Office of Audit Services

Public Agency Review

Cloverdale Fire Protection District

CalPERS ID: 7127960521
Job Number: P14-026

May 2015

California Public Employees' Retirement System
Office of Audit Services
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May 7, 2015

CalPERS ID: 7127960521
Job Number: P14-026

Jason Jenkins, Fire Chief
Cloverdale Fire Protection District
451 S. Cloverdale Blvd
Cloverdale, CA 95425

Dear Mr. Jenkins:

Enclosed is our final report on the results of the public agency review completed for the Cloverdale Fire Protection District (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report. In accordance with our resolution policy, 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. We appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Young Hamilton

YOUNG HAMILTON, Acting Chief
Office of Audit Services

Enclosure

cc: Honorable Board of Directors, Cloverdale Fire Protection District
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Renee Ostrander, Chief, EAMD, CalPERS
Carene Carolan, Chief, MAMD, CalPERS

CLOVERDALE FIRE PROTECTION DISTRICT

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CLOVERDALE FIRE PROTECTION DISTRICT

RESULTS IN BRIEF

The primary objective of our review was to determine whether the Cloverdale Fire Protection District (Agency) complied with applicable sections of the California Government Code, California Code of Regulations (CCR) and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following findings during the review. Details are noted in the Results section beginning on page two of this report.

- Pay schedule did not meet all of the Government Code and CCR requirements.
- Fair Labor Standards Act (FLSA) premium pay was incorrectly reported.
- The Agency's resolution was not updated to pay and report the value of Employer Paid Member Contributions (EPMC).

OAS recommends the Agency comply with applicable sections of the California Government Code, CCR and its contract with CalPERS. OAS also recommends the Agency work with the appropriate CalPERS divisions to resolve issues identified in this report.

SCOPE

The Agency contracted with CalPERS effective October 15, 1996 to provide retirement benefits for local firefighters. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the Board approved plan for fiscal year 2014-15, the OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled employees, records, and pay periods from July 01, 2011 through June 30, 2014. The employees selected were not subject to the Public Employees' Pension Reform Act of 2013. The review objectives and a summary of the procedures performed are listed in Appendix A.

CLOVERDALE FIRE PROTECTION DISTRICT

OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency's pay schedule did not meet all of the requirements of the Government Code and CCR

Condition:

The Agency's pay schedule effective January 14, 2013 did not meet all the requirements of the Government Code Section 20636 and CCR Section 570.5. Specifically, the payrate for the position of apprentice firefighter was not listed in the Agency's pay schedule.

Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. For purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount identified on a publicly available pay schedule. According to CCR Section 570.5, a pay schedule, among other things, must:

- Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identify the position title for every employee position;
- Show the payrate as a single amount or multiple amounts within a range for each identified position;
- Indicate the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicate an effective date and date of any revisions;
- Be retained by the employer and available for public inspection for not less than five years; and
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). There are no exceptions included in Government Code Section 20636(b)(1). When an employer fails to meet the requirements for a publicly available salary schedule, CalPERS, in its sole discretion, may determine an amount that will be considered to be payrate as detailed in regulation CCR Section 570.5.

CLOVERDALE FIRE PROTECTION DISTRICT

Recommendation:

The Agency should ensure its pay schedule meets all of the Government Code and CCR requirements.

The Agency should work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636
CCR: § 570.5

2: The Agency incorrectly reported FLSA premium pay.

Condition:

The Agency incorrectly reported FLSA premium pay for fire shift employees who work an average of 56 hours per week. Specifically, the Agency's written labor agreement specifies a standard workweek of 56 hours. The employee earned 3 FLSA hours per week, so the normal number of FLSA hours worked over a 52 week period averages 156 hours (3 FLSA hours per week X 52 weeks = 156 annual FLSA hours). Because the Agency pays fire shift employees semi-monthly, the correct number of FLSA hours is 6.5 each pay period (156 total FLSA hours / 24 pay periods = 6.5 FLSA hours). The Agency incorrectly paid and reported 7.33 FLSA hours each pay period. As a result, FLSA premium pay was over reported.

Recommendation:

The Agency should report 6.5 hours of FLSA premium pay each semi-monthly pay period for fire shift employees.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636
CCR: § 571

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3: The Agency did not update its resolution to pay and report the value of Employer Paid Member Contributions (EPMC).

Condition:

The Agency did not update its resolution to pay and report the value of EPMC. As allowed by statute, the Agency's original resolution was to pay and report eight percent EPMC as special compensation. The Agency updated its written labor agreement to reduce the benefit formula to four percent EPMC. However, the Agency did not update its resolution, obtain approval from its governing body, and submit it to CalPERS as required.

Recommendation:

The Agency should update its resolution, obtain approval from its governing body and report the value of EPMC as special compensation in accordance with its written labor agreement and Board approved resolution.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636
CCR: § 569, § 571

CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. OAS limited the test of transactions to employee samples selected from the Agency's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the Agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, of California Code of Regulations.

Respectfully submitted,

Original signed by Young Hamilton

YOUNG HAMILTON, CPA, CIA, CISA
Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Chris Wall, Senior Manager
Benjamin Banahene, Auditor

APPENDIX A

OBJECTIVES

CLOVERDALE FIRE PROTECTION DISTRICT

OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the CCR.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

This review did not include an assessment as to whether the Agency is a "public agency," and expresses no opinion or finding with respect to whether the Agency is a public agency or whether its employees are employed by a public agency.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the Agency's personnel and payroll procedures, reviewed documents, and performed the following procedures.

✓ Reviewed:
- o Provisions of the contract and contract amendments between the Agency and CalPERS
- o Correspondence files maintained at CalPERS
- o Agency Board minutes and Agency Board resolutions
- o Agency written labor policies and agreements
- o Agency salary, wage and benefit agreements including applicable resolutions
- o Agency personnel records and employee hours worked records
- o Agency payroll information including Contribution Detail Transaction History reports
- o Other documents used to specify payrate, special compensation, and benefits for employees
- o Various other documents as necessary

✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.

✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meetings laws.

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- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's employment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when unlawful employment occurs.
- ✓ Reviewed the Agency's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the Agency's affiliated entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

APPENDIX B

AGENCY RESPONSE

Cloverdale Fire Protection District
Serving Our Community With Pride

April 24, 2015

Young Hamilton, Acting Chief
Office of Audit Services
CalPERS
PO Box 942701
Sacramento, CA 94229-2701

Re: Job number P14-026
CalPERS ID: 7127960521

Dear Ms. Hamilton:

In response to your letter of April 16, 2015 regarding the draft audit report for the Cloverdale Fire Protection District, the Cloverdale Fire Protection District has reviewed the draft audit and agree with all recommendations listed.

We look forward to hearing from the Employer Account Management Division to identify and make any necessary adjustments.

Sincerely,

[redacted] Original signed by Jason Jenkins

Jason Jenkins, Fire Chief

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