Office of Audit Services

Public Agency Review

Higgins Area Fire Protection District

CalPERS ID: 4173412805
Job Number: P14-067

June 2015

California Public Employees' Retirement System
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June 26, 2015

CalPERS ID: 4173412805
Job Number: P14-067

Jerry Good, Battalion Chief
Higgins Area Fire Protection District
10106 Combie Road
Auburn, CA 95602

Dear Mr. Good:

Enclosed is our final report on the results of the public agency review completed for the Higgins Area 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: Board of Directors, Higgins Area 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

HIGGINS AREA FIRE PROTECTION DISTRICT

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HIGGINS AREA FIRE PROTECTION DISTRICT

RESULTS IN BRIEF

The primary objective of our review was to determine whether the Higgins Area Fire Protection Agency (Agency) complied with applicable sections of the California Government Code, California Public Employees' Pension Reform Act of 2013 (PEPRA), 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.
- Payrate and earnings were incorrectly reported.
- Fair Labor Standard Act (FLSA) premium pay was incorrectly reported.
- Special compensation was not reported.
- Member reciprocal self-certification was not maintained.
- Retired annuitants' information was not reported as required.

OAS recommends the Agency comply with applicable sections of the California Government Code, PEPRA, 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, 1987 to provide retirement benefits for local miscellaneous and safety (fire) 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 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 January 1, 2012 through December 31, 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 all of the Government Code and CCR requirements.

Condition:

A. The Agency's pay schedules did not meet all the requirements of the Government Code and CCR. Specifically, the pay schedules were not duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws. The pay schedules also did not indicate the time base. Additionally, the Agency did not maintain one pay schedule that identified the position title and payrate for every employee position as required by the CCR. Multiple pay schedules were needed to locate sampled position titles.

B. In addition, the Agency paid fire safety employees according to the hourly payrates identified in the pay schedule; however, the hourly payrates did not correspond to the monthly payrate for a 56-hour work week. Fire safety employees work an average of 56 hours per week; however, the monthly payrates listed in the pay schedules were based on firefighters working a 53-hour work week.

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. Per 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 payrate definition and 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). When an employer does not meet the requirements for a publicly available pay schedule, CalPERS, in its sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

Recommendation:

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

The Agency should ensure its monthly payrates listed on the pay schedule are based on a 56-hour work week.

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

HIGGINS AREA FIRE PROTECTION DISTRICT

2: The Agency incorrectly reported payrate and earnings.

Condition:

The Agency incorrectly reported payrate and earnings for one employee who began working for the Agency in December 2014 and did not work one 48-hour shift. The Agency modified the payrate and earnings to account for 48 hours of uncompensated time off, but the calculation was incorrect. The Agency should have reported the full-time payrate, and the earnings should have been reduced to reflect the actual number of hours worked. Payrate and earnings are important factors 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 ensure that payrate and earnings are correctly reported.

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

3: The Agency incorrectly reported payrates, regular earnings, FLSA premium pay and normal work hours.

Condition:

A. The Agency incorrectly reported regular earnings as special compensation for fire safety employees who work an average of 56 hours per week. Specifically, the Agency reported earnings based on an average of 53 hours per week in pay period ended December 31, 2014. Regular earnings for the remaining three hours was reported as FLSA premium pay. As a result, the Agency under reported regular earnings and over reported special compensation.

B. The Agency under reported monthly payrates for fire safety employees in pay period ended December 31, 2014. Similar to Finding 1B, the monthly payrates for fire safety employees were understated because these employees work an average of 56 hours per week; however, the monthly payrates were based on a 53-hour work week.

C. The Agency's written labor policies did not indicate all conditions for the payment of FLSA premium pay, such as the amount and the number of hours paid each month. FLSA premium pay is a statutory item of compensation per Government Code Section 20636(c)(6), and as such the premium pay is required to be reported as special compensation. OAS found that the Agency paid and reported 12 hours of FLSA premium pay each month as special compensation. However, the written labor policy did not identify the number of hours, and OAS noted that the normal or average number of FLSA hours each month for fire safety employees who work an average of 56 hours per week is 13 hours, not 12 hours.

D. The Agency incorrectly reported 53-hour work week hours for fire safety employees; however, fire safety employees work an average of 56 hours per week. As a result, the Agency under reported the required average work week hours for fire safety employees.

Recommendation:

The Agency should ensure that payrates, earnings, and work week hours are correctly reported. The Agency should also report FLSA premium pay in accordance with Government Code Section 20636.

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: § 20120, § 20121, § 20122, § 20160, § 20630, § 20636
CCR § 571

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4: The Agency did not report the monetary value of uniforms as special compensation.

Condition:

The Agency did not report the monetary value for the purchase of uniforms as special compensation for classic members. The Agency provided uniforms to the fire safety employees as stipulated in the Agency's written labor policy. The Government Code and CCR require the monetary value for the purchase, rental, and/or maintenance of required clothing, a statutory item, be reported as special compensation.

Recommendation:

The Agency should ensure the monetary value of uniforms is reported as special compensation for classic members.

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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5: The Agency did not maintain the required member reciprocal self-certification.

Condition:

The Agency did not maintain the required reciprocity self-certification for one employee hired on March 7, 2014. CCR Section 579.3 requires individuals to self-certify in writing as to whether he or she is also a member of another public retirement system and is eligible for reciprocity. Agencies are required to retain the retirement and benefit-related information provided by the newly-hired individual.

Recommendation:

The Agency should ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and provide the additional required information if reciprocity exists. Further, the Agency should ensure it retains the information provided.

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: § 20120, § 20121, § 20122, § 20125, § 20128, § 20160, § 7522.02, § 7522.04
CCR: § 579.3

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6: The Agency did not report retired annuitants' information to CalPERS.

Condition:

The Agency did not report the hours worked and earnings paid for two retired annuitants in my|CalPERS in fiscal year 2013-14. The retired annuitants reviewed did not work more than 960 hours in the fiscal year 2013-14.

Recommendation:

The Agency should report the retired annuitant's payrates, hours worked and earnings in my|CalPERS.

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 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
Nuntawan Camyre, Auditor
Rebecca Honeywell, Auditor

APPENDIX A

OBJECTIVES

HIGGINS AREA 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.), California Public Employees' Pension Reform Act of 2013 (PEPRA) 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.

Effective January 1, 2013, new enrollments are checked against the PEPRA definition of "new member," regardless of whether the enrollment is for a first time CalPERS member or an existing member. All members that do not fit within the definition of a new member are referred to as "classic members."

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.

- ✓ 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.
- ✓ Reviewed the Agency's records to determine whether member census data agreed with my|CalPERS information.

APPENDIX B

AGENCY'S WRITTEN RESPONSE

HIGGINS FIRE DISTRICT

of Nevada County
10106 Combie Road Auburn, CA. 95602
530-269-2488 – 268-0844 - Fax: 530-268-7737

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

Dear Ms. Hamilton,

We have received, reviewed and discussed the draft report on the compliance review regarding the Higgins Area Fire Protection Districts' contract with the California Public Employee's Retirement System.

We agree with findings four, five and six and have corrected our current reporting and will begin to make the necessary adjustments for past reporting with the guidance of the Employer Account Management Division.

For findings one through three, we will work with the Employer Account Management Division to come into compliance and change our pay schedule and procedures to address the findings.

We appreciated the audit staff's professionalism and their help in the process and look forward to working with EAMD to make all necessary corrections.

Sincerely,

[redacted] Original signed by Jerry Good

Jerry Good
Battalion Chief
Higgins Area Fire Protection District

sc:JG