

# **Office of Audit Services**



## **Public Agency Review**

### **Encina Wastewater Authority**

**Employer Code: 1472  
CalPERS ID: 1431937908  
Job Number: P13-049**

**June 2014**



California Public Employees' Retirement System  
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June 24, 2014

Employer Code: 1472  
CalPERS ID: 1431937908  
Job Number: P13-049

Encina Wastewater Authority  
Deborah Allen, Human Resources Manager  
6200 Avenida Encinas  
Carlsbad, CA 92011

Dear Ms. Allen:

Enclosed is our final report on the results of the public agency review completed for the Encina Wastewater Authority (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 and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Margaret Junker  
MARGARET JUNKER, Chief  
Office of Audit Services

Enclosure

cc: Board of Directors, Encina Wastewater Authority  
Risk and Audit Committee Members, CalPERS  
Gina M. Ratto, Interim General Counsel, CalPERS  
Karen DeFrank, Chief, CASD, CalPERS  
Anthony Suine, Chief, BNSD, CalPERS

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## RESULTS IN BRIEF

The primary objective of our review was to determine whether Encina Wastewater Authority (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 the requirements of CCR Section 570.5.
- Special compensation was not reported as required by CCR Section 571.
- Payrate and Earnings included non-reportable compensation.
- Member contributions were incorrectly reported.

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

## SCOPE

The Agency contracted with CalPERS effective March 1, 1989 to provide retirement benefits for local miscellaneous employees. 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 2013-2014, the OAS reviewed the Agency's payroll reporting and member enrollment processes as 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 1, 2010 through June 30, 2013. The on-site fieldwork for this review was conducted from February 12, 2014 through February 14, 2014. The review objectives and a summary of the procedures performed are listed in Appendix A.

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency's pay schedule did not meet the requirements of the CCR.

### ***Condition:***

The Agency's 2012-13 pay schedule did not identify the position title for every position as required by the CCR. Specifically, the Director of General Services was not identified on 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.
- Not reference another document in lieu of disclosing the payrate.

### ***Recommendation:***

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

The Agency should work with CalPERS Customer Account Services Division (CASD) to make all necessary adjustments, if any, to active and retired member accounts pursuant to Government Code Section 20160.

### ***Criteria:***

Government Codes: § 20160, § 20636 (a), § 20636 (b)(1), § 20636 (d)  
CCR: § 570.5

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2: The Agency did not report special compensation as required by the CCR.

**Condition:**

- A. The Agency did not report special compensation of Holiday Pay earned by three employees who worked on a holiday during the pay period ending June 5, 2013. The three employees were required to work without regard to holidays and received additional compensation. The Agency's policy specifies that employees who are required to work on approved holidays shall be compensated based on time and one-half their regular rate of pay for all hours worked, plus their regular shift hours of Holiday Pay. However, the additional compensation of Holiday Pay was not reported to CalPERS. Pursuant to CCR Section 571, Holiday Pay is a statutory item and should have been reported to CalPERS as special compensation.
- B. The Agency did not report the monetary value of uniforms and uniform maintenance, a statutory item of compensation, for all employees who were provided uniforms. Additionally, the conditions for payment of the uniforms, including, but not limited to, eligibility for, and amount of, was not contained in a written labor policy.
- C. The Agency incorrectly reported Shift Differential Pay. Specifically, Shift Differential was reported for an Operator II who was assigned to act in a lead capacity in the absence of a shift supervisor. The Agency's 2013 Human Resource Policy Manual specifically provided operators who act as a "lead" operator in the absence of a shift supervisor to receive a differential for the hours they serve in this capacity. However, the Agency did not include the amount for the Shift Differential in its written labor policy or agreement. As a result, this Shift Differential Pay should not be reported as special compensation.
- D. The Agency incorrectly reported Out of Class Pay as special compensation for an employee. The Agency did not include the conditions for payment, including, but not limited to, eligibility for, and amount of, Out of Class Pay in a written labor policy. As a result, Out of Class pay should not be reported as special compensation.

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Reportable special compensation is exclusively listed and defined in CCR Section 571. Reportable special compensation must be reported if it is contained in a written labor policy or agreement, available to all members in the group or class, part of normally required duties, performed during normal hours of employment, paid periodically as earned, historically consistent with prior payments for the job classification, not paid exclusively in the final compensation period, and not final settlement pay.

***Recommendation:***

The Agency should ensure all items reported as special compensation meet the definition of special compensation and are contained in a written labor policy or agreement as required by CCR.

The Agency should immediately discontinue reporting compensation that does not meet the requirements of CCR Section 571.

The Agency should work with CASD to determine the impact of this incorrect reporting to make any necessary adjustments to member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20636 (a), § 20636 (c), § 20636 (d)  
CCR: § 571

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**3:** The Agency incorrectly reported base payrate and earnings for an employee.

***Condition:***

The Agency incorrectly reported Out of Class Pay in payrate and earnings for an employee in the pay period ending June 5, 2013. Out of Class Pay is non-reportable compensation and as a result should not be included in base payrate and earnings. Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to the payrate and earnings reported for a member.

***Recommendation:***

The Agency should discontinue reporting non-reportable compensation with base payrate and regular earnings.

The Agency should not report non-reportable compensation to CalPERS.

The Agency should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20636 (a), § 20636 (c), § 20636 (d)  
CCR: § 571



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**4:** The Agency incorrectly reported member contributions as Employer Paid Member Contribution (EPMC).

***Conditions:***

The Agency incorrectly reported member contributions as EPMC. The Agency's resolution effective July 1, 2012 indicated that employees pay six percent of the tax deferred employee contributions and the employer pays two percent for EPMC. However, the Agency incorrectly reported the entire eight percent as EPMC in the pay period ending June 5, 2013.

***Recommendation:***

The Agency should immediately discontinue reporting member contributions as EPMC. The Agency should report member contributions as Tax Deferred Member Paid Contribution.

The Agency should work with CASD to assess the impact of the incorrect reporting and make any necessary adjustments to active and retired members' accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20120, § 20121, § 20160

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix A. OAS limited the test of transactions to employee samples elected 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, California Code of Regulations.

Respectfully submitted,

Original signed by Margaret Junker  
MARGARET JUNKER, CPA, CIA, CIDA  
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Diana Thomas, CIA, CIDA, Manager  
Chris Wall, Auditor

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# **APPENDIX A**

## **OBJECTIVES**

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## 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 covers the period of July 1, 2010 through June 30, 2013. 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:
  - Provisions of the contract and contract amendments between the Agency and CalPERS
  - Correspondence files maintained at CalPERS
  - Agency Board minutes and Agency Board resolutions
  - Agency written labor policies and agreements
  - Agency salary, wage and benefit agreements including applicable resolutions
  - Agency personnel records and employee hours worked records
  - Agency payroll information including Contribution Detail Transaction History reports
  - Other documents used to specify payrate, special compensation, and benefits for all employees
  - 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 meeting laws.

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- ✓ Reviewed CalPERS listing 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 960 hours were worked in a fiscal year.
- ✓ 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.

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# **APPENDIX B**

**AGENCY RESPONSE**



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A Public Agency

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June 10, 2014

Ref: F&HR. 14-4040

Margaret Junker, Chief  
Office of Audit Services  
California Public Employees' Retirement System  
P.O. Box 942701  
Sacramento, CA 94229-2701

Dear Ms. Junker:

Thank you for the opportunity to review the draft report of your compliance review of EWA's contract.

We agree with the findings presented in the draft report and look forward to working with the appropriate CalPERS staff to clarify how best to implement correct procedures in these areas. A number of our staff are new in their positions and did not have the opportunity for in-depth training by their predecessors, so this will be an excellent opportunity for us to fine tune our performance and improve adherence to the CalPERS regulations.

We appreciate the professionalism of your staff, particularly Chris Walls, as we went through this process. He made it very easy for us to ask questions and gain a better understanding of the areas highlighted in the draft report. No one enjoys being audited, but Chris made it a learning process for us that will help us improve, and we appreciate both his thoroughness and his patience.

If you require any additional information, please don't hesitate to contact me at 760-268-8802.

Sincerely,

Debbie Allen  
Human Resources Manager

