

By: Finance
Adopted: January 14, 2019
Yes: Burney, Dryden, Graham, Harvey, Ledford, O'Barr
No: None
Absent: None

**City of Wasilla
Resolution Serial No. 19-01**

A Resolution Of The Wasilla City Council Amending The City Of Wasilla Public Employees' Retirement System Plan Agreement To Exclude The Position Of Police Chief In The City Of Wasilla Public Employees' Retirement System Plan Pursuant To AS 39.35.

WHEREAS, the City of Wasilla underwent a Compliance Audit for the calendar year 2017, conducted by the State of Alaska, Division of Retirement and Benefits; and

WHEREAS, the State of Alaska, Division of Retirement and Benefits found the position of Police Chief excluded from participation in PERS; and

WHEREAS, through Resolution Serial No. 07-04, the City of Wasilla included the position of Police Chief to the PERS plan; and

WHEREAS, the City of Wasilla, wishes to amend the City of Wasilla PERS plan to exclude the position of Police Chief.

WHEREAS, the City of Wasilla PERS plan, as amended, presently permits amendments to the plan by adding or deleting participants from the plan.

NOW, THEREFORE, BE IT RESOLVED, by the Wasilla City Council:

1. Pursuant to AS 39.35, the City of Wasilla, hereby requests permission to amend the City of Wasilla PERS plan to exclude the position of police chief in the City's PERS plan.

2. The Mayor of the City of Wasilla, is authorized by the City Council of Wasilla, Alaska to:

a. Take the appropriate steps necessary to exclude the position of Police Chief from the City of Wasilla PERS plan; and

b. Initiate an amended participation agreement between the City of Wasilla and the State of Alaska, Department of Retirement and Benefits.

ADOPTED by the Wasilla City Council on January 14, 2019.


BERT L. COTTLE, Mayor

ATTEST:


JAMIE NEWMAN, MMC, City Clerk

[SEAL]

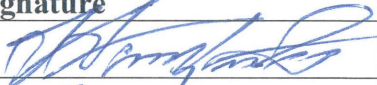


CITY COUNCIL LEGISLATION STAFF REPORT

Resolution Serial No. 19-01: A Resolution Of The Wasilla City Council Amending The City Of Wasilla Public Employees' Retirement System Plan Agreement To Exclude The Position Of Police Chief In The City Of Wasilla Public Employees' Retirement System Plan Pursuant To AS 39.35.

Originator: Troy Tankersley, Finance Director

Date: 12/11/2018

Agenda of: 1/14/2018

Route to:	Department Head	Signature	Date
X	Finance Director		1-3-19
X	Deputy Administrator		1/3/19
X	City Clerk		1/3/19

Reviewed by Mayor Bert L. Cottle:  1/3/2019

Fiscal Impact: yes or no

Attachments: Resolution Serial No. 19-01 (2 pp)

State of Alaska, Division of Retirement and Benefits Audit Report (20 pp)

Summary Statement:

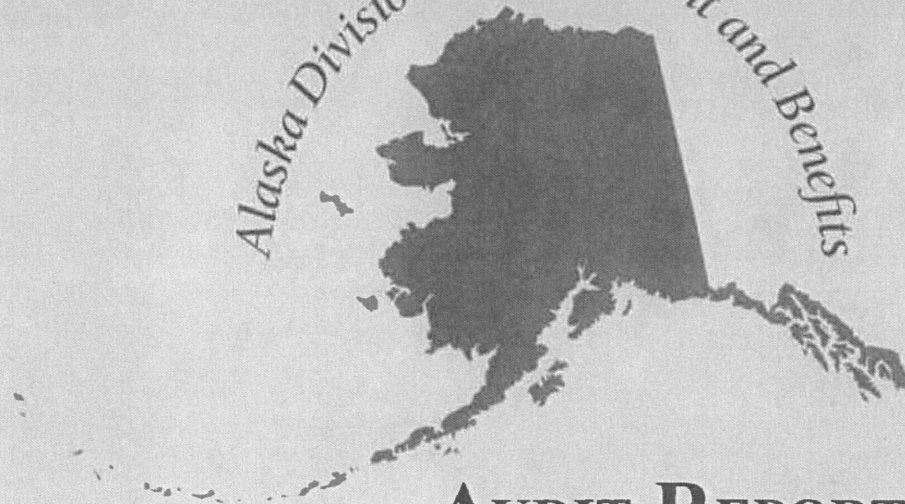
In June 2018, the City of Wasilla underwent a State of Alaska, Department of Retirement and Benefits (SOADRB), Public Employees' Retirement System (PERS) audit for the calendar year 2017. In November 2018, the City of Wasilla received the Compliance Audit Report issued by the SOADRB.

The report has one finding and requests that the City of Wasilla address it immediately. The finding relates to the position of Police Chief not participating in the PERS plan even though the City, through the adoption of Resolution Serial No. 07-04, specifically includes the position in the plan. Although the City attempted to appeal the decision of the SOADRB, they found their finding to be accurate and directed the City to address the issue.

Therefore, the City of Wasilla wishes to exclude the position of Police Chief from its PERS Agreement. The SOADRB allows for amendments to the PERS Agreement by adding and deleting positions but the request for amendment must be adopted by resolution.

Recommended Action: Adopt Resolution Serial No. 19-01.

Alaska Division of Retirement and Benefits



AUDIT REPORT

City of Wasilla

Compliance Audit for Calendar Year 2017

Issued: November 2018

PERS No. 131

State of Alaska

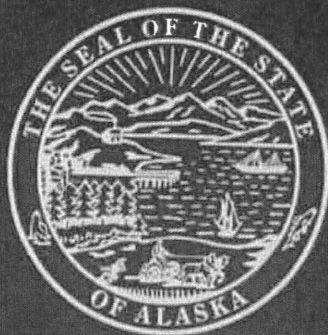
Division of Retirement and Benefits

Audit Section

P.O. Box 110203

Juneau, AK 99811-0203

(907) 465-5707





THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Administration**

DIVISION OF RETIREMENT AND BENEFITS

6th Floor State Office Building
333 Willoughby Avenue
P.O. Box 110203
Juneau, AK 99811-0203
FAX: (907) 465-3086
Phone: (907) 465-4460
Toll-Free: (800) 821-2251

November 15, 2018

Bert L. Cottle
Mayor
City of Wasilla
290 East Herring Ave
Wasilla, AK 99654

Dear Mr. Cottle,

In accordance with Alaska Statutes (AS) 39.35.004 and AS 39.30.150, the Division of Retirement and Benefits (Division) auditors conducted a Public Employees' Retirement System (PERS) and a State of Alaska Supplemental Annuity Plan (SBS) audit of the City of Wasilla (City) to determine compliance with the Retirement Systems. We would like to thank you for your effort and time assisting the Division with the audit.

We conducted this compliance audit using guidance from the International Standards for the Professional Practice of Internal Auditing and in accordance with Generally Accepted Government Auditing Standards (Division audits are not peer reviewed, though they are reviewed yearly for reliance by pension system external auditors). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.

In our capacity as Division auditors, we reviewed information required by PERS and SBS from the participating employer. Responsibility for both the accuracy of the data and completeness of the information reviewed rests with the management of the City.

One issue of noncompliance was identified:

- (1) One eligible PERS position (Chief of Police) was excluded from PERS enrollment and participation.**


One rehired annuitant (Chief of Police) regularly scheduled to work 40 hours per week was excluded from PERS enrollment and participation.

We presented the above-mentioned finding in the preliminary report for the City to respond. The City disagrees with our audit finding, see City of Wasilla letter dated July 9, 2018 on page 12-13 of the report.

On August 17, 2018, the Division sent the City a letter requesting that the City provide additional documents to support their conclusion. The Division did not receive additional documents from the City within the requested timeline stated in the letter, hence our finding still stands.

If you wish to discuss this item, please contact the Division by phone at (907) 465-4469, toll-free (800) 821-2251, or via e-mail at nimeri.denis@alaska.gov. We look forward to working with you in the future.

Sincerely,



Nimeri M. Denis
Division Auditor

City of Wasilla
Table of Contents

Objectives, Scope, and Methodology	1
Organization and Background	2
Audit Finding.....	5
Comments	8
Summary of Prior Audit Findings.....	10
Appendix A: Employees' Paystubs and Time Sheets.....	11
Appendix B: City's Response to Preliminary Audit Report.....	12
Appendix C: Division's Response to the City	14
Appendix D: Federal Form SSA-1945	16

City of Wasilla
Objective, Scope, and Methodology

Objectives

In accordance with Alaska Statutes (AS) 39.35.004 and AS 39.30.150, the Division of Retirement and Benefits (Division) auditors conducted a Public Employees' Retirement System (PERS) and a State of Alaska Supplemental Annuity Plan (SBS) audit of the City of Wasilla (City) to determine compliance with the Retirement Systems.

Scope

Auditors reviewed and analyzed the following:

- 2017 Federal Forms (W-2, W-3, and 1099 Misc)
- 2017 payroll records
- PERS participation agreement and amendments
- SBS participation agreement
- Human resource files
- Internal controls related to PERS eligibility determination, payroll processing and payroll reporting
- Employees reviewed:
 - PERS – 141
 - SBS – 224
 - 1099-MISC - 60
 - Total employees – 226

Methodology

We verified PERS and SBS compliance by initially requesting 2017 personnel and payroll information from the City. We compared the requested data to Division records, and we used analytical techniques to select apparent errors for testing. We used Circular A-133 guidance when determining sample size and performed additional testing where necessary. Auditors performed fieldwork on June 6-7, 2018, in Wasilla Alaska, and followed up with City and Division staff, as necessary to complete the audit.

City of Wasilla
Organization and Background

The City of Wasilla is located in the Matanuska-Susitna Borough area and is the sixth-largest city in the State of Alaska. The City is located on the northern point of Cook Inlet in the Matanuska-Susitna Valley.

The City is headed by an elected Mayor and 6-person City Council. The City was named after a respected local Dena'ina Athabascan Indian known as Chief Wasilla. The growth of the city resulted from the 1970's and 1980's Alaska oil boom and pipeline development. The City was incorporated in 1974. The City's population is 7,831 according to the Alaska Department of Commerce, Community, and Economic Development.

The City entered into PERS effective January 1, 1982. The original PERS participation agreement.

- Include permanent full-time and permanent part-time employees
- Include salaried elected Public Officials
- Recognized current active employee's past service up to a maximum of seven years for those employed by the City of Wasilla on June 23, 1980
- Stated that past service for former employees will be recognized upon re-employment

The City PERS participation agreement has been amended eighteen times as follows.

PERS Participation Amendment No. 1

- City recognized up to three years of temporary service after January 1, 1982
- Effective date on April 1, 1989

PERS Participation Amendment No. 2

- City excluded Public Works Director and Public Safety Director from PERS participation
- Effective date November 23, 1998

PERS Participation Amendment No. 3

- Excluded Library Director from PERS participation
- Effective date on October 1, 2007

PERS Participation Amendment No. 4

- Excluded Airport Manager from PERS participation
- Effective May 1, 2003

PERS Participation Amendment No. 5

- Excluded Seasonal Employees working less than nine months from PERS participation
- Effective date on May 1, 2003

PERS Participation Amendment No. 6

- Elected Officials to participate in PERS
- Effective retroactively to August 20, 2000

City of Wasilla
Organization and Background

PERS Participation Amendment No. 7

- Public Works Director to participate in PERS
- Public Safety Director position removed or no longer exists in the City's organizational structure
- Effective date on May 1, 2003

PERS Participation Amendment No. 8

- Excluded City Inspector from PERS participation
- Effective date on April 1, 2004

PERS Participation Amendment No. 9

- Excluded Concession Attendant I, and Cashier/Receptionist at the Wasilla Multi-Use Sports complex
- Effective April 1, 2004

PERS Participation Amendment No. 10

- Excluded class of Recreational and Cultural Services Manager
- Effective April 1, 2004

PERS Participation Amendment No. 11

- Library Director to participate in PERS
- Effective date on May 1, 2005

PERS Participation Amendment No. 12

- Excluded non-regular hourly employees who work on-call and on an as-needed basis
- Effective June 1, 2005

PERS Participation Amendment No. 13

- Excluded Police Chief from PERS participation
- Effective June 1, 2005

PERS Participation Amendment No. 14

- Excluded Deputy Chief of Police from PERS participation
- Effective March 1, 2006

PERS Participation Amendment No. 15

- Deputy Chief of Police to participate in PERS
- Effective date on August 1, 2006

City of Wasilla
Organization and Background

PERS Participation Amendment No. 16

- Chief of Police to participate in PERS
- Effective March 1, 2007

PERS Participation Amendment No. 17

- Excluded Deputy Chief of Police from PERS participation
- Effective May 1, 2008

PERS Participation Amendment No. 18

- Excluded Seasonal employees
- Effective November 1, 2011

City of Wasilla
Audit Finding

The Division found one issue of noncompliance:

Finding No. 1

Eligible PERS position (Chief of Police) was excluded from PERS enrollment and participation.

Condition

Eligible employee (Melvin E. Belden) retired on February 1, 1999 and was rehired on March 3, 2011 as Chief of Police by the City (appointed by City Mayor). See time sheet listed in Appendix A on page 11. Mr. Belden was regularly scheduled to work 40 hours per week and has been working 40 hours per week for the City since 2011. Despite the fact being regularly scheduled to work 40 hours per week, he is being excluded from PERS participation. According to City officials, the City intended to temporarily hire Mr. Belden.

Cause

Chief of Police position is being excluded due to misinterpretation of AS 39.35.150, AS 39.35.680 and misapplication of the city's PERS participation agreement number 16 which allows the position of Chief of Police to participate in PERS.

Criteria

AS 39.35.150 Re-employment of retired employees.

(a) If a retired employee subsequently becomes an active member, benefit payments may not be made during the period of re-employment. During the period of re-employment, deductions from the employee's salary shall be made in accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is entitled to receive an additional pension based on the credited service and the average monthly compensation earned during the period of re-employment in accordance with AS 39.35.370.

AS 39.35.680

(32) "Permanent full-time" means an employee who is occupying a permanent position that regularly requires working 30 or more hours a week;

Additionally, the City's PERS participation agreement amendment number 16 allows the Chief of Police position to participate in PERS.

IRS Publication 963 – Part-Time, Seasonal, Temporary Employees.

Publication 963 is a federal-state cooperative publication (Social Security Administration, Internal Revenue Service, National Conference of State Social Security Administrators)

Special rules apply to part-time, seasonal and temporary employees for purposes of determining whether they are qualified participants in a public retirement system. IRS Publication 963, Regulation 31.3121(b)(7)-2(d)(2)(iii)(C).

City of Wasilla
Audit Finding

Temporary Employees

The division's policy memo regarding temporary service is adopted from the Internal Revenue Code definition of temporary employment. The Department of Administration, Division of Retirement and Benefits provided additional temporary employment guidance per the policy memo described below. The policy was created to assist Division employees in reviewing positions for inclusion in PERS.

Department of Administration, Division Policy Memo Regarding Temporary Service

Effective April 10, 2013.

TEMPORARY, NONPERMANENT EMPLOYMENT

- (a) A temporary employee is an employee specifically hired to perform services on either a full- or part-time-time basis:
 - i. supporting or supplementing an employer's work force during employee absences, temporary skill shortages or temporary increased workload; or
 - ii. implementing special assignments, projects and other similar work situations;
 - iii. for a limited duration.

- (b) The administrator will make a determination regarding whether an employee is temporary by evaluating all of the facts and circumstances of the employment including:
 - i. the extent to which the employment supports or supplements an employer's workforce;
 - ii. the extent to which the employment implements special assignments, projects or work situation; and
 - iii. the extent to which the term of employment exceeds two years.

- c) An employment segment which has been designated as a temporary or nonpermanent appointment, or an employment segment for which a person has been designated as a temporary or nonpermanent employee by the employer is not creditable under this system except for temporary employment claimed under AS 39.35.345, and temporary legislative employment claimed under AS 39.35.385(f) and 39.35.680(35). For the purpose of AS 39.35, Comprehensive Employment and Training Act (CETA) employees are designated temporary employees.

Effect

Noncompliance with AS 39.35.150, AS 39.35.680 (32) and the city's PERS participation agreement and amendments.

Recommendation

Please work with Roberto Aceveda, Division Counseling and Benefits Education Manager, by phone at (907) 465-4817, toll-free at (800) 821-2251, or via email at Roberto.Aceveda@alaska.gov to resolve this issue. The City can resolve this finding by:

- (1) Introducing a PERS participation amendment to exclude the Chief of Police position from PERS participation; or

City of Wasilla
Audit Finding

- (2) Enrolling the Chief of Police position in PERS. However, if City chooses to enroll this position in PERS, the retirement benefits will have to stop during the Chief of Police's re-employment with the City.

The City should work with the Division Counseling and Benefits Education Manager to discuss city's PERS participation agreement.

Auditor's Remarks:

This finding is still unresolved. The City disagrees with our audit finding in a letter dated July 9, 2018 on page 12-13. Division letter dated August 17, 2018, requested the City to provide additional documents after reviewing the City's response, but we did not receive any supported documentation from the City as stated in the letter, hence our finding still stands.

City of Wasilla
Comments

Comment No. 1

Internal Controls Related to PERS, TRS and SBS Eligibility and Payroll Reporting

The scope for internal control testing was limited to PERS/SBS eligibility and payroll reporting. We conclude that the internal controls of the City over PERS classification, eligibility and reporting should be reviewed and strengthened.

Comment No. 2

Federal Form SSA-1945

Section 419(c) of Public Law 108-203, the Social Security Protection Act of 2004 requires the State and local government employers to disclose the effect of the Windfall Elimination Provision and the Government Pension Offset to employees hired on or after January 1, 2005, in jobs not covered by social security. The law requires newly hired public employees to sign a statement that they are aware of a possible reduction in their future social security benefit entitlement.

Employers must give the statement to the employee prior to the start of employment, obtain employee's signature on the form, and submit a copy of the signed form to the pension paying agency (for Alaska, please submit this form directly to the Division of Retirement and Benefit's Audit Unit). Current editions of this form can be found at SSA.gov or at <https://www.ssa.gov/forms/ssa-1945.pdf>. Please see Appendix D on page 16 for a sample of this form.

Comment No. 3

Retiree Return to Work Policy / Bona Fide Separation of Employment

The PERS and TRS plan statutes require complete separation of employment prior to an employee accessing retirement benefits. The statutes also require cessation of benefits if a retiree returns to a position that participates in the pension plans. Now, federal laws that govern the plans' eligibility for preferred tax treatment restricts re-employment into **positions which are not covered by the retirement systems**, such as temporary, nonpermanent positions, project or independent contractor work, and substitute teaching, with the same employer.

Federal Treasury regulations require employers and employees to be able to prove the retiree terminated employment before returning to work for the same employer in any capacity. Employers and retirees must show there was no pre-arrangement to return to work prior to the employee's retirement and that a period of separation from employment in any capacity was observed by the retiree. Employees can no longer separate from a position in one retirement system, draw benefits, but move into another retirement system provided by the employer without separating employment with the employer.

For example, a teacher for a school district will not be able to stop teaching and move into a PERS-covered position with the district and still draw their TRS benefit. Even if the teacher meets TRS eligibility requirements, this action is prohibited because there is no severance of employment with the same employer.

City of Wasilla

Comments

Failure to follow the requirements under Code Section 401(a)(36) and proposed Treasury regulations regarding in-service distributions raises qualification issues for the plans and **potential early distribution tax penalties for the individual**. In addition, if a pre-arrangement for employment exists, the individual may be deemed not to have a bona fide separation of employment, making them ineligible for retirement benefits.

The Commissioner of Administration, who is the Plan Administrator, has adopted a policy outlining the requirement for a Bona Fide Separation of Employment. The policy is posted on the Employer Services website along with a series of frequently asked questions (FAQs). If you have additional questions, contact Kathy Lea, Chief Pension Officer, at the Division's Juneau office, (907) 465-4460 or Toll Free (800) 821-2251. The FAQs will be updated as additional questions arise.

The Division has adopted regulations to administer these provisions. The regulations will be administered on a prospective basis and will affect retirees who retire on or after January 1, 2018.

City of Wasilla
Summary of Prior Audit Findings

Audit Year: 2011
Auditor: Robert Gregg
Prior Audit Finding No. 1

Finding #1: Ineligible Employees Participating in the Supplemental Annuity System (SBS)

My examination revealed that four employees who were classified as rehired annuitants had wages reported to SBS.

Alaska statute 39.30.150 simply state that the requirement for participating in the SBS program an individual would be that they would have been eligible to participate in the social security system.

A rehired annuitant is a retiree who is rehired by his or her employer or another employer that participates in the same retirement system as the former employer. A rehired annuitant is either drawing a retirement benefit from that retirement system or has reached retirement age under the retirement system.

Rehired annuitants are excluded from mandatory social security coverage. Retirees rehired after March 31, 1986, are covered for Medicare regardless of whether they qualify as rehired annuitants. Additional information on the common-rule for "Determining Worker Status" can be found in Chapter 6, of IRS Publication 963. <http://www.irs.gov/pub/irs-pdf/p963.pdf>

I have determined per Regulation 31.3121(b)(7) 2(d)(4)(ii), and Section 210(a)(7)(F) of the Social Security Act that the below employees would not be eligible to participate in the Social Security program, and therefore not eligible to participate in SBS per 39.30.150

Melvin E. Belden
Bert L. Cottle

Action Needed:

For the above listed employees, the reported wages shall be corrected. A W-2c shall be filled for all affected years for three years, three months, and fifteen days from the date of this report.

In the future the City should not enroll, report wages, or pay contributions for rehired annuitants in SBS.

Current status - Resolved

This finding is resolved. The City no longer allows rehired annuitants to participate in SBS. Corrections have been made to the affected rehired annuitants as recommended in the previous audit report.

City of Wasilla
Appendix A
Paystubs and Timesheets

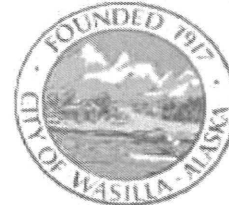
The table below relates to Audit Finding No. 1 located on page 5.

Belden, Melvin		Belden, Melvin	
2017 Time Sheets and Paystubs		2016 Time Sheets and Paystubs	
Pay Period Ending	Total Hrs	Pay Period Ending	Total Hrs
1/1/2017		1/2/2016	
1/15/2017	80	1/17/2016	80
1/29/2017	80	1/31/2016	80
2/12/2017	80	2/14/2016	80
2/26/2017	80	2/28/2016	80
3/12/2017	80	3/13/2016	80
3/26/2017	80	3/27/2016	80
4/9/2017	80	4/10/2016	80
4/23/2017	80	4/24/2016	80
5/7/2017	80	5/8/2016	80
5/21/2017	80	5/22/2016	80
6/4/2017	80	6/5/2016	80
6/18/2017	80	6/19/2016	80
7/2/2017	80	7/3/2016	80
7/16/2017	80	7/17/2016	80
7/30/2017	80	7/31/2016	80
8/13/2017	80	8/14/2016	80
8/27/2017	80	8/28/2016	80
9/10/2017	80	9/11/2016	80
9/24/2017	80	9/25/2016	80
10/8/2017	80	10/9/2016	80
10/22/2017	80	10/23/2016	80
11/5/2017	80	11/6/2016	80
11/19/2017	80	11/20/2016	80
12/3/2017	80	12/4/2016	80
12/17/2017	80	12/18/2016	80
12/31/2017	80	1/1/2017	80
Total Weekly Hours	40		40

City of Wasilla
Appendix B
City's Response to the Preliminary Audit Report

City of Wasilla

Finance Department
290 E Herning Avenue
Wasilla, Alaska 99654-7091
Phone: (907) 373-9080
Fax: (907) 373-9085



July 9, 2018

Department of Administration
Division of Retirement and Benefits
Attn: Nimer M. Denis, Division Auditor
P.O. Box 110203
Juneau, Alaska 99811-0203

Re: City of Wasilla – PERS Audit Response

Mr. Denis,

In response to your audit findings letter dated June 26, 2018, the City of Wasilla requests further consideration as described herein:

- (1) One eligible PERS position (Chief of Police) was excluded from PERS enrollment and participation.

This issue was first brought up for discussion in a prior PERS audit dated March 30, 2012 for the audit period of 2011. This finding was concluded with Mr. Belden, Chief of Police was an executive and temporary employee and as such, the City could use Mr. Belden in this capacity without recourse.

The above determination came with history between the Division of Retirement and Benefits (DRB) and the City of Wasilla. Prior to 2008, the City of Wasilla had a reputation of adding or removing positions from its PERS Agreement to facilitate the needs of the City (directly informed by DRB). Approximately, in 2009, the DRB requested from the City to cease in this type of activity and efforts between the City of Wasilla's Finance Department and DRB worked further in other similar employment questions to comply with this request.

Mr. Belden's employment history and future actions of administration had been explicitly conveyed to DRB and it was the City's understanding through DRB that we could continue to use Mr. Belden in this capacity. However, when and if a replacement was found, that individual would be required to enter the PERS system. The City had no problem with this determination as the City has not altered its PERS Agreement since 2008.

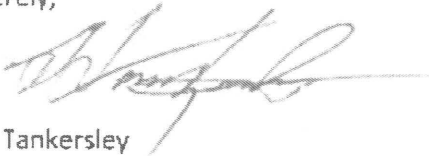
City of Wasilla
Appendix B
City's Response to the Preliminary Audit Report

The City does agree and understands the criteria found in IRS Publication 963 or AS 39.35. However, the City does disagree with the DRB in this instance as the City relied upon the guidance of the DRB in the audit of 2011. If the DRB wishes for the City to return to altering our PERS Agreement when necessary, then are we not returning to the time where the DRB requested us to cease?

The City of Wasilla has been and continues to be participants of the PERS System and does not wish to return to a period where we are viewed as altering our agreements to appear as if we are not participating in good faith. It is for all the above reasons and reliance upon information from the DRB, the City requests for this audit finding to be overturned and allow the City to continue to use Mr. Belden until such time a replacement is found or Mr. Belden ceases employment with the City of Wasilla without altering our PERS Agreement.

If you need additional information, please let me know.

Sincerely,



Tray Tankersley
Finance Director
City of Wasilla
Phone: (907) 373-9084
Fax (907) 373-9085

City of Wasilla
Appendix C
Division's Response to the City



THE STATE
of **ALASKA**
GOVERNOR KILL WALKER

**Department of
Administration**

DIVISION OF RETIREMENT AND BENEFITS

5th Floor State Office Building
315 Westchase Avenue
Juneau, Alaska 99801-0203
PHONE: 907-586-5266
FAX: 907-586-5266
TOLL FREE: (800) 82-1171

August 17, 2018

Troy Tankersley
Finance Director
City of Wasilla
290 E Herning Avenue
Wasilla, AK 99654-7091

Dear Mr. Tankersley,

This letter is in response to the City of Wasilla's (the City) letter dated July 9, 2018, to the Division of Retirement and Benefits (Division). The City requested the Division to overturn the audit finding in the preliminary audit report dated June 26, 2018 regarding the City's audit finding: Eligible Public Employees' Retirement System (PERS) position (Chief of Police) was excluded from PERS enrollment and participation. Based on the City's records, the Chief of Police (Mr. Melvin E. Belden) was regularly scheduled to work, 40 hours per week, and has been working for the City since 2011, but is being excluded from PERS participation.

Pursuant to the City's request, the Division examined the factors, circumstances, and conditions to overturn the audit finding, but the Division can find no documentation in its files to reverse its decision. The last audit performed in 2011 noted that the Chief of Police was a temporary position. At that time, Mr. Belden had not exceeded the 2 year threshold for temporary employment and it was the division auditor's understanding that this position was supporting or supplementing the employer's work force during a permanent employee absence for a limited duration. As of the date of the current audit, Mr. Belden has been employed for seven (7) years.

The Plan administrator makes the final determination regarding whether an employee is temporary by evaluating all of the facts and circumstances of the employment. The facts in this case indicate this position is not temporary, but rather a permanent, full-time position. Under the terms of the participation agreement, this position must be enrolled in PERS as of the hire date. Therefore in light of these factors, circumstances, and conditions, the City's request has been denied.

In the event the City is not satisfied with this outcome, the City should provide any documentation from the 2011 audit or from its own records that may change this determination. Please send these documents by September 7, 2018, if any. If the City fails to send the supported documentations to the Division by the due date, this decision will be final.

City of Wasilla
Appendix C
Division's Response to the City

Troy Tankersley, Finance Director
City of Wasilla

Page 2

August 17, 2018

If the decision becomes final, the City may appeal the denial of consideration of the Chief of Police as a temporary employee exempt from PERS coverage to the Office of Administrative Hearings by requesting appeal rights.

Any additional queries pertaining to this matter should be directed to me, via email at kathy.lea@alaska.gov or by phone at (907) 465-3226 or the Division Director, Ajay Desai, by phone at (907)465-4471, via email ajay.desai@alaska.gov.

Sincerely,



Kathy Lea
Division Chief Pension Officer

City of Wasilla
Appendix D
Federal Form -1945

Social Security Administration

**Statement Concerning Your Employment in a Job
Not Covered by Social Security**

Employee Name Please write legibly **Employee ID#** Employee's SSN
Employer Name Please write legibly **Employer ID#** Indicate PERS, TRS or SRS

Your earnings from this job are not covered under Social Security. When you retire, or if you become disabled, you may receive a pension based on earnings from this job. If you do, and you are also entitled to a benefit from Social Security based on either your own work or the work of your husband or wife, or former husband or wife, your pension may affect the amount of the Social Security benefit you receive. Your Medicare benefits, however, will not be affected. Under the Social Security law, there are two ways your Social Security benefit amount may be affected.

Windfall Elimination Provision

Under the Windfall Elimination Provision, your Social Security retirement or disability benefit is figured using a modified formula when you are also entitled to a pension from a job where you did not pay Social Security tax. As a result, you will receive a lower Social Security benefit than if you were not entitled to a pension from this job. For example, if you are age 62 in 2013, the maximum monthly reduction in your Social Security benefit as a result of this provision is \$395.50. This amount is updated annually. This provision reduces, but does not totally eliminate, your Social Security benefit. For additional information, please refer to Social Security Publication, "Windfall Elimination Provision."

Government Pension Offset Provision

Under the Government Pension Offset Provision, any Social Security spouse or widow(er) benefit to which you become entitled will be offset if you also receive a Federal, State or local government pension based on work where you did not pay Social Security tax. The offset reduces the amount of your Social Security spouse or widow(er) benefit by two-thirds of the amount of your pension.

For example, if you get a monthly pension of \$600 based on earnings that are not covered under Social Security, two-thirds of that amount, \$400, is used to offset your Social Security spouse or widow(er) benefit. If you are eligible for a \$500 widow(er) benefit, you will receive \$100 per month from Social Security (\$500 - \$400=\$100). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65. For additional information, please refer to Social Security Publication, "Government Pension Offset."

For More Information

Social Security publications and additional information, including information about exceptions to each provision, are available at www.socialsecurity.gov. You may also call toll free 1-800-772-1213, or for the deaf or hard of hearing call the TTY number 1-800-325-0778, or contact your local Social Security office.

I certify that I have received Form SSA-1945 that contains information about the possible effects of the Windfall Elimination Provision and the Government Pension Offset Provision on my potential future Social Security Benefits.

Signature of Employee _____

Date _____

Form SSA-1945 (01-2013)
Destroy Prior Editions