Office of Audit Services

Public Agency Review

Kirkwood Meadows Public Utility District

CalPERS ID: 6786394498
Job Number: P14-065

July 2015

California Public Employees' Retirement System
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July 24, 2015

CalPERS ID: 6786394498
Job Number: P14-065

Michael Sharp, General Manager
Kirkwood Meadows Public Utility District
P.O. Box 247
Kirkwood, CA 95646

Dear Mr. Sharp:

Enclosed is our final report on the results of the public agency review completed for the Kirkwood Meadows Public Utility District (Agency). Your written response is included as an appendix to the report. We appreciate the additional information you provided regarding Finding 4 in the draft report. After consideration of the additional information, our recommendation remains as stated in the report. However, we added clarifying language to Finding 4.

After further review, we removed Finding 2 from the report and redacted corresponding language in the Agency's response. As a result, Finding 3 is now Finding 2 and Finding 4 is now Finding 3.

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, Kirkwood Meadows Public Utility 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

KIRKWOOD MEADOWS PUBLIC UTILITY DISTRICT

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KIRKWOOD MEADOWS PUBLIC UTILITY DISTRICT

RESULTS IN BRIEF

The primary objective of our review was to determine whether the Kirkwood Meadows Public Utility District (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.
- Member reciprocal self-certification information was not maintained.
- Earnings for an excluded position were incorrectly reported.

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 July 17, 1994 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 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 could not provide a pay schedule which met the requirements of the Government Code and CCR.

Condition:

The Agency could not provide a pay schedule as required by the Government Code and CCR. The Agency indicated that an outdated pay schedule may exist but were unable to provide the pay schedule during the compliance review.

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.

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Recommendation:

The Agency should ensure it maintains a pay schedule that 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

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

Condition:

The Agency did not maintain the required member reciprocal self-certification for an employee hired after January 1, 2013. 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, § 20128, § 20160, § 7522.02, § 7522.04
CCR: § 579.3

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3: The Agency incorrectly reported earnings for an excluded positon.

Condition:

The Agency incorrectly reported earnings for an employee, who provided services as Fire Chief, because the Agency's retirement contract excludes safety positions. The employee performed services in two positions, Assistant Manager-Operations and Fire Chief. As the Assistant Manager-Operations, the individual oversees many Agency departments. According to the job duty statement and hiring documents, the individual is also employed as the Fire Chief. The Fire Chief and the District General Manager signed the duty statement certifying that the job duties listed are an accurate description of the responsibilities assigned to the position. The job duty statement states that in addition to general administration, the Fire Chief manages the activities and operations of the Fire Department including fire suppression, prevention, rescue, personnel training, emergency medical response, ambulance transport and public education to protect life and property. The duty statement also states that time worked will include responding to fire and medical emergencies as a member of the firefighting team. OAS reviewed the employee's time sheet for the pay period ended December 6, 2014 and identified a portion of the hours worked were allocated to "fire."

Regardless of whether or not the compensation was for administrative type work, the position the employee worked in at that time was classified as a safety position. Therefore, the compensation paid was not reportable due to the fact fire safety positions were excluded from the contract. These earnings should not be reported since the position of Fire Chief is excluded from the Agency's contract with CalPERS.

Recommendation:

The Agency should discontinue reporting earnings for excluded safety positons.

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, § 20433, § 20460

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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
Diana Thomas, CIA, Senior Manager
Michael Obad, Lead Auditor

APPENDIX A

OBJECTIVES

KIRKWOOD MEADOWS PUBLIC UTILITY 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.

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- ✓ 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.

APPENDIX B

AGENCY RESPONSE

NOTE: The Agency provided an attachment to the response that was intentionally omitted from this appendix. Additionally, the name of an individual mentioned in the Agency's response was intentionally omitted from this appendix.

KIRKWOOD MEADOWS
PUBLIC UTILITY DISTRICT

June 19, 2015

Ms. Hamilton
California Public Employees' Retirement System
PO Box 942701
Sacramento, CA. 94229-2701

RE: Response Letter to Job Number: P14-065

Dear Ms. Hamilton,

Please accept this letter as the Kirkwood Meadows Public Utility District's (District) response letter to the recommendations received from the CalPERS Audit completed the week of March 23, 2015.

1. "The Agency could not provide a pay schedule which met the requirements of the Government Code and CCR."

   The District has already reached out to ACWA JPIA, whom the District has received pay schedules examples from in the past. The District will also work with CalPERS Employer Account Management Division (EAMD) to rectify this issue, and to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

2. "The Agency incorrectly reported member contributions."

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

3. "The Agency did not maintain the required member reciprocal self-certification."

   During the audit, the District was supplied with the proper member reciprocal self-certification form. The District has completed this form for all active employees. The District will work with EAMD to ensure that CalPERS receives any necessary back-up to show this correction has been made and will continue to be implemented in the future.

4. "The Agency incorrectly reported earnings for an excluded position."

   While the District does have a "Fire Chief" [redacted], this employee's actual title is Assistant Manager, Operations. A job description for this position is included as back-up to this letter. Also included is a business card showing his title.

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e-mail: kmpud@volcano.net

The District has eleven different departments (Water, Wastewater, Volunteer Fire Department, Mosquito Abatement, Parks and Recreation, Electric, Propane, Cable, Propane, Snow Removal, and Solid Waste) and the Assistant Manager, Operations plays a role in each of the eleven departments. The Volunteer Fire Department is a small part of the overall work completed by this position.

In the 2015 PERL for GC 20434 "Local Firefighter", it states "Local Firefighter also means any officer or employer of a fire department of a contracting agency, EXCEPT one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, <u>even though that employee is subject to an occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services,</u> but not expecting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned."

As mentioned, in the District's case, the "Fire Chief" only spends occasional time on the <u>administration</u> of the volunteer fire department. Training of volunteer fire department is done after hours and is not included in salary and contributions reported to CalPERS. Volunteers responding to calls are paid per call, separate from any salary reported to CalPERS.

The District requests that with the above clarification, that CalPERS reassess their finding that "The Agency incorrectly reported earnings for an excluded position."

Once the final report from CalPERS is submitted to the District and a contact person from the EAMD is provided, the District will work with them to ensure that the District rectify any outstanding issues, to ensure compliance with the CalPERS retirement system.

Please contact me should you have any questions on the provided information.

Sincerely,

Original signed by Michael Sharp

Michael Sharp
General Manager