

Office of Audit Services



Public Agency Review

City of San Marcos

Employer Code: 0910
CalPERS ID: 4284426953
Job Number: P11-027

July 2013



California Public Employees' Retirement System
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July 22, 2013

Employer Code: 0910
CalPERS ID: 4284426953
Job Number: P11-027

City of San Marcos
Donna French, Human Resources Director
1 Civic Center Drive
San Marcos, CA 92069

Dear Ms. French:

Enclosed is our final report on the results of the public agency review completed for the City of San Marcos. Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Findings 1, 4, 5, and partial agreement for Finding 6. Based on the information contained in your City's response pertaining to Findings 1, 4, 5, and 6, our recommendation remains as stated in the report; however, subsequent to the review period, we noted that the City posted an authorized pay schedule, effective January 1, 2012, on its website.

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 City 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

CITY OF SAN MARCOS

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: Payrate was not listed in a public pay schedule	3
Finding 2: Temporary part-time employee was not enrolled.....	4
Finding 3: Member was not enrolled upon employment	5
Finding 4: Retired annuitant was not reinstated	6
Finding 5: Uniforms allowance provisions were not listed in written labor policy or agreement.....	7
Finding 6: Value of uniform allowance was incorrectly reported.....	8
Finding 7: Value of Employer Paid Member Contributions (EPMC) was incorrectly reported.....	9
Finding 8: Council member was erroneously enrolled in membership. ..	10
Finding 9: Bilingual premium pay was not reported.....	11
Observation 1: Retired City Manager's compensation is Pending Administrative Appeal.	12
Conclusion	13
CalPERS Background.....	Appendix A
Objectives	Appendix B
City's Written Response	Appendix C

CITY OF SAN MARCOS

RESULTS IN BRIEF

The California Public Employees' Retirement System (CalPERS) Office of Audit Services (OAS) reviewed the City of San Marcos' (City) enrolled individuals, member compensation, retirement information 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:

- Payrate was not listed in a public pay schedule.
- Eligible part-time employee was not enrolled in membership.
- Part-time employee with prior membership was not enrolled upon employment.
- Retired annuitant exceeded 960-hours in a fiscal year and was not reinstated.
- Uniform allowance provisions were not listed in a written labor policy or agreement.
- Value of uniform allowance was incorrectly reported.
- Value of Employer Paid Member Contributions (EPMC) was incorrectly reported.
- Council member was erroneously enrolled in membership.
- Bilingual premium pay was not reported.

CITY BACKGROUND

The City incorporated in 1963 and chartered on July 4, 1994. The City operates under a Council-Manager form of government. The City Council is comprised of five council members. 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 November 15, 1972 to provide retirement benefits for local miscellaneous 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.

CITY OF SAN MARCOS

- 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.

SCOPE

As part of the Board approved plan for fiscal year 2012/2013, OAS reviewed the City's payroll reporting and member enrollment processes as these processes relate to the City's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2008 through June 30, 2011. The on-site fieldwork for this review was conducted on April 2, 2012 through April 6, 2012. The review objectives and a summary of the procedures performed are listed in Appendix B.

CITY OF SAN MARCOS

OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: Payrates were not listed in a public pay schedule.

Recommendation:

The City should list all employee payrates on a public pay schedule pursuant to Government Code 20636 and California Code of Regulations Section 570.5.

The City should work with CalPERS Customer Account Services Division (CASD) to make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The City provided a pay schedule with an effective date of January 1, 2011; however, the pay schedule did not list the payrates for the City Manager and Council Member.

Subsequently, the City provided a 2010 pay schedule, which included the payrates for the City Manager and Council Member, but the payrate listed for the City Manager did not agree with the reported payrate for the earned period 6/11-3.

We noted that subsequent to the review period, the City posted an authorized pay schedule, effective January 1, 2012, on its website.

The City Manager retired subsequent to OAS' review period (see observation on page 13).

Criteria:

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

California Code of Regulations: § 570.5

CITY OF SAN MARCOS

Finding 2: A part-time employee was not enrolled into membership.

Recommendation:

The City should enroll and report temporary/part-time employees when membership eligibility requirements are met. The City should implement procedures to review and monitor the number of hours worked in a fiscal year by all part-time employees.

The City should work with CASD to assess the impact of this membership enrollment issue and determine what adjustments are needed. CASD should make the necessary adjustments to this employee's account, along with all other eligible employee accounts pursuant to Government Code Section 20160.

Condition:

The City did not enroll a part-time employee when the 1,000-hour membership eligibility requirement was met. Specifically, a part-time employee worked a total of 1,174 hours in fiscal year 2009/2010 and reached the 1,000-hour threshold in the earned period ending May 24, 2010. As a result, the City should have enrolled the employee into CalPERS membership no later than the first day of the first pay period of the following month in which the 1,000 hours of service were completed.

Criteria:

Government Code: § 20044, § 20160, § 20305(a)(3)(B)

CITY OF SAN MARCOS

Finding 3: Member was not enrolled upon employment.

Recommendation:

The City should verify the membership status of part-time employees. If prior membership was established then part-time employees must be enrolled immediately upon employment.

The City should work with CASD to assess the impact of this membership eligibility issue and determine what adjustment is needed. CASD should make the necessary adjustments to the member's account pursuant to Government Code Section 20160.

Conditions:

The City did not enroll a part-time employee who had prior membership with CalPERS. OAS identified one part-time employee who established membership with another CalPERS employer on April 1, 2009 and was not enrolled upon employment by the City.

Criteria:

Government Code: § 20160, § 20305(a)(1)

CITY OF SAN MARCOS

Finding 4: A retired annuitant was not reinstated.

Recommendation:

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 limitation.

CalPERS Benefit Services Division (BNSD) should 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, BNSD should have the retired annuitant reimburse CalPERS for any retirement allowance received during the period of unlawful employment, pay CalPERS the employment contributions that should have been paid during the period of unlawful employment, and reimburse CalPERS for administrative expenses incurred in handling the situation.

Condition:

The City did not reinstate a retired annuitant who worked over the 960-hours threshold in a fiscal year. Specifically, OAS identified a retired annuitant who worked a total of 972 hours during fiscal year 2009/2010 and was not reinstated from retirement.

Criteria:

Government Code: § 20160, § 21220, § 21224(a)

CITY OF SAN MARCOS

Finding 5: Uniform allowance provisions were not included in a written labor policy or agreement.

Recommendation:

The City should ensure the uniform allowance provisions are defined in a written labor policy or agreement and meets the criteria for reporting special compensation items pursuant to California Code of Regulations Section 571(5)(b).

The City should work with CASD to determine the impact of not having the provisions for uniform allowance specified in a written labor agreement and determine what amendment to its labor agreement is needed.

Condition:

The City reported uniform allowance for employees who were required to wear uniforms; however, the monetary value of those uniforms was not specified in a written labor policy or agreement.

In addition, OAS identified non-reportable items included in the reported monetary value of uniforms, which is further discussed under Finding 7.

Criteria:

California Code of Regulations: § 571(a)(5)

CITY OF SAN MARCOS

Finding 6: Value of uniform allowance was incorrectly reported.

Recommendation:

The City should immediately discontinue reporting personal health and safety items as uniform allowance.

The City should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The City incorrectly reported the value of uniforms to CalPERS. According to the City's MOU, "The cost of leasing and maintaining uniforms will be borne by the City as long as the City requires uniforms to be worn by employees."

The City provided OAS a copy of the rental agreement which itemizes the uniforms rented to the employees. Personal and safety items were listed on the rental agreement, such as jackets, coveralls, and safety vests, and included in the uniform allowance that was reported to CalPERS. The City stated it was not aware the items mentioned above were not reportable items of compensation.

Uniform allowance is reportable to CalPERS provided the uniform is part of a ready substitute for personal attire the employee would otherwise have to acquire and maintain, and specifically excludes items that are solely for personal health and safety.

Criteria:

Government Code: § 20160, § 20636(c)(6)

California Code of Regulations: § 571(a)(5)

CITY OF SAN MARCOS

Finding 7: Value of EPMC was incorrectly reported.

Recommendation:

The City should report the value of EPMC on all special compensation.

The City should work with CASD to make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The City has a resolution in place to pay and report the value of EPMC at nine percent for its police, fire and safety group; however, the value of EPMC was not reported on holiday pay. The value of EPMC must be reported to CalPERS on all items of special compensation.

Criteria:

Government Code: §20160, § 20636(c)(4)

California Code of Regulations: § 571(a)(1)

CITY OF SAN MARCOS

Finding 8: Council member was erroneously enrolled into membership.

Recommendation:

The City should ensure council members are not enrolled into membership unless an election is filed with the CalPERS in writing to become a member.

The City should offer the proper form (AESB-59 Form) that allows council members to opt into CalPERS membership, and keep the form on file.

The City should work with CASD to assess the impact of this erroneous enrollment issue and determine what adjustments are needed. CASD should make the necessary adjustments to this and all other council member accounts pursuant to Government Code Section 20160.

Condition:

A council member was erroneously enrolled into CalPERS membership. The City did not offer optional CalPERS membership to its council members, but instead enrolled the council members automatically.

Government Code Section 20322(a) declares that an elected officer is excluded from membership unless the officer files with CalPERS an election in writing to become a member. This is done by having the elected officer complete an AESB-59 Form, Election of Optional Membership.

Criteria:

Government Code: § 20160, § 20322(a)

CITY OF SAN MARCOS

Finding 9: Bilingual premium pay was not reported.

Recommendation:

The City should report bilingual premium pay as special compensation in accordance with the requirements of Government Code Section 20636 and California Code of Regulations Section 571.

The City should work with CASD to determine the impact of this non-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The City did not report bilingual premium pay for a sampled employee in earned period 06/11-3. The bilingual premium pay was paid in accordance with the Service Employees International Union—Local 221 MOU and should have been reported to CalPERS as special compensation.

Criteria:

Government Code: § 20160, § 20630(a), § 20636(a), § 20636(c)(1)

California Code of Regulations: § 571(a), § 571(a)(4)

CITY OF SAN MARCOS

Observation: Pending administrative appeal for retired City Manager.

The City Manager retired subsequent to the fieldwork and filed an administrative appeal in response to CASD's denial of certain compensation items that were not included in his final compensation. The administrative appeal is in the review process. Pending the outcome of the appeal, CalPERS will make adjustments as necessary.

CITY OF SAN MARCOS

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 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 City 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: July 2013

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Michael Dutil, CIA, CRMA, Manager
Diana Thomas, CIA, CIDA, Manager
Alan Feblowitz, CFE, Manager
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Aileen Wong, Auditor

CITY OF SAN MARCOS

APPENDIX A

BACKGROUND

CITY OF SAN MARCOS

BACKGROUND

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.

CASD manages contract coverage for public agencies and receives, processes, and posts payroll information. 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. 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.

CITY OF SAN MARCOS

APPENDIX B

OBJECTIVES

CITY OF SAN MARCOS

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 contract with CalPERS were followed.

This review covers the period of July 1, 2008 through June 30, 2011.

SUMMARY

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.

- ✓ Reviewed:
 - Provisions of the Contract and contract amendments between the City and CalPERS
 - Correspondence files maintained at CalPERS
 - City Council minutes and 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 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 City payroll records and compared the records to data reported to CalPERS to determine whether the City correctly reported compensation.
- ✓ 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.

CITY OF SAN MARCOS

- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the City's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the City's enrollment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 960 hours were worked in a fiscal year.
- ✓ Reviewed the City's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the City's affiliated entities to determine if the City shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the City or by the affiliated entity.
- ✓ Reviewed the City's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

CITY OF SAN MARCOS

APPENDIX C

CITY'S WRITTEN RESPONSE

July 3, 2013

VIA FACSIMILE AND EXPRESS MAIL
(916) 795-3659

Margaret Junker, Chief
Office of Audit Services
California Public Employees' Retirement System
P.O. Box 942707
Sacramento, CA 94229-2701

Re: *Response by City of San Marcos to June 12, 2013 Draft Audit Report*
Client-Matter: SA305/201

Dear Ms. Junker:

The City of San Marcos ("City") is in receipt of the June 12, 2013 draft audit report prepared by the California Public Employees' Retirement System ("CalPERS"). The City intends to work with CalPERS' staff to make any amendments required. However, the City does dispute some of the findings and its rationale is set forth below. The City was graciously given an extension until July 10, 2013 by Adeeb Alzanon of CalPERS to provide this response.¹

FINDINGS, RECOMMENDATIONS AND CITY RESPONSE

In its draft audit report, CalPERS made the following proposed findings and corresponding recommendations. Those are repeated here and followed by the City's response.

Finding 1: Payrates were not listed in a public pay schedule.

Recommendation:

The City should list all employee payrates on a public pay schedule pursuant to California Code of Regulations Section 570.5.

The City should work with CalPERS Customer Account Services Division (CASD) to make the necessary adjustments to active and retirement member accounts pursuant to Government Code Section 20160.

¹ The City believes that it is premature to file a formal appeal at this time as no final decision has been made. However, in the event that CalPERS is of the belief that its draft audit report triggers any timeline to file a formal appeal, PERS may consider this response the City's formal appeal of its decision and request for an administrative appeal pursuant to Title 2, California Code of Regulations, section 555.1.

Margaret Junker, Chief

July 3, 2013

Page 2

City's Response to Finding and Recommendation 1:

The City disagrees with CalPERS' Finding and Recommendation. CalPERS' objection was in regard to pay schedules from 2010 and January 1, 2011, yet CalPERS cites 2 California Code of Regulations, section 570.5. That regulation was not adopted until August 2011. Payrates for the City Manager and Council Members have been posted on the City's website since 2010 and anyone who wanted to could view that information.

Subsequently, the City created a new salary schedule that does include the City Manager and City Council payrates on it in compliance with the new regulation. The salary schedule was shown to CalPERS' staff at the 2012 CalPERS conference in Long Beach, who agreed that it complied with the new regulation.

The City also disputes the assertion that payrate was reported incorrectly for the City Manager. The actual amount of payrate paid to the City Manager was the amount reported to CalPERS. While there may have been an oversight in updating the published payrate for the City Manager, it was unintentional, and as stated above, was corrected by the City prospectively and that correction was approved by CalPERS' staff. Nonetheless, the City will work with CalPERS' staff to determine the nature of the asserted misreporting and to the extent that an incorrect payrate was reported to CalPERS, the City will correct it.

Finding 2: A part-time employee was not enrolled into membership.

Recommendation:

The City should enroll and report temporary/part-time employees when membership eligibility requirements are met. The City should implement procedures to review and monitor the number of hours worked in a fiscal year by all part-time employees.

The City should work with CASD to assess the impact of this membership enrollment issue and determine what adjustments are needed. CASD should make the necessary adjustments to this employee's account, along with all other eligible employee accounts pursuant to Government Code Section 20160.

City's Response to Finding and Recommendation 2:

The City agrees with this CalPERS Finding and Recommendation, and will work with CalPERS' staff to make any necessary corrections.

Finding 3: Member was not enrolled upon employment.

Recommendation:

The City should verify the membership status of part-time employees. If prior membership was established then part-time employees must be enrolled immediately upon employment.

Margaret Junker, Chief

July 3, 2013

Page 3

The City should work with CASD to assess the impact of this membership eligibility issue and determine what adjustment is needed. CASD should make the necessary adjustments to the member's account pursuant to Government Code Section 20160.

City's Response to Finding and Recommendation 3:

The City agrees with this CalPERS Finding and Recommendation, and will work with CalPERS' staff to make any necessary adjustments.

Finding 4: A retired annuitant was not reinstated.

Recommendation:

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 limitation.

CalPERS Benefit Services Division (BNSD) should 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, BNSD should have the retired annuitant reimburse CalPERS for any retirement allowance received during the period of unlawful employment, pay CalPERS the employment contributions that should have been paid during the period of unlawful employment, and reimburse CalPERS for administrative expenses incurred in handling the situation.

City's Response to Finding and Recommendation 4:

The City disputes this Finding and Recommendation for the following reasons:

- a. the retiree inadvertently exceeded the cap by only 12 hours in 2010;
- b. there was no intent by the retiree or the City to circumvent the post-retirement work restrictions;
- c. the retiree did not exceed 960 hours in any other fiscal year; and
- d. He has not worked for the City since 2012.

Moreover, CalPERS does not indicate whether the recommendation is for reinstatement only for that period of fiscal year 2009-2010 after the 960 hour limit was exceeded or for all periods after fiscal year 2009-2010 to the present. The difference in penalties to the retiree and the City based on which of the two scenarios CalPERS is pursuing, is significant.

For the above reasons, the City asserts that given the inadvertent and immaterial nature of the alleged violation, no penalty should apply at all and the retiree not reinstated, and in no event for more than a small part of fiscal year 2009-2010.

Finding 5: Uniform allowance provisions were not included in a written labor policy or agreement.

Recommendation:

The City should ensure the uniform allowance provisions are defined in a written labor policy or agreement and meets the criteria for reporting special compensation items pursuant to California Code of Regulations Section 571(5)(b).

The City should work with CASD to determine the impact of not having the provisions for uniform allowance specified in a written labor agreement and determine what amendment to its labor agreement is needed.

City's Response to Finding and Recommendation 5:

The City disputes this Finding and Recommendation. Uniform allowance was provided to employees pursuant to an explicit provision to do so in duly adopted Memoranda of Understanding ("MOU") with applicable employee organizations. The City admits that the specific amount to be reported was not stated in the MOU. However, that fact does not preclude reporting of the uniform allowance because:

- a. The correct amount was reported to CalPERS;
- b. CalPERS' auditors were provided with copies of the City's contract with its uniform vendor and other back up data as to the cost of uniforms and their maintenance to confirm the accuracy of the City's reporting, which CalPERS' auditors were able to confirm;
- c. All of these documents were publicly available to anyone who would request to see them;
- d. The City will seek a side letter to its MOUs with applicable employee organizations to explicitly set forth the amount of uniform allowance to be reported.

Finding 6: Value of uniform allowance was incorrectly reported.

Recommendation:

The City should immediately discontinue reporting personal health and safety items as uniform allowance.

Margaret Junker, Chief

July 3, 2013

Page 5

The City should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

City's Response to Finding and Recommendation 6:

The City disputes this Finding and Recommendation to the extent it requires the City to change the reporting of uniform allowance related to jackets and coveralls. Those articles of clothing meet the requirements for reportable uniform allowance. They are a ready substitute for personal attire the employee would otherwise have to acquire and maintain. They are not solely for personal health and safety. Consequently, that value is reportable.

The City agrees that safety vests are not reportable as uniform allowance, and will work with CalPERS' staff to make any necessary adjustments.

Finding 7: Value of EPMC was incorrectly reported.

Recommendation:

The City should report the value of EPMC on all special compensation.

The City should work with CASD to make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

City's Response to Finding and Recommendation 7:

The City agrees to work with CalPERS' staff to make any necessary adjustments on the reporting of the value of EPMC.

Finding 8: Council member was erroneously enrolled into membership.

Recommendation:

The City should ensure council members are not enrolled into membership unless an election is filed with the CalPERS in writing to become a member.

The City should offer the proper form (AESB-59 Form) that allows council members to opt into CalPERS membership, and keep the form on file.

The City should work with CASD to assess the impact of this erroneous enrollment issue and determine what adjustments are needed. CASD should make the necessary adjustments to this and all other council member accounts pursuant to Government Code Section 20160.

City's Response to Finding and Recommendation 8:

This Finding and Recommendation is moot. The City has corrected its practices.

- a. All new Council Members are given the Election of Optional Membership form (PERS-AESD-59) at their orientation;
- b. All current Council Members have been given the form; and
- c. The City has already worked with CalPERS with regard to the one Council Member who CalPERS asserts was erroneously enrolled in CalPERS membership. With CalPERS' approval, he signed the necessary CalPERS paperwork to opt to retroactively enroll as a CalPERS member.

No further action is required regarding this Finding and Recommendation.

Finding 9: Bilingual premium pay was not reported.

Recommendation:

The City should report bilingual premium pay as special compensation in accordance with the requirements of Government Code Section 20636 and California Code of Regulations Section 571.

The City should work with CASD to determine the impact of this non-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

City's Response to Finding and Recommendation 9:

The City agrees with this CalPERS Finding and Recommendation, and will work with CalPERS' staff to make any necessary adjustments.

CONCLUSION

The City objects to some of CalPERS' Findings and Recommendations, as described above. However, the City is willing to work with CalPERS to provide any documentation or data it may need with regard to those items. For the rest of CalPERS' Findings and Recommendations, the City will work with CalPERS personnel to make any necessary corrections.

Margaret Junker, Chief

July 3, 2013

Page 7

Please contact me if you have any questions.

Very truly yours,

LIEBERT CASSIDY WHITMORE

A handwritten signature in cursive script that reads "Steven M. Berliner".

Steven M. Berliner

SMB:tp