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January 3, 2011

Employer Code: 0446  
Job Number: P09-039

Town of Fairfax  
Laurie Ireland-Ashley, Finance Director  
142 Bolinas Rd.  
Fairfax, CA 94930

Dear Ms. Ireland-Ashley:

Enclosed is our final report on the results of the public agency review completed for the Town of Fairfax. Your agency's written response indicates agreement with the issues noted in the report. 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, CPA, CIA, CIDA  
Chief, Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS  
Peter Mixon, General Counsel, CalPERS  
Lori McGartland, Chief, ERSD, CalPERS  
Mary Lynn Fisher, Chief, BNSD, CalPERS  
Holly Fong, Chief, EMHS, CalPERS  
Honorable Council Members, Town of Fairfax

# Town of Fairfax



## Public Agency Review



**Office of Audit Services**

**Employer Code: 0446  
Job Number: P09-039**

**January 2011**

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# TOWN OF FAIRFAX

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## RESULTS IN BRIEF

We reviewed the Town of Fairfax's (Town) 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:

- Uniform allowances were not reported for two sampled employees.
- Special compensation (solo pay) should not have been reported.
- Special compensation was incorrectly reported as regular earnings.
- Special compensation was incorrectly reported as part of base payrate and regular earnings.
- Payroll information and retirement contributions were not submitted timely.
- A temporary/part-time employee was not enrolled into membership.
- A balance of unused sick leave was not reported.
- Health enrollment and declaration of health coverage forms were not on file.
- Documentation to support a dependent's eligibility for health benefits was not on file.
- Health contribution payments were not submitted timely.
- ACES Employer User Security Agreement forms were not maintained on file and Delete ACES User Access forms were not submitted.

## 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 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

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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 Town was incorporated in 1931 and is situated near the cities of San Anselmo and San Rafael in the North Bay of the San Francisco Bay Area. The Town operates under the Council-Manager form of government and provides the following services: public safety (police), planning and building, public works and streets, park services, and general administration services. Memoranda of Understanding (MOU's) and employment agreements outline employees' salaries and benefits and state the terms of employment agreed upon between the Town and its employees.

The Town contracted with CalPERS effective July 1, 1961, to provide retirement benefits for local safety (police and fire) and miscellaneous employees; however, we found the Town did not employ fire safety employees during the review period. The Town also contracted with CalPERS to provide health benefits to eligible employees of the Police Officers Association effective June 1, 2001, the Marin Association of Public Employees effective July 1, 2001, and the Town's management employees effective October 1, 2001.

## **SCOPE**

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the Town's payroll reporting and enrollment processes as these processes relate to the Town's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the Town 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 from February 22, 2010, through February 25, 2010.

The review period was limited to the examination of sampled records and processes from October 1, 2006 through September 30, 2009. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the Town had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the Town had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the Town's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the Town's payroll register with the data reported to CalPERS to determine whether the Town correctly reported employees' compensation.
- ✓ Reviewed the Town's payroll information reported to CalPERS for the sampled employees to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the Town'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 Town'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 Town's classification of employees to determine whether the Town reported employees in the appropriate coverage groups.
- ✓ Reviewed the Town's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the Town's calculation and reporting of unused sick leave balances for retiring members.
- ✓ Reviewed employees and their dependents to determine whether the Town properly enrolled eligible individuals into CalPERS Health Benefits Program.

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## TOWN OF FAIRFAX

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- ✓ Reviewed health contribution payment information to determine whether the Town remitted payments within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the Town contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the Town 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 Town may not accurately report compensation to CalPERS.</p>	<p>Payroll records and compensation reported to CalPERS for a sample of 11 employees were reviewed over two service periods. The service periods reviewed were May 2009 (5/09-0) and September 2009 (9/09-0).</p> <p>The earnings reported to CalPERS during these two periods were reconciled to the Town's payroll records. The Town accurately reported compensation to CalPERS for the sampled employees, except in the following instances:</p> <p><u>Uniform Allowance</u></p> <p>The Town correctly reported a \$350.00 semi-annual uniform allowance for sampled police employees in service period 5/09-0. However, the Town did not report a uniform allowance for a police management employee.</p> <p>Town records showed the employee was paid a \$650.00 uniform allowance in June 2009. Town staff explained the \$650.00 included the same allowance received by police officers, plus an additional \$300.00 for the replacement of</p>	<p>The Town should ensure uniform allowances are reported for all employees required to wear a uniform.</p> <p>The Town should work with CalPERS ERSD to assess the impact of this non-reporting and determine what adjustments, if</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The Town may not accurately report compensation to CalPERS. (continued)</p>	<p>a worn out uniform. The uniform allowance should have been reported as special compensation.</p> <p>Also, the Town's MOU with the Service Employees International Union Local 949 (SEIU) stated that an annual uniform allowance of \$425 was to be paid in November for maintenance employees. We selected an employee from the SEIU group and verified the Town paid the \$425 uniform allowance in November 2008; however, the allowance was not reported to CalPERS in the November 2008 service period. Town staff explained the uniform allowance was reported later as part of a reconciliation adjustment in July 2009. However, as of March 2010, the adjustment had not posted at CalPERS. Therefore, we were unable verify the Town properly reported the uniform allowance.</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>California Code of Regulations, § 571(a)(5), defines uniform allowance as, "Compensation paid or the</p>	<p>any, are needed.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the Town and CalPERS ERSD as an appendix to our draft report.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The Town may not accurately report compensation to CalPERS. (continued)</p>	<p>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 solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes.”</p> <p><u>Solo Pay</u></p> <p>The Town incorrectly reported solo pay in the amount of \$48.06 for a sampled police employee in service period 5/09-0.</p> <p>Specifically, the compensation paid to the police officer for working solo should not have been reported because it did not meet the definition of solo patrol premium as defined in the California Code of Regulations, § 571(a)(4), which explains that solo pay is reportable to CalPERS when paid to police officers who are routinely and consistently assigned to patrol alone in vehicles. According to Town police management staff, however, Town police officers were not routinely scheduled to work solo; but, were paid additional compensation when required to work solo as a result of co-workers being out sick, injured, etc.</p>	<p>The Town should not report special compensation unless the compensation meets the definition listed in the California Code of Regulations, § 571.</p> <p>The Town 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 individual mentioned in this section of the report has been sent to the Town and CalPERS</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The Town may not accurately report compensation to CalPERS. (continued)</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.”</p> <p>California Code of Regulations, § 571(a), provides a list that, “exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a written labor policy or agreement.” Solo patrol premium is defined at § 571(a), as "Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to patrol alone in vehicles."</p>	<p>ERSD as an appendix to our draft report.</p>
<p>2. The Town may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed payrates reported for the 11 sampled employees in service period 9/09-0, and reconciled the payrates to the Town’s public salary information to determine whether the employees’ payrates were properly authorized and reported to CalPERS. We found the sampled employees’ base payrates were paid and reported pursuant to public salary schedules; however, the payrates included several types of special compensation. This issue is discussed below in risk 3.</p>	<p>None.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The Town may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the CalPERS payroll listing and examined the payroll elements reported for sampled employees in service period 9/09-0. The elements consisted of work schedule codes, pay codes, contribution codes and service period types. We also reviewed the accuracy of payroll information reported to CalPERS for the sampled employees in service periods 5/09-0 and 9/09-0. The payroll information consisted of regular earnings, special compensation and payrates. Our sample testing showed the Town accurately reported compensation to CalPERS for the sampled employees, except in the following instances:</p> <p><u>Special Compensation was Incorrectly Reported as Regular Earnings</u></p> <p>The Town incorrectly reported special compensation as regular earnings. Specifically, several sampled employees received a semi-annual payment for uniform allowance and holiday pay in the 5/09-0 pay period. Also, one employee received a monthly payment for graveyard pay in the same period. However, the Town incorrectly reported these special compensation payments as regular earnings, using pay code 01 and the employees' full payrate.</p>	<p>The Town should report special compensation separately, using pay code 09, and with a payrate equal to earnings.</p> <p>The Town 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 individuals mentioned in this section of the report has been sent to the Town and CalPERS ERSD as an appendix to our draft report.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The Town may not accurately report payroll information to CalPERS. (continued)</p>	<p>The special compensation should have been reported using pay code 09 with the amount of the special compensation indicated in the payrate and earnings fields.</p> <p><u>Special Compensation was Incorrectly Reported as Part of Base Payrate and Regular Earnings</u></p> <p>The Town incorrectly reported special compensation as part of base payrate and regular earnings. Specifically, monthly payments for longevity pay, educational pay, and corporal pay were incorrectly reported as part of base payrate and regular earnings for several sampled employees in both of the service periods reviewed, 5/09-0 and 9/09-0.</p> <p>Government Code, § 20636, states “(a) ‘Compensation earnable’ by a member means the payrate and special compensation of the member....(b)(1) ‘Payrate’ means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.”</p> <p>Government Code, § 20636(c)(1), states, “Special compensation of a member includes a payment received</p>	

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The Town may not accurately report payroll information to CalPERS. (continued)</p>	<p>for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.”</p> <p>CalPERS Procedures Manual, page 71, states, “All special compensation is required to be reported separately as special compensation, as it is earned.”</p>	
<p>4. The Town may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>In December 2009, prior to the on-site fieldwork, CalPERS records indicated the Town had not submitted summary reports or remitted retirement contributions for August 2009 (8/09-0) and September 2009 (9/09-0), the last two service periods of the review period. Additionally, the Town had 18 instances of late payroll reporting during the review period. California Code of Regulations, § 565 and 565.1, require retirement contributions to be received at CalPERS within 15 days of the close of the pay period and summary reports to be received within 30 days of the close of the pay period.</p> <p>During the on-site fieldwork, review of Town records showed the Town remitted the August 2009 retirement contribution, in the amount of \$59,991.76, through an Electronic Fund Transfer (EFT) on February 20, 2010, with a debit date of February 23, 2010. The contribution was more than four months late. Also, the September 2009 retirement contribution, in the amount of \$56,066.00, was remitted through an EFT on February 20, 2010, with a</p>	<p>The Town should implement procedures to ensure payroll information and retirement contributions are reported timely to CalPERS.</p> <p>The Town should work with CalPERS ERSD to assess the impact of this late payroll reporting and determine what adjustments, if any, are needed.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The Town may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>debit date of February 23, 2010. The contribution was more than three months late. The summary reports and contributions posted on February 24, 2010.</p> <p>Additionally, we judgmentally selected five service periods, from January through May 2009, for review. This sample testing showed:</p> <ul style="list-style-type: none"> <li>• The Town was late submitting summary reports in four instances. The late reporting ranged from 8 - 64 days.</li> <li>• The Town was late remitting retirement contributions in three instances. The late reporting ranged from 23 - 78 days.</li> </ul> <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, "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>	

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The Town may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Optional Membership</u></p> <p>Town council members were eligible for optional membership. We selected one council member who elected membership and confirmed the council member had been properly enrolled and earnings had been correctly reported to CalPERS.</p> <p><u>Excluded Employees</u></p> <p>We reviewed an elected official, the Town Treasurer, who was excluded from membership pursuant to Government Code, § 20322. The elected official was not offered membership with CalPERS and was properly excluded from membership.</p> <p><u>Temporary/Part-time Employees</u></p> <p>The contract between CalPERS and the Town indicated that employees who were compensated on an hourly basis were excluded from membership. We reviewed various records and correspondence between CalPERS and the Town and found that the Town had advised CalPERS that the contract exclusion applied to temporary part-time employees who worked less than 1,000 hours in a fiscal year. We selected three temporary/part time employees</p>	<p>None.</p> <p>None.</p> <p>The Town should monitor the hours worked by temporary/part-time employees from July 1 through June 30 each fiscal year and enroll employees into CalPERS membership when they reach 1,000 hours worked in a fiscal year.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The Town may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>who were compensated on an hourly basis for review and found the following:</p> <ul style="list-style-type: none"> <li>• One employee was a CalPERS member. The employee was properly enrolled into membership upon working 1,000 hours in a fiscal year.</li> <li>• One employee worked less than 1,000 hours in a fiscal year and was properly excluded from membership.</li> <li>• One employee worked more than 1,000 hours in a fiscal year, but was not enrolled into membership. The employee worked a total of 1,056 hours in fiscal year 2008/2009 and worked 1,000 hours as of June 2009.</li> </ul> <p>Government Code, § 20305, states, in part, “(a) An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless: (3)(B) The person...completes 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which...1,000 hours of service were completed.”</p> <p>Government Code, § 20044, defines a fiscal year as, “Any year commencing on July 1<sup>st</sup> and ending with June 30<sup>th</sup>”</p>	<p>The Town should work with CalPERS ERSD to assess the impact of not enrolling the employees and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the individual mentioned in this section of the report has been sent to the Town and CalPERS ERSD as an appendix to our draft report.</p>

## TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The Town may not enroll all eligible employees into CalPERS membership. (continued)	<p>next following.”</p> <p><u>Independent Contractor</u></p> <p>We reviewed the Town’s IRS 1099 Miscellaneous Income forms for calendar years 2007 and 2008 in order to identify employees that may be misclassified as independent contractors. No individuals met our testing criteria; therefore, none were selected for further review.</p>	
6. The Town may unlawfully employ retired annuitants.	We identified two retired annuitants who were employed during the review period. We determined the Town lawfully employed both of the sampled retired annuitants per Government Code § 21224 and 21228.	None.
7. The Town may not appropriately report members under the proper coverage group code.	We judgmentally selected a sample of seven Town members for review and determined the Town reported the members under the appropriate member coverage group code.	None.
8. The Town may not appropriately process industrial disability retirement determinations and appeals for safety members.	We reviewed the Town’s procedures for processing applications for industrial disability retirement. We identified one safety member who applied for industrial disability retirement during our review period and found the Town made the determination within the required timeframe in accordance with Government Code, § 21156.	None.

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The Town may not accurately certify unused sick leave balances for retiring CalPERS members.</p>	<p>The Town provided the optional contractual provision of Government Code, § 20965, credit for unused sick leave. We reviewed a sample of two Town employees who retired during the review period and found the balance of unused sick leave was not reported for one employee. Specifically, the employee retired with 22 days of unused sick leave; however, the Town did not certify the unused sick days to CalPERS.</p> <p>Government Code, § 20965, states, “A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member’s retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.”</p>	<p>The Town should ensure unused sick leave balances are accurately certified for retiring members.</p> <p>An Amended Employer Certification (BSD-200A) form should be submitted to CalPERS if the Town becomes aware of any discrepancies from the initial certification.</p> <p>The Town should work with CalPERS BNSD to assess the impact of this non-reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the individual mentioned in this section of the report has been sent to the Town and CalPERS BNSD as an appendix to our draft report.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The Town may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>We reviewed a sample of five employees to assess the health benefits eligibility and enrollment of members and their dependents. Our sample testing revealed the following:</p> <ul style="list-style-type: none"> <li>• The Declaration of Health Coverage (HB-12A) form and the Health Benefits Plan Enrollment (HBD-12) form were not on file for the five sampled employees. Three employees had been enrolled in health benefits, one employee had canceled health benefits, and one employee was not enrolled for health benefits.</li> <li>• In addition, a copy of an Affidavit of Eligibility Form (HBD-35) was not on file to support the enrollment of an employee's dependent enrolled as an economically dependent child.</li> </ul> <p>California Code of Regulations, § 599.500(f), states, "Enroll means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan."</p> <p>California Code of Regulations, § 599.500(h), states, "Register not to enroll means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing not to be enrolled in a health benefits plan."</p>	<p>The Town must ensure that the proper member and dependent enrollment documentation is on file at the Town within 60 days from the date of our final report. Additionally, the Town should not enroll an economically dependent child for health benefits unless the employee has provided a certified copy of the Affidavit of Eligibility form (HBD-35).</p> <p>The Town must also ensure all employees' dependents have met eligibility requirements prior to enrollment for health benefits.</p> <p>Please send an email to: <i>HBB_Audit_Services@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>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The Town may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>The HB-12A is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA) and provides information on enrollment options and consequences for non-enrollment. Beginning 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. Employers must provide the HB-12A at the time the employee requests enrollment or with the HBD-12 form and must provide the employee a copy of the signed form, keeping the original in the employee's file.</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."</p> <p>California Code of Regulations, § 599.500(n), states, in pertinent part, "A child attains the status of 'family member' at birth. In addition to 'family member' as defined in section 22775, Government Code, 'family member' includes any unmarried child who is economically dependent upon the employee or annuitant."</p>	<p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the Town and CalPERS HBB as an appendix to our draft report.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The Town may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>CalPERS Health Benefits Program General Reference Manual, page 03-03, states, in part, "<i>An Affidavit of Eligibility</i> (HBD-35) is required to enroll an <i>economically dependent</i> child who resides with the employee in a regular parent-child relationship."</p> <p>CalPERS Health Benefits Program General Reference Manual, page 03-03, further states, "The California Public Employees Retirement System (CalPERS), as well as the contracting public agencies have a fiduciary responsibility to manage the CalPERS Health Benefits Program in a cost-effective manner. To assure that only eligible dependents are covered, 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>Government Code, § 20085, states, in part, "(a) It is unlawful for a person to do any of the following: (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system. (b) For purposes of this section, 'statement' includes, but is not limited to, any</p>	

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>10. The Town may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system. (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine. (d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system...for the amount of the benefit unlawfully obtained."</p>	
<p>11. The Town may not contribute the appropriate health contribution amounts for active employees.</p>	<p>We reviewed May 2009 health contribution information for one sampled employee. We determined the Town contributed more than the required health contribution amount.</p>	<p>None.</p>
<p>12. The Town may not remit health contributions within the required timeframe.</p>	<p>We reviewed the October 2008 through September 2009 period to determine whether the Town remitted health contributions within the required timeframe. The contributions were to be received by CalPERS by the 10th day of the month for which the contributions were due. Town records showed health contributions were not submitted timely in seven instances. Specifically:</p>	<p>The Town should ensure health contributions are received by CalPERS no later than the 10th day of each month for the month in which the payments are due.</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>12. The Town may not remit health contributions within the required timeframe. (continued)</p>	<ul style="list-style-type: none"> <li>• The contribution for October 2008 was 71 days late.</li> <li>• The contribution for November 2008 was 41 days late.</li> <li>• The contribution for December 2008 was 11 days late.</li> <li>• The contribution for April 2009 was 3 days late.</li> <li>• The contribution for May 2009 was 20 days late.</li> <li>• The contribution for July 2009 was 19 days late.</li> <li>• The contribution for September 2009 was 34 days late.</li> </ul> <p>Government Code, § 22899(a), states, in part, "The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due."</p>	
<p>13. The Town may not maintain appropriate ACES security procedures.</p>	<p>We reviewed security procedures for the Town'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 found the Town took reasonable precautions to maintain the secrecy of the employees' passwords and user IDs. However, the Town did not retain Employer User Security Agreement (AESD-43) forms on file for ACES users. In addition, the Town did not complete or submit Delete Aces User Access (AESD-42) forms for two</p>	<p>The Town should ensure that all ACES Employer User Security Agreement and deletion forms are appropriately completed and retained in a secure worksite location for the life of an Agreement and for two years following deactivation or termination of an Agreement.</p> <p>A confidential list identifying the individuals mentioned in this</p>

# TOWN OF FAIRFAX

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>13. The Town may not maintain appropriate ACES security procedures. (continued)</p>	<p>individuals who had been disabled by the Town from accessing ACES.</p> <p>CalPERS ACES security procedures outlined on the CalPERS website at <a href="http://www.calpers.ca.gov">www.calpers.ca.gov</a> 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. 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 sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.</p> <p>CalPERS ACES User Guide, page 107, states that to comply with the CalPERS ACES Security Agreement, "It is the ACES Account Administrator's responsibility to: Have a signed...AESD-43 form on file for each employee with ACES access. Maintain...for the duration an employee is an active ACES user...PLUS two (2) years following the deactivation or termination of the Agreement. Immediately disable the ACES access of any employee no longer needing access, leaving employment, or taking an extended leave of absence....electronically send the</p>	<p>section of the report has been sent to the Town and CalPERS ERSD as an appendix to our draft report.</p>

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## TOWN OF FAIRFAX

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
13. The Town may not maintain appropriate ACES security procedures. (continued)	...AESD-42 form to CalPERS....Maintain a copy...on file for two years after the user has been deleted from your agency's ACES User List.”	

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# TOWN OF FAIRFAX

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## 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 Town'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,

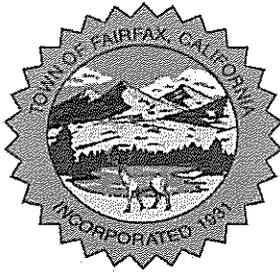
Original Signed by Margaret Junker  
Margaret Junker, CPA, CIA, CIDA  
Chief, Office of Audit Services

Date: January 2011

Staff: Michael Dutil, CIA, Senior Manager  
Jacque Conway, CPA, CIA, CGFM, Manager  
Kelly Dotters Rodriguez  
Alan Feblowitz

# APPENDIX

## TOWN'S WRITTEN RESPONSE



**TOWN OF FAIRFAX**  
142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453-1584 Fax (415) 453-1618

December 18, 2010

CalPERS  
Office of Audit Services  
Margaret Junker, CPA, CIA, CIDA, Chief  
P.O. Box 942701  
Sacramento, Ca 94229-2701

Dear Ms Junker,

Enclosed please find the Town of Fairfax response to the draft CalPERS audit. I appreciate all of the great effort on the part of Alan Feblowitz and the rest of your team to make this happen.

As you may be aware, when I inherited this position I found that there seemed to be a variance between how the payroll should have been reported, and how it was being reported. The first year I tested showed that the Town had under and over stated to the amount of approx \$8,000. This prompted my request for an audit of the three years in question, which expanded to four.

The audit confirmed what the internal audit had shown and now we have official direction to make the required changes and make this correct for our employees. I have documented all of the procedures and requirements so that in the event I win the lottery and move to the South of France the next person in Fairfax will be able to perform the functions exactly as they should be and the Town will continue in a forward motion. Thank you for all your efforts on our and our employee's behalf to put us on the right road.

Sincerely,

Laurie Ireland-Ashley  
Finance Director  
Town of Fairfax

## Town of Fairfax Management Response CalPERS Audit

The Town performed an internal audit on the CalPERS payroll reporting from the month of June '06 to June '09 and found that the payroll data being collected was not being accurately reported to CalPERS, and that the base salaries (regular earnings) were being reported with special compensation being included rather than reported separately. The Town wanted an outside third party confirmation of the findings before proceeding with required adjustments, so the Town requested an audit from CalPERS for the time periods in question. Meanwhile, the Town continued to process the payroll reporting the same way as the Town was advised by CalPERS that any necessary adjustments and assumptions should wait until the outcome of the CalPERS audit and confirmation.

Fortunately, the Town was lucky and a CalPERS audit was scheduled quickly and the field work started. The Town is grateful for the work of auditor, Alan Feblowitz, who not only was able to confirm the Town's findings, but also pointed out other ways that the Town needed to tighten our compliance. We were able to arrive at our goal of complete understanding on our requirements, adjustments required, and an agreed upon game plan to follow. The Town is creating a procedures manual that will remain with the Town so that all current and future staff understand the necessary steps for the CalPERS reporting – both Health Care and Retirement. The Town will continue to work with CalPERS to record the appropriate adjustments for all personnel for the time periods in question.

Please find below a specific response listing to the audit items.

### Exceptions:

1. Compensation Reporting – The Town was aware of the Uniform reporting variance, along with the monetary adjustments that were made of the ASED-626 for July 2009, however, after speaking with the CalPERS staff it was agreed to postpone the actual individual adjustments until the confirmation of this audit. The Town was not aware that the Solo pay did not qualify until this audit. Will be noted for future reference the reasons for Solo pay and reported only if it matches the required specifications.
2. None
3. Payroll Reporting – the Special Compensation reported in error as part of the Regular Earnings is the very item that caused the Town to both perform the internal audit and request the CalPERS one. The Town will work with CalPERS to make all the individual adjustments and has reviewed with the field auditor, Alan Feblowitz, the proposed Town spreadsheet to make sure that we are making the correct payroll recognition.

4. Payroll Reports and Retirement Contribution Payments – The Town had an unexpected cash flow situation that prohibited us from contributing to the Retirement Contributions in a timely fashion. The Town has agreed that should that ever happen again the Town will inform CalPERS in regards to the delayed funding and report the payroll in a timely manner but without the funding.
5. Membership: - Optional – None; Elected – None; Temporary/Part-Time – The one part-time employee who failed the audit (two passed) was mistakenly utilized by the department without knowledge that there was an hour cap to watch. The Town has taken steps to insure that all departments are aware of the 1000 hour cap and monitor for it. Independent Contractor – None.
6. None
7. None
8. None
9. Unused Sick Leave Certification – The Town was unaware of the reporting requirements at the point that one member separated from the Town. The Town has incorporated this requirement into the procedures to insure that all Unused Sick Leave is correctly reported going forward as was demonstrated by the second individual audited who passed the test. The Town will report all required adjustments to CalPERS.
10. Health Enrollment – The Town has modified its procedures to ensure that we collect a HB-12A and HBD-12 from every employee. The Town will request dependent form HBD-35 for all applicable employees. Corrections will be submitted to CalPERS.
11. None
12. Health Contribution Payments - The Town had an unexpected cash flow situation that prohibited us from contributing to the Health Contributions in a timely fashion. The Town has agreed that should that ever happen again the Town will inform CalPERS in regards to the delayed funding and work with CalPERS in whatever way is necessary.
13. Automated Communication Exchange System – The Town was not aware that we were required to have an AESD-43 form on file for each user, and to complete an ASED-42 for each deleted user. The Town has modified the procedures accordingly and filled out the ASED-43 for the current users.

Once again, let us take the opportunity to thank you for the clarity provided by the audit and the Town looks forward to the final individual adjustments and resolution to the employees reported balances.