

Office of Audit Services



CalPERS

Public Agency Review

City of Pomona

**Employer Code: 0191
CalPERS ID: 3335870750
Job Number: P13-003**

February 2014



California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (877) 249-7442
(916) 795-0802 phone, (916) 795-7836 fax
www.calpers.ca.gov

February 24, 2014

Employer Code: 0191
CalPERS ID: 3335870750
Job Number: P13-003

City of Pomona
Paula Chamberlain, Finance Director
505 S Garey Ave.
Pomona, CA 91766-3320

Dear Ms. Chamberlain:

Enclosed is our final report on the results of the public agency review completed for the City of Pomona (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 1B and Finding 1C. We reviewed the information contained in your Agency's response pertaining to Finding 1B and Finding 1C, and our recommendations remain as stated in the report. However, we added clarifying language to the condition for finding 1B. 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: City Council, City of Pomona
Linda Mathews, Human Resources/Risk Management Director, City of Pomona
Risk and Audit Committee Members, CalPERS
Gina M. Ratto, Interim General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

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RESULTS IN BRIEF

The primary objective of our review was to determine whether the City of Pomona's (Agency) complied with applicable sections of the California Government Code, California Code of Regulations (CCR) and the Agency's contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) identified the following finding during its review. Details are noted in the results section of this report beginning on page two.

- The Agency incorrectly reported special compensation.

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

SCOPE

Effective July 1, 1948, the Agency contracted with CalPERS to provide retirement benefits for police and miscellaneous employees. By way of its agreement with CalPERS, the Agency agreed to be bound by the terms of its contract, and the Public Employees Retirement Law (PERL). The Agency agreed to make its employees members of CalPERS subject to the provisions of the PERL.

As part of the Board approved plan for fiscal year 2013/2014, OAS reviewed the Agency's payroll reporting and member enrollment processes as these processes relate to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from April 1, 2010 through March 31, 2013. The on-site fieldwork for this review was conducted from August 12, 2013 through August 15, 2013.

The review objectives and a summary of the procedures performed are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: The Agency incorrectly reported special compensation

Condition:

- A. The Agency incorrectly reported Education Incentive for an employee. Although the Police Management Memoranda of Understanding (MOU) stipulated that employees with a bachelor's degree were eligible for a \$200.00 monthly Education Incentive, the Agency only reported \$140.00 for the employee in pay period ending March 23, 2013.
- B. The Agency incorrectly reported uniform allowance. In accordance with the MOU, the Agency provides Police employees an annual uniform allowance of \$1,000.00 payable on the employees' hiring anniversary date. Although the Agency correctly paid the uniform allowance for three employees, it did not correctly report the uniform allowance for the period earned. Government Code section 20630 requires that agencies identify the pay period in which the compensation was earned regardless of when reported or paid.
- C. The Agency reported compensation that did not meet the criteria of special compensation. The Community Development Director was paid an additional 10 percent of base salary for assuming additional oversight duties of the Community Services Department. The Agency reported the compensation to CalPERS because they believed the compensation met the definition of Temporary Upgrade Pay listed under CCR section 571(a). However, OAS reviewed the compensation and determined it did not meet the definition of Temporary Upgrade Pay, nor did it meet any of the other items of special compensation listed under section 571(a).

Recommendation:

The Agency should report the correct amount of Education Incentive to CalPERS, ensure that uniform allowance is reported as special compensation in the time period in which it is earned, and discontinue reporting compensation that does not meet the definition of Temporary Upgrade Pay listed under CCR section 571(a).

The Agency should work with CalPERS Customer Account Services Division (CASD) to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member's accounts pursuant to Government Code section 20160.

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Criteria:

Government Codes: § 20160, § 20630, § 20636(a), § 20636(c)(1), § 20636(c)(2), § 20636(c)(5), § 20636 (c)(6)

CCR: § 571(a), § 571(a)(5), § 571(b), § 571(c), § 571(d)

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Observation: The Agency's administration of a contract exclusion for hourly compensated employees is not clearly defined.

The contract between CalPERS and the Agency excludes employees compensated on an hourly basis hired after June 28, 1962. In 1999, pursuant to a CalPERS request, the Agency informed CalPERS of their use and interpretation of the hourly exclusion and clarified which employee classifications were compensated on an hourly basis. However, in 2001 the Agency approved a revision of the hourly/part-time employee classifications and as a result of this revision it is no longer clear which employees the Agency intends to exclude. OAS recommends the Agency work with CalPERS CASD to clearly define the Agency's application of the contract exclusion for hourly compensated employees.

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix A. OAS limited the test of transactions to employee samples selected from the Agency's payroll 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: February 2014

Staff: Cheryl Dietz, CPA, Assistant Division Chief

Michael Dutil, CIA, CRMA, Manager

Alan Feblowitz, CFE, Manager

Chris Wall

Monica Bynum

Jose Martinez

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APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency 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 Agency's retirement contract with CalPERS were followed.

This review covers the period of April 1, 2010 through March 31, 2013.

SUMMARY

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
 - City Council minutes and City Council resolutions
 - Agency written labor policies and agreements
 - Agency salary, wage and benefit agreements including applicable resolutions
 - Agency personnel records and employee hours worked records
 - Agency payroll information including Summary Reports and CalPERS listings
 - Other documents used to specify payrate, special compensation, and benefits for all employees
 - City ordinances as necessary
 - Various other documents as necessary
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meeting laws.
- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.

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- ✓ 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 960 hours were worked in a fiscal year.
- ✓ 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 entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

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APPENDIX B

AGENCY'S WRITTEN REPOSENSE

NOTE: The names of the individuals mentioned in the Agency's response were intentionally redacted from the response.

THE CITY OF POMONA

Finance Department

PAULA CHAMBERLAIN
Finance Director

January 21, 2014



California Public Employees' Retirement System
Margaret Junker, Chief
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Employer Code: 0191
CalPERS ID: 3335870750
Job Number: P13-003

Dear Ms. Junker,

We are in receipt of your December 18, 2013 draft report on your review of the City of Pomona compliance review and offer the following comments:

Finding 1A – The Agency under reported education incentive pay for _____. The City agrees with this finding has as resolved the issue including back pay to the employee and appropriate reporting to PERS. This was a recent benefit change and only affected the one employee.

Finding 1B – The Agency reported uniform allowances incorrectly. The City disagrees with this finding. The \$1,000 annual payment is not earned on a pay period basis as the employee must complete a full-year of employment before the payment is made. If an employee leaves employment even one-day before he/she has completed a full year, the \$1,000 uniform allowance is not due to the employee nor is it prorated in any manner. Because the employee has not 'earned' the \$1,000 until a specific date, it cannot be reported on a pay period basis.

Finding 1C – Reported compensation did not meet the criteria of special compensation. The intent of this additional compensation was to compensate the employee for assuming additional duties of an eliminated director position until the City's fiscal recovery would allow for other options. Section 571(a) of the PERL provides for this type of compensation for a limited duration but fails to define a time limit. Although _____ has been receiving this compensation since 2011, it is not the City's intent to combine these two departments. Please direct me to the appropriate section which defines 'limited duration' so that this can be resolved.

In closing, I would like to add that my staff, along with the staff within Human Resources, wish to express their appreciation for the professionalism and cooperative nature of your staff in conducting this compliance review. If you have any further questions or comments please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Paula Chamberlain".

Paula Chamberlain
Finance Director