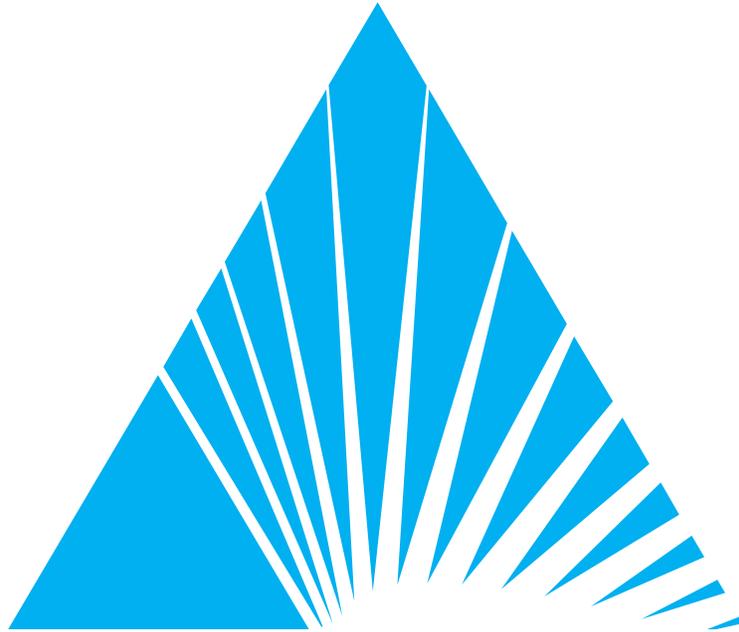


Office of Audit Services



CalPERS

Public Agency Review

Sanitary District No.5 of Marin County

**Employer Code: 1485
CalPERS ID: 4163206459
Job Number: P13-058**

September 2014



California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
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September 19, 2014

Employer Code: 1485
CalPERS ID: 4163206459
Job Number: P13-058

Antonio Rubio, Interim District Manager
Sanitary District No. 5 of Marin County
P.O. Box 227
Tiburon, CA 94920

Dear Mr. Rubio:

Enclosed is our final report on the results of the public agency review completed for the Sanitary District No. 5 of Marin County (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 2C. We appreciate the additional information regarding Finding 2C that you provided in your response; however, after consideration of this information, our recommendations remain as stated 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 Phyllis Miller
PHYLLIS MILLER, Acting Chief
Office of Audit Services

Enclosure

cc: Board, Sanitary District No. 5 of Marin County
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Renee Ostrander, Assistant Chief, CASD, CalPERS

SANITARY DISTRICT NO. 5 OF MARIN COUNTY

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SANITARY DISTRICT NO. 5 OF MARIN COUNTY

RESULTS IN BRIEF

The primary objective of our review was to determine whether Sanitary District No. 5 of Marin County (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.

- Payrates exceed amounts listed on the Agency's pay schedule.
- Special compensation was not reported as required by CCR Section 571.
- Payrate and earnings were incorrectly reported.
- Temporary/part-time employees were not properly enrolled.

OAS selected employees subject to the Public Employees' Pension Reform Act of 2013 (PEPRA). However, there were no issues identified for these employees.

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 June 16, 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 2013-14, 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, 2011 through December 31, 2013. The on-site fieldwork for this review was conducted from March 24-27, 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 reported payrates that exceeded the maximum base payrates listed on a publicly available pay schedule.

Condition:

The payrate for two employees working in the Senior Wastewater Treatment Plant Operator/Safety Coordinator and Treatment Plant/Collection System Maintenance Worker positions exceeded those 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.

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.
- Not reference another document in lieu of disclosing the payrate.

Recommendation:

The Agency should ensure that all employees' payrates reported to CalPERS are included on a pay schedule that meets all of the CCR requirements.

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

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Criteria:

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

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2: Special compensation was not reported as required by CCR Section 571.

Condition:

- A. Reporting the value of Employer Paid Member Contributions (EPMC) is allowed by statute. 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 seven percent EPMC as special compensation. The Agency updated its written labor agreements to enhance the benefit formula to eight percent EPMC. The Agency did not obtain approval from its governing body and submit to CalPERS as required.
- B. The Agency did not report special compensation of Holiday Pay earned by an employee who worked on a holiday during the pay period ending November 30, 2013. The employee was required to work without regard to holidays and received additional compensation. However, the additional compensation was not reported to CalPERS. Holiday Pay is a statutory item that is required to be reported as special compensation.
- C. The Agency did not report the monetary value of uniforms and uniform maintenance for employees. Specifically, the Agency requires Operators and Maintenance Workers to wear uniforms consisting of pants and shirts with logos. The Agency provides and launders uniforms or reimburses employees for the purchase of uniforms. Because the uniforms are not considered solely for personal health or safety, the Agency should have reported the monetary value of uniforms. In addition, the Agency did not include the conditions for payment of the uniforms, including, but not limited to, eligibility for, and amount of, in a written labor policy or agreement as required by CCR Section 571.

Reportable special compensation is required to be contained in a written labor policy or agreement with conditions for payment including amounts indicated, 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.

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Recommendation:

The Agency should update its resolution to reflect the payment and reporting of EPMC and submit to CalPERS.

The Agency should report the monetary value for the purchase of uniforms and Holiday Pay as special compensation.

The Agency should ensure special compensation items are contained in a written labor policy or agreement as required by the CCR.

The Agency should work with CASD make any necessary adjustments to 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 incorrectly reported payrate and earnings.

Condition:

- A. The Agency incorrectly reported payrate and earnings for an employee. Specifically, the Agency reported payrate and earnings in a period following the employee's last day of employment. The employee terminated employment with the Agency effective July 19, 2013 and received earnings of \$2,253.76 for the period of July 1-19, 2013. The Agency incorrectly reported the same payrate and earnings for the employee in the subsequent month. As a result, payrate and earnings were over reported.
- B. The Agency did not correctly report payrate for an employee who received a salary increase effective June 21, 2012. The Agency incorrectly reported the original payrate for the pay period ending June 30, 2012 in one line item and a retroactive salary adjustment with a reduced payrate for the pay period ending June 30, 2012 in another line item. The Agency should have reported the original payrate for the period of June 1-20, 2012 and a second line item with the new payrate for the period of June 21-30, 2012.
- C. The Agency incorrectly included Cross Training Pay in two employees' base payrate and regular earnings. Cross Training Pay does not qualify as special compensation and therefore is not reportable. As a result, the employees' base payrate and regular earnings were overstated.

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 ensure payrates and earnings are correctly reported.

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

The Agency should work with CASD to make any necessary adjustments to active or retired member accounts pursuant to Government Code Section 20160.

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Criteria:

Government Codes: § 20160, § 20630, § 20636
CCR: § 571

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4: Temporary/part-time employees were not enrolled when eligibility requirements were met.

Condition:

The Agency did not enroll two temporary/part-time employees who had previously established CalPERS membership. Pursuant to Government Code Section 20305, members who have a prior or current membership at the time of rendering services for a CalPERS employer should be enrolled upon hire. Therefore, OAS determined the Agency should have enrolled and reported earnings for the employees at the time of hire.

Recommendation:

The Agency should verify the membership status of all temporary/part-time employees. If prior membership was established, the Agency should enroll employees into membership at the beginning of their employment with the Agency.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Code: § 20044, § 20160, § 20305

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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 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, California Code of Regulations.

Respectfully submitted,

Original signed by Phyllis Miller
PHYLLIS MILLER, CPA, CIA
Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, CIDA, Manager
Aileen Wong, Auditor

APPENDIX A

OBJECTIVES

SANITARY DISTRICT NO. 5 OF MARIN COUNTY

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 January 1, 2011 through December 31, 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 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 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 WRITTEN RESPONSE

Sanitary District No.5 of Marin County
2001 Paradise Drive
P.O. Box 227
Tiburon CA 94920

Date: July 28, 2014
To: Margaret Junker, Chief Office of Audit Services-CalPERS
From: Tony Rubio, Interim District Manager
Subject: Public Agency Review Response, Employer Code: 1485, CalPERS ID: 4163206459, Job Number: P13-058

On July 14, 2014 the District received the draft CalPERS compliance review regarding the Sanitary District No.5 of Marin County's ("District") contract with the California Public Employees' Retirement System.

The Office of Audit Services noted the following findings during its review:

- Pay rates exceed amounts listed on Agency's pay schedule.
- Special Compensation was not reported as required by CCR Section 571.
- Pay rate and earnings were incorrectly reported.
- Temporary/part-time employees were not properly enrolled.

The letter dated June 30, 2014 with the draft Audit Report requested a written response from the District, and a statement of whether the District agreed with the proposed recommendations. ¹ Below is the detailed list of the four (4) findings and the District's response to the findings and recommended resolution.

1. **The Agency reported pay rates that exceeded the maximum base pay rates listed on a publicly available pay schedule.**
 - a) **The pay rate for two employees working in the Senior Wastewater Treatment Plant Operator/Safety Coordinator and Treatment Plant/Collection System Maintenance Worker Positions exceeded those identified on the Agency's pay schedule.**

The District agrees with this finding. The District intends to update its publicly available pay rate chart to properly reflect the Salary of each employee.

¹ CalPERS requested a response by July 28, 2014. Due to the fact that the District did not receive the letter until July 14, 2014, the District called and requested an extension for the due date of August 1, 2014. That request was granted via-email on July 14, 2014.

2. Special compensation was not reported as required by CCR Section 571.

- a) The Agency did not update its resolution to pay and report the value of Employer Paid Contributions (EPMC).**

The District agrees with this finding and intends to update its resolution to reflect the approved written employee agreement provisions regarding EPMC and will continue to update as required by the terms of the Memorandum of Understanding between the District and its Employees.

- b) The Agency did not report special compensation of Holiday Pay earned by an employee who worked on a holiday during the pay period ending Nov, 2013.**

The District agrees with this finding and intends to work with the appropriate CalPERS division to correct this item and to correctly report Holiday Pay in the future.

- c) The Agency did not report the monetary value of uniforms and uniform maintenance for employees.**

The District does not agree with this finding. The uniforms are used solely for personnel health and safety purposes, are not used by employees for any personal purpose, and are statutorily exempt from being reported as compensation.

3. The Agency incorrectly reported pay rate and earnings.

- a) The agency incorrectly reported pay rate and earnings for an employee.**

The District agrees with this finding. At the time a new hire was entering pay rates and earnings and a small mistake was made inadvertently. The District will ensure that pay rates and earnings are properly reported going forward.

- b) The agency did not correctly report pay rate for an employee who received a salary increase effective June 21, 2012.**

The District agrees with this finding and will ensure that pay rates and earnings are correctly reported in relation to salary increases.

- c) The agency incorrectly included Cross Training pay in two employees' base pay rate and regular earnings.**

The District agrees with this finding and intends to approve a new salary chart which will be used to properly report the earnings of each employee.

4. **Temporary/part-time employees were not enrolled when eligibility requirements were met.**
- a) **The agency did not enroll two temporary/part-time employees who had previously established CalPERS membership.**

The District agrees with this finding. Management was under the impression, based on information from CalPERS, that it was not required because they were temporary/part-time. The District will verify CalPERS membership status of future temporary/part-time hires. The District also intends to make the necessary adjustments to the two mentioned members.

In summary, the District appreciates the review and advice provided by CalPERS. Any non-compliance with CalPERS reporting requirements were inadvertent and the District will take appropriate steps to update its public documents to insure the accuracy of future CalPERS reporting, and to correct any findings that require retroactive action.

It is the district's understanding that this response will be made a part of the Final Audit Report.

Please feel free to call if you have any further questions.



**Antonio Rubio, Interim District Manager
Sanitary District No. 5 of Marin County
2001 Paradise Drive
Tiburon, CA 94920
415.435.1501, ext. 106**