



Memorandum

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TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Mayor Matt Mahan
Councilmember Dev Davis
Councilmember Pam Foley

SUBJECT: Audit of the Office of Retirement Services

DATE: June 27, 2023

Approved:

Date 06/28/2023

Recommendation

Direct the City Auditor to prioritize an audit of the Office of Retirement Services in his workplan. This audit should cover, at minimum, the following areas:

1. Identifying internal process controls for financial activities such as accounting, purchasing and contracting;
2. Identifying policies and procedures around information systems and security;
3. Compliance with City policies for financial activities, information systems and security, and other relevant administrative functions;
4. A comparison of the governance structures of other pension plans, including board oversight of management's administrative functions and responsibilities.

Background

In November 2014, voters approved Measure G, an amendment to the San Jose Charter that formally established the retirement boards and the City Council's authority to appoint a majority, but not all, of the members of these boards. This measure further amended the Charter to authorize the boards to hire and prescribe the duties of the chief executive officer (CEO) and the chief investment officer (CIO) within the Office of Retirement Services (ORS), while the salaries of these individuals continue to be set by the City Council.

The City of San Jose remains the sponsor and primary financial contributor to the pension plans. ORS budgets are approved by City Council, and employees who work in ORS are City employees, though not all of them are able to participate in the City's pension plan. Daily business operations of ORS are overseen by the CEO and daily investment operations are overseen by the CIO, who are in turn jointly overseen by two boards: the Police and Fire

Department Retirement Plan and Health Care Trust (P&F) and the Federated City Employees' Retirement System and Federated City Employees' Health Care Trust (Federated).

After years of underperformance of the pension plans under this new system, then-Mayor Sam Liccardo requested an audit of the budgets, investment policies, and communications processes in ORS. The City Auditor's report on these topics was released in October 2017 and is the most recent audit of ORS by the City Auditor.¹

The Office of Retirement Services (ORS) recently released an internal audit about their procurement processes and contract oversight activities.² The report contains several concerning findings about the day-to-day operations of ORS, including:

Finding 1: ORS wire transfers to pay vendor invoices violated ORS and City payment rules and bypassed payment safeguards. Vendor services and payments continued without authorized contracts, vendor performance was not measured, and ORS staff disagreed among themselves on procurement rules. **(Page 15)**

Finding 2: The ORS paid an insurance broker without a competitive vendor selection process or a contract to define the scope of services. **(Page 29)**

Finding 3: The delayed purchase of ORS laptops in 2020 caused security vulnerabilities and raised operational risks. **(Page 35)**

Finding 4: The ORS does not have monitoring processes and reliable data to comprehensively manage vendor payment and contracting risks. **(Page 38)**

The ORS internal audit report also found confusion among ORS staff about proper procedures and whether they are required to follow City policies. We believe that this issue, along with the findings listed above, necessitate a thorough review of the Office of Retirement Services by the City Auditor.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been

¹ "Audit of Retirement Services: Greater Transparency Needed in the Budgeting Process, Interactions Among Stakeholders, Investment Policies, and Plan Administration." Office of the City Auditor. Report 17-06. October 2017. <http://www.sanjoseca.gov/Home/ShowDocument?id=33900>

² "Audit: Procurement and Contract Oversight." Office of Retirement Services. May 18, 2023. <https://sjrs.legistar.com/gateway.aspx?M=F&ID=548bd892-de5c-4587-8a46-c87ee19b4aa1.pdf>

instructed not to have, any such conversation with any other member of the City Council or that member's staff.