll reporting elements in the first service period of December 2009 and the second service period of March 2010.

**No Finding.**

- ✓ Reviewed the City's enrollment practices pertaining to optional members (elected officials), temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership eligibility requirements.

Sample Size and Period: Reviewed the City's enrollment practices for a sample consisting of one current City Council member and five retired annuitants for fiscal years 2007/2008 and 2008/2009 and four temporary/part-time employees in fiscal year 2007/2008 and five temporary/part-time employees in fiscal year 2008/2009. In addition, six independent contractors were reviewed in calendar years 2008 and 2009.

**See Finding 1:** Part-Time Employee

**See Finding 2:** Retired Annuitants

- ✓ Reviewed records for employees and their dependents to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.

Sample Size and Period: Reviewed records for seven employees and their dependents for health plan enrollments recorded at CalPERS as of March 2010.

**No Finding.**

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# APPENDIX C

## CRITERIA

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## CRITERIA

**Finding 1: One Part-time Employee was not enrolled into membership timely.**

Government Code § 20305(a)(3)(B), states, in part:

An employee serving on a less than full-time basis is excluded from this system unless the person works 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.

Government Code § 20044, defines a fiscal year as, “Any year commencing July 1<sup>st</sup> and ending June 30<sup>th</sup> next following.”

**Finding 2: Two Retired Annuitants exceeded 960-hour threshold and were not reinstated into membership.**

Government Code § 21224(a), states:

A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon 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 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.

# APPENDIX D

## CITY'S WRITTEN RESPONSE

# Human Resources Department



April 27, 2011

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

Dear Ms. Junker:

We received the draft report on your review of the City of Tustin. The following is our response to the findings listed in your report.

Finding #1: The City did not enroll a part-time employee into CalPERS membership timely.

The City of Tustin, as part of its contract with CalPERS, has an exclusion for "All Hourly Rated or Hourly Basis Employees." The employee noted in the report was an hourly compensated employee working as a Police Cadet. This employee was enrolled into CalPERS membership on August 18, 2009 because he was hired as a full-time employee in a Police Recruit position. The hourly exclusion in our CalPERS contract should preclude enrollment of any hourly compensated employee regardless of the number of hours they work.

Finding #2: The City failed to reinstate two retired annuitants that exceeded 960 hours worked in a fiscal year.

In the past, the City has used our fiscal year dates for tracking hours worked for retired annuitants. This has resulted in different fiscal year dates than July 1 – June 30. We now understand that CalPERS requires us to adhere to the July 1 – June 30 dates and we have implemented a new reporting feature with our finance/payroll system to monitor hours worked on the July 1 – June 30 fiscal year. As your report indicates, one individual exceeded the 960 hour limit by two hours; the other exceeded it by seven hours. We did not intend to have them work in excess of the 960 limit and we have taken steps to ensure that this does not happen again.

Please let me know if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Recchia".

Kristi Recchia  
Director of Human Resources

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