



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](http://www.calpers.ca.gov)

November 5, 2012

Employer Code: 0527  
CalPERS ID: 7921927105  
Job Number: P10-041

City of Vallejo  
Mary Neilan, Acting Human Resources Director  
555 Santa Clara Street  
Vallejo, CA 94590

Dear Ms. Neilan:

Enclosed is our final report on the results of the public agency review completed for the City of Vallejo. Your agency's written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for the Management Incentive Pay in Finding 1. After review of your agency's response pertaining to Management Incentive Pay, which was paid to a non-management employee, our recommendation remains as stated in the report. However, we expanded the Condition for Finding 1 to further clarify the issue. In addition, subsequent to the City's response, an additional finding pertaining to the City's pay schedule for not identifying the position and payrate for every employee position was found and included in the report (see Finding 7). In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

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

Enclosure

cc: Risk and Audit Committee Members, CalPERS  
Peter Mixon, General Counsel, CalPERS  
Karen DeFrank, Chief, CASD, CalPERS  
Anthony Suine, Chief, BNSD, CalPERS  
Honorable Council Members, City of Vallejo

# **Office of Audit Services**



## **Public Agency Review**

### **City of Vallejo**

**Employer Code: 0527**  
**Job Number: P10-041**

**November 2012**

---

# CITY OF VALLEJO

---

## TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
City Background.....	1
Scope.....	2
Office of Audit Services Review Results .....	3
Finding 1: Non-Reportable Compensation .....	3
Finding 2: Payrate Reporting.....	6
Finding 3: Employer-Paid Member Contribution (EPMC) Reporting .....	7
Finding 4: Retired Annuitant.....	8
Finding 5: Unused Sick Leave.....	9
Finding 6: Health Benefits Documentation .....	10
Finding 7: Publicly Available Pay Schedule.....	11
Observation 1: Salary and Compensation.....	12
Observation 2: Hourly Basis Exclusion .....	13
Conclusion .....	14
CalPERS Background.....	Appendix A
Objectives .....	Appendix B
Criteria .....	Appendix C
Status of Prior Review .....	Appendix D
City's Response .....	Appendix E

---

# CITY OF VALLEJO

---

## RESULTS IN BRIEF

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

- Non-reportable compensation in the form of education incentive pay, management incentive pay, overtime pay, and value of housing pay were reported.
- Payrate reported was higher than the payrate listed in the publicly available pay schedule.
- Employer-paid member contribution amount was incorrectly paid and reported for one employee.
- Retired annuitant exceeded 960 hours and was not reinstated.
- Unused sick leave was over-reported for one retiring member.
- Eligibility verification was not provided for one dependent enrolled in the CalPERS Health Benefits Program.
- Publicly available pay schedule did not show all employees' payrates.

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

## CITY BACKGROUND

The City of Vallejo, a municipal corporation incorporated in March 1868 under the laws of the State of California, is a Charter City located within Solano County in Northern California. The City operates under a City Charter originally adopted in 1911 and last amended in November 2000. The Charter provides for a Council-Manager form of government. The City provides a wide range of municipal services, including public safety (police and fire protection), a municipal water system, a mass transit bus and ferry-boat system, street maintenance and other public works infrastructure functions, housing assistance, golf courses, planning, building inspection, public marina, and general administration. Memoranda of Understanding (MOU) and employment agreements 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 January 1, 1964, to provide retirement benefits for miscellaneous, fire and police employees. The City's

---

# CITY OF VALLEJO

---

current contract amendment identifies the length of the final compensation period as twelve months. The City contracted with CalPERS effective September 1, 1988, to provide health benefits to all eligible employees.

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 documentation.

## SCOPE

As part of the Board approved plan for fiscal year 2010/2011, the OAS reviewed the City's payroll reporting, compensation 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 January 1, 2008, through December 31, 2010. The on-site fieldwork for this review was conducted from May 2, 2011, through May 6, 2011, and on May 24, 2011. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed in Appendix B.

---

# CITY OF VALLEJO

---

## OFFICE OF AUDIT SERVICES REVIEW RESULTS

**Finding 1:** The City incorrectly reported non-reportable compensation in the form of overtime pay, value of housing pay, education incentive pay, and management incentive pay to CalPERS.

### ***Recommendations:***

The City should discontinue reporting overtime pay and value of housing pay to CalPERS.

The City should discontinue reporting education incentive pay and management incentive pay to CalPERS, unless it meets the criteria for reportable compensation.

OAS recommends CASD deny all non-reportable compensation amounts. CASD should make the necessary adjustments to members' accounts pursuant to Government Code Section 20160.

### ***Conditions:***

#### *Overtime Pay*

OAS traced the hours worked and the compensation reported for a sampled employee working in the classification of firefighter. In accordance with the City's International Association of Fire Fighters (IAFF) MOU, the employee was receiving, and the City was reporting, special compensation in the form of acting pay. However, not all of the acting pay was reportable to CalPERS because a portion of the acting pay was earned during overtime hours. Pursuant to Government Code Section 20635, any compensation based on overtime is excluded from CalPERS reporting. The non-reportable overtime pay equated to \$24.80 in the 3/09-4 and \$219.66 in the 12/10-5 service periods tested.

#### *Value of Housing Pay*

OAS reviewed the City's listing of earnings codes and identified a code for value of housing which the City noted as a CalPERS reportable item. OAS also identified that the City's public pay schedules for Reservoir Keeper and Treatment Plant Operator classifications included a monthly housing allowance of \$369.24 as part of base pay. California Code of Regulations Section 571, provides an exclusive list of items that are reportable to CalPERS as special

---

# CITY OF VALLEJO

---

compensation and the value of housing pay is not one of the listed items. Therefore, the value of housing pay was not reportable and should not have been included in base payrates reported to CalPERS.

## *Education Incentive Pay*

The City adopted Resolution No. 09-317 N.C., effective January 1, 2010, which defines the compensation, leave, and benefits for executive management employees including the Police Chief. The Resolution did not have a provision for education incentive pay for the executive management group; therefore, the education incentive pay was not reportable to CalPERS as special compensation. In the 12/10-5 service period tested, the City paid and reported education incentive pay in the amount of \$336.27 for the Police Chief. California Code of Regulations Section 571, requires that special compensation reported to CalPERS be contained in a written labor policy or agreement.

## *Management Incentive Pay*

The City's Confidential, Administrative, Managerial, and Professional (CAMP) MOU includes a provision for management incentive pay for eligible employees. California Code of Regulations Section 571, provides an exclusive list of items that are reportable to CalPERS as special compensation. Management incentive pay is listed as a reportable special compensation item when granted to management employees. OAS identified one sampled employee for whom the City was paying and reporting management incentive pay. However, the employee held the position of Executive Assistant to the City Manager which was not a management position. Although the Executive Assistant to the City Manager position may be considered a supervisory position as it may exercise direct supervision over secretarial and clerical staff, the position is not a management position as the position's duties do not include management duties, such as the planning, directing, and coordinating the activities of a City function. OAS found these management duties on other City management job descriptions, but not on the Executive Assistant to the City Manager job description. The Job Description for the Executive Assistant to the City Manager specified the following duties:

- ✓ To perform a variety of highly responsible, confidential and complex secretarial and administrative duties for the City Manager and City Council; and to provide general information and assistance to the public.
- ✓ Receives direction from the City Manager.
- ✓ Exercises direct supervision over secretarial and clerical staff.

---

# CITY OF VALLEJO

---

Therefore, the management incentive pay should not have been reportable to CalPERS for the non-management employee. The amounts reported were \$162.03 in the 03/09-4 and \$165.29 in the 12/10-5 service periods tested.

***Criteria:***

Government Code: §20085, § 20160, § 20630(a), § 20635, § 20636(a), (c)(1), (c)(2), (c)(3) and (c)(6)

California Code of Regulations: § 571(a), (a)(1), (b), (c) and (d)



---

# CITY OF VALLEJO

---

**Finding 2:** The City reported a payrate that was higher than the payrate listed in the publicly available pay schedule.

***Recommendation:***

The City should report correct payrates to CalPERS.

OAS recommends CASD deny the incorrectly reported payrate and earnings. CASD should make the necessary adjustments to the member's account pursuant to Government Code Section 20160.

***Condition:***

Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to the payrate and earnings reported for a member. OAS traced the payrates reported to CalPERS for a sample of employees and identified one sampled employee whose payrate and earnings was incorrectly reported. Pursuant to the City's publicly available pay schedule and personnel action forms, the employee's hourly payrate was \$84.07. In the 12/10-5 service period tested, the City reported a payrate of \$88.27, which was \$4.20 higher than the payrate listed in the publicly available pay schedule and the authorized payrate in the personnel action forms.

***Criteria:***

Government Code: § 20160, § 20636(a), (b)(1) and (d)

California Code of Regulations: § 570.5(a)

---

# CITY OF VALLEJO

---

**Finding 3:** The City incorrectly paid and reported Employer-Paid Member Contributions (EPMC) to CalPERS.

***Recommendation:***

The City should pay and submit the correct amounts of EPMC.

OAS recommends CASD work with the City to determine and make the necessary contribution adjustments to the member's account.

***Condition:***

OAS identified one sampled employee whose contribution was paid and submitted to CalPERS at eight percent instead of the required nine percent. Pursuant to the City's contract with CalPERS, the miscellaneous employees are required to participate in cost sharing and be assessed an additional one percent of their compensation for total contributions. The employee's employment agreement with the City also stated that the employee was required to participate in the cost sharing and that the City would pay the nine percent contribution on the employee's behalf. In reviewing the 3/09-4 and 12/10-5 payroll listings, OAS identified that the additional one percent for cost sharing was not paid by the City and submitted to CalPERS for this employee. The under-paid amount equated to \$61.43 for each of the service periods tested.

***Criteria:***

Government Code: § 20516, § 20691

---

# CITY OF VALLEJO

---

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

***Recommendation:***

The City should check for CalPERS membership status upon hiring individuals, including retired annuitants, and monitor hours worked.

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 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 the 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:***

A retired annuitant may work up to 960 hours in a fiscal year without reinstatement or loss or interruption of benefits. The City employed a retired annuitant who retired from the City on December 29, 2008. The retired annuitant worked for the City after retirement and worked 961.50 hours in fiscal year 2009/2010. The City did not reinstate the retired annuitant in June 2010, when the 960 hours were exceeded.

***Criteria:***

Government Code: § 21224

---

# CITY OF VALLEJO

---

**Finding 5:** The City over-reported unused sick leave credit to CalPERS for one retiring member.

***Recommendation:***

The City should ensure the correct amount of unused sick leave credit is reported to CalPERS for retiring members.

OAS recommends BNSD deny the 30 days of unused sick leave credit that was over-reported and adjustment the member's retirement allowance pursuant to Government Code Section 20160.

***Condition:***

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. The City is required to certify the additional days to CalPERS. OAS traced unused sick leave balances for a sample of employees and identified that the City reported an incorrect number of sick leave days for one retiree.

The retiring member received a bank of 240 hours of sick leave upon employment with the City as a contract provision. At time of retirement, the City certified an unused sick leave balance of 57.9525 days. The bank of 240 hours, which equated to 30 days, was included in the unused sick leave balance reported by the City. The 240 hours, i.e., 30 days, was not reportable to CalPERS because it was not accrued by the member during the normal course of the member's employment. The actual reportable unused sick days should have been 27.9525 days, not 57.9525 days.

***Criteria:***

Government Code: § 20160, § 20965

---

# CITY OF VALLEJO

---

**Finding 6:** The City did not provide eligibility verification for one sampled dependent enrolled in CalPERS Health Benefits Program.

***Recommendation:***

The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60 days from the date of the final OAS report. The CalPERS CASD may be contacted at 1-888-CalPERS (1-888-227-7377) with any questions.

OAS recommends CASD work with the City to obtain any missing documentation and to cancel enrollment of any individual who is found to be ineligible to participate in the CalPERS Health Benefits Program.

***Condition:***

OAS reviewed a sample of employees to assess the health benefits eligibility and enrollment of members and their dependents. OAS verified that the sampled employees were properly enrolled into health membership with the exception of one dependent child. The City was unable to provide documentation to support the verification of dependent eligibility for the one dependent child enrolled under one member's health plan.

***Criteria:***

Government Code: § 20085

California Code of Regulations: § 599.500

CalPERS Health Benefits Procedures Manual: page 03-03

---

# CITY OF VALLEJO

---

**Finding 7:** Publicly available pay schedules did not show all employees' payrates.

***Recommendation:***

The City should list all employee payrates on a pay schedule and disclose the information pursuant to publicly available pay schedules as defined in California Code of Regulations Section 570.5.

OAS recommends CASD work with the City to determine the impact of this nondisclosure and make the necessary adjustments to members' accounts, if any, pursuant to Government Code Section 20160.

OAS recommends CASD work with the City to ensure that the City develops publicly available pay schedules that meet the criteria of California Code of Regulations Section 570.5.

***Condition:***

Public agencies are required to maintain public pay schedules that meet criteria pursuant to law and regulations, such as, shows the payrate for each identified position which may be stated as a single amount or as multiple amounts within a range. The City's salary schedules did not show the payrates for two executive employees, City Manager and City Attorney, and did not show the payrates for the City's Council Members. The City did post the employment agreements for the two executives and the resolution adopting the Council Member salaries on the City's public web site. However, the City provided pay schedules that did not meet the criteria for a public pay schedule as required by law and regulation because the pay schedule did not show the payrate for each identified position.

***Criteria:***

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

California Code of Regulations: § 570.5

---

# CITY OF VALLEJO

---

**Observation 1:** The denial of salary and compensation in computing the retirement benefit amount for the former City Manager.

***Recommendation:***

OAS recommends BNSD and CASD determine the adjustments to the member's retirement account and allowance, if any, upon conclusion of the case.

***Observation:***

The former City Manager retired effective June 2, 2009, at which time CalPERS performed a review of his salary and compensation. CalPERS denied the payrate and compensation for the former City Manager as the payrate including the non-reportable compensation items, and the increase in compensation earnable was greater than the average increase in compensation earnable during the same period reported by the employer for all employees who were in the same membership classification.

OAS determined CalPERS CASD appropriately denied the salary and compensation for the former City Manager. Subsequent to the field work, the former City Manager filed an administrative appeal in response to the denial of salary and compensation. The outcome of the administrative appeal is pending a response from the administrative law judge.

---

## CITY OF VALLEJO

---

**Observation 2:** The City's contract exclusion for persons compensated on an hourly basis is not clearly defined.

OAS recommends that CASD work with the City to clearly define the City's application of the exclusion for persons compensated on an hourly basis. In addition, the City should ensure employees hired on a temporary or seasonal basis are enrolled into CalPERS membership when they meet membership eligibility requirements pursuant to Government Code Section 20305.



---

# CITY OF VALLEJO

---

## 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: November 2012  
Staff: Michael Dutil, CIA, Senior Manager  
Alan Feblowitz, CFE, Manager  
Nancy Sayers  
Jodi Epperson

---

**CITY OF VALLEJO**

---

# APPENDIX A

## BACKGROUND

---

# CITY OF VALLEJO

---

## BACKGROUND

### California Public Employees' Retirement System

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

CalPERS Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides services for eligible members who apply for service or disability retirement. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

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

The 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 VALLEJO

---

## 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 January 1, 2008, through December 31, 2010. OAS completed a prior review covering the period of January 1, 1997, through June 30, 2000.

## SUMMARY

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

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures, reviewed documents, and performed the following procedures. Related sample sizes, sample periods and findings are listed.

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

---

# CITY OF VALLEJO

---

Sample Size and Period: Reviewed 23 employees covering two sampled service periods - the second service period in March 2009 (3/09-4), and the third service period in December 2010 (12/10-5). Sample size was expanded to include two employees who received compensation in the form of value of housing pay in the third service period of 2010 (12/10-5).

**See Finding 1:** Non-reportable compensation in the form of education incentive pay, management incentive pay, overtime pay, and value of housing pay were incorrectly reported to CalPERS.

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

Sample Size and Period: Reviewed 23 employees covering one sampled service period - the third service period in December 2010 (12/10-5).

**See Finding 2:** Payrate reported was higher than payrate listed in the publicly available pay schedule.

- ✓ 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 23 employees covering one sampled service period - the third service period in December 2010 (12/10-5).

**See Finding 3:** Employee contribution and employer-paid member contribution amounts were incorrectly reported for one sampled employee.

**See Observation 1:** Employee salary and compensation were over-reported to CalPERS.

---

# CITY OF VALLEJO

---

- ✓ Reviewed the publicly available pay schedule to determine whether they were in compliance with the laws and regulations for pay schedules.

**See Finding 7:** Publicly available pay schedules did not show all employees payrates.

- ✓ Reviewed the City's practice for advising elected/appointed officials of their optional membership rights.

## **No Finding**

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

Sample Size and Period: Reviewed 12 temporary/part-time employees in fiscal years 2008/2009 and 2009/2010.

**See Observation 2:** Exclusion in the City's contract with CalPERS for persons compensated on an hourly basis.

- ✓ 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: Five retired annuitants in review period.

**See Finding 4:** Retired annuitant exceeded 960 hours and was not reinstated.

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

Sample Size and Period: Two independent contractors in review period.

## **No Finding**

---

# CITY OF VALLEJO

---

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

## **No Finding**

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

Sample Size and Period: Six retiring members in the review period.

**See Finding 5:** Unused sick leave over-reported for one retiring member.

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

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

**See Finding 6:** Eligibility verification for one dependent enrolled in CalPERS Health Benefits Program was not provided.



---

**CITY OF VALLEJO**

---

# APPENDIX C

## CRITERIA

---

# CITY OF VALLEJO

---

## CRITERIA

Government Code § 20085, states, in part:

(a) It is unlawful for a person to do any of the following:

(1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system...

(b) For purposes of this section, 'statement' includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or any other evidence material to the determination of a person's initial or continued eligibility for a benefit or the amount of a benefit administered by this system.

(c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.

(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system... for the amount of the benefit unlawfully obtained...

Government Code § 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

---

# CITY OF VALLEJO

---

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 § 20516, subdivision (a), states, in part:

Notwithstanding any other provision of this part, a contracting agency and its employees may agree, in writing, to share the costs of any optional benefit that is inapplicable to a contracting agency until the agency elects to be subject to the benefit. The agreement shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall be normal contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part...The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account.

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

Compensation means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours...

Government Code § 20635, states, in part:

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime put in by a member whose service

---

# CITY OF VALLEJO

---

retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid...

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

Government Code § 20636, subdivision (b)(1), defines payrate, in part, as follows:  
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)(1), states:  
Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

Government Code § 20636, subdivision (c)(2), states, in part:  
Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate...

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)(6), states, in part:  
The board shall promulgate regulations that delineate more specifically and exclusively what constitutes “special compensation” as used in this section...

Government Code § 20636, subdivision (d), states:  
Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

Government Code § 20691, states, in part:

---

# CITY OF VALLEJO

---

Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Where the member is included in a group or class of employment the payment shall be for all members in the group or class of employment...

Government Code § 20965, states, in part:

A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found...

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 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.

California Code of Regulations § 570.5, subdivision (a), states:

For purposes of determining the amount of "compensation earnable" pursuant to Government Code Sections 20630, 20636, and 20636.1, payrate shall be limited to the amount listed on a pay schedule that meets all of the following requirements:

- (1) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- (2) Identifies the position title for every employee position;
- (3) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- (4) Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;

---

# CITY OF VALLEJO

---

- (5) Is 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;
- (6) Indicates an effective date and date of any revisions;
- (7) Is retained by the employer and available for public inspection for not less than five years; and
- (8) Does not reference another document in lieu of disclosing the payrate.

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 (a)(1) defines management incentive pay as:

Compensation granted to management employees in the form of additional time off or extra pay due to the unique nature of their job. Employees within the group cannot have the option to take time off or receive extra pay. This compensation must be reported periodically as earned and must be for duties performed during normal work hours. This compensation cannot be for overtime, nor in lieu of other benefits excluded under the statues, nor for special compensation not otherwise listed in this Section 571.

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

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

- (1) Contained in a written labor policy or agreement as defined at Government Code section 20049, provided that the document:
  - (A) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
  - (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;
  - (C) Is 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;
  - (D) Indicates an effective date and date of any revisions;
  - (E) Is retained by the employer and available for public inspection for not less than five years; and
  - (F) Does not reference another document in lieu of disclosing the item of special compensation...

---

# CITY OF VALLEJO

---

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

Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).

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

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 final compensation for that individual.

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

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

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

(n) A "child" as described in Government Code section 22775, means an adopted, step, or recognized natural child until attainment of age 26, unless the child is disabled as described in section 599.500, subdivision (p).

(o) In addition to a "child" as described in Government Code section 22775, "family member" also includes any child for whom the employee or annuitant has assumed a parent-child relationship, in lieu of a parent-child relationship described in subdivision (n), as indicated by intentional assumption of parental status, or assumption of parental duties by the employee or annuitant, as certified by the employee or annuitant at the time of enrollment of the child, and annually thereafter up to the age of 26 unless the child is disabled as described in section 599.500, subdivision (p). This section should not be construed to include foster children.

## ***CalPERS Health Benefits Procedures Manual***

CalPERS Public Agency Health Benefits Procedures Manual, page 03-03, states, in part, "CalPERS, as well as the contracting agency, have the right to request any documentation needed to support dependent eligibility at the time of enrollment, or any time thereafter."

---

**CITY OF VALLEJO**

---

# **APPENDIX D**

## **STATUS OF PRIOR REVIEW**



**FOLLOW UP ON PRIOR REVIEW FINDINGS  
CITY OF VALLEJO EMPLOYER CODE 0527  
PRIOR REVIEW P00-012, DATED FEBRUARY 2001**

Prior Review Finding	Prior Review Recommendation	Status of Prior Recommendation
1. Compensation reported incorrectly.	The City should immediately discontinue reporting accumulated holiday pay cash out and housing allowance. The City should work with CalPERS Customer Account Services Division to determine the impact of items not reported correctly and what adjustments, if any, are needed.	Similar finding noted in the current report. The City reported housing allowance as part of base pay as reflected in the City's public salary schedule.
2. Industrial disability retirement determinations were not made timely.	The City should monitor the requirement for timely determinations of industrial disability retirement applicants. A waiver can be obtained if a delay is anticipated.	CalPERS Office of Audit Services no longer performs the industrial disability retirement determination test.
<p><u>Conclusion:</u> The City did not implement the recommendation from the prior review. Specifically, the City did not cease reporting housing allowance.</p>		

# APPENDIX E

## CITY'S RESPONSE

**NOTE: The City provided an attachment to the response which was intentionally omitted from this appendix.**



# CITY OF VALLEJO

DEPARTMENT OF HUMAN RESOURCES

555 SANTA CLARA STREET • P.O. BOX 3068 • VALLEJO • CALIFORNIA • 94590-5934 • (707) 648-4435

July 23, 2012

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

email: [alan\\_feblowitz@calpers.ca.gov](mailto:alan_feblowitz@calpers.ca.gov)

The City of Vallejo is in receipt of the Draft Public Agency Review undertaken by your office. (Employer Code: 0527, Job Number P10-041) Please see our response below for inclusion in the final report.

**Finding 1: The City incorrectly reported non-reportable compensation in the form of overtime pay, value of housing pay, education incentive pay, and management incentive pay and to CalPERS.**

The City agrees with the finding that some non-reportable compensation in the form of overtime pay, value of housing pay, education incentive pay, and management incentive pay was reported to CalPERS. However we do not agree that Management Incentive Pay was reported incorrectly for the sampled employee. The position of Executive Assistant to the City Manager has supervisory responsibility and acts independently on behalf of the City Manager. She is considered a management employee and as such her Management Incentive Pay has been correctly reported as special compensation.

In addition, please see the attached letter from CalPERS dated October 31, 1997 accepting "Management Incentive Pay" as special compensation based on the definition set forth in the City's Confidential, Administrative, Managerial, and Professional (CAMP) contract. The Executive Assistant to the City Manager is a member of CAMP.

**Recommendation:** The City agrees with the recommendation to discontinue reporting overtime pay and value of housing pay to CalPERS, and to discontinue reporting education incentive pay and management incentive pay to CalPERS unless it meets the criteria for reportable compensation.

**Finding 2: The City reported a payrate that was higher than the payrate listed on the publicly available pay schedule.**

The City agrees with the finding and recommendation.

**Recommendation:** The City should report correct payrates to CalPERS.

Effective 7/1/11 – Educational Incentive Pay, for the Police Chief and Fire Chief positions, is being reported as Special Compensation and not added to regular earnings.

**Finding 3: The City incorrectly paid and reported EPMC to CalPERS.**

The City agrees with the finding and recommendation.

**Recommendation:** The City should pay and submit the correct amounts of EPMC  
Effective 10/25/11 – Full 9% of sampled employee's PERS paid (City 8%, employee 1%).

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

The City agrees with the finding and recommendation.

**Recommendation:** The City should check for CalPERS membership status upon hiring individuals, including retired annuitants, and monitor hours worked. The City should review the hours worked for all retired annuitants and reinstate those who exceed the 960-hour criteria.  
Effective 7/1/11 – City started reporting retired annuitants hours to CalPERS via MyCalPERS.

**Finding 5: The City over-reported unused sick leave to CalPERS for one retiring member.**

The City agrees with the finding and recommendation.

**Recommendation:** The City should ensure the correct amount of unused sick leave is reported to CalPERS for retiring members.  
Effective 7/1/12 – Separate Banks will be created for tracking unearned sick leave. Upon separation from the City, employees will not be eligible to convert any of the unearned sick leave hours into PERS Service Credit.

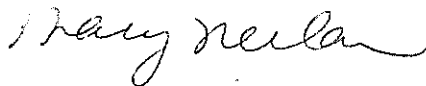
**Finding 6: The City did not provide eligibility verification for one sampled dependent enrolled in CalPERS Health Benefit Program.**

The City agrees with the finding and recommendation.

**Recommendation:** The City must ensure that the proper member and dependent enrollment documentation is on file at the City within 60 days from the date of the final OAS report.  
The sampled employee is no longer with the City. Procedures are in place to ensure proper documentation is on file as required.

We appreciate the opportunity to respond to the draft report. Please feel free to call me if you have any questions.

Sincerely,



Mary Neilan  
Acting Human Resources Director

c: City Manager  
Finance Director