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April 29, 2011

Employer Code: 0121
Job Number: P09-047

City of El Monte
Julio Morales, Director of Finance
11333 Valley Blvd
El Monte, CA 91731

Dear Mr. Morales:

Enclosed is our final report on the results of the public agency review completed for the City of El Monte. Your agency's written response indicates agreement with the issues noted in the report with exception to two compensation issues and a retired annuitant issue. After further review of additional documents provided by the City, we removed the compensation exception regarding nine percent longevity reported for a sampled police manager. The other exceptions remain in the report, as the additional information did not change our findings. The written response is included as an appendix to the report. 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 Chief, HAS, CalPERS
Honorable City Council Members, City of El Monte
Amelia Ayala, Human Resources Director

Office of Audit Services



Public Agency Review

City of El Monte

**Employer Code: 0121
Job Number: P09-047**

April 2011

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RESULTS IN BRIEF

We reviewed the City of El Monte's (City) enrolled individuals, health and retirement contributions, member earnings and required health, retirement and Automated Communications Exchange System (ACES) documentation for employees included in our test sample. A detail of the exceptions is noted in the Risk and Mitigation Table. Specifically, the following exceptions were noted during the review:

- Longevity pay was incorrectly reported.
- Holiday pay was incorrectly reported for ineligible employees.
- Uniform rental and maintenance were not reported for miscellaneous employees required to wear uniforms.
- Regular earnings were underreported for one sampled employee.
- Reported payrates were not on publicly available salary schedules for two sampled employees.
- Retirement contributions and one payroll report were not remitted timely.
- A retired annuitant was misclassified as an independent contractor and exceeded the authorized rate of pay for the position.
- A retired annuitant exceeded 960 hours worked in a fiscal year and was not reinstated.
- Industrial disability retirement (IDR) determinations were not made timely.
- Unused sick leave balances were not properly certified.
- Required Declaration of Health Coverage forms were not maintained.
- Affidavit of Eligibility for an economically dependent child was not on file.
- Required ACES user security agreement form was not maintained and deletion forms were not completed.

BACKGROUND

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 Employer Services Division (ERSD) 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

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monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Office of Employer and Member Health Services (EMHS), as part of the Health Benefits Branch (HBB), 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. 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 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.

The City of El Monte was incorporated in 1912 under the laws of the State of California and enjoys all the rights and privileges of a General Law City. The City has its own Police force but contracts with Los Angeles County for fire services. Council Members are elected at large for four-year terms and the Mayor is elected for a two-year term. Memoranda of Understanding (MOU) and employment agreements outline all City employees' salaries and benefits and state the terms of employment agreed upon between the City and its employees.

The City contracted with CalPERS effective July 1, 1946, to provide retirement benefits for local miscellaneous and local safety police employees. The City's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City contracted with CalPERS effective July 1, 1995, to provide health benefits to all employees.

SCOPE

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the City's payroll reporting and enrollment processes as these processes relate to the City's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the City complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and

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enrollment procedures were followed. The on-site fieldwork for this review was conducted on March 8, 2010 through March 11, 2010 and March 30, 2010 through April 1, 2010.

The review period was limited to the examination of sampled records and processes from January 1, 2007 through December 31, 2009. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the City had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the City had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the City's personnel and payroll procedures.
- ✓ 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.
- ✓ Reviewed the City's payroll information reported to CalPERS for the sampled employees to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the City's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.
- ✓ Reviewed the City's enrollment practices pertaining to temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the City's classification of employees to determine whether the City reported employees in the appropriate coverage groups.
- ✓ Reviewed the City's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the City's calculation and reporting of unused sick leave balances for retiring members.

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- ✓ Reviewed employees and their dependents to determine whether the City properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health contribution payment information to determine whether the City remitted payments within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the City contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the City maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

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RISK AND MITIGATION TABLE

In developing our opinions, we considered the following risks and mitigations. We also include our observations and recommendations.

| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|--|---|
| <p>1. The City may not accurately report compensation to CalPERS.</p> | <p>We reviewed payroll records and compensation reported to CalPERS for a sample of 15 employees over two service periods. The service periods reviewed were the second service period of January 2009 (1/09-2) and the first service period of December 2009 (12/09-1). In addition, we reviewed six of the sampled employees during the first service period of January 2009 (1/09-1) to verify if holiday pay was accurately reported.</p> <p>The earnings reported to CalPERS were reconciled to the City's payroll records. The City accurately reported compensation to CalPERS for the employees in our sample, except for the following instances.</p> <p><u>Longevity Pay Incorrectly Reported</u></p> <p>Employees of the Service Employees' International Union (SEIU) and Mid-Management groups had longevity reported in excess of what met the definition of longevity. Specifically, the City created a second tier longevity pay ranging from three to six percent based on converting deferred compensation to longevity. The MOU for the</p> | <p>The City should ensure reported special compensation meets the definitions set forth in the California Code of Regulations.</p> <p>The City should work with</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|---|--|
| <p>1. The City may not accurately report compensation to CalPERS. (continued)</p> | <p>SEIU also included language that employees who worked less than five years would be eligible for the compensation. The City's second tier longevity did not meet the definition of reportable compensation; therefore, it should not have been reported. We found the City erroneously reported longevity for five of the sampled employees.</p> <p>California Code of Regulations, § 571(a)(1) defines longevity pay as, "Additional compensation to employees who have been with an employer, or in a specified job classification, for a certain minimum period of time exceeding five years."</p> <p>California Code of Regulations, § 571(c), states; "Only items listed in subsection (a) have been affirmatively determined to be special compensation."</p> <p><u>Holiday Pay Reported For Ineligible Employees</u></p> <p>The City established a holiday bank as additional compensation for employees required to work on holidays. The City cashed out the employees' holiday bank on or about January 20th each year. The City correctly reported holiday pay with exception to two sampled employees. Specifically, two sampled employees' positions did not</p> | <p>CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> <p>The City should immediately stop reporting holiday pay for ineligible employees.</p> <p>The City should work with CalPERS ERSD to assess the</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|---|--|
| <p>1. The City may not accurately report compensation to CalPERS. (continued)</p> | <p>require scheduled staffing without regard to holidays. The employees received additional compensation for holiday pay and the City erroneously reported the pay to CalPERS.</p> <p>California Code of Regulations, § 571(a)(5), defines holiday pay as, "Additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays."</p> <p><u>Uniform Rental and Maintenance Was Not Reported</u></p> <p>The City rented and maintained uniforms for employees required to wear uniforms in the Public Works Division, Parks and Recreation Division, and Purchasing Division. However, the City did not report the value of uniforms or uniform maintenance as special compensation.</p> <p>Government Code, § 20636(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. A uniform allowance, the monetary value of employer-provided uniforms... shall be included as special compensation."</p> | <p>impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> <p>The City should report the monetary value of the rental and maintenance of uniforms for employees who are required to wear uniforms.</p> <p>The City should work with CalPERS ERSD to determine the impact of the non-reporting and what adjustments, if any, are needed.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|--|--|
| <p>1. The City may not accurately report compensation to CalPERS. (continued)</p> | <p>California Code of Regulations, § 571(a)(5), defines uniform allowance as, "Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are for personal health and safety such as protective vests, pistols, bullets, and safety shoes."</p> <p><u>Regular Earnings Were Understated</u></p> <p>One sampled employee's regular earnings were underreported in the 1/09-1 sampled service period. Specifically, the employee received regular earnings totaling \$2,931.00; however, the City underreported regular earnings totaling \$1,544.38.</p> <p>Government Code, § 20630(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 work hours...."</p> | <p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and to determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|--|--|--|
| <p>2. The City may not report payrates in accordance with publicly available salary schedules.</p> | <p>We reviewed payrates reported to CalPERS in the 12/09-1 service period and reconciled the payrates to the City's public salary information to determine whether payrates for the sampled employees were properly authorized and reported to CalPERS. We found the City reported the authorized payrates for the sampled employees except for two employees. Specifically,</p> <ul style="list-style-type: none"> • One sampled employee's monthly payrate of \$4,769 exceeded the publicly available salary schedule's authorized payrate of \$4,438. • One sampled employee's monthly payrate of \$18,085 exceeded the publicly available salary schedule's authorized payrate of \$17,220. In addition, the payrate exceeded the amount in the employee's employment contract. <p>Government Code, § 20636(b)(1), defines payrate as, "The normal monthly rate of pay or base pay of the member paid...pursuant to publicly available pay schedules..."</p> <p>Government Code, § 20636(d), states, in part, "...Payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny."</p> | <p>The City should ensure all employee payrates are accurately listed in schedules available for public scrutiny.</p> <p>The City should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|---|---|
| <p>3. The City may not accurately report payroll information to CalPERS.</p> | <p>We reviewed the payroll information reported to CalPERS for the 1/09-2 service period. Our sample testing revealed that the City correctly reported the payroll information to CalPERS.</p> | <p>None.</p> |
| <p>4. The City may fail to or did not submit payroll in a timely manner to CalPERS.</p> | <p>We reviewed the payroll information for the service periods 1/09-2, 2/09-2, 11/09-2 and 12/09-1 to determine if payroll information and contributions were submitted within required timeframes. We determined that one summary report and the four contribution payments were untimely. Specifically, the City submitted the 1/09-2 summary report seven days late and remitted contributions in two separate payments each service period ranging from five to 30 days late.</p> <p>California Code of Regulations, § 565, states, "Member and employer contributions shall be received in the System's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer."</p> <p>California Code of Regulations, § 565.1(a), states, in part, "...A complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30 calendar days following the last day of the period to which it refers."</p> | <p>The City should ensure that summary reports and contributions are received timely to CalPERS.</p> <p>The City should work with CalPERS ERSD to assess the impact of the late payroll reporting and contribution payments and determine what adjustments, if any, are needed.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|---|--|
| <p>5. The City may not enroll all eligible employees into CalPERS membership.</p> | <p><u>Excluded Employees</u></p> <p>The contract between CalPERS and the City excludes all hourly rated or hourly basis employees. The City's part-time employees worked on an hourly basis. We determined the City correctly excluded hourly rated or hourly basis employees from membership.</p> <p><u>Optional Membership</u></p> <p>The City's elected officials were eligible for optional CalPERS membership. We reviewed the City's enrollment practices to determine whether the elected officials were offered optional membership. Our sample testing revealed that the City properly offered and enrolled the sampled officials into CalPERS membership.</p> <p><u>Independent Contractor</u></p> <p>We reviewed the City's IRS 1099 Miscellaneous Income forms for calendar years 2008 and 2009 in order to identify employees that may be misclassified as independent contractors. We determined that all 10 sampled individuals were correctly classified as independent contractors with the exception of one individual. Specifically, one sampled individual was determined to be</p> | <p>None.</p> <p>None.</p> <p>None.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|--|--|
| <p>5. The City may not enroll all eligible employees into CalPERS membership. (continued)</p> | <p>a retired annuitant performing the same duties in an established position at the City from which he retired. However, the City incorrectly classified the retired annuitant as an independent contractor. This retired annuitant was further reviewed under Risk 6.</p> | |
| <p>6. The City may unlawfully employ retired annuitants.</p> | <p><u>Retired Annuitant Exceeded 960 Hour Threshold</u></p> <p>We reviewed the hours worked for a sample of four retired annuitants in fiscal years 2007/2008 and 2008/2009. Our sample testing revealed that one retired annuitant exceeded the 960 hour threshold and was not reinstated to service. Specifically, the annuitant worked 1,110.58 hours in 2007/2008, exceeding 960 hours by pay period ending April 30, 2008.</p> <p>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</p> | <p>The City should immediately reinstate retired annuitants when they exceed 960 hours worked in a fiscal year. In addition, the City should implement procedures to monitor the hours worked by retired annuitants.</p> <p>The City should work with CalPERS BNSD to assess the impact of this issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the retired annuitant mentioned in this section of the report has been sent to the City and CalPERS BNSD as an appendix</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|--|---|--|
| <p>6. The City may unlawfully employ retired annuitants. (continued)</p> | <p>employees performing comparable duties."</p> <p><u>Rate of Pay Exceeded Amount Paid by Employer to Other Employees</u></p> <p>We determined that one sampled retired annuitant was paid at a rate that exceeded that paid by the City to other employees performing comparable duties. The employee retired from the City effective February 1, 2009 and returned to the City in the same position effective February 1, 2009, misclassified as an independent contractor, (as discussed in Risk 5) at an hourly rate of \$125.00. The employee was previously paid \$13,811 per month (\$79.68 per hour) while working in this position. The employee's service employment contract stated the service period would be from February 1, 2009 to February 1, 2012.</p> <p>Government Code, § 21221(h), states, in part, "Upon appointment by the governing body of a contracting agency to a position deemed by the governing body to be of a limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business. These appointments, in addition to any made pursuant to Section 21224, shall not exceed a total for all employers of 960 hours in any fiscal year....Appointments</p> | <p>to our draft report.</p> <p>The City should ensure that retired annuitants are properly classified and the rate of pay does not exceed that paid by the City to other employees performing comparable duties.</p> <p>In addition, the City should work with CalPERS BNSD to determine if this annuitant should be reinstated.</p> <p>A confidential list identifying the retired annuitant mentioned in this section of the report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
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| <p>6. The City may unlawfully employ retired annuitants. (continued)</p> | <p>under this subdivision may not exceed a total of 12 months."</p> <p>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."</p> <p><u>Bona Fide Separation</u></p> <p>We determined that a bona fide separation from employment, per Government Code Section 21220.5, was not needed as the four sampled retired annuitants' age at retirement was beyond the normal retirement age.</p> | <p>None.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
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| <p>7. The City may not appropriately report members under the proper coverage group code.</p> | <p>Our sample testing revealed that the City reported members under the appropriate coverage group code.</p> | <p>None.</p> |
| <p>8. The City may not appropriately process industrial disability retirement determinations and appeals for safety members.</p> | <p>We reviewed the City's procedures for processing applications for industrial disability retirement (IDR). We found that the City had appeal procedures in place; however, the City did not make timely determinations for two of the four sampled members. Specifically,</p> <ul style="list-style-type: none"> • The City received the notice of one member's application on December 2, 2005 and the determination was made April 20, 2009; 1,233 days. • The City received the notice of another member's application on May 10, 2005 and the determination was made April 14, 2006; 339 days. <p>Government Code, § 21157, states, "The governing body of a contracting agency shall make its determination within six months of the date of the receipt by the contracting agency of the request by the board pursuant to Section 21154 for a determination with respect to a local safety member. A local safety member may waive the requirements of this section"</p> | <p>The City should ensure IDR determinations are made timely or obtain a waiver from the applicant if the IDR determination is expected to exceed six months.</p> <p>The City should work with CalPERS BNSD to assess the impact of the late IDR determination and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the safety members mentioned in this report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
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| <p>9. The City may not accurately certify unused sick leave balances for retiring CalPERS members.</p> | <p>The City elected the optional provision of Government Code, § 20965, credit for unused sick leave for employees effective June 16, 1989. Our sample testing revealed that the City properly reported the balance of unused sick leave for five sampled members; however, the City failed to report unused sick leave for two sampled members.</p> <p>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. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.”</p> | <p>The City should ensure that unused sick leave balances are certified for members upon retirement.</p> <p>The City should work with CalPERS BNSD to determine the impact of this non-reporting and what adjustments, if any, are needed.</p> <p>A confidential list identifying the members mentioned in this report has been sent to the City and CalPERS BNSD as an appendix to our draft report.</p> |
| <p>10. The City may not properly enroll eligible employees and their dependents in health benefits.</p> | <p>We reviewed a sample of six employees to assess the health benefits eligibility and enrollment of members and their dependents. Our sample testing revealed that the City properly enrolled eligible employees and their dependents in CalPERS health benefits program, except for the following:</p> | <p>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 our final report.</p> <p>Please send an email to: <i>HBB_Audit_Services@</i></p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
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| <p>10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p> | <p><u>Health Enrollment Forms Were Not Properly Maintained</u></p> <p>The City did not properly maintain Declaration of Health Coverage (HB-12A) forms for three of the six sampled members who enrolled into membership or had changes in their health coverage after January 1, 1998. The City obtained signed forms from the three members during the onsite review.</p> <p>The HB-12A provides information on enrollment options and consequences for non-enrollment. The HB-12A is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes open enrollment changes, changing health plans when moving, adding or deleting a dependent, or canceling health benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the Health Benefit Plan Enrollment (HBD-12) form. The employer also must provide the employee a copy of the signed form and keep the original in the employee's file.</p> | <p><i>calpers.ca.gov</i> once the requested documentation is on file. The CalPERS HBB may be contacted at (916) 795-3836 with any questions.</p> <p>A confidential list identifying the members mentioned in this section of the report has been sent to the City and CalPERS HBB as an appendix to our draft report.</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|---|----------------|
| <p>10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p> | <p><u>Dependent Enrollment Supporting Documentation was not on File</u></p> <p>Spouses, children, economically dependent children, and domestic partners of sampled health members were identified and reviewed for documentation supporting eligibility. We found the City did not properly maintain an Affidavit of Eligibility (HBD-35) form for one sampled member's enrolled dependent. The City obtained a signed HBD-35 from the member during the onsite review.</p> <p>Government Code, § 22775, states, "Family member means an employee's or annuitant's spouse or domestic partner and any unmarried child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children."</p> <p>California Code of Regulations, § 599.500(k), states, "Eligible means eligible under the law and this subchapter to be enrolled."</p> <p>The CalPERS Office of Employer and Member Health Services, Public Agency Health Benefits Procedure Manual, Eligibility Section, page 03-03, states, in part,</p> | |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|---|--|--|
| <p>10. The City may not properly enroll eligible employees and their dependents in health benefits. (continued)</p> | <p>“CalPERS, as well as the contracting agencies, have the right to request any documentation needed to support dependent eligibility at the time of enrollment, or any time thereafter...”</p> | |
| <p>11. The City may not contribute the appropriate health contribution amounts for active employees.</p> | <p>We reviewed the health contributions reported for four sampled employees during the December 2009 service period. We determined that the City contributed the appropriate health contribution amount as part of the members’ total monthly premium amount.</p> | <p>None.</p> |
| <p>12. The City may not remit health contributions within the required timeframe.</p> | <p>We reviewed the health contribution payments for January 2009, November 2009 and December 2009. Health contribution payments were due by the 10th day of the month for which contributions were due. We determined that the City remitted the health contribution payments within the appropriate timeframe.</p> | <p>None.</p> |
| <p>13. The City may not maintain appropriate ACES security procedures.</p> | <p>We reviewed the security procedures for the City’s ACES users to determine whether reasonable security precautions were maintained and to determine whether the required security documents were properly completed and filed for ACES users.</p> <p>We determined the City maintained reasonable security</p> | <p>The City should follow appropriate procedures to ensure the security of CalPERS ACES. Employer User Security Agreements should be completed timely and retained in a secure worksite location for the</p> |

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| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|--|---|---|
| <p>13. The City may not maintain appropriate ACES security procedures. (continued)</p> | <p>precautions. However, the City did not maintain an ACES Employer User Security Agreement form (AESD-43) for one authorized user. In addition, the City did not properly complete and maintain Delete ACES User Access Forms (AESB-42) for three disabled users. The City completed and filed the AESD-43 and AESD-42 forms as appropriate for the affected employees during our onsite review.</p> <p>CalPERS ACES security procedures outlined on the CalPERS website at www.calpers.ca.gov require agencies to keep a signed copy of security documents on file for ACES users. An AESD-43 must be completed for each employee using CalPERS on-line access and be available to CalPERS upon request. An AESD-42 must be completed and submitted to CalPERS when requesting the deletion of a user account. Agencies must complete and submit this form to notify CalPERS when an employee will no longer be an ACES user.</p> <p>State law requires that all CalPERS sensitive or confidential information must be protected, and used only for performing official CalPERS business. Forms must be retained in a secure work site location of the employer, for the life of the Agreement and for two years following the deactivation or termination of the Agreement. CalPERS is to be notified immediately in the event that any of its</p> | <p>life of the Agreements and for two years following the deactivation or termination of the Agreements.</p> <p>A confidential list identifying the employees mentioned in this report has been sent to the City and CalPERS ERSD as an appendix to our draft report.</p> |

CITY OF EL MONTE

| RISK | MITIGATION & OBSERVATION | RECOMMENDATION |
|--|---|----------------|
| 13. The City may not maintain appropriate ACES security procedures. (continued) | sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction. | |

CITY OF EL MONTE

CONCLUSION

We limited this review to the areas specified in the scope section of this report. We limited our test of transactions to samples of the City's payroll reports and personnel records. The sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code, except as noted above.

Respectfully submitted,

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

Date: April 2011
Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIDA, Manager
Terry Heffelfinger
Karen Harlan

APPENDIX A

STATUS OF PRIOR REVIEW

**FOLLOW UP ON PRIOR REVIEW FINDINGS
CITY OF EL MONTE EMPLOYER CODE 0121
PRIOR REVIEW P01-025, DATED MAY 2002**

| <i>Prior Review Finding</i> | <i>Prior Review Recommendation</i> | <i>Status of Prior Recommendation</i> |
|--|---|--|
| 1. Holiday pay incorrectly reported for non-eligible employee and not reported for eligible employees. | The City should stop reporting holiday pay for those employees who do not work in positions that require scheduled staffing without regard to holidays. The City should begin reporting the overtime portion of holiday pay worked for employees who work in positions that require scheduled staffing without regard to holidays. | Similar finding noted. The City correctly reported additional compensation received for employees eligible for holiday pay; however, the City incorrectly reported holiday pay for individuals who were not required to work without regard to holidays. |
| 2. Management incentive pay incorrectly reported. | The City should work with CalPERS ERSD to determine the impact of this incorrect reporting and what adjustments, if any, are needed. | Implemented. No similar observations were noted. |
| 3. Payroll errors: holiday pay and training pay reported twice. | The City should work with CalPERS ERSD to assess the impact of the incorrect reporting. | Implemented. No similar observations were noted. |
| 4. Unused sick leave not correctly reported. | The City should immediately notify CalPERS BNSD and request corrections to ensure proper service credit is given for the affected retirees found in our sample. In addition, the City should review all retiree personnel files and sick leave records to ensure that unused sick leave balances have been correctly reported to CalPERS. | Similar finding noted. The City did not correctly certify unused sick leave balances for retirees. |
| 5. IDR determination exceeded six months. | The City should establish a procedure to inform all industrial disability retirement (IDR) applicants of their right to waive the six month determination period and make a determination within six months for those applicants who decline the waiver. | Similar finding noted. The City did not make determinations for IDR applicants within a six month period or obtain a waiver. |

**FOLLOW UP ON PRIOR REVIEW FINDINGS
CITY OF EL MONTE EMPLOYER CODE 0121
PRIOR REVIEW P01-025, DATED MAY 2002**

| <i>Prior Review Finding</i> | <i>Prior Review Recommendation</i> | <i>Status of Prior Recommendation</i> |
|--|--|---|
| 6. Employee was incorrectly classified as an independent contractor. | The City should work with CalPERS ERSD to correct the enrollment for the individual to the date he met eligibility requirements in May 1993. | Similar finding noted. The agency incorrectly classified a retired annuitant as an independent contractor. The retired annuitant did not exceed the 960 hour threshold; however, the retired annuitant exceeded the authorized rate of pay. |

Conclusion:

The City had not implemented four of the recommendations from our prior report dated May 2002. Specifically,

- The City had not discontinued reporting holiday pay for non-eligible employees.
- Unused sick leave balances were not correctly certified for retirees.
- IDR determinations were not made within the required six month period.
- One retired annuitant was incorrectly classified as an independent contractor.

APPENDIX B

CITY'S WRITTEN RESPONSE



CITY OF EL MONTE FINANCE DEPARTMENT

February 9, 2011

Karen Harlan
California Public Employees Retirement System
Office of Audit Services
PO BOX 942701
Sacramento, CA 94229-2701

Ms. Harlan,

This letter is in response to the findings identified by the CalPERS Public Agency Review of the City of El Monte, Employer Code 0121, as represented in the draft report dated October 29, 2010.

Upon your review of this letter, the City would like to schedule a meeting to discuss and implement a satisfactory resolution to each issue or concern addressed in the draft report.

1. City did not accurately report compensation

Longevity Pay 9%

The City disagrees with this finding. The City pays its Police Chief 9% longevity pay, although it pays the Police Managers Association 6% longevity pay. Although CalPERS states that "one employee may not be considered a group or class", the Chief of Police had been historically classified under the Top Management MOU. His compensation is not determined in accordance with other police employees, but rather in comparison to the Top Management positions within the City and Police Chief's in other cities. Moreover, the current Assistant Chief of Police receives the same 9.0% longevity pay under this employment contract.

In addition, there are a number of other former employees in top management positions which received 9.0% longevity pay under their employment contract, including.

(City Manager), (City Manager), (City Manager),
(Police Chief), among others.

2nd Tier Longevity

It is our understanding that CalPERS does not interpret 2nd Tier Longevity as reportable compensation. Specifically, the definition of longevity required employees to work with an employer or specified job classification for a period of five years or longer. CalPERS contends

that according to the MOU, SEIU employees who have worked less than five years would be eligible for this compensation. Based on CalPERS defined terms, we agree with this finding.

Holiday Pay

The police chief is required to work or be available on all holidays, such holiday should be included. Although the Chief of Police received holiday pay on certain days which CalPERS sampled, it is likely that he had a scheduled day off. We would like to review the sampled data to investigate this matter further.

The City Clerk position, however, is not required to work on holidays, and thus all or a portion of the holiday pay should be not eligible.

2. The City may not report pay rates in accordance with publicly available salary schedules

Publicly available salary information may only report a portion of compensation (i.e., base salary), and may not include deferred compensation, longevity pay, additional salary, etc. Our website now provides current and more detailed salary information.

3. N/A

4. City failed to submit payroll in a timely manner

The City is in the process of a conversion to a new financial management software system. As such, we have experienced some delayed and technical difficulties. We expect to provide more accurate and timely information going forward.

5. See #6

6. The City may unlawfully employ retired annuitant

Retired Annuitant Exceeded 960 Hours

The City's new financial software (EDEN) provides a "960 report" which tracks retired annuitant hours worked per calendar year. We expect to utilize this feature to monitor hours worked per year for such employees going forward.

Rate of Pay Exceeds Amount Paid by Employer to Other Employees

The city does not agree with this finding. This payment was made to an independent contractor to provide (outside legal counsel) not in the capacity of City Attorney. This hourly fee is at or below the market rate for similar outside legal services. The City believes since this individual

was not re-hired as a retired annuitant (subject to the 960 rule) but as a sole proprietor, as such, neither the length of contract nor levels of compensation are relevant.

7. No findings

8. The City did not appropriately process industrial disability

The City will seek to make all IDR determinations within the required six month time period.

9. The City did not accurately certify all unused sick leave balances for retirement

The City agrees with the finding and will work with CalPERS to calculate the impact on the individuals' retirement and make the appropriate adjustments. The City will develop procedures to insure that unused sick-leave is evaluated as part of an employee's retirement process.

10. The City may not properly enroll eligible employees and their dependents in health benefits

The City seeks enroll all eligible employees and their dependents in a timely manner, and maintain proper documentation.

11. No findings

12. No findings

13. The City may not maintain appropriate ACES security procedures

The City will endeavor to maintain all necessary procedures and documentation going forward.

We anticipate and look forward to continued communication from you or representatives of CalPERS following the review of the City's response. Please contact me at (626) 580-2026 or Andre Urquidez at (626)580-2075 to discuss the resolutions to the findings for the final report.

Sincerely,



Julio Morales
Director of Finance