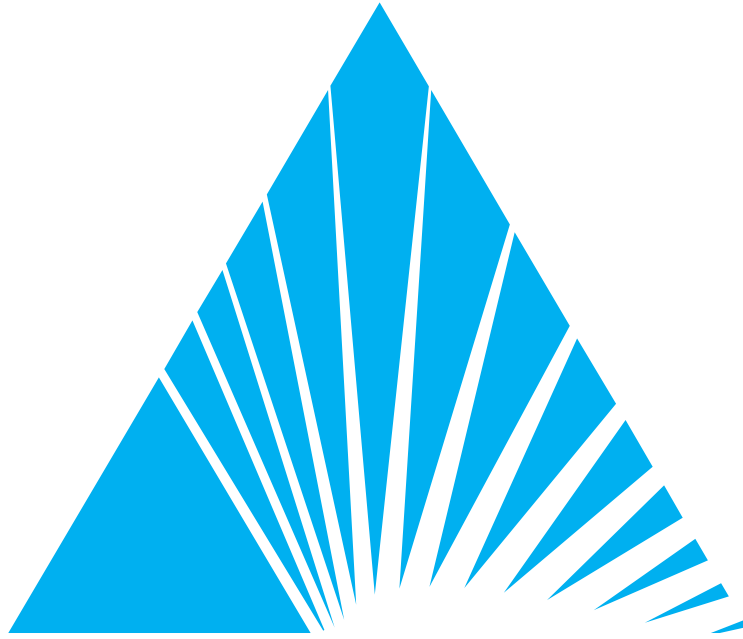


Office of Audit Services



CalPERS

Public Agency Review

City of Vista

**CalPERS ID: 1913340563
Job Number: P14-082**

December 2015



California Public Employees' Retirement System
Office of Audit Services
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December 28, 2015

CalPERS ID: 1913340563
Job Number: P14-082

Dolores Gascon, Human Resources Manager
City of Vista
200 Civic Center Dr.
Vista, CA 92084-6275

Dear Ms. Gascon:

Enclosed is our final report on the results of the public agency review completed for the City of Vista (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 4. We appreciate the additional information regarding Finding 4 that you provided in your response. After consideration of this information, we have removed Finding 4 from the report. As a result, Findings 5 through 8 are now listed as Findings 4 through 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. 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 Vista
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 Vista (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.
- Payrate was incorrectly reported.
- Member contributions were incorrectly paid.
- Retroactive salary adjustment was incorrectly reported.
- Retired annuitant's employment did not comply with all Government Code requirements.
- Member reciprocal self-certification was not maintained.
- Observation: Census Data Reporting

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 January 1, 1964 to provide retirement benefits for local miscellaneous and safety (fire) 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 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 June 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 May 2, 2014, did not meet all the requirements of the Government Code and CCR. Specifically, the pay schedule did not include the position title or payrate for City Council Members. In addition, the pay schedule did not indicate the time base for payrates.

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

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

Condition:

- A. The Agency incorrectly reported special compensation in lump sum amounts. Specifically, the Agency reported Fire/Paramedic Recertification Pay, Uniform Allowance, and Holiday Pay once a year in lump sum amounts instead of when earned. For example, the Agency reported an annual Fire/Paramedic Recertification Pay of \$375.00 for five fire employees in the pay period ended July 1, 2014. In addition, the Agency reported an annual Uniform Allowance of \$309.20 for one fire employee in the pay period ended June 28, 2013 for uniforms purchased in Fiscal Year 2012-13. The Agency also incorrectly reported Holiday Pay cash-out of \$3,929.20 and \$5,326.26 in the pay period ended November 29, 2013 for two fire employees. The employees were required to work on holidays and the cash-out was for each designated holiday during the year. Government Code Section 20636 requires the Agency to identify the pay period(s) in which special compensation was earned.
- B. The Agency incorrectly included several non-reportable items in Uniform Allowance. Specifically, the Agency included compensation paid to a fire employee for patches, embroidery, and collar brass when reporting Uniform Allowance in Fiscal Year 2012-13. Pursuant to CCR Section 571(a)(5), Uniform Allowance should only include compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. Patches, embroidery, and collar brass do not meet the definition of reportable Uniform Allowance and should not have been reported as special compensation.
- C. The Agency incorrectly reported Holiday Pay. Specifically, the Agency reported two floating holidays in holiday cash-outs for two fire employees. The Agency reported 11 holidays in cash-outs for employees. However, only nine were recognized holidays and two were floating holidays. As a result, the Agency reported incorrect cash-out amounts. Floating holidays are not considered recognized holidays and do not meet the definition of special compensation pursuant to CCR Section 571(a).

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- D. The Agency's written labor agreement for maintenance employees contained provision for uniforms, but it did not meet all the requirements of CCR Section 571(b)(1)(B). Specifically, the Agency did not indicate the conditions for payment of the uniform, including, but not limited to, the eligibility for, and amount of, special compensation.

- E. The Agency's written labor agreement for fire employees contained the provision for uniforms, but it did not meet all the requirements of CCR Section 571(b)(1)(B). Specifically, the Agency did not indicate the conditions for payment of the uniform, including, but not limited to, the eligibility for, and amount of, 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 correctly reported in the pay period earned.

The Agency should immediately stop reporting Uniform Allowance for the purchase of patches, embroidery, and collar brass.

The Agency should ensure that floating holidays are not reported as special compensation.

The Agency should ensure the monetary value of uniforms and the conditions for payment of uniforms are included in a written labor policy or agreements.

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, § 20630, § 20636
CCR: § 571

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3: The Agency incorrectly reported payrate.

Condition:

The Agency incorrectly reported a payrate for the City Manager in the pay period ended June 27, 2014. The Agency reported a monthly payrate of \$18,392.22. The maximum payrate for the City Manager listed on the pay schedule was \$17,629.00. As a result, payrate was over reported. Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to payrate.

Recommendation:

The Agency should ensure payrates are reported correctly and in accordance with publicly approved pay schedules.

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, § 20636
CCR: § 570.5

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4: The Agency incorrectly paid member contributions.

Condition:

The Agency incorrectly paid member contributions on behalf of an employee. Specifically, the Agency paid eight percent of the member's normal contributions for the City Attorney. Government Code Section 20691 specifies that if an individual is not part of a group or class, the payment shall be limited to the amount that the Board determines is payable to similarly situated members in the closest related group or class. The Agency did not pay member contributions for any other employees. Therefore, the Agency should not have paid member contributions on behalf of the City Attorney.

Recommendation:

The Agency should ensure it pays member contributions in accordance with the Government Code Section 20691.

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, § 20691

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5: The Agency incorrectly reported a retroactive salary adjustment.

Condition:

The Agency incorrectly reported a retroactive salary adjustment. Specifically, an employee received a five percent merit increase on July 13, 2011 that was retroactive to November 5, 2010. However, the Agency incorrectly reported the retroactive adjustment as a lump sum amount of \$1,941.98 in the pay period ended July 29, 2011. Retroactive adjustments should be reported in each pay period in which the compensation was earned.

Recommendation:

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

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

Criteria:

Government Codes: § 20160, § 20630, § 20636

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6: A retired annuitant's employment did not comply with all Government Code requirements.

Condition:

The Agency compensated a retired annuitant at an hourly payrate that exceeded the maximum hourly payrate paid to employees performing comparable duties. Specifically, the Agency paid a retired annuitant an hourly payrate of \$56.00 for the pay period ended June 29, 2012. The retired annuitant performed duties comparable to the Right of Way Agent listed on the Agency's pay schedule with a maximum hourly payrate of \$48.98. Pursuant to Government Code Section 21224, a retired person's rate of pay shall not exceed that paid by the employer to other employees performing comparable duties.

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.

Recommendation:

The Agency should ensure that compensation paid to retired annuitants does not exceed payrates paid to other employees performing comparable duties.

The Agency should work with EAMD to assess the impact of this incorrect reporting and make any adjustments, if necessary, to any impacted retired member accounts pursuant to Government Code Section 20160.

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Criteria:

Government Codes: § 20160, § 21220, § 21224

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

Condition:

The Agency did not maintain the required member self-certification for an employee 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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Observation: The Agency's records do not agree with my|CalPERS information.

Condition:

OAS reviewed active member census data used to calculate pension liability for 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 three employees who had hire dates that were different from the hire dates in my|CalPERS. The hire dates in my|CalPERS were based on the contract effective date instead of the actual date of hire. OAS also identified six individuals who had employment statuses that were different from the employment statuses in my|CalPERS. The Agency's records show that the employees have separated; however, the employees were not separated through my|CalPERS. Additionally, OAS identified one employee who had incorrect gender information on my|CalPERS. OAS recommends the Agency work with the appropriate CalPERS division to make any corrections, if necessary.

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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 California Code of Regulations.

Respectfully submitted,

Original signed by Beliz Chappuie

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Chris Wall, Senior Manager
Billy Vi, Auditor

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APPENDIX A

OBJECTIVES

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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.), California Public Employees' Pension Reform Act of 2013 (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:
 - Provisions of the contract and contract amendments between the Agency and CalPERS
 - Correspondence files maintained at CalPERS
 - Agency Board minutes and Agency Board resolutions
 - Agency written labor policies and agreements
 - Agency salary, wage and benefit agreements including applicable resolutions
 - Agency personnel records and employee time records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Other documents used to specify payrate, special compensation, and benefits for employees
 - Other various 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

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Agency's governing body in accordance with requirements of applicable public meetings laws.

- ✓ 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 for additional service credits for unused sick leave.
- ✓ Reviewed the Agency's records to determine whether member census data agreed with my|CalPERS information.

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APPENDIX B

AGENCY'S WRITTEN RESPONSE

Note: Attachments to the Agency's response and the name of an individual in the response were intentionally omitted from this appendix.



December 3, 2015

Beliz Chappuie
Office of Audit services
CALPERS
P.O. Box 942701
Sacramento, CA 94229-2701

RE: Job Number P14-082

Dear Ms. Chappuie,

The City of Vista has received and reviewed the draft report on the compliance review regarding the City of Vista's contract with the California Public Employees' Retirement System. Our written response to the findings follows.

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

We agree with the findings. The City of Vista makes its pay schedule publicly available as a classification and compensation index (CCI). Changes to the document must be approved by City Council resolution. The documents are maintained on the City's public records online library. Please note that the City Council and Mayor positions were incorporated into the CCI that was approved by the City Council on June 23, 2015 (Attachment 1); the time range for the salary reported on the CCI has been indicated effective with the next CCI, scheduled to be approved by the City Council on December 8, 2015 (Attachment 2). We believe that we are now in compliance with the requirements of the Government Code but will work with the CalPERS Employer Account Management Division (EAMD) to identify and make adjustments as requested.

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

Condition 2A. We do not contest the finding and would appreciate assistance from CalPERS on the appropriate way to report the Paramedic License Pay (PLP). The PLP is allocated in a lump sum. As outlined in section 29.2 of the Vista Firefighters Association (VFFA) Memorandum of Understanding (MOU), "To be eligible to receive the PLP, a licensed paramedic employee has to be employed with the City of Vista and hold a current license for twelve consecutive calendar months prior to the July in which the PLP is paid." It is not paid out at any other time. There is no pro-rated payment. If an employee does not meet the criteria established in the MOU, the PLP is not received.

Conditions 2B and 2E. We agree with the incorrect reporting outlined in Conditions 2B and 2E. In September, the City came to a 3 year agreement with the VFFA. That agreement outlined a uniform allowance that would be provided to members effective July 1, 2016. It will be dispersed on a biweekly basis. Please see section 27.0 of the attached VFFA MOU (Attachment 3).

Condition 2C: We agree with the finding in Condition 2C. As part of new MOU, the City and the VFFA negotiated a change which will assist in correcting the finding of Condition 2C. All floating holidays have been eliminated as defined Section 25.3 of the same MOU.

Condition 2D. The City is in agreement with Condition 2D and will work with CalPERS and EAMD to make improvements.

3. The Agency incorrectly reported payrate.

The City is in agreement with this finding. The inaccuracy has been corrected.

4. The Agency incorrectly included non-reportable compensation in base pay and regular earnings.

The City disagrees with this finding. The elimination of the automobile allowance and the increase of salary in 2009 was not intended in lieu of the automobile allowance. In fact, when employees agreed to take a 5% pay reduction to help the City address a structural deficit in Fiscal Years 2011/2012 and 2012/2013, the City Council and Mayor also agreed to take the reduction. That reduction was not applied to a salary amount minus a \$500 auto allowance, but rather to the entire amount of earned compensation. Additionally, all elected officials who have taken office since simply receive a rate of pay that is not broken down to include an automobile allowance. A copy of the original Personnel Action Form for Councilmember [REDACTED], along with two subsequent letters requesting the pay reduction are included for your consideration as Attachment 3.

5. The Agency incorrectly paid member contributions.

Based upon the Government Code Section 20691 regulations cited by the auditors concerning the payment of the employee share of PERS by the employer, the City agrees with this finding.

6. The Agency incorrectly reported a retroactive salary adjustment.

The City of Vista agrees with this finding.

7. A retired annuitant's employment did not comply with all Government Code requirements.

The City agrees with this finding. All retired annuitants who have been hired since our discussion with CalPERS auditors on this matter have been in compliance with Government Code requirements.

8. The agency did not maintain the required member self-certification.

The City agrees with this finding and has made corrections in order comply with CCR Section 579.3 as required.

We appreciate being given the opportunity to review a draft of the report and comment on its contents. If there is additional information you wish to discuss or receive, please do not hesitate to contact me directly at 760-643-5375.

Sincerely,

[REDACTED]

Original signed by Dolores Gascon

Dolores Gascon
Human Resources Manager

Enclosures