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January 31, 2011

Employer Code: 1778
Job Number: P09-045

Ben Lomond Fire Protection District
Stacie Brownlee, Fire Chief
P.O. Box 27
Ben Lomond, CA 95005

Dear Ms. Brownlee:

Enclosed is our final report on the results of the public agency review completed for the Ben Lomond Fire Protection District. Your agency's written response indicates agreement with the issues noted in the report. The written response is included as an appendix to the report. As part of our resolution process, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

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

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Lori McGartland, Chief, ERSD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Holly Fong, Chief, EMHS, CalPERS
Honorable Board Members, Ben Lomond Fire Protection District

Ben Lomond Fire Protection District



Public Agency Review



**Employer Code: 1778
Job Number: P09-045**

February 2011

BEN LOMOND FIRE PROTECTION DISTRICT

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BEN LOMOND FIRE PROTECTION DISTRICT

RESULTS IN BRIEF

We reviewed the Ben Lomond Fire Protection District's (District) enrolled individuals, health and retirement contributions, member earnings and required health, retirement and Automated Communications Exchange System (ACES) documentation for employees included in our test sample. A detail of the exceptions is noted in the Risk and Mitigation Table. Specifically, the following exceptions were noted during the review:

- The monetary value and maintenance of uniforms was not reported as special compensation.
- Regular earnings were incorrectly reported as special compensation.
- Temporary/part-time employees were not enrolled in CalPERS membership.
- A safety employee was misclassified as miscellaneous and excluded from membership.
- An ineligible employee was enrolled in CalPERS Health Benefits Program.
- A health contribution payment was not remitted timely.
- A required ACES User Security Agreement form was not properly maintained.

BACKGROUND

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Employer Services Division (ERSD) manages contract coverage for public agencies and receives, processes, and posts payroll information. CalPERS Benefit Services Division (BNSD) provides services for eligible members who apply for service or disability retirement. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Office of Employer and Member Health Services (EMHS), as part of the Health Benefits Branch (HBB), provides eligibility and enrollment services to the members and employers that participate in the CalPERS health benefits program, including state agencies, public agencies, and school districts.

BEN LOMOND FIRE PROTECTION DISTRICT

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

The District was organized on June 15, 1923, and provides fire protection for the town of Ben Lomond and the surrounding area. The District is governed by a Board of Directors. Employment agreements outline all District employees' salaries and benefits and state the terms of employment agreed upon between the District and its employees.

The District contracted with CalPERS effective April 13, 2001, to provide retirement benefits for local fire employees. The District's current contract amendment identifies the length of the final compensation period as the final three years for all coverage groups. The District contracted with CalPERS effective August 1, 1998, to provide health benefits to the Fire Chief.

SCOPE

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the District's payroll reporting and enrollment processes as these processes relate to the District's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the District complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures were followed. The on-site fieldwork for this review was conducted on February 22, 2010, through February 24, 2010.

The review period was limited to the examination of sampled records and processes from January 1, 2007, through December 31, 2009. To accomplish the review objectives, we performed the following:

BEN LOMOND FIRE PROTECTION DISTRICT

- ✓ Reviewed the contract and subsequent amendments the District had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the District had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the District's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the District's payroll register with the data reported to CalPERS to determine whether the District correctly reported employees' compensation.
- ✓ Reviewed the District's payroll information reported to CalPERS to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the District's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.
- ✓ Reviewed the District's enrollment practices pertaining to temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the District's classification of employees to determine whether the District reported employees in the appropriate coverage groups.
- ✓ Reviewed the District's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the District's calculation and reporting of unused sick leave balances for retiring members.
- ✓ Reviewed employees and their dependents to determine whether the District properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health contribution payment information to determine whether the District remitted payments within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the District contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the District maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

BEN LOMOND FIRE PROTECTION DISTRICT

RISK AND MITIGATION TABLE

In developing our opinions, we considered the following risks and mitigations. We also include our observations and recommendations.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The District may not accurately report compensation to CalPERS.	<p>We reviewed payroll records and compensation reported to CalPERS for one employee over two service periods. The service periods reviewed were the first service period of June 2008 (6/08-3) and the second service period of December 2009 (12/09-4).</p> <p>The earnings reported to CalPERS were reconciled to the District's payroll records. The District accurately reported compensation to CalPERS for the sampled employee during the two sampled service periods except for the following instances:</p> <p><u>Uniform Allowance</u></p> <p>The District did not report the monetary value of uniform and uniform maintenance provided by the District to the sampled employee that was required to wear a uniform. The monetary value of uniforms must be reported to CalPERS as special compensation.</p> <p>Government Code, § 20636(c)(6), states, in part, "The board shall promulgate regulations that delineate more specifically and exclusively what constitutes special</p>	<p>The District should report the monetary value of uniforms and uniform maintenance for all CalPERS members required to wear uniforms.</p> <p>The District should work with CalPERS ERSD to assess the impact of this non-reporting and</p>

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The District may not accurately report compensation to CalPERS. (continued)	<p>compensation as used in this section. A uniform allowance, the monetary value of employer-provided uniforms...shall be included as special compensation."</p> <p>California Code of Regulations, § 571(a)(5), defines uniform allowance as, "Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are for personal health and safety such as protective vests, pistols, bullets, and safety shoes."</p> <p><u>Holiday Pay</u></p> <p>The District incorrectly reported regular earnings as special compensation. Specifically, the District incorrectly paid and reported \$195.20 as holiday pay in service period 6/08-3 for the sampled employee. However, according to the employee's employment agreement, the employee worked a 40-hour workweek and was not normally required to work on a scheduled holiday. Therefore, the District incorrectly reported holiday pay as special compensation instead of regular earnings, and as a result his earnings and payrate were understated.</p> <p>Government Code, § 20636(b)(1), states, in part, "Payrate</p>	<p>determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p> <p>The District should correctly report compensation to CalPERS.</p> <p>The District should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
1. The District may not accurately report compensation to CalPERS. (continued)	<p>means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules."</p> <p>California Code of Regulations, § 571(a)(5), defines holiday pay as, "Additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. If these employees are paid over and above their normal monthly rate of pay for approved holidays, the additional compensation is holiday pay and reportable to CalPERS."</p>	section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.
2. The District may not report payrates in accordance with publicly available salary schedules.	We reviewed payrates reported to CalPERS and reconciled the payrates to the District's public salary information to determine whether payrates for the sampled employee were properly authorized and reported to CalPERS. The sampled employee's payrate was properly authorized and reported in accordance with public salary schedules.	None.
3. The District may not accurately report payroll information to CalPERS.	We reviewed the payroll listing information reported to CalPERS for the sampled employee and service periods identified in Risk 1. We also reviewed payroll reporting elements to ensure the District utilized the correct pay codes, work schedule codes and service period type	None.

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The District may not accurately report payroll information to CalPERS. (continued)	codes. Our sample testing revealed that the District correctly reported payroll information and payroll reporting elements to CalPERS.	
4. The District may fail to or did not submit payroll in a timely manner to CalPERS.	We reviewed the payroll information for service periods 10/09-3 and 12/09-4 to determine whether the District submitted payroll information within the required timeframes. We determined that payroll information and retirement contributions were submitted within the required timeframes.	None.
5. The District may not enroll all eligible employees into CalPERS membership.	<p><u>Excluded Employees</u></p> <p>The contract between the Board of Administration of CalPERS and the Board of Directors of the District excluded members of the Governing Body, police officers, and miscellaneous employees. The District did not employ any police officers nor did it offer membership to the miscellaneous employee or any members of the Governing Body. However, the District incorrectly classified one safety employee as miscellaneous, and incorrectly excluded the employee from CalPERS membership. See Risk 7 for analysis.</p> <p><u>Temporary/Part-time Employees</u></p> <p>We selected a sample of three temporary/part-time</p>	None. The District should enroll all

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The District may not enroll all eligible employees into CalPERS membership. (continued)	<p>employees and reviewed the number of hours worked in fiscal year 2007/2008 and 2008/2009 to determine whether the employees reached or exceeded the 1,000 hour membership eligibility requirement. We also selected all temporary/part-time employees who worked during fiscal years 2007/2008 and 2008/2009 and checked for prior CalPERS membership.</p> <p>Our testing revealed that two employees had prior CalPERS membership. However, the District did not enroll or report the employees' earnings to CalPERS. One temporary employee had prior CalPERS membership with the County of Santa Cruz effective September 26, 2005, and subsequently separated from the County on October 10, 2005. The member contributions were not refunded. Therefore, the employee should have been enrolled by the District and his contributions should have been reported to CalPERS.</p> <p>Another temporary employee was a CalPERS member effective May 22, 2006 with the California Department of Forestry and Fire (CDFF) as a seasonal firefighter. During the off-season, the employee also worked for the District; however, the District did not enroll the employee into CalPERS membership and did not report the member's earnings to CalPERS.</p> <p>If a person is currently a member of CalPERS (i.e., has</p>	<p>eligible employees into CalPERS membership when membership eligibility requirement are met.</p> <p>The District should work with CalPERS ERSD to determine the impact of this membership issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The District may not enroll all eligible employees into CalPERS membership. (continued)	<p>contributions/service on account that have not been refunded), the person cannot be excluded from membership due to her/his time base (e.g., working less than 20 hours per week) or appointment length. Therefore, persons who are currently members of CalPERS do not need to re-qualify for membership. This applies even if their membership was established through employment with another CalPERS agency, or if they are not currently working with a CalPERS covered agency.</p> <p>Government Code, § 20305(a), states, "An employee serving on a less than full-time basis is excluded from this system unless: (1) He or she is a member at the time he or she renders less than full-time service and is not otherwise excluded pursuant to this article or by a provision of a contract."</p> <p><u>Independent Contractor</u></p> <p>The District stated it did not hire any independent contractors during calendar years 2008 and 2009.</p>	None.

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
6. The District may unlawfully employ retired annuitants.	<p>We reviewed the hours worked for one retired annuitant in fiscal year 2007/2008. Our sample testing revealed that the retired annuitant did not exceed the 960-hour threshold.</p> <p>We also determined that a bona fide separation from employment, per Government Code, § 21220.5, was not needed as the sampled retired annuitant's age at retirement was beyond the normal retirement age.</p>	None.
7. The District may not appropriately report members under the proper coverage group code.	<p>Our sample testing revealed that the District reported employees under the appropriate coverage group code except for the district incorrectly classified the fire chief as a miscellaneous employee and as a result excluded this employee from CalPERS membership. Specifically, the employee's employment agreement stipulated that the employee was to work a full-time work schedule for the District performing the duties of Fire Chief. The Fire Chief's job duties were also within the definition of "Local Firefighter" as stated in Government Code § 20433. The District should have enrolled the employee into CalPERS membership effective the first day of employment. The District should also be responsible for paying employer and employee retirement contributions in arrears.</p> <p>Government Code, § 20433, states, "Local firefighter means any officer or employee of a fire department of a contracting agency, except one whose principal duties are</p>	<p>The District should classify employees in the correct coverage group and enroll all eligible safety employees into CalPERS membership.</p> <p>The District should work with CalPERS ERSD to determine the impact of this membership issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
7. The District may not appropriately report members under the proper coverage group code. (continued)	<p>those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, but not excepting persons employed and qualifying as firefighters of equal or higher rank, irrespective of the duties to which they are assigned."</p> <p>Government Code, § 20283(a), states, "Any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars (\$500) per member as a reimbursement to this system's current year budget."</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
8. The District may not appropriately process industrial disability retirement determinations and appeals for safety members.	We reviewed the District's procedures for processing applications for industrial disability retirement. We found no employees had applied for industrial disability retirement during our review period; however, we verified the District did not have appeals procedures in place. We provided the District with an example of an appeals rights process for employees applying for industrial disability and informed the District to contact BNSD for further information.	None.
9. The District may not accurately report unused sick leave balances for retiring CalPERS members.	Effective July 1, 2005, the contractual provision of Government Code, § 20965, credit for unused sick leave, became a mandated benefit for the District. The District did not have any employees who retired during the review period.	None.
10. The District may not properly enroll eligible employees and their dependents in health benefits.	We reviewed one employee to assess the health benefits eligibility and enrollment of the employee and dependents. Our testing revealed that the District enrolled an ineligible employee in CalPERS Health Benefits Program. On July 9, 1998, the District approved Resolution No. 1998-5 to contract with CalPERS and to provide health benefits coverage to the Fire Chief, and no other fire safety employees, starting August 1, 1998. However, our testing revealed that the District incorrectly enrolled into CalPERS Health Benefits Program a fire engineer with an effective date of June 1, 1999, without approving the	The District should not enroll ineligible employees in the CalPERS Health Benefits Program. The District should work with CalPERS HBB to assess the impact of enrolling an ineligible employee and determine what adjustments, if any, are needed. A confidential list identifying the

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
10. The District may not properly enroll eligible employees and their dependents in health benefits. (continued)	<p>proper resolution. The District provided us a copy of an unapproved resolution No. 2008-13, in which the District intended to provide health benefits coverage to all safety employees; however, as of the date of this review, the resolution had not been approved by the District's Board. Therefore, under the approved resolution, the employee enrolled in CalPERS Health Benefits Program was not eligible for health benefits.</p> <p>California Code of Regulations, § 599.515 (a), states, in part, "The resolution of the governing board of a contracting agency electing to be subject to the Public Employees' Medical and Hospital Care Act shall be filed with the Health Benefits Division of the Public Employees' Retirement System."</p>	employee mentioned in this section of the report has been sent to the District and CalPERS HBB as an appendix to our draft report.
11. The District may not contribute the appropriate health contribution amounts for active employees.	We reviewed the health contribution history for the sampled employee and determined the District contributed the appropriate health contribution amounts as part of the sampled employee's total monthly contribution amount.	None.
12. The District may not remit health contribution payments within the required timeframe.	We reviewed the health contributions for June 2009, July 2009 and December 2009. Health contributions are due by the 10th day of the month for which the contributions were due. We determined that the District remitted the health contributions within the appropriate timeframe for June 2009 and July 2009. However, the	The District should develop procedures to ensure health contribution payments are submitted in a timely manner.

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
12. The District may not remit health contributions within the required timeframe. (continued)	<p>health contribution payment records provided by the District indicated that for December 2009, the check was issued on December 14, 2009, which exceeded the December 10, 2009 due date.</p> <p>Government Code, § 22899(a), states, in part, "The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due."</p>	
13. The District may not maintain appropriate ACES security procedures.	<p>We reviewed the security procedures for the District's ACES user to determine whether reasonable security precautions were maintained and to determine whether the required security documents were properly completed and filed for ACES users. We determined the District maintained reasonable security precautions. However, the District did not properly maintain an Employer User Security Agreement (AESD-43) form for one employee.</p> <p>CalPERS ACES Security procedures outlined on the CalPERS website at www.calpers.ca.gov require agencies to keep a signed copy of security documents on file for ACES users. An AESD-43 must be completed for each employee using CalPERS on-line access and be available to CalPERS upon request. Forms must be retained in a secure work site location of the employer, for the life of the Agreement and for two years following the deactivation or</p>	<p>The District should ensure that ACES user security agreements are completed timely and retained in a secure worksite location for the life of the Agreements and for two years following the deactivation or termination of the Agreements.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the Authority and CalPERS ERSD as an appendix to our draft report.</p>

BEN LOMOND FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
13. The District may not maintain appropriate ACES security procedures. (continued)	termination of the Agreement. CalPERS is to be notified immediately in the event that any of its sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.	

BEN LOMOND FIRE PROTECTION DISTRICT

CONCLUSION

We limited this review to the areas specified in the scope section of this report. We limited our test of transactions to samples of the District's payroll reports and personnel records. The sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code, except as noted above.

Respectfully submitted,

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

Date: February 2011

Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIDA, Manager
Jose Martinez
Albert Sim

APPENDIX

WRITTEN RESPONSE

LAW OFFICES
ATCHISON, BARISONE, CONDOTTI & KOVACEVICH
A PROFESSIONAL CORPORATION

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January 17, 2011

*Via Facsimile (916) 795-7836
And United States Mail*

Margaret Junker, CIA, CP'A, CIDA
Chief, Office of Audit Services
CalPERS
P.O. Box 942701
Sacramento, CA 94229-2701

*Re: Ben Lomond Fire Protection District-Employer Code: 1778
Job Number: P09-045
CalPERS Draft Audit*

Dear Ms. Junker:

This office represents the Ben Lomond Fire Protection District ("District"). Per your request the District's Board of Directors has reviewed the draft audit report furnished under cover of your letter dated November 29, 2010, and has asked me to respond on the District's behalf. While the draft report lists thirteen separate findings (risks) and includes a number of recommendations, the District generally concurs with, and therefore does not have any response to the individual findings for which the draft audit's recommendation is "none." As to the findings/risks for which the draft audit makes specific recommendations, the District responds as follows:

Risk 1. The District may not accurately report compensation to CalPERS.

Under this category the report details two separate instances in which the District may not accurately report compensation to CalPERS: (1) Uniform Allowances; and (2) Holiday Pay.

Uniform Allowances: As the draft report correctly states, Government Code Section 20636(c)(6) and Cal. Code of Regulations, Section 571(a)(5) require that compensation paid or the monetary value of the employer-provided uniforms be reported as special compensation. The report recommends that the District "should report the monetary value of uniforms and uniform maintenance for all CalPERS members required to wear uniforms. The District should work

Margaret Junker, CIA, CPA, CIDA

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with CalPERS ERSD to assess the impact of this non-reporting and determine what adjustments, if any, are needed."

Response: The District agrees to work with CalPERS ERSD to address this issue.

Holiday Pay: The report states that the District incorrectly reported regular earnings as special compensation. Specifically, the District incorrectly paid and reported \$195.20 as holiday pay in service period 6/08-3 for the sampled employee. Because the employee mentioned in the draft audit is not required to work on paid holidays, any paid time off he receives for designated holidays is considered regular earnings, and not special compensation.

Response: The District agrees to work with CalPERS ERSD to address this issue.

Risk 5. The District may not enroll all eligible employees into CalPERS membership.

Temporary/Part-time Employees: According to the draft report, CalPERS takes the position that if a person is currently a member of CalPERS (i.e., has contributions/service on account that have not been refunded), the person cannot be excluded from membership due to her/his time base (e.g., working less than 20 hours per week) or appointment length. In the District's case, there are two volunteer firefighters who apparently have or had prior CalPERS membership. The question, therefore, is whether a volunteer firefighter is considered an employee for purposes of qualifying for participation in CalPERS through the District. Unfortunately, the law is not clear on this point. On the one hand, it is clear that a volunteer firefighter who is paid on a per-call basis for occasionally responding to emergencies would generally not qualify for enrollment in CalPERS membership in the first instance. On the other hand, Government Code Section 20305(a), referenced in the report, apparently states that an employee serving on less than a full-time basis is excluded from this system *unless: (1) he or she is a member at the time he or she renders less than full-time service and is not otherwise excluded pursuant to this article or by a provision of a contract.*" After a careful review of Article 2 of the CalPERS statute, which contains the above-quoted language, the District has not been able to locate any language clearly stating that a part-time volunteer who happens to have prior CalPERS service credit is must be enrolled for participation in CalPERS.

Response: With the exception of the Fire Chief and Full-Time Paid Engineer, the District operates volunteer fire department and all firefighters are volunteers are paid on a per-call basis for occasionally responding to emergency calls. The District does not consider volunteer firefighters to be regular employees because their service to the District is purely on a voluntary basis. They have no regular work schedule and are only compensated on a per-call basis for responding voluntarily to emergency calls. The District seeks further information from CalPERS concerning the circumstances, if any, under which paid-call volunteers must be enrolled in CalPERS, and looks forward to working with CalPERS ERSD to clarify this issue.

Margaret Junker, CIA, CPA, CIDA
January 17, 2011
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Risk 7. The District may not appropriately report members under the proper coverage group.

According to the draft report the District "should have enrolled the employee into CalPERS membership effective the first day of employment. The District should also be responsible for paying employer and employee retirement contributions in arrears."

Response: Item 7 pertains to the former Fire Chief, who retired from employment with the District in April of 2010. On October 21, 2010, the District submitted member action forms for the former employee to CalPERS, and awaits a response from CalPERS.

Risk 10. The District may not properly enroll eligible employees and their dependents in health benefits.

The draft report states that the District enrolled an ineligible employee in the CalPERS Health Benefits Program. According to the report, on July 9, 1998, the District approved Resolution No. 1998-5 to contract with CalPERS to provide health benefits coverage to the Fire Chief only. However, the report indicates that the District incorrectly enrolled into CalPERS Health Benefits Program a fire engineer with an effective date of Jun 1, 1999, without approving the proper resolution. And while the District provided CalPERS with a copy of Resolution No. 2008-13, the report indicates that "the resolution had not been approved by the District's Board. Therefore, under the approved resolution, the employee was not eligible for health benefits."

Analysis: Based on a review of District Board minutes, it appears that, in fact, Resolution 2008-13 was indeed approved by the Board unanimously at its regular meeting of October 22, 2008. However, it is unclear whether the resolution was ever signed or transmitted to CalPERS.

Response: According to the approved minutes, at its October 22, 2008 meeting the District's Board of Directors approved Resolution No. 2008-13 "A Resolution Electing to be Subject to Public Employees' Medical and Hospital Care Act Only With Respect to Members of a Specific Employee Organization and Fixing the Employer's Contribution for Annuitants At Different Amounts". However, due to a clerical error it is apparent that the resolution was not signed by the Board President and a copy was not transmitted to CalPERS. Copies of the pertinent documents are transmitted herewith, and the District looks forward to working with the CalPERS Health Benefits Program to ensure eligible employees are properly enrolled.

Margaret Junker, CIA, CPA, CIDA

January 17, 2011

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Risk 12. The District may not remit health contribution payments within the required timeframe.

Response: According to the draft report the District remitted health contributions within the appropriate timeframe for June 2009 and July 2009, but the health contribution payment for December 2009 was made by check issued on December 14, 2009, which exceeded the December 10, 2009 due date. The District regrets this error and has adopted procedures to ensure that health contribution payments are submitted in a timely manner.

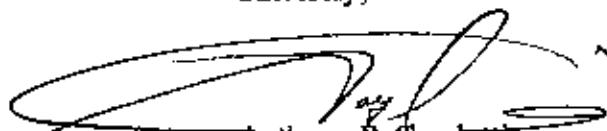
Risk 13. The District may not maintain appropriate ACES Security Procedures.

CalPERS security procedures require that each employee that has access to CalPERS account information must execute an Employer User Security Agreement (AESD-43) and the District must maintain such agreements and make them available to CalPERS on request. According to the draft report, the District did not properly maintain an AESD-43 form for former District Secretary Cynthia McIntosh.

Response: The District has adopted procedures to ensure that an AESD-43 is completed and maintained on file for all ACES users, and will work to ensure that that CalPERS is notified immediately in the event that any of its sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.

I hope you find this information useful. Please feel free to contact me if you have any questions or comments.

Sincerely,


Anthony P. Condotti

cc: Stacie Brownlee, Fire Chief