

## ***Audit Committee Agenda***

### **REGULAR MEETING**

**TUESDAY, MAY 14, 2019**

**TIME: 9:00 A.M.**

### **MEETING LOCATION:**

LACERS Ken Spiker Boardroom  
202 West First Street, Suite 500  
Los Angeles, California 90012-4401

Live Committee Meetings can be heard at: (213) 621-CITY (Metro), (818) 904-9450 (Valley), (310) 471-CITY (Westside), and (310) 547-CITY (San Pedro Area).

Chair:	Elizabeth Lee
Committee Members:	Sung Won Sohn Michael Wilkinson
Manager-Secretary:	Neil M. Guglielmo
Executive Assistant:	Ani Ghoukassian
Legal Counselor:	City Attorney's Office Retirement Benefits Division

Sign Language Interpreters, Communication Access Real-Time Transcription, Assistive Listening Devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. Due to difficulties in securing Sign Language Interpreters, five or more business days' notice is strongly recommended. For additional information, please contact: Board of Administration Office at (213) 473-7169.

- I. PUBLIC COMMENTS ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION
- II. [APPROVAL OF MINUTES FOR THE AUDIT COMMITTEE MEETING OF MARCH 26, 2019 AND POSSIBLE COMMITTEE ACTION](#)
- III. [CONTINUED CONSIDERATION OF CONTRACTOR DISCLOSURE POLICY AND POSSIBLE COMMITTEE ACTION](#)
- IV. [RECEIVE AND FILE - EXCESS BENEFITS PROGRAM – INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES](#)
- V. OTHER BUSINESS
- VI. NEXT MEETING: The next Audit Committee meeting is not scheduled at this time, and will be announced upon scheduling.
- VII. ADJOURNMENT



**Board of Administration Agenda**

**SPECIAL MEETING**

**TUESDAY, MAY 14, 2019**

**TIME: 9:00 A.M.**

**MEETING LOCATION:**

LACERS Ken Spiker Boardroom  
202 West First Street, Suite 500  
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President:	Cynthia M. Ruiz
Vice President:	Elizabeth L. Greenwood
Commissioners:	Elizabeth Lee Sandra Lee Nilza R. Serrano Sung Won Sohn Michael Wilkinson
Manager-Secretary:	Neil M. Guglielmo
Executive Assistant:	Ani Ghoukassian
Legal Counsel:	City Attorney's Office Retirement Benefits Division

- I. PUBLIC COMMENTS ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION
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- IV. RECEIVE AND FILE - EXCESS BENEFITS PROGRAM – INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES
- V. OTHER BUSINESS
- VI. NEXT MEETING: The next Audit Committee meeting is not scheduled at this time, and will be announced upon scheduling.
- VII. ADJOURNMENT

MINUTES OF THE REGULAR MEETING  
**AUDIT COMMITTEE**  
BOARD OF ADMINISTRATION  
LOS ANGELES CITY EMPLOYEES' RETIREMENT SYSTEM

LACERS Ken Spiker Boardroom  
202 West First Street, Suite 500  
Los Angeles, California

March 26, 2019

**Agenda of: May 14, 2019**  
**Item No: II**

2:00 p.m.

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PRESENT:	Chairperson:	Elizabeth Lee
	Committee Member:	Sung Won Sohn Michael Wilkinson
	Manager-Secretary:	Neil M. Guglielmo
	Executive Assistant:	Ani Ghoukassian
	Audit Manager:	Rahoorf "Wally" Oyewole
	Legal Counselor:	Anya Freedman

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*The Items in the Minutes are numbered to correspond with the Agenda.*

I

PUBLIC COMMENTS ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION – Chair Elizabeth Lee asked if any persons wished to speak, to which there was no response and no public comment cards were received.

II

APPROVAL OF MINUTES FOR THE AUDIT COMMITTEE MEETING OF OCTOBER 23, 2018 AND POSSIBLE COMMITTEE ACTION – A motion to approve the Minutes was moved by Committee Member Sohn, and adopted by the following vote: Ayes, Committee Members Sohn, Wilkinson, and Chair Elizabeth Lee -3; Nays, None.

III

CONSIDERATION OF CONTRACTOR DISCLOSURE REPORTING POLICY AND COMMITTEE ACTION – Rahoorf "Wally" Oyewole, LACERS Departmental Audit Manager, presented this item to the Committee. Committee Member Wilkinson moved approval, and adopted by the following vote: Ayes, Committee Members Sohn, Wilkinson, and Chair Elizabeth Lee -3; Nays, None.

IV

OTHER BUSINESS: There was no further discussion.

V

NEXT MEETING: Chair Elizabeth Lee announced that the next Audit Committee Meeting is not scheduled at this time, and will be announced upon scheduling.

VI

ADJOURNMENT: There being no further business before the Committee, Chair Elizabeth Lee adjourned the Meeting at 2:15 p.m.

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Elizabeth Lee  
Chairperson

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Neil M. Guglielmo  
Manager-Secretary



**Report to Audit Committee**

*Rahoof Oyewole*

Agenda of: **MAY 14, 2019**

From: Rahoof "Wally" Oyewole, Dept. Audit Manager

ITEM: **III**

**SUBJECT: CONTINUED CONSIDERATION OF CONTRACTOR DISCLOSURE REPORTING POLICY AND POSSIBLE COMMITTEE ACTION**

Recommendation:

That the Committee considers the draft LACERS' contractor disclosure reporting policy (Attachment 1), and recommend it to the Board for approval.

Discussion:

At the March 26, 2019 meeting, the Committee directed staff to move forward with drafting an enhanced contractor disclosure policy. The new policy would require contractors to disclose all potential conflicts of interest issues that may occur after contracts are awarded, and/or during the period of engagement with LACERS.

Staff has completed drafting the policy (Attachment 1). The draft is modeled after LAFPP's current disclosure policy. To help facilitate smooth implementation, staff incorporated policy language, substantially the same as LAFPP's. The draft has been preliminarily reviewed by the City Attorney and recommended changes were incorporated into the policy. Staff is seeking Committee's consideration and approval of this enhanced disclosure proposal. Should the Committee have further suggestions to enhance the policy, staff will incorporate those changes in consultation with the City Attorney before finalizing the policy document.

*Strategic Impact Statement*

Periodic disclosure policy would assist the Board in meeting its Governance Goal to "uphold good governance practices which affirm transparency, accountability and fiduciary duty," by providing an ongoing mechanism for the Board to evaluate conflicts of interest that could potentially affect fiduciaries' independence and objectivity with respect to their duties to LACERS.

This report was prepared by Rahoof "Wally" Oyewole, Departmental Audit Manager, Internal Audit Section.

RO

Attachment: 1) LACERS DRAFT Contractor Disclosure Reporting Policy

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

#### CONTRACTOR DISCLOSURE REPORTING POLICY

##### A. PURPOSE

It is LACERS' policy for Contractors to disclose conflicts of interest - - actual, potential, and perceived.

The goal of this Policy is to prevent impropriety or the appearance of impropriety, to provide transparency and confidence in LACERS' decision-making process, and to help ensure that investment and procurement decisions are made solely on the merits of the goods or services proposed to be provided by Contractors to LACERS.

This Policy sets forth the circumstances under which LACERS requires the full and timely periodic disclosure of ex parte communications with, relationships with, and payments to, entities such as placement agents, third party marketers, lobbyists, and other Intermediaries. This Policy is intended to apply broadly to all Contractors with whom LACERS conducts business.

This Policy shall apply in addition to, and is intended to supplement, LACERS' Marketing Cessation policy, Third Party Marketer Compliance policy, Conflict Governance policy; any applicable state and City ethics, campaign finance, and lobbying laws found in the City's Charter, Governmental Ethics, Lobbying, and Campaign Finance Ordinances; the California Political Reform Act; and the California Constitution. Unless otherwise specified or required by the context, all terms used but not defined herein shall have the same meanings ascribed to them in **Appendix A**.

The Board recognizes that the flow of communication through staff between Contractors or Consultants and Board members is beneficial to the conduct of LACERS business. However, there are instances wherein Contractors or Consultants may have ex parte communications directly with Board members. In those instances where the ex parte communication reasonably might give the appearance of being an attempt to influence the outcome of a Board or staff decision or Consultant recommendation, the Board recognizes that there might be the potential for misunderstanding, misinformation, or conflicting instructions, and therefore such communications reasonably could be interpreted as inappropriately affecting the Board, staff, or Consultant. Such communications do not always rise to the level of "Undue Influence" as defined in this policy, but nevertheless are subject to disclosure.

##### B. APPLICATION AND EXCLUSIONS

###### 1. APPLICATION

This policy applies to all agreements with Contractors that are entered into after the date this Policy is adopted. Additionally, this Policy applies to existing agreements with Contractors if, after the date this Policy is adopted, (a) the term of the agreement is extended, (b) there is any increased commitment of funds by LACERS pursuant to the existing agreement, or (c) there is an amendment to the substantive terms of an existing

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

agreement, including the fees or compensation payable to the Contractor to the extent that LACERS' consent is required.

#### 2. EXCLUSIONS

The following contracts are excluded from this Policy:

- 1) Contracts in the amount of \$20,000 or less and for not more than a one-year period for which the Board has authorized the General Manager to approve service agreements, pursuant to Administrative Code section 10.1.1.
- 2) Low cost equipment maintenance agreements and service for equipment repair. "Low cost" is defined as \$2,000 or less.
- 3) Contracts for which contract terms are less than 3 months in duration.
- 4) City or state contracts/agreements for which LACERS utilizes the existing City or state contract or agreement.

#### C. CAMPAIGN CONTRIBUTION - PERIODIC DISCLOSURE

Except as otherwise provided in this policy, every Contractor shall disclose any and all monetary contributions and/or other financial benefits made directly or indirectly by such Contractor and/or any of its Officers, marketing representatives, relationship representatives, portfolio managers, members of the investment committee, and/or Intermediaries (and, in the case of individuals, the Family Members of any of them) that are involved with the product or service provided, or sought to be provided, to LACERS, to any Elected Official, Candidate, Appointed Official or Applicable City Employee (collectively, "Contractor Campaign Contribution Disclosure"). Such Contractor Campaign Contribution Disclosures shall include contributions made during the twenty-four month period prior to Board approval of a new agreement or investment, or extension of or amendment to an existing agreement, or an increase in funding of an existing investment commitment. Except for private equity general partners, Contractors shall also disclose any monetary contributions and/or financial benefits paid during the term of the agreement or investment on a semi-annual basis.

For each such monetary contribution or financial benefit, the Contractor Campaign Contribution Disclosure shall include the following information:

- (1) The name and address of the contributor and the connection to the Contractor;
- (2) The name and title of each person receiving the contribution and the name of the Elected Official, Candidate, or Appointed Official or person for whose benefit the contribution was made;
- (3) The amount of the monetary contribution or financial benefit; and
- (4) The date of the monetary contribution or financial benefit.

Exemption: Monetary contributions and/or financial benefits given by any person to an Elected Official or Candidate for whom such person was entitled to vote at the time of the contributions and which in the aggregate do not exceed \$100 to any one Elected Official or Candidate per election are not required to be reported pursuant to this disclosure policy.

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

#### D. OTHER CONTRIBUTIONS/PAYMENTS - PERIODIC DISCLOSURE

Every Contractor shall disclose any and all monetary contributions and/or other financial benefits, including but not limited to contributions to charitable organizations, not covered by other sections of this Policy. The contributions/benefits to be disclosed can be made directly or indirectly by such Contractor and/or any of its Officers, marketing representatives, relationship representatives, portfolio managers, investment committee members, and/or Intermediaries (and, in the case of individuals, the Family Members of any of them) that are involved with the product or service provided, or sought to be provided, to LACERS.

Disclosure shall include monetary contributions and/or other financial benefits which were solicited directly or indirectly by any Elected Official, Candidate, Appointed Official, or Applicable City Employee. Disclosure shall also include situations where contributions/benefits were made to an organization of which any Elected Official, Candidate, Appointed Official or Applicable City Employee is, to the best knowledge of the person paying the monetary contribution or financial benefit, an officer, employee, or member of the board of directors, advisory board, or any similar board or committee (collectively, "Contractor Miscellaneous Contribution Disclosures").

Such Contractor Miscellaneous Contribution Disclosures shall include contributions made during the twenty-four month period prior to Board approval of a new agreement or investment, or extension of or amendment to an existing agreement, or an increase in funding of an existing investment commitment. For private equity partnerships, disclosure information for the prior twenty-four month period shall be provided at the time the Board considers a new or additional investment in a private equity fund. Except for private equity general partners, Contractors shall also disclose any monetary contributions and/or financial benefits paid during the term of the agreement or investment on a semi-annual basis.

For each such monetary contribution and/or financial benefit, the Contractor Miscellaneous Contribution Disclosure shall include the following information:

- (1) The name and address of the contributor and the connection to the Contractor;
- (2) The name of the organization and the name and title of each person receiving the contribution, and the name of the Elected Official, Candidate, or Appointed Official or person for whose benefit the contribution was made;
- (3) The amount of the monetary contribution or financial benefit; and
- (4) The date of the monetary contribution or financial benefit.

#### E. APPLICABILITY OF SECTIONS C AND D

Disclosures required by Sections C and D of this Policy include, but are not limited to, any monetary contribution or financial benefit to any of the following:

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

1. Any Elected Official (and any of his or her controlled committees), Candidate (and any of his or her controlled committees), Appointed Official, or Applicable City Employee.
2. Any account or trust set up through motion of the Los Angeles City Council that would seek funds controlled by an Elected Official or Candidate.
3. Any third party at the behest of an Elected Official, Candidate, or Appointed Official or for the purpose of supporting or opposing an Elected Official, Candidate, or City ballot measure.
4. Any Elected Official, Candidate, Appointed Official, or Applicable City Employee for the sale of private property.
5. Any charitable or other organization or individual at the behest of an Elected Official, Candidate, Appointed Official, or Applicable City Employee.

#### F. GIFTS - PERIODIC DISCLOSURE

##### 1. GIFTS MADE BY CONTRACTORS

Every Contractor shall disclose all Gifts made directly or indirectly by such Contractor and/or any of its Officers (and the Family Members of any of them), or made directly or indirectly by marketing representatives, relationship representatives, portfolio managers, investment committee members, and/or Intermediaries (and, in the case of individuals, the Family Members of any of them) that are involved with the product or service provided, or sought to be provided to LACERS, to any Elected Official, Candidate, Appointed Official, or Applicable City Employee, or to LACERS' private equity consultant, general investment consultant, or real estate consultant.

For each such Gift, the Contractor shall disclose:

- (1) The name and address of each person providing the Gift and each such person's connection to the Contractor;
- (2) The name and title of each person receiving the Gift;
- (3) The value of the Gift;
- (4) A description of the Gift; and
- (5) The date of the presentation of the Gift.

Such disclosures shall include Gifts made during the term of the agreement or investment (as applicable) and during the twenty-four month period prior to Board approval of a new agreement or investment, or extension of and/or amendment to an existing contract, or an increase in funding of an existing investment commitment. Disclosures shall be made semi-annually for all Contractors except for private equity partnerships and their general partners, which shall be required to make such disclosures annually, no later than 21 business days after December 31<sup>st</sup> each year.

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

#### 2. FINANCIAL INCENTIVES AND GIFTS RECEIVED BY CONSULTANTS

LACERS' private equity consultant, general investment consultant, and real estate consultant shall disclose all Gifts received directly or indirectly from Contractors and/or any of their Officers (and the Family Members of any of them), or directly or indirectly from their marketing representatives, relationship representatives, portfolio managers, investment committee members, and/or Intermediaries (and, in the case of individuals, the Family Members of any of them) that are involved with any product or service provided, or sought to be provided, to LACERS.

For each such Gift, the Consultant shall disclose:

- (1) The name and address of each person providing the Gift and each such person's connection to the Contractor;
- (2) The name and title of each person receiving the Gift;
- (3) The value of the Gift;
- (4) A description of the Gift; and
- (5) The date of the presentation of the Gift.

Consultants shall also report any financial incentive, compensation, consideration, or benefit received from others in connections with Consultant's recommendations of funds, products, or services made to LACERS.

For each such financial incentive or compensation, the Consultant shall disclose:

- (1) The name and address of the firm or organization providing the incentive;
- (2) A description of the financial incentive arrangement;
- (3) The value of the incentive;
- (4) The alternative fund(s), product(s), or service(s) considered along with the recommended fund, product, or service;
- (5) Factors used to select the recommended fund, service, or product over the alternative(s).

Such disclosures shall include Gifts and/or financial incentives received during the term of the Consultant's service agreement with LACERS, and shall be made semi-annually by the private equity consultant; and annually by the general investment consultant and real estate consultant with regard to all Contractors, and otherwise as required by LACERS in relation to any particular contracting process.

#### G. RESPONSIBILITIES

1. Each Contractor is responsible for:

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

- a. Providing to Staff, as part of the Contractor Disclosure, the following information for existing agreements and prior to hiring for new agreements:
  - (1) A statement whether the Contractor, or any of its marketing or relationship representatives, portfolio managers, or members of the investment committee (or any Family Members of any of them) that are involved with the product or service provided to LACERS, or any of its Officers (or Family Members of any of them), within the twenty-four month period prior to either (a) Board approval of a new agreement or investment, or (b) extension of or amendment to an existing agreement, or (c) an increase in funding of an existing investment commitment, has compensated or agreed to compensate, directly or indirectly, any person (whether or not employed by the Contractor) or entity to act as an Intermediary in connection with any investment or procurement by LACERS.
  - (2) Notice to LACERS that if any person working on behalf of the Contractor with, or assigned on behalf of the Contractor to, a LACERS contract is a current or former LACERS Board member, employee or Consultant or a Family Member of any such person.
  - (3) A description of all compensation provided or agreed to be provided directly or indirectly by the Contractor to any Intermediary or to any employee of the Contractor who was hired specifically to solicit an investment or other business with LACERS or is compensated on the basis of the procurement of any such investment or business. The description of such compensation shall include the nature, timing and amount thereof and any condition precedent to receiving the compensation.
  - (4) For investment and consulting contracts, a List of Contacts made by the Contractor with Appointed or Elected Officials within either 1) the three month period prior to the interview regarding a new agreement or investment; or, 2) the search period; whichever is longer. The List of Contacts shall include the date and names of the contact(s) and the nature of the contact.
  - (5) For investment and consulting contracts and except for private equity partnerships including their general partners, Contractors shall also disclose any contacts with Appointed or Elected Officials **during the term of the agreement, contract, or investment on a semi-annual basis.**
  - (6) With regard to each Intermediary identified pursuant to Section G.1.a (3) above, each Contractor shall provide:

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

- (i) A description of the services to be performed by the Intermediary and a statement as to whether the Intermediary is utilized by the Contractor with all prospective clients or only with a subset of the Contractor's prospective clients (and if a subset, describe the subset), and a resume of each officer, partner, and principal of the Intermediary detailing the person's education, professional designation, regulatory licenses, and investment work experience. Work experience need not be provided in connection with agreements unrelated to investments.
  - (ii) With regard to procurement of business from LACERS, a copy of all written agreements between the Contractor and the Intermediary and a description of any agreement that is not in writing.
  - (iii) A List of Contacts made by the Intermediary, on behalf of the Contractor, with Appointed Officials, Elected Officials, or staff within the 24 months period prior to Board approval of a new agreement or investment. The List of Contacts shall include the date and names of the contact(s) and intermediary(ies).
  - (iv) The names of all persons who suggested the retention of the Intermediary and a description of how the Intermediary was selected.
  - (v) A listing for the Intermediary and/or any of its affiliates showing registration with the Securities and Exchange Commission or the Financial Industry Regulatory Association or any similar regulatory agency or self-regulatory organization outside the United States, and either the details of any such registration or an explanation of why registration is not required.
  - (vi) A listing for the Intermediary, and/or any of its affiliates, showing registration as a lobbyist with any local, state or national government and the details of any such registration.
- b. Providing a representation and warranty signed by the Contractor's chief executive officer or head of the business unit that provides, or will be providing, the service to LACERS, of the accuracy of the information included in the Contractor Disclosure in any final written agreement.

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

- c. All information required in the Contractor Disclosure shall be sent to LACERS internal audit staff as follows:

Los Angeles City Employees' Retirement System  
Internal Audit Section  
202 West First Street, Suite 500  
Los Angeles, CA 90012  
Office: 800-779-8328  
Email address: audit@LACERS.com

The Contractor Disclosure of all contacts, monetary contributions, other financial benefits, and/or Gifts, as required pursuant to this Disclosure Policy, is due 21 business days after June 30th or December 31st of each year, as applicable.

2. LACERS Staff are responsible for all of the following:
- a. Section managers are responsible for providing Contractors with a copy of this Policy with all Requests for Proposals at the time that due diligence in connection with a prospective investment or engagement begins.
  - b. Section managers are responsible for confirming that the Contractor Disclosure has been received prior to the completion of due diligence and any recommendation to proceed with the engagement of the Contractor or the decision to make any investment or procurement.
  - c. For new agreements and/or amendments to agreements existing as of the date of the Policy, Section managers are responsible for confirming that the final written agreement between LACERS and the Contractor provides that the Contractor shall be solely responsible for, and LACERS shall not pay (directly or indirectly), any fees, compensation or expenses for any Intermediary used by the Contractor.
  - d. Section managers are responsible for excluding any Contractor or Intermediary from the solicitation of new investments or business from LACERS for a time period determined by the Board up to a maximum of 5 years after they have committed a material violation of this Policy, as determined by the Board in its sole discretion, and promptly informing the Board of any such action. Refer to Penalties in Section H.
  - e. Staff of the section responsible for the administration of the contract will provide the Board, including the relevant Committee, with a copy of the Contractor Disclosure information prior to the Board making or approving any decision to invest or procure with a Contractor.
  - f. LACERS internal audit staff will compile a semi-annual Board report containing the names and amount of compensation agreed to be provided to each Intermediary by each Contractor; the campaign contributions and

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

Gifts of each Contractor as reported in the Contractor Disclosures; the List of Contacts; and the List of Exclusions.

- g. Reporting to the Board immediately any conduct that the Staff reasonably believes constitutes a material violation of the Policy, to enable the Board to make a determination whether the conduct constitutes a material violation.
3. Contractors shall comply with the Policy and cooperate with Staff in meeting Staff's obligations under this Policy. All parties responsible for implementing, monitoring and complying with this Policy should consider the spirit as well as the literal expression of the Policy. In cases where there is uncertainty whether a disclosure should be made pursuant to this Policy, the Policy shall be interpreted to require disclosure.

#### H. PENALTIES

For new agreements and/or amendments to agreements existing as of the date of this Policy, the Contractor, in the final written agreement with LACERS, will agree to provide LACERS with any or all of the following remedies in the event that there was or is a material omission or inaccuracy in the Contractor Disclosure or any other violation of this Policy, as determined by the Board in its sole discretion:

1. Whichever is greater, the reimbursement of any contractor, management or advisory fees paid by LACERS for one year or an amount equal to the amounts that the Contractor has paid or promised to pay to the Intermediary in respect of LACERS.
2. LACERS shall have the authority to terminate the agreement, without penalty.
3. The Board of Administration may take action to ban Contractor and/or the Intermediary who materially violated this Policy from future contracting opportunities with LACERS for a period of up to five years. However, the prohibition may be reduced by a majority vote of the Board at a public session upon showing of good cause.

#### I. NO RIGHT OF CONFIDENTIALITY

All Contractor Disclosures and attachments thereto shall be public records subject to disclosure under the California Public Records act and the Ralph M. Brown Act. No confidentiality restrictions shall be placed on any Contractor Disclosures or any information provided by Contractors pursuant to this Policy.

#### REVIEW

This policy shall be reviewed every 3 years.

See APPENDIX A – DEFINITIONS

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

#### APPENDIX A – DEFINITIONS

*Definitions are based on current laws. To the extent that Board policies are not updated subsequent to changes in law, each Board Member, LACERS employee and Consultant is responsible to comply with current laws and changes thereto.*

#### **Applicable City Employee**

(1) A LACERS employee or (2) a lawyer in the Retirement Benefits Division, the Outside Counsel Oversight Division of the Los Angeles City Attorney's Office, or one who is in the direct supervisory chain of command over the lawyers in those divisions

#### **Appointed Official**

An appointed LACERS Board Member (including a person who has been appointed to the LACERS Board, pending confirmation)

#### **Candidate**

A person who has filed to run for an Elected Office

#### **City**

The City of Los Angeles

#### **Consultant**

[insert definition]

#### **Contractor**

A person who, or entity that, seeks to be and/or is hired to provide goods and/or services to LACERS. The individuals with reporting responsibility are those at a firm that would have any contact with or responsibility for a LACERS investment or agreement.

#### **Contractor Disclosure**

Collectively, the information required from Contractors as described in Sections C through G of this Policy.

#### **Elected Official or Office**

Mayor of the City of Los Angeles  
Members of the Los Angeles City Council  
Los Angeles City Attorney  
Los Angeles City Controller  
Elected LACERS Board Member

#### **Family Member**

The spouse or domestic partner of a Contractor or Intermediary.

#### **Gift**

Pursuant to **Los Angeles Municipal Code Section 49.5.8 et seq.**, which references the **Political Reform Act and California Constitution**, and **Section 82028 of the Political Reform**

## Los Angeles City Employees' Retirement System

### ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER, LACERS STAFF, CONTRACTORS, AND CONSULTANTS

**Act 2019, a "Gift"** means, except as otherwise provided in this definition, any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars, periodicals. No payment for travel or reimbursement of any expenses shall be deemed "informational material."

(2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or Intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act of 1974, as amended.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

#### **Intermediary**

A person or entity (1) who is hired, engaged or retained by or acting on behalf of a Contractor as a placement agent, finder, lobbyist, solicitor, marketer, consultant, broker or other type of agent to raise money or investments from or obtain access to LACERS, directly or indirectly, and (2) who engages in, either personally or through an agent, any written or oral direct communication with any LACERS representative in furtherance of obtaining an investment or a contract with LACERS. This definition also includes agents of Intermediaries commonly referred to as sub-agents.

#### **LACERS**

The Los Angeles City Employees' Retirement System.

#### **Officers**

The Chief Executive Officer, Chief Operating Officer, Chief Financial Officer or functional equivalent in the Contractor's firm.

#### **Undue Influence**

The employment of any improper or wrongful pressure, scheme, or threat by which one's will is overcome and he or she is induced to do or not to do an act which he or she would not do, or would do, if left to do freely.

Los Angeles City Employees' Retirement System

ETHICS RESPONSIBILITIES FOR BOARD MEMBERS, THE GENERAL MANAGER,  
LACERS STAFF, CONTRACTORS, AND CONSULTANTS

DRAFT



**Report to Audit Committee**

*Rahoofoyewole*

Agenda of: **MAY 14, 2019**

From: Rahoofo "Wally" Oyewole, Dept. Audit Manager

ITEM: **IV**

**SUBJECT: EXCESS BENEFIT PROGRAM - INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES**

Recommendation:

That the Committee receive and file the attached independent accountant's report on excess benefit program and LACERS' response.

Discussion:

The Internal Revenue Code (IRC) Section 415(b) places a dollar limit on the annual retirement benefit that can be received from a tax-qualified defined benefit plan such as LACERS. Calculating applicable limit for each retiree depends largely on age at retirement, date of LACERS membership, service purchase, after-tax contributions used to purchase service credit, pre-tax rollovers, among other factors. Military, police or fire service may exempt some Members from age reduction adjustment. Based on these inputs, LACERS actuarial program determines if the benefits must be limited and, if so, calculates the annual limit for the Member. Therefore, due to the calculation's dependent on Member-specific factors, adjusted annual benefit limit applicable to each Member receiving excess benefit is likely different.

Retirees whose benefit allowances are limited under IRC 415(b), receive the difference (i.e., over the limit amount) through the Excess Benefit Program established by the City Council in 1997 (Ordinance #171487). The program is funded by the General Fund, and retiree excess benefit checks are issued by the Office of the City Controller.

In May 2017, the Controller engaged the services of Turner, Warren, Hwang and Conrad (TWHC) to conduct an agreed-upon procedures focusing on benefit calculations for the recipients of excess benefit payments. The Department received a report from the TWHC in March 2019 (Attachment 1). Management has reviewed the comments provided in the report. Attachment 2 details LACERS response to the issues discussed in the report.

The main issue highlighted in the report has to do with "large actuarial loss" from the Government Service Buyback (GSB) program. Specifically, the report indicates that the "loss" mostly resulted from eligible rollover payment provision (LAAC Section 4.1020e(2)), which allows Tier 1 Members to pay for service purchase by transferring member contributions plus interest on deposit from other plans to

LACERS. In those cases, employer contributions from other plans are not transferred to LACERS, which would indicate that the City is picking up the employer side of accumulated costs associated with purchased service credits. Some excess benefit recipients purchased prior government service using the rollover option. The report recommends that LACERS and the Controller's Office further evaluate this issue to assist the City with determining whether the terms for GSBs should be modified.

While the report's conclusion is reasonable, as an approved LACERS benefit under the City Administrative Code, LACERS does not have the authority to make changes to GSB program. The responsibility for making benefit changes rests solely with the Plan Sponsor. It should be noted that the cost of the GSB program is considered as part of LACERS' annual actuarial valuation of the Plan. It is also important to note that the City addressed this issue with the recent Tier 3 implementation. For Tier 3 Members, calculation of the cost to purchase prior service now considers City contribution rate along with Member contribution rate. LACERS has met with City Controller staff to discuss the accountant's report and LACERS' response. City controller staff requested data related to GSB purchases over the last several years. System staff is working on the data request.

Staff from Retirement Services Division would be available to answer any questions the Committee may have on the Excess Benefit Program.

This report was prepared by Rahoof "Wally" Oyewole, Departmental Audit Manager, Internal Audit Section.

RO

Attachments: 1) Excess Benefit Program - Independent Accountant's Report on Applying Agreed-Upon Procedures  
2) LACERS' Response



**INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES**

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS**

**FOR THE CALENDAR YEAR 2016**

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**INDEPENDENT ACCOUNTANT'S REPORT  
ON APPLYING AGREED-UPON PROCEDURES**

Ron Galperin, City Controller  
Office of the Controller  
Los Angeles, California

We have performed the procedures enumerated in the attached Findings on Applying Agreed-Upon Procedures report as agreed upon in Task Order 17-012-0-26 regarding the 2016 Retirement Excess Benefits Payments Review for Los Angeles City Employees' Retirement System (LACERS) members. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the City's office of the Controller. Consequently, we make no representation regarding the sufficiency of the procedures described in our report either for the purpose for which this report has been requested or any other purpose.

The procedures performed and our findings are included in our report that follows.

We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion respectively, on the subject matter. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Office of the Controller and the City and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Burbank, California  
July 14, 2017

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS  
FINDINGS ON APPLYING AGREED-UPON PROCEDURES  
FOR THE CALENDAR YEAR 2016**

## OVERVIEW

For benefits that exceed the Internal Revenue Code (IRC) Section 415(b) limit (Limit) that can be paid as calculated each year from LACERS, the City pays the excess from the City's Excess Benefits Program (Program). Calculating the applicable limit for each retiree is a fairly complex matter involving LACERS benefit plan terms, City work history, possible participation in other City benefit plans, other government service buybacks for LACERS service credits, any reciprocity terms with other plans, age at retirement, benefit options elected, final compensation, and the IRC and Treasury (Tax) Department regulations (regulations).

LACERS utilizes outside professional counsel with this process, whose services provide an intricate calculation workbook (Limits Workbook) and DB Limit Test Procedures manual (Test Procedures) (October 2015 final version referred to in this report) based on the LACERS benefit plan as defined in the Los Angeles Administrative Code (LAAC) and the IRC and regulations. From our review, we determined LACERS has developed procedures for collecting retiree information from City documents and from other plans. This information is then input into the Limits Workbook by a technician and reviewed by a checker. In the great majority of cases, we found no errors in the calculation of Limits.

We thank LACERS management and personnel for helping us execute this review on behalf of the Office of the Controller.

## PROCEDURES, FINDINGS AND RECOMMENDATIONS

The agreed-upon procedures with our findings and recommendations are as follows:

1. For members receiving excess benefits from the Program, review the calculation of retiree benefits made by LACERS for calendar year 2016. Verify that factors used for the calculation of the retirement benefit are correct and substantiated.

For 47 LACERS members receiving excess benefits from the Program for 2016, we assembled, reviewed, and judgmentally tested extensive information and support on benefit calculation factors (e.g., service credit, final compensation, and retirement age) for accuracy and substantiation from work and job position histories from the City system, compensation support, government service buyback documentation and certifications, possibly applicable reciprocity terms with other pension plans, as well as retirement and benefit terms and factors primarily against the LAAC for the LACERS plan, and the IRC and regulations. We analyzed, tested, and recalculated to gain reasonable assurance of benefit correctness within our review scope.

**Finding A – Compensation Error:** We were advised in advance that an error had been found on one new retiree's bi-weekly compensation, which was reported unusually high from another City pension plan that was actually the member's monthly compensation. At the time of retirement, this was inquired about by LACERS personnel. However, the error was neither discovered from LACERS' follow-up inquiry with the other City plan on the unusual compensation nor documented with payroll or compensation systems information at the time of member retirement, resulting in large payments made from the Program in error. Assurance level on the compensation was not reasonably adequate to support a significant LACERS obligation. (The overpayments are reported as in the process of being fully recovered. The compensation correction changed the calculation for the form of excess benefit payable for the start of 2016 from \$13,225 to \$214 per month in the Limits Workbook.)

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS  
FINDINGS ON APPLYING AGREED-UPON PROCEDURES  
FOR THE CALENDAR YEAR 2016**

**PROCEDURES, FINDINGS AND RECOMMENDATIONS (CONTINUED)**

**Recommendation A – Compensation Support:** We recommend that LACERS evaluate its requirements for obtained compensation support and whether these requirements provide adequate documentation and assurance on compensation from other plans used to determine LACERS pension benefits.

**Finding B – Omitted Aggregation of Service Credit from Other City Plan:** The Los Angeles Fire and Police Pensions (LAFPP) plan membership period and service credit for a LACERS retiree with LAFPP service was not input into the Limits workbook. Further, LACERS did not obtain the retiree's LAFPP benefit calculation from LAFPP and, therefore, missed that the retiree also had a DROP benefit that was not input and that was important to the Limits Workbook information and calculation. As a result, the Limits Workbook calculated a negative LACERS Benefit for purposes of actuarial analysis in the Limits Workbook not investigated and corrected. In this instance, the omissions had no impact on the Program benefit amount.

To properly aggregate experience from multiple related plans according to IRC and regulations, his LAFPP service credit should have been input at the City DB Plan Participation Section on the DB Limit Worksheet tab within the Limits Workbook in accordance with Test Procedures, page 24: "City DB Plan service applies to any actual membership periods with LACERS, WPERP, LAFPP, or a Hiring Hall DB plan (not DC)."

At our review, we obtained the 415(b) calculation for the member from LAFPP and noted he was over the 415(b) limit at LAFPP due to his benefit from the LAFPP DROP program. The Test Procedures (page 72) provide instruction on how to input a DROP benefit:

"3. LAFPP runs a deferred retirement option program (DROP) program. This applies to retirees. The DROP account must be included for the benefits tested if a member was a LAFPP DROP participant. There are two ways of doing this, but the main issue is to make sure the DROP benefits are being tested in aggregate. The DROP is not unlike other lump sum payments that may also be expected to have been included in the Single Life Annuity value of the benefits being paid. However, because DROP is unusual, and unique, we could load the DROP separately if the LAFPP provides the Single Life Annuity without the DROP included. In that rare case, the DROP value may be loaded as a lump sum, as if a LACERS refund, for the value paid on the date paid. However, in the perfect world, the DROP will already be included in the value provided as a Single Life Annuity for the aggregate section of the workbook."

**Recommendation B – Other City Plan Benefit Procedures:** We recommend LACERS require that the benefit calculations for other City Plans for retirees receiving a Program benefit be obtained for each year a Limits Workbook is prepared or updated. We recommend adequate training of personnel preparing and reviewing the Limits Workbook regarding other City Plans service and the DROP benefit. We recommend a requirement to investigate unusual Limits Workbook input factors and output results. We also recommend adding a procedure for technicians and checkers to highlight unusual circumstances and bring these to the attention of the Department Manager for approval and signature. Lastly, we recommend that LACERS revise any Limits Workbooks for this member for his other City DB service and DROP program benefits.

**Finding C Voided Reciprocity:** We noted a member had voided reciprocity (per reciprocity terms) due to six months of concurrent service with a prior plan and LACERS. Not allowed with reciprocity, but due to the void, this member was then able to transfer his 27.5 years of service credit via a rollover government service buyback from the other retirement plan to LACERS (as allowed by LAAC Chapter 10 Sec. 4.1020, Government Service Buy Back [GSB] Program), though at a large actuarial loss to LACERS and the Program (see *Appendix C*).

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS  
FINDINGS ON APPLYING AGREED-UPON PROCEDURES  
FOR THE CALENDAR YEAR 2016**

**PROCEDURES, FINDINGS AND RECOMMENDATIONS (CONTINUED)**

**Recommendation C – Protecting against Voided Reciprocity Losses:** We recommend the City and LACERS review whether to propose changing the benefit plan to disallow GSBs in future cases of concurrent service that void reciprocity.

2. Review the calculation of the excess benefit payment amount and verify that IRC section 415(b) is being applied correctly.

We reviewed, analyzed, and judgmentally tested the 415(b) factors input, formulas, values, and calculation integrity of the Limits Workbooks for the same 47 members primarily against the IRC, regulations, LAAC, and Test Procedures.

**Finding D – Domestic Partners as Spouse Equivalents:** Regarding a registered domestic partner (DP) being equivalent to a spouse as an Eligible Survivor per LAAC Chapter 10, Section 4.1012, “Benefits Payable to an Eligible Survivor Upon a Retiree’s Death” (Sec. 4.1012, see *Appendix B*), for purpose of a member’s continuance benefit after member’s death, we noted the annuity values used for Limit calculation of the benefits for two members with DPs were being determined differently than if their respective Eligible Survivor was classified as a “spouse” for determining their Limit.

Within the Limits Workbook for these two members, the DPs’ eligible survivor statuses were noted in the “Continuance to Eligible Spouse or Eligible DP?” box, but not for the “Spouse” box in the “Retiree’s Continuance Beneficiary (Regular / Disability / Survivorship Allowance)” section. This “Spouse” box has been interpreted by LACERS personnel as to exclude DPs who are not legal spouses.

Per Sec. 4.012, a registered DP is an eligible survivor entitled to the same continuance benefit as a spouse. Not recognizing DPs as eligible survivors for 415(b) limit calculation would then actuarially value their continuance allowances and 415(b) limits differently than a spouse.

The Test Procedures explanation for this allowance option states, “The continuance recipient does NOT need to be the member’s spouse or DP, and also does NOT need to be ‘Eligible’ for any pre-funded continuance available to some Tier 1 members.” While maybe it could be clearer, the Limit Procedures are putting DPs in the same category as spouses for valuation of the same continuance benefit.

The Test Procedures (page 57) do further advise that for this “Spouse” box, it is using the term “Spouse” broadly, regarding the continuance value for any “Spouse” entitled to same per below:

“3. Spouse?

This is the answer to the question as to whether or not the continuance designee or the Survivorship recipient is in fact a “married spouse”. This is “yes” if they have a spouse regardless of the type of marriage, same versus opposite sex. This is a key, as the IRS forgives the value of a continuance or Survivorship for up to 50 percent when any “spouse” is entitled to the same.”

**Current Program Financial Impact:** The impact of classifying each of the two retirees with domestic partners and receiving Program benefits as having spouse equivalents for 2016 for their actual form of benefit payable per the current Limits Workbook is to reduce their excess benefit from the Program by \$636 and \$134 per month, respectively (about \$9,240 per year).

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS  
FINDINGS ON APPLYING AGREED-UPON PROCEDURES  
FOR THE CALENDAR YEAR 2016**

**PROCEDURES, FINDINGS AND RECOMMENDATIONS (CONTINUED)**

**Recommendation D – Domestic Partners as Spouse Equivalents:** We recommend LACERS train its personnel on classifying DPs as spouse equivalents for preparing Limits Workbook calculations and for correctly valuing actuarially the benefits of retirees with DPs. If LACERS disagrees with this finding, we recommend that it provide written support from its actuarial and tax counsel to the Controller's Office.

**Finding E – Actuarial Loss on GSBs:** Of possible managerial value, we provide a snapshot regarding actuarial loss for both LACERS and the Program (see *Appendix C*) on allowing GSBs at a fraction of the cost to LACERS. The terms of LACERS GSBs are set by LAAC chapter 10, Section 4.1020. On rollovers, since employer defined benefit contributions are not transferred from other plans and employee contributions and accumulated actuarial loss can vary, large loss is commonly incurred. On purchases, the employee is responsible for his or her contributions for past service credits but LACERS and the City are then responsible for making up the employer side of past accumulated cost and any accumulated actuarial loss.

**Recommendation E – Actuarial Loss on GSBs:** We recommend that LACERS and the Controller's Office further evaluate loss on GSB's and report to City officials to assist with determining whether LACERS terms for GSBs need to be modified to reduce loss from these.

3. Review the policies and procedures used by LACERS to determine retirement benefits.

We reviewed the Limits workbook and inquired about its development and updates, technician data collection and input, and checker review. We were advised the Limits Workbook is being converted from Excel-based to being integrated into the LACERS software system. We also reviewed adequacy of support documents and selectively reviewed Test Procedures, LACERS Board Administrative Policies and Rules, as judged relevant.

**Finding F – Adequate Monitoring of an Important Function:** While LACERS was largely found to be performing the Limits calculations according to policies and procedures, the above findings indicate some weakness in the risk assessment by LACERS personnel of certain input and output information and monitoring of these items for adequate assurance of correct calculation.

**Recommendation F – Monitoring Procedure:** Regarding policies and procedures in this complex area and the risk of LACERS not adequately evaluating error risk and detecting and correcting errors, as a cost effective solution we recommend that between LACERS' external auditor and internal audit department, as part of annual control work and financial statement testing, that they draft an annual report to the Office of the Controller detailing their review of the design and implementation of 415(b) controls and procedures. We also recommend a Department Manager review new retiree 415(b) calculations and Limits Workbook compliance for any members in the Program with unusual factors.

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS**

**APPENDIX A-- TESTING SCOPE**

The areas of coverage on this project were as follows:

1. For LACERS retirees receiving excess benefits from the Program, we reviewed City PaySR work histories and employment applications. We also reviewed government service buyback documents and certifications. Along with any Early Retirement Incentive Credit documents, this information provided assurance on the reasonableness and accuracy of years of service credit and retirement ages.
2. For assurance on final compensation, we reviewed final compensation calculations and compared amounts to MOU ranges and positions held as reasonable and accurate. We traced a sample final compensation amount to the MOU and all approved adjustments as accurate.
3. We reviewed and tested the accuracy and reasonableness of retirement benefits against the LACERS benefit formula and COLA adjustments schedules.
4. We reviewed the 415(b) limit calculations in detail in the Limits Workbooks of 47 retirees receiving payments in 2016 considering accuracy of input factors, actuarial integrity of formulas and values, and any anomalies on calculation results.
5. We reviewed whether the 415(b) limit calculations were correct against Limit Procedures, the benefit plan as described in the Admin Code, and against the IRC, regulations and industry practices.
6. We reviewed LACERS policies and procedures, including review of Limit Procedures, LACERS Board Rules and Administrative Policies, and inquiries of relevant LACERS personnel.
7. We analyzed areas potentially providing managerial value.
8. In our report, we provided our recommendations.

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS**

**APPENDIX B – ELIGIBLE SURVIVORS**

**LAAC Chapter 10, Sec. 4.1012. Benefits Payable to an Eligible Survivor Upon a Retiree's Death.**

All current and former members of the Retirement System who are not entitled to credit for service rendered prior to July 1, 1965, shall, at the time of retirement, whether for service or disability, be eligible for the benefit provided in this section, provided they have an eligible survivor as defined in this section. Should any current, former or retired members be entitled to credit for service rendered prior to July 1, 1965, the rights of their survivors shall not be governed by this section, except as otherwise provided in Section 4.1013.

(a) Definitions. For purposes of this section, the following words and phrases are defined as follows:

Eligible Survivor shall include the following:

- (1) The spouse of a retired member to whom such member is married at time of retirement and has been so married for at least one (1) year prior thereto, and further provided that said spouse is either the surviving spouse or surviving domestic partner of the retired member at the time of his or her death.
- (2) The domestic partner of a retired member provided that at the time of the member's retirement their domestic partnership had been established for at least one (1) year, and further provided that said domestic partner is either the surviving domestic partner or surviving spouse of the retired member at the time of his or her death.

Member shall only include a member who is not entitled to credit for service rendered prior to July 1, 1965, unless a member with pre July 1, 1965 service, or such member's eligible survivor, shall exercise the election provided in Sec. 4.1013(b) and pay the required survivor contributions.

Unmodified Allowance shall mean the total monthly retirement allowance payable to the member as of the date of retirement, calculated in accordance with the provisions of sections 4.1007, in the case of service retirement, and 4.1008, in the case of disability retirement.

Joint and Survivor Cash Refund Annuity shall mean an annuity which shall be the actuarial equivalent of the member's total accumulated contributions providing for equal monthly payments during the lifetime of such member and the eligible survivor, with payment of any unused contributions, as defined in Section 4.1010(c)(2), upon the death of the last survivor as provided in that provision, calculated in accordance with approved actuarial methods as of the date of retirement.

**(Highlighting added for this report, not in original.)**

**RETIREMENT EXCESS BENEFIT PAYMENT REVIEW  
FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM MEMBERS**

**APPENDIX C – ANALYSIS**

**Excess Payments Analysis**

Of the \$1,054,000 in 2016 Program payments for LACERS members, about 13% was from the above bi-weekly compensation error. We estimate about 40% of excess payments net of correction was earned from government service buybacks. (About 15% of net payments was from impact of less than ten years participation in LACERS for three members.) About 10% was incurred from service credit and compensation factors from other City pension plans.

**Government Service Buybacks Analysis**

The below table provides a simplified remaining loss estimate as of December 31, 2016 on the 10 members receiving excess benefits from the Program who had five or more years of GSB credits. Using the table factors below, cost is only around 14% of benefit for these 10. It is not meant to be an exacting actuarial study but to provide management with a sense of the cost of GSBs.

Table explanation:

Rollover or Purchase Cost is the current value assigned to the amount rolled over or paid to purchase the indicated credit years. (It is somewhat higher than actual amount paid for interest value.)

Similarly, the monthly benefit cost is the current actuarial benefit value per month assigned to the rollover or purchase cost for calculating each current 415(b) limit.

Monthly Benefit Value is years of buyback credit time final compensation used for each person's retirement benefit times LACERS benefit factor of 2.16%.

The Monthly Loss is the difference between the Benefit Value and Benefit Cost amounts. The Excess Benefit Program Loss Portion is in the next column based on December 2016 benefit payments.

For simplicity, the single life present value [PV] is remaining benefits value at December 31, 2016 based on 2016 IRS table for single life expectancy discounted at LACERS 7.5% rate. Similarly, the Program's share of PV is shown. For simplicity and conservatism, no joint life or cost of living factors are estimated. Prior amounts incurred from retirement to December 31, 2016 are not estimated here.

Member	Purchased or Rollover Credit Years	Rollover or Purchase Cost	Cost per Year of Credit	Monthly Benefit Value	Monthly Benefit Cost	Monthly Loss	Excess Program Loss Portion	Single Life Present Value (PV)	PV Portion Due by Program
7632	5.00	\$ 38,761	\$ 7,752	\$ 1,233	\$ 204	\$ 1,029	\$ 214	\$ 175,379	\$ 30,439
8920	27.50	195,839	7,121	10,296	1,135	9,161	6,823	1,297,450	859,800
1864	27.33	683,883	25,020	9,344	3,729	5,615	4,539	1,143,216	555,336
1862	22.75	97,459	4,284	4,885	647	4,238	725	538,114	79,863
3817	15.08	27,372	1,815	6,182	126	6,056	179	858,062	24,845
7836	10.75	87,109	8,103	3,739	559	3,180	3,180	351,915	299,302
2921	14.33	57,004	3,977	5,293	346	4,947	4,947	549,238	513,335
7003	21.08	167,495	7,945	13,981	999	12,982	1,691	1,808,224	218,704
5134	17.25	115,072	6,671	7,451	647	6,804	4,263	1,034,199	591,705
8422	17.92	212,901	11,883	5,339	1,287	4,052	497	609,246	56,714
<b>Totals</b>	<b>179.00</b>	<b>\$ 1,682,895</b>	<b>\$ 9,402</b>	<b>\$ 67,743</b>	<b>\$ 9,679</b>	<b>\$ 58,064</b>	<b>\$ 27,058</b>	<b>\$ 8,365,043</b>	<b>\$ 3,230,043</b>
			average		14%		47%		39%
					of benefit		of difference		of total PV

**LACERS' AUDIT RESPONSE TO  
INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES  
RETIREMENT EXCESS BENEFIT PAYMENT REVIEW FOR LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM  
MEMBERS FOR THE CALENDAR YEAR 2016  
AS OF APRIL 2019**

Audit Recommendations	LACERS' Response
<p><b>1. For members receiving excess benefits from the Program, review the calculation of retiree benefits made by LACERS for calendar year 2016. Verify that factors used for the calculation of the retirement benefit are correct and substantiated.</b></p> <p><b>Finding A – Compensation Error:</b> We were advised in advance that an error had been found on one new retiree's bi-weekly compensation, which was reported unusually high from another City pension plan that was actually the member's monthly compensation. At the time of retirement, this was inquired about by LACERS personnel. However, the error was neither discovered from LACERS' follow-up inquiry with the other City plan on the unusual compensation nor documented with payroll or compensation systems information at the time of member retirement, resulting in large payments made from the Program in error. Assurance level on the compensation was not reasonably adequate to support a significant LACERS obligation. (The overpayments are reported as in the process of being fully recovered. The compensation correction changed the calculation for the form of excess benefit payable for the start of 2016 from \$13,225 to \$214 per month in the Limits Workbook.)</p> <p><b>Recommendation A – Compensation Support:</b> We recommend that LACERS evaluate its requirements for obtained compensation support and whether these requirements provide adequate documentation and assurance on compensation from other plans used to determine LACERS</p>	<p><b>Recommendation A – Compensation Support:</b></p> <p>LACERS has evaluated its requirements of requesting certified documentation from other retirement plans to determine final average compensation. This documentation includes detailed salary information that LACERS finds to be sufficient. LACERS requests additional information or verification, if the salary provided appears to have a discrepancy.</p> <p>LACERS acknowledges that the one Member whose benefit was incorrect was not due to the calculations conducted by LACERS, but to the certified salary information provided by the other plan. At the time of the salary request, LACERS' Senior Manager confirmed with the other plan if it was the final average compensation. The information was verified and was confirmed by a Senior Manager of the other pension plan. Upon realizing the error, the correct final average compensation was certified by the other plan, the discrepancy was immediately corrected by LACERS, and the overpayment amount was collected.</p> <p><b>Recommendation B – Other City Plan Benefit Procedures:</b></p> <p>LACERS is open to requesting the detailed limits workbook from the other City plans, versus the benefit amount to include with our testing process. LACERS will discuss the application of this information with Tax Counsel to determine how it would be utilized when conducting our Excess Benefits Testing. Nevertheless, the results for Members impacted by the DROP program, as indicated in the Audit findings, will be the same. In</p>

<p>pension benefits.</p> <p><b>Finding B – Omitted Aggregation of Service Credit from Other City Plan:</b> The Los Angeles Fire and Police Pensions (LAFPP) plan membership period and service credit for a LACERS retiree with LAFPP service was not input into the Limits workbook. Further, LACERS did not obtain the retiree's LAFPP benefit calculation from LAFPP and, therefore, missed that the retiree also had a DROP benefit that was not input and that was important to the Limits Workbook information and calculation. As a result, the Limits Workbook calculated a negative LACERS Benefit for purposes of actuarial analysis in the Limits Workbook not investigated and corrected. In this instance, the omissions had no impact on the Program benefit amount.</p> <p>To properly aggregate experience from multiple related plans according to IRC and regulations, his LAFPP service credit should have been input at the City DB Plan Participation Section on the DB Limit Worksheet tab within the Limits Workbook in accordance with Test Procedures, page 24: "City DB Plan service applies to any actual membership periods with LACERS, WPERP, LAFPP, or a Hiring Hall DB plan (not DC)."</p> <p>At our review, we obtained the 415(b) calculation for the member from LAFPP and noted he was over the 415(b) limit at LAFPP due to his benefit from the LAFPP DROP program. The Test Procedures (page 72) provide instruction on how to input a DROP benefit:</p> <p>"3. LAFPP runs a deferred retirement option program (DROP) program. This applies to retirees. The DROP account must be included for the benefits tested if a member was a LAFPP DROP participant. There are two ways of doing this, but the main issue is to make sure the DROP benefits are being tested in aggregate. The DROP is not unlike other lump sum</p>	<p>addition, based on LACERS' staff experience, if a Member is already in Excess prior to receiving a benefit from LACERS, it is reasonable to expect that their benefit from LACERS will result in an excess benefit.</p> <p><b>Recommendation C – Protecting against Voided Reciprocity Losses:</b></p> <p>The Los Angeles Administrative Code (LAAC), as noted in the Audit Findings, allows for a LACERS Member to enter into a Government Service Buyback agreement for other governmental service, if the reciprocity is broken. It is up to the plan sponsor to determine the change, if allowable, to the program.</p>
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payments that may also be expected to have been included in the Single Life Annuity value of the benefits being paid. However, because DROP is unusual, and unique, we could load the DROP separately if the LAFPP provides the Single Life Annuity without the DROP included. In that rare case, the DROP value may be loaded as a lump sum, as if a LACERS refund, for the value paid on the date paid. However, in the perfect world, the DROP will already be included in the value provided as a Single Life Annuity for the aggregate section of the workbook.”

**Recommendation B – Other City Plan Benefit Procedures:**

We recommend LACERS require that the benefit calculations for other City Plans for retirees receiving a Program benefit be obtained for each year a Limits Workbook is prepared or updated. We recommend adequate training of personnel preparing and reviewing the Limits Workbook regarding other City Plans service and the DROP benefit. We recommend a requirement to investigate unusual Limits Workbook input factors and output results. We also recommend adding a procedure for technicians and checkers to highlight unusual circumstances and bring these to the attention of the Department Manager for approval and signature. Lastly, we recommend that LACERS revise any Limits Workbooks for this member for his other City DB service and DROP program benefits.

**Finding C Voided Reciprocity:** We noted a member had voided reciprocity (per reciprocity terms) due to six months of concurrent service with a prior plan and LACERS. Not allowed with reciprocity, but due to the void, this member was then able to transfer his 27.5 years of service credit via a rollover government service buyback from the other retirement plan to LACERS (as allowed by LAAC Chapter 10 Sec. 4.1020,

<p>Government Service Buy Back [GSB] Program), though at a large actuarial loss to LACERS and the Program (see <i>Appendix C</i>).</p> <p><b>Recommendation C – Protecting against Voided Reciprocity Losses:</b> We recommend the City and LACERS review whether to propose changing the benefit plan to disallow GSBs in future cases of concurrent service that void reciprocity.</p>	
<p><b>2. Review the calculation of the excess benefit payment amount and verify that IRC section 415(b) is being applied correctly.</b></p> <p><b>Finding D – Domestic Partners as Spouse Equivalents:</b> Regarding a registered domestic partner (DP) being equivalent to a spouse as an Eligible Survivor per LAAC Chapter 10, Section 4.1012, “Benefits Payable to an Eligible Survivor Upon a Retiree’s Death” (Sec. 4.1012, see <i>Appendix B</i>), for purpose of a member’s continuance benefit after member’s death, we noted the annuity values used for Limit calculation of the benefits for two members with DPs were being determined differently than if their respective Eligible Survivor was classified as a “spouse” for determining their Limit.</p> <p>Within the Limits Workbook for these two members, the DPs’ eligible survivor statuses were noted in the “Continuance to Eligible Spouse or Eligible DP?” box, but not for the “Spouse” box in the “Retiree’s Continuance Beneficiary (Regular / Disability / Survivorship Allowance)” section. This “Spouse” box has been interpreted by LACERS personnel as to exclude DPs who are not legal spouses.</p> <p>Per Sec. 4.012, a registered DP is an eligible survivor entitled to the same continuance benefit as a spouse. Not recognizing DPs as eligible survivors for 415(b) limit calculation would then</p>	<p><b>Recommendation D – Domestic Partners as Spouse Equivalents:</b></p> <p>LACERS was advised by Tax Counsel that in conducting Internal Revenue Code (IRC) 415(b) testing, domestic partners are not treated as spouse equivalent based on Federal law. At the time of this audit, LACERS management informed the Auditor that if he could provide the IRC section that supports his recommendation that domestic partners should be treated as spouse equivalents, LACERS would take this into consideration and discuss with Tax Counsel. LACERS also informed the Auditor that although the LAAC treats spouses as equivalent to domestic partners for all retirement benefits, LACERS was advised by Tax Counsel that IRC requirements supersede the LAAC. Since no other IRC section requirements were provided to LACERS to support the recommendation, the policy in place will remain unchanged.</p> <p>Lastly, the Excess Benefits Workbooks and procedures to administer the requirements of the IRC 415(b), which were reviewed and approved by Tax Counsel, were shared with the Auditor. Further, on an annual basis, the Excel workbooks used to test Excess Benefits are sent to the Tax Counsel Actuary for review and update. LACERS will also require Tax Counsel do a periodic review and written advisement of IRC requirements including any changes and/or updates that may impact LACERS</p>

<p>actuarially value their continuance allowances and 415(b) limits differently than a spouse.</p> <p>The Test Procedures explanation for this allowance option states, "The continuance recipient does NOT need to be the member's spouse or DP, and also does NOT need to be 'Eligible' for any pre-funded continuance available to some Tier 1 members." While maybe it could be clearer, the Limit Procedures are putting DPs in the same category as spouses for valuation of the same continuance benefit.</p> <p><b>"3. Spouse?</b> This is the answer to the question as to whether or not the continuance designee or the Survivorship recipient is in fact a "married spouse". This is "yes" if they have a spouse regardless of the type of marriage, same versus opposite sex. This is a key, as the IRS forgives the value of a continuance or Survivorship for up to 50 percent when any "spouse" is entitled to the same."</p> <p><b>Current Program Financial Impact:</b> The impact of classifying each of the two retirees with domestic partners and receiving Program benefits as having spouse equivalents for 2016 for their actual form of benefit payable per the current Limits Workbook is to reduce their excess benefit from the Program by \$636 and \$134 per month, respectively (about \$9,240 per year).</p> <p><b>Finding E – Actuarial Loss on GSBs:</b> Of possible managerial value, we provide a snapshot regarding actuarial loss for both LACERS and the Program (see <i>Appendix C</i>) on allowing GSBs at a fraction of the cost to LACERS. The terms of LACERS GSBs are set by LAAC chapter 10, Section 4.1020. On rollovers, since employer defined benefit contributions are not transferred from other plans and employee contributions and accumulated actuarial loss can vary, large loss is commonly</p>	<p>benefits.</p> <p><b>Recommendation E – Actuarial Loss on GSBs:</b> The Government Service Buyback program is part of the approved benefits under the LAAC. Therefore, when the Actuary is conducting their valuation of LACERS' benefits, the cost of the GSB program is taken into consideration. It is up to the Plan Sponsor to determine whether this program is cost effective and to determine if it could be modified.</p>
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<p>incurred. On purchases, the employee is responsible for his or her contributions for past service credits but LACERS and the City are then responsible for making up the employer side of past accumulated cost and any accumulated actuarial loss.</p> <p><b>Recommendation D – Domestic Partners as Spouse Equivalents:</b> We recommend LACERS train its personnel on classifying DPs as spouse equivalents for preparing Limits Workbook calculations and for correctly valuing actuarially the benefits of retirees with DPs. If LACERS disagrees with this finding, we recommend that it provide written support from its actuarial and tax counsel to the Controller’s Office.</p> <p><b>Recommendation E – Actuarial Loss on GSBs:</b> We recommend that LACERS and the Controller’s Office further evaluate loss on GSB’s and report to City officials to assist with determining whether LACERS terms for GSBs need to be modified to reduce loss from these.</p>	
<p><b>3. Review the policies and procedures used by LACERS to determine retirement benefits.</b></p> <p>We reviewed the Limits workbook and inquired about its development and updates, technician data collection and input, and checker review. We were advised the Limits Workbook is being converted from Excel-based to being integrated into the LACERS software system. We also reviewed adequacy of support documents and selectively reviewed Test Procedures, LACERS Board Administrative Policies and Rules, as judged relevant.</p> <p><b>Finding F – Adequate Monitoring of an Important Function:</b> While LACERS was largely found to be performing the Limits calculations according to policies and procedures, the above findings indicate some weakness in the risk assessment by LACERS personnel of certain input and output information and</p>	<p><b>Recommendation F – Monitoring Procedure:</b></p> <p>LACERS continues to update and monitor any changes to the Internal Revenue Code and other statutes impacting LACERS benefits and make the appropriate procedural/policy changes. On an annual basis, the Excel workbooks used to test Excess Benefits are sent to the Tax Counsel Actuary for review and update, before they are incorporated in the Pension Administration System (PAS). The calculations of these workbooks are tested by LACERS staff, before they are used to test Excess Benefits.</p> <p>In addition, since 2018, the Excess Benefits calculations have been incorporated in the PAS, automating the calculation process. Although the calculations are now automated, LACERS maintains the management control process, whereby the “inputs” of technician data in the PAS is verified through a checker</p>

<p>monitoring of these items for adequate assurance of correct calculation.</p> <p><b>Recommendation F – Monitoring Procedure:</b> Regarding policies and procedures in this complex area and the risk of LACERS not adequately evaluating error risk and detecting and correcting errors, as a cost effective solution we recommend that between LACERS' external auditor and internal audit department, as part of annual control work and financial statement testing, that they draft an annual report to the Office of the Controller detailing their review of the design and implementation of 415(b) controls and procedures. We also recommend a Department Manager review new retiree 415(b) calculations and Limits Workbook compliance for any members in the Program with unusual factors.</p>	<p>review. This is to ensure accuracy of all Member benefits calculations.</p> <p>In summary, LACERS welcomes the review and audit of its Excess Benefits Program. The audit findings validate that LACERS policies and procedures in place for Excess Benefits testing are sufficient. LACERS further finds that the Management Control process that is currently in place is sufficient. This is further evident that out of the 47 Member benefits that were reviewed and audited, the result was that the calculations for all 47 Members were accurate. The one Member whose benefit was incorrect was not due to the calculations conducted by LACERS, but to the certified salary information provided by the other plan.</p>
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