

MUNICIPAL AUDITING REPORT CITY OF ROANOKE



Retirement Benefits **7/20/2023**

Report Number: 24-002
Audit Plan Number: 23-305

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SUMMARY OF COMPLAINT

A former employee of an entity that participates in the City's Retirement system alleged that the City's Retirement Office incorrectly accounted for his and his wife's benefits. He also alleges that the City's Retirement Office misrepresented the benefits during its communications with him and his wife.

INVESTIGATION OBJECTIVES & CONCLUSIONS

1. Did the reporter and his wife receive the correct credit for their service and contributions in the City's Pension Plan (the Plan)?

Yes – Based on the information provided by the employer to the City, the retirement system correctly stated both participants' years of service, pay history, and contributions. Employee contributions accrued interest as required by City Code.

2. Did the reporter and his wife receive a return of contribution letter in a timely manner?

Yes, with Qualifications – Retirement responded in a timely manner to both participants. The reporter submitted an in-person application for a return of contribution before it was time for Retirement to generate the standard letter notifying him of his options. Retirement sent the reporter's wife the standard return of contribution letter within 30 days of receiving her final earnings and termination paperwork from the employer.

3. Was sufficient guidance regarding applicable laws and regulations, and how to apply for a return of contributions provided to the reporter and his wife?

Yes – Retirement provided information consistent with the department's standard notices and letters. Management met in person with the reporter and provided copies of City Code and additional information via email in response to the reporter's questions and concerns.

4. Were employee contributions returned to the reporter and his wife in the manner they elected?

Yes – Retirement refunded the reporter's contributions consistent with the requirements of the Plan, the Virginia Department of Taxation, and the United States Internal Revenue Service. Based on information in the retirement system and our recalculations, the refund was for the correct amount.

The reporter's wife had not applied for a return of employee contributions at the time of our investigation. If she were to request a refund of her contributions, it would cause her to lose her lifetime pension benefit.

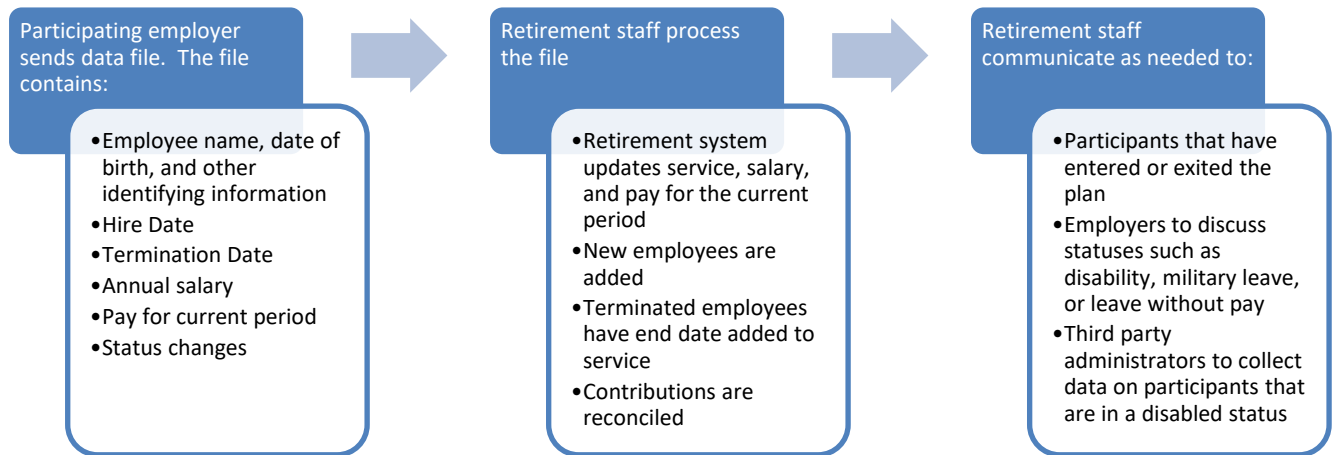
BACKGROUND

The Retirement Office (Retirement) is a division of the Finance Department. As of June 30, 2022, Retirement was managing \$436.5M in assets to fund retirement benefits for employees of the City and other participating employers. These assets and the retirement benefits they fund are collectively referred to as “the Plan”. Retirement is also responsible for oversight of the defined contribution plans of the City.

The Plan is a cost-sharing, multiple employer, pension plan that offers both a defined benefit and defined contribution component. Employers who are actively participating in the Plan, or who have legacy employees in the Plan are:

- City of Roanoke
- Roanoke City Public Schools
- Roanoke Regional Airport
- Roanoke Valley Juvenile Detention Commission
- Roanoke Valley Resource Authority
- Western Virginia Water Authority

Participating employers provide payroll data files that interface into the City’s retirement system and contributions that pay for the Plan. Retirement staff use the data files to credit participants for service, earnings, and employee contributions, and to reconcile cash received (from the participating employers).



Code of City of Roanoke §22.3 Pensions and Retirement outlines the general provisions of the City pensions and retirement plans. **Section 22.3-27** of the Code directs the handling of contributions, payout of contributions, and the establishment of members’ contribution accounts.

END OF BACKGROUND

OBJECTIVE 1: CREDIT FOR PARTICIPATION IN THE PLAN**OBJECTIVE:**

Did the reporter and his wife receive credit for their service and contributions in the retirement system?

Yes

SCOPE:

Service and employee contributions of the reporter and his wife that accumulated during their employment.

RESULTS:

Retirement relies on the employer to provide timely information for employees that participate in the City's benefits, consistent with the employer's payroll cycle (bi-weekly, semi-monthly, etc.).

Service and earnings accumulated within the Plan:

We verified service periods based on payroll data files immediately following the reporter and his wife's hire dates, as well as the last two payrolls after termination. Our computations of credited service noted a one-day difference, which had no effect on the reporter's vesting status or final payout.

We also tested earnings history from the retirement system for completeness because a missing earnings record would cause a participant not to be credited for contributions made. Based on the service dates, both participants had the expected number of earnings records in the retirement system.

We sampled 30 of 384 earnings records (7.8%), including the first payroll of each fiscal year, payrolls that had a fluctuation in pay, and the last two months prior to the reporter's termination. We traced earnings from the employer's data files to the retirement system and found no uncorrected errors or omissions.

Contributions accumulated within the Plan:

The reporter and his wife participate in the Employee Supplemental Retirement System (ESRS) cost sharing, multiple-employer plan that requires five (5) years of total service to vest. As is common for pension plans of this kind, ESRS returns contributions paid into the plan by the participant when they separate before vesting. If a vested employee chooses to withdraw his or

her contributions upon separation, the years for which those contributions were made no longer count as credited service. This can cause a participant to lose their vested status.

In accordance with the laws governing defined benefit plans, contributions paid by the employer remain in the plan. In this case, the reporter had less than five (5) years of service and was not vested in the plan. He was not eligible for a pension benefit but was entitled to a return of his contributions with interest.

The reporter's wife has vested, but has the option to request a payout of her contributions, which began July 1, 2015. Choosing this option would cause her to lose her vested status and her lifetime pension benefit. Her pension benefit provides retirement at age 65 with a monthly benefit or, if she elects it, a reduced benefit beginning at age 55. To stay enrolled in the Plan, she would have to leave her employee contributions in the Plan and fill out an application when she neared the age of eligibility.

Employee contributions of 5% of gross pay began July 1, 2015 for existing members of ESRS. We recalculated employee contributions for the reporter and his wife, applying annual interest of 2% as required by City Code.

The contributions reported to the participants and recorded in the retirement system matched our calculations.

Interest is required by City Code §22.3. Excerpt from City Code that applies to these participants:

... Beginning on July 1, 2017, and continuing thereafter until modified by city council, as of each June 30, the member contribution account of each active member shall be credited with interest at a rate of two (2) percent annually. Interest shall accrue on any contribution beginning on the first day of the fiscal year following the year in which the contribution was made. No interest shall be credited to the member contribution account after the effective date of the member's retirement...

END OF OBJECTIVE 1

OBJECTIVE 2: LETTERS TO PARTICIPANTS

OBJECTIVE:

Did the reporter and his wife receive a return of contribution letter in a timely manner?

Yes, with Qualifications

SCOPE:

The return of contribution letters mailed to the reporter and his wife.

RESULTS:

For Retirement to generate an accurate “return of contribution” letter, it must receive:

1. A notification from the employer that the employee has separated from service.
2. Earnings data from the employee’s final paycheck.

The reporter requested and received his final check prior to his employer running its normal payroll. As a result, his final paycheck data was not included in the data file provided to the City’s Retirement Office. The employer added this data in the subsequent payroll file two weeks later.

The reporter also requested a return of his contributions in person at the Retirement Office before it was time to generate the standard letter communicating his options. Retirement processed the reporter’s return of contribution application within 30 days of receiving his final earnings data. Retirement sent the reporter’s wife the standard return of contribution letter within 30 days of receiving her final earnings and termination paperwork from the employer.

END OF OBJECTIVE 2

OBJECTIVE 3: DISCLOSURES AND GUIDANCE TO PARTICIPANTS

OBJECTIVE:

Was sufficient guidance regarding applicable laws and regulations, and how to apply for a return of contributions provided to the reporter and his wife?

Yes.

SCOPE:

We reviewed all communications sent to the reporter and his wife following separation from service, including the return of contribution letter and its inserts, the disbursement application and its inserts, and all emails between the reporter and the Retirement Office.

Retirement staff remembered speaking with the reporter on the phone a number of times but, as there are no records of those conversations, we relied exclusively on written communications.

RESULTS:

We noted the following interactions and communications occurred with the reporter and his wife.

The reporter's application for a return of his contributions communicated payment options that were available to him (rollover, direct deposit, etc.), and his notarized signature appeared on the application certifying that he had read and understood the terms and conditions seen here:

Member Certification

By signing the Request for Refund Form, you certify the following:

- You have read and understand the information provided with this form.
- You understand a 20% federal tax is withheld from the taxable portion of the refund and, if you are a resident of Virginia, that an additional 4 percent state tax is withheld.
- You may be subject to an additional 10% federal tax penalty on the taxable portion of the refund.
- You have selected the payment of funds as shown on the form and understand you are no longer eligible for future retirement benefits for this service time; if you return to a retirement covered position you will be rehired under the plan provisions available at that time even if you purchase this refunded service.
- You understand that you will no longer be eligible for group life insurance or optional group life insurance.
- You are not returning to work in a part-time position with the same employer for at least one full calendar month.
- You understand that any willful falsification of facts presented may result in prosecution as provided by law.
- You understand this is a request for a refund of your defined benefit plan contributions only.
- For City of Roanoke Retirement Plan members taking a refund of the defined benefit - if you return to covered employment, you will be rehired under the plan provisions available at that time.

Note: Your refund cannot be paid to you while you are actively employed.

Emails also show that Retirement provided the reporter with a copy of City Code §22.3 and answered several questions related to the Plan. Retirement was ultimately unable to satisfy the

reporter, who proposed a payment of employee and employer contributions with 5% interest. We note that there is no provision in City Code to provide a member with employer contributions or interest at that rate. The Retirement Systems Manager notified the reporter that he had forwarded his communications to the City Attorney for response.

Retirement communicated with the reporter's wife using a return of contribution letter. The letter was personalized to show the total value of her contributions, including interest. It and its enclosures explained how to initiate a disbursement, her disbursement options, and the tax implications of a disbursement. It referred her to City Retirement staff and City Code §22.3 for general questions about the Plan and specific IRS publications for questions about taxes. The letter notified the reporter's wife of her eligibility to draw a monthly pension benefit as a vested member of the Plan and how a withdrawal of contributions would impact future benefits and credited service.

END OF OBJECTIVE 3

OBJECTIVE 4: RETURN OF CONTRIBUTIONS IN THE PLAN

OBJECTIVE:

Were “employee” contributions returned to the reporter and his wife in the manner they elected?

Yes.

SCOPE:

We reviewed all contributions made by the reporter and his wife during their employment.

RESULTS:

The reporter elected a lump sum distribution of his taxable contributions. The City issued a check to him for the balance of his contributions plus interest, net of required payroll taxes remitted to State and Federal agencies on his behalf.

The reporter’s wife did not apply for a return of employee contributions. Based on her status as a vested member of the Plan, a return of contributions would cause her to forgo future pension benefits. As such, there is no requirement or expectation that her contributions will be withdrawn from the Plan.

END OF OBJECTIVE 4

SUMMARY OF MANAGEMENT ACTION PLANS

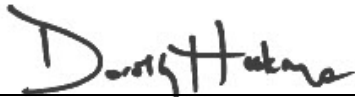
There were no audit observations and therefore, no action plans were required.

MANAGEMENT COMMENTS

Management has the option of providing comments to clarify issues, to provide context, or to share other information management feels is relevant and not otherwise addressed in the report. Management has considered the need for comments and decided none were necessary.

ACKNOWLEDGEMENTS

Thank you to the Retirement Office, in particular Harold Harless and Chris Bailey, for their time and cooperation with the audit.



Dorothy Hoskins, CFE
Senior Accountant



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Municipal Auditor

EXHIBIT 1 – Complaint Summary & Disposition

Complaint	Disposition	Notes
<i>Reporter and his wife alleged they did not receive the benefits due to them; retirement monies were not correctly credited to their accounts</i>	Unsubstantiated	We verified that the participants received the correct credit for service, earnings, and employee contributions in the retirement system. The participant that requested a return of contribution received a check for the balance due to him.
<i>Payroll deductions for retirement benefits were reported as 401a deductions and included as part of compensation, making employer contributions payable to the participant</i>	Not Evaluated	The City's Auditing Department has no authority to audit this organization's payroll, however, we know a prominent third-party vendor administers their payroll and tax reporting. City Code has no provisions for employer contributions to be payable to Plan participants.
<i>Neither the reporter or his wife are in the pension database</i>	Unsubstantiated	We verified that the participants received the correct credit for service, earnings, and employee contributions in the retirement system.
<i>Explanations of these benefits by City Retirement staff have been inadequate</i>	Unsubstantiated	We verified the participants received timely communication from Retirement after their employment ended. We determined sufficient guidance was provided to the participants regarding applicable laws and regulations and how to apply for a return of contributions.

Definitions:

- Unsubstantiated - Allegations not supported by the evidence
- Substantiated - Allegations supported by the evidence
- Inconclusive - Evidence inadequate to make a determination
- Not Evaluated - Allegation presents no risk to the city/schools and was not investigated
- Referred - Allegation was referred to another department or agency for