

East Palo Alto Sanitary District



Public Agency Review



Office of Audit Services

**Employer Code: 1462
Job Number: P09-011**

July 2010

EAST PALO ALTO SANITARY DISTRICT

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RESULTS IN BRIEF

We reviewed the East Palo Alto Sanitary 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:

- Special compensation (value of uniforms) was not reported.
- Authorized salary schedules were not available.
- Employee contribution rate was incorrectly reported.
- Payroll summary reports and employer contributions were not submitted timely.
- Required health enrollment forms were not maintained.
- Eligibility verification for dependents enrolled in CalPERS Health Benefits Program was not provided.
- Health benefit contribution payments were not submitted timely.
- Required ACES user security agreement forms were not 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.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest

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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 East Palo Alto Sanitary District is a Special District responsible for maintaining the sanitary sewers in the City of East Palo Alto, a portion of the City of Menlo Park, and an associated area in Southeastern San Mateo County. The District was established in 1939 as a result of increased development in the East Palo Alto area, and is governed by a five-member Board of Directors.

The District contracted with CalPERS effective September 22, 1988, to provide retirement benefits for local miscellaneous employees. The District's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The District contracted with CalPERS effective October 1, 1993 to provide health benefits to the Board of Directors and effective January 1, 1994, to provide health benefits to all eligible employees. Employee Handbook and employment agreements outline District employees' benefits and state the terms of employment agreed upon between the District and its employees.

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 July 20, 2009 through July 23, 2009.

The review period was limited to the examination of sampled records and processes from July 1, 2006 through June 30, 2009. To accomplish the review objectives, we performed the following:

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- ✓ 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 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.

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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
<p>1. The District may not accurately report compensation to CalPERS.</p>	<p>Payroll records and compensation reported to CalPERS were reviewed for a sample of nine employees for two service periods. The service periods reviewed were the first service period of December 2007 (12/07-3) and the first service period of April 2009 (4/09-3).</p> <p>The earnings reported to CalPERS were reconciled to the District's payroll records. Our sample testing revealed the following exception:</p> <p><u>Uniform Allowance</u></p> <p>The District did not report the monetary value of uniforms and uniform maintenance to CalPERS as special compensation for the maintenance employees who were required by the District to wear uniforms.</p> <p>Government Code, § 20636(c)(6), states, in part, "The board shall promulgate regulations that delineate more specifically and exclusively what constitutes 'special compensation' as used in this section. A uniform allowance, the monetary value of employer-provided uniforms... shall be included as special compensation."</p>	<p>The District should report the monetary value of employer provided uniforms and its maintenance costs as special compensation for all employees that are required to wear uniforms.</p> <p>The District should work with CalPERS ERSD to assess the impact of this non-reporting and</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The District may not accurately report compensation to CalPERS. (continued)</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 solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes."</p>	<p>determine what adjustments, if any, are needed.</p>
<p>2. The District may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed the payrates reported to CalPERS for service period 04/09-3 to determine whether the employees' payrates were properly authorized and reported to CalPERS. We found that the District did not have publicly available salary schedules or Board Meeting minutes that authorized the employees' salaries.</p> <p>Government Code, § 20636(b)(1), defines payrate as, "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>Government Code, § 20636(d), states, "Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar</p>	<p>The District should ensure that all employee payrates are identified in written schedules, ordinances, or similar documents available for public scrutiny.</p> <p>The District should work with CalPERS ERSD to assess the impact of this issue and determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>2. The District may not report payrates in accordance with publicly available salary schedules. (continued)</p>	<p>documents shall be public records available for public scrutiny."</p>	
<p>3. The District may not accurately report payroll information to CalPERS.</p>	<p>The payroll information and the payroll reporting elements on the CalPERS payroll listings for service periods 12/07-3 and 04/09-3 were examined. The District correctly reported the payroll reporting elements to CalPERS except for the following:</p> <p><u>Incorrect Employee Contribution Rates</u></p> <p>The District incorrectly reported the employee contribution rate in the 12/07-3 service period to CalPERS. The District amended its contract with CalPERS to provide a 2.7% at 55 retirement formula effective October 8, 2006. The correct employee contribution rate for this formula was 8 percent, but the District reported 7 percent for four of the nine employees.</p> <p>Government Code, § 20677(a)(3) states, "Notwithstanding paragraph (2), the normal rate of contribution for a local miscellaneous member subject to Section 21354.3, 21354.4, or 21354.5 shall be 8 percent of the</p>	<p>The District should review contributions made on behalf of all the members, and remit the additional amounts owed.</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>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p>compensation paid that member for service rendered on and after the date the member's contracting agency elects to be subject to that section.”</p> <p>Government Code, § 21354.5(d) states, “This section shall not apply to a contracting agency nor its employees until the contracting agency elects to make all local miscellaneous members subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local miscellaneous member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.”</p>	
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>We reviewed the payroll information for service periods 12/07-3 and 1/09-3 to determine if payroll summary reports and retirement contribution payments were submitted to CalPERS within required timeframes. Required timeframes were 30-days from the close of the pay period for submitting payroll summary reports and 15-days from the close of the pay period for remitting contributions.</p> <p>The payroll summary report for the service period 12/07-3 was due on January 3, 2008 but was dated March 26, 2008; 81 days late. The contributions for the</p>	<p>The District should implement procedures to ensure payroll summaries and employer contributions are reported timely to CalPERS.</p> <p>The District should work with CalPERS Employer Services Division to assess the impact of the late reporting and determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>12/07-3 period, were due December 16, 2007. A portion of the contributions (91%) for service period 12/07-3 was remitted by a check dated January 15, 2008; 30 days late, and the remaining balance was remitted with a check dated March 27, 2008; over 90 days late.</p> <p>The payroll summary report for the service period 1/09-3 was due on February 10, 2009 but was not received until April 21, 2009. The employer contributions for service period 1/09-3 were due on January 25, 2009. The District did not make the payment until April 21, 2009; 86 days late.</p> <p>California Code of Regulations, § 565.1 (a), states, in pertinent part, "A complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30 calendar days following the last day of the period to which it refers."</p> <p>California Code of Regulations, § 565, states, "Member and employer contributions shall be received in the System's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer."</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The District may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract between the Board of Administration of CalPERS and the Board of Directors of the District excludes elected officials and safety employees from CalPERS membership. Our sample testing revealed that the District properly excluded elected officials from membership and did not employ any safety employees during our review period.</p> <p><u>Temporary/Part-time Employees</u></p> <p>The District had one temporary/part-time employee during the review period. The hours worked by the employee in fiscal year 2006/2007 were examined to determine whether the employee reached or exceeded the 1,000 hour membership eligibility criterion. Our sample testing revealed the District appropriately excluded the employee.</p> <p><u>Independent Contractor</u></p> <p>The District's vendor list from the accounts payable register for calendar years 2007 and 2008 was reviewed in order to identify employees that may have been misclassified as independent contractors. All of the vendors were properly classified as independent</p>	<p>None.</p> <p>None.</p> <p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The District may not enroll all eligible employees into CalPERS membership. (continued)	contractors and were correctly excluded from CalPERS membership.	
6. The District may unlawfully employ retired annuitants.	The District did not employ any retired annuitants during our review period. Therefore, we found no instances where retired annuitants were unlawfully employed.	None.
7. The District may not appropriately report members under the proper coverage group code.	Our sample testing revealed that the District reported all employees under the appropriate coverage group code.	None.
8. 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 retire during the review period; however, the District was aware that unused sick leave hours for all employees were to be converted to days, using a divisor of eight, and certified to CalPERS upon the employee's retirement.	None.

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The District may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>Five employees were selected for review to assess health benefits enrollment and eligibility of the members and their dependents. The District properly enrolled eligible employees and their dependents in CalPERS' Health Benefits Program, except in the following instances:</p> <p><u>Health Benefit Plan Enrollment forms (HBD-12) and Declaration of Health Coverage forms (HB-12A)</u></p> <p>The HBD-12 forms were not on file for four of the sampled employees. In addition, the HB-12A forms were not on file for the four sampled employees who enrolled or added dependents after January 1, 1998.</p> <p>The Public Agency Health Benefits Procedure Manual, page 02-01 states, in part, "The enrollment document (HBD-12) must be completed and submitted in a timely manner.... A copy of the enrollment form should be retained for the agency's file."</p> <p>The Public Agency Health Benefits Procedure Manual, page 12-01 states, in part, "The Declaration of Health Coverage (HB-12A) provides information on enrollment options and consequences for non-enrollment."</p> <p>The HB-12A is to ensure compliance with the Health</p>	<p>The District must ensure that the proper member and dependent enrollment documentation is on file at the District within 60 days from the date of our final report. Please send an email to: <i>HBB_Audit_Services@calpers.ca.gov</i> once the requested documentation is on file.</p> <p>The CalPERS HBB may be contacted at (916) 795-3836 with any questions.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS HBB as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The District may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes Open Enrollment changes, changing health plans when moving, adding or deleting a dependent, or canceling health benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the HBD-12 form. The employer also must provide the employee a copy of the signed form and keep the original in the employee's file.</p> <p><u>Marriage Certificate and Birth Certificates</u></p> <p>Copies of the marriage certificate and two birth certificates were not provided to support the enrollment of one employee's spouse and two children during the fieldwork; however, the District included a copy of the marriage certificate with its written response to our draft report, but did not provide the requested birth certificates for the employee's two children.</p> <p>Government Code, § 22775, defines a family member as, "An employee's or annuitant's spouse or domestic partner and any unmarried child, including an adopted child, a stepchild, or recognized natural child."</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The District may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>California Code of Regulations, § 599.500(k), states, in part, "Eligible means eligible under the law and this subchapter to be enrolled..."</p> <p>Government Code, § 20085, states, in part, "(a) It is unlawful for a person to do any of the following: (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system. (b) For purposes of this section, 'statement' includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system. (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine. (d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system... for the amount of the benefit unlawfully obtained."</p>	

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<p>10. The District may not contribute the appropriate health contribution amounts for active employees.</p>	<p>We reviewed the health contributions reported for December 2007 and April 2009. We determined that the District contributed the correct health contribution amounts as part of sampled members' total contribution amount.</p>	<p>None.</p>
<p>11. The District may not remit health contributions within the required timeframe.</p>	<p>The District's health contribution remittances for the April 2008 and July 2008 periods were reviewed to determine if contributions were remitted within the required timeframe.</p> <p>The District provided cancelled checks for each of the periods sampled. The cancelled checks showed that the health contributions were not remitted timely for either month. Specifically, April payment was made on April 23, 2008, which was 13 days late, and the July payment was made on July 21, 2008, which was 11 days late.</p> <p>Government Code, § 22899, 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>	<p>The District should ensure that health contribution payments are received by CalPERS no later than the 10th of the month in which the payments are due.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>12. The District may not maintain appropriate ACES security procedures.</p>	<p>Security procedures for the District's ACES users were reviewed to ensure reasonable security precautions were maintained and to determine if required security documents were properly completed and filed for ACES users. Reasonable security precautions were in place to maintain the secrecy of the employees' passwords and User IDs. However, the District did not maintain the appropriate Employer User Security Agreements (AESD-43) for the two ACES users.</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 form 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 of the disclosure, modification or destruction.</p>	<p>The District should ensure that ACES user security agreements are timely completed 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. 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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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,

MARGARET JUNKER, CIA, CPA
Interim Chief Auditor,
Office of Audit Services

Date: July 2010

Staff: Michael Dutil, CIA, Senior Manager

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APPENDIX

DISTRICT'S WRITTEN RESPONSE



EAST PALO ALTO SANITARY DISTRICT

BOARD OF DIRECTORS

Bethzabe Yañez, President
Joan Sykes-Miessi, Vice President
Glenda Savage, Secretary
Goro Mitchell, Director
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Leroy Hawkins, General Manager

May 28, 2010

Margaret Junker, CIA, CPA
CalPERS
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Dear Ms. Junker:

Please find the written response to your draft report dated May 10, 2010:

- **Special compensation (value of uniforms) was not reported.** We are working with CalPERS representatives on this item.
- **Authorized salary schedules were not available.** PERS auditors were shown documents confirming each employee's salary during the audit. The District is in the process of updating our salary schedule. We will provide this document to you when available. .
- **Employee contribution rate was incorrectly reported.** All reports will be prepared through ACES eliminating the chance for error.
- **Payroll summary reports and employer contributions were not submitted timely.** On Friday, May 28, 2010, our employees (3) were trained in reporting through ACES.
- **Required health enrollment forms were not maintained.** Health forms were contained in a locked file during the audit.
- **Eligibility verification for dependents enrolled in CalPERS Health Benefits Program was not provided.** The District submitted copies of all information available during the Audit; however, we are submitting the remaining information (Review & Detroy). In addition, we will keep eligibility information (marriage license & birth certificates of employees' dependent children)
- on file in the future.

- Health benefit contribution payments were not submitted timely. In the future, we will make sure that we make every effort to meet all deadlines.
- Required ACES user security agreement forms were not maintained. We have requested the necessary forms. The District will maintain the agreement on file, as required.

If you have any questions give me a call at (650) 325-9021 x103.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Hawkins', with a long horizontal flourish extending to the right.

Lee Hawkins
General Manager