

Office of Audit Services



Public Agency Review

Mokelumne Rural Fire District

CalPERS ID: 1577762632
Job Number: P14-021

March 2016



California Public Employees' Retirement System
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March 24, 2016

CalPERS ID: 1577762632
Job Number: P14-021

Rob Firman, Fire Captain
Mokelumne Rural Fire District
13157 E Brandt Rd
Lockeford, CA 95237

Dear Captain Firman,

Enclosed is our final report on the results of the public agency review completed for the Mokelumne Rural Fire 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 Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

cc: Board of Directors, Mokelumne Rural Fire 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

MOKELUMNE RURAL FIRE DISTRICT

TABLE OF CONTENTS

| <u>SUBJECT</u> | <u>PAGE</u> |
|---|-------------|
| Results in Brief..... | 1 |
| Scope..... | 1 |
| Office of Audit Services Review Results | 2 |
| 1: Pay Schedule | 2 |
| 2: Special Compensation | 4 |
| 3: Payroll..... | 6 |
| 4: Observation: Payroll | 7 |
| Conclusion | 8 |
| Objectives | Appendix A |
| Agency's Written Response | Appendix B |

MOKELUMNE RURAL FIRE DISTRICT

RESULTS IN BRIEF

The objective of our review was to determine whether the Mokelumne Rural Fire District (Agency) complied with applicable sections of the California Government Code (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 requirements of the Government Code and CCR.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Payroll information was incorrectly reported.
- Observation: Agency could not substantiate payroll information.

OAS recommends the Agency comply with applicable sections of the 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 October 25, 1999 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 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 CalPERS Board of Administration (Board) approved plan, OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review was limited to the examination of sampled employees, records, and pay periods from July 1, 2011 through June 30, 2014. The review objectives and methodology are listed in Appendix A.

MOKELUMNE RURAL FIRE DISTRICT

OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency's pay schedule effective March 26, 2009 did not meet all the requirements of the Government Code and CCR. Specifically, the pay schedule did not identify the positions or payrates for the Fire Chief and Administrative Secretary positions. In addition, the pay schedule did not indicate the effective date and date of any revisions.

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.

MOKELUMNE RURAL FIRE DISTRICT

Recommendation:

The Agency should ensure its pay schedule 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

MOKELUMNE RURAL FIRE DISTRICT

2: The Agency did not report special compensation in accordance with the Government Code and CCR requirements.

Condition:

- A. The Agency incorrectly included Fair Labor Standard Act (FLSA) Pay in base payrate and regular earnings for fire safety employees in the pay period ended June 15, 2014. FLSA Pay is a statutory item that is required to be reported as special compensation pursuant to Government Code Section 20636 and CCR Section 571. Therefore, FLSA Pay should be reported separately from base payrate and regular earnings.
- B. The Agency incorrectly reported Uniform Allowance as lump sum amounts for employees enrolled as classic members required to wear uniforms. Specifically, the Agency reported an annual Uniform Allowance of \$400.00 for fire safety employees and \$250.00 for the executive secretary in the pay period ended July 14, 2013. Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which special compensation was earned.
- C. The Agency incorrectly reported Uniform Allowance for a fire captain in the pay period ended September 8, 2013. Specifically, the Agency paid the fire captain Uniform Allowance of \$400.00, but incorrectly reported \$450.00 as special compensation.
- D. The Agency did not report Holiday Pay as special compensation for fire safety employees. Specifically, fire safety employees worked in positions that require scheduled staffing without regards to holidays. The Agency compensated the employees for holidays in the pay periods ended January 12, 2014 and May 4, 2014. However, the Agency did not report Holiday Pay as special compensation. Holiday Pay is a statutory item that must be reported as special compensation pursuant to Government Code Section 20636 and CCR Section 571.
- E. The Agency incorrectly reported Longevity Pay for a fire captain. The Agency's written labor policy states that employees with over 20 years of employment receive Longevity Pay of \$200.00 per month or \$2,400.00 per year. However, the Agency incorrectly reported Longevity Pay of \$2,800.00 per year for a fire captain in Fiscal Year 2013-14. As a result, special compensation was over reported. Over reporting special compensation may incorrectly increase retirement benefits that an employee is eligible to receive.

MOKELUMNE RURAL FIRE DISTRICT

- F. The Agency incorrectly reported Administrative Secretary Premium in the pay period ended July 28, 2013 and Longevity Pay in the pay period ended December 1, 2013 for the executive secretary. Although Administrative Secretary Premium and Longevity Pay meet the definitions listed in CCR Section 571(a), these special compensation items were not included in the Agency's written labor policy or agreement as required. As a result, these items are not reportable as special compensation.

Reportable special compensation is defined in CCR Section 571(a) and must be reported if it conforms with all of the requirements listed in CCR Section 571(b). Specifically, special compensation is required to be contained in a written labor policy or agreement indicating the eligibility and amount of special compensation. Also, special compensation must be available to all members in the group or class, part of normally required duties, performed during normal hours of employment, paid periodically as earned, and historically consistent with prior payments for the job classification.

Recommendation:

The Agency should report special compensation separately from base payrate and regular earnings.

The Agency should report special compensation in the period(s) earned.

The Agency should ensure the correct amount of Uniform Allowance is reported to CalPERS.

The Agency should ensure Holiday Pay is reported for employees in positions that require scheduled staffing without regard to holidays.

The Agency should only report special compensation that meets the Government Code and CCR requirements.

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, § 20630, § 20636
CCR: § 571

MOKELUMNE RURAL FIRE DISTRICT

3: The Agency incorrectly reported payrate, earnings, and payroll information.

Condition:

- A. The Agency reported an incorrect payrate of \$3,838.11 in the pay period ended June 15, 2014 for a fire engineer. The authorized monthly payrate for the fire engineer was \$3,144.96. The fire engineer received a higher payrate temporarily while working in an upgraded position from May 6, 2013 to August 25, 2013. However, the Agency continued to report the higher payrate even though the employee was no longer working in the upgraded position. As a result, payrate was over reported.

- B. The Agency incorrectly reported scheduled hours per week for fire safety employees. Specifically, the fire captain and fire engineer employees are regularly scheduled to work 56 hours per week. However, the Agency incorrectly reported work week hours of 39.92, instead of the regular schedule of 56 hours per week.

Payrate and earnings are important factors in computing a member's retirement allowance because service credit and final compensation are directly related to these components.

Recommendation:

The Agency should ensure that payrates, earnings, and scheduled work week hours are supported and correctly reported to CalPERS.

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 Code: § 20120, § 20121, § 20122, § 20160, § 20630, § 20636

MOKELUMNE RURAL FIRE DISTRICT

Observation: The Agency could not substantiate payroll information.

Condition:

The Agency could not substantiate payroll information for the executive secretary. Although the Agency hired the executive secretary to work 30 hours per week, the Agency reported 35 scheduled full-time hours. However, the Agency could not substantiate the reason for reporting 35 hours per week. CalPERS considers full-time employment to be between 34 and 60 hours per week. In addition, the Agency's agreement specified an annual salary of \$26,816.40 for working 1,560 hours in a year. As a result of the Agency's inability to determine the scheduled full-time hours for this position, OAS could not determine the correct payrates and earnings for the position. The Agency indicated the employee's employment was terminated. In addition, OAS confirmed that the employee was refunded all of the retirement contributions.

MOKELUMNE RURAL FIRE DISTRICT

CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. The procedures performed provide reasonable, but not absolute, assurance that the Agency complied with the specific provisions of the PERL and CalPERS contract 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 Beliz Chappuie

BELIZ CHAPPUIE, CPA, MBA
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Alan Feblowitz, Senior Manager
Chris Wall, Senior Manager
Earl Hsu, Auditor

MOKELUMNE RURAL FIRE DISTRICT

APPENDIX A

OBJECTIVES

MOKELUMNE RURAL FIRE DISTRICT

OBJECTIVES

The objectives of this review were limited to determine whether the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting and enrollment procedures prescribed in the Agency's retirement contract with CalPERS.

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.

METHODOLOGY

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 time records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Documents related to employee payrate, special compensation, and benefits
 - Various other relevant documents
- ✓ 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

MOKELUMNE RURAL FIRE DISTRICT

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 entity organizational structure to determine whether employees of the affiliated entity qualified for CalPERS membership and were enrolled as required.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide additional service credits for unused sick leave.

MOKELUMNE RURAL FIRE DISTRICT

APPENDIX B

AGENCY'S WRITTEN RESPONSE

Mokelumne Rural Fire District

13157 E. Brandt Rd., Lockeford, CA. 95237

(209) 727-0564 Fax (209) 727-0863

Directors: Bernie Mettler, Mike Young, Jim Tamura, Cloud Brown, Aaron Ayers
Fire Chief Robert Tuitavuki

March 4, 2016

California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA. 94229

Dear Ms. Chappuie,

This letter is in response to the Draft audit received on February 17, 2016. I apologize for the delay in the response and appreciate the extension your office allowed this agency. We want to ensure every effort that the Mokelumne Rural Fire District complies with the contract and Retirement laws that we established with your agency. I want to thank you and your staff for the great professional assistance they gave during their visit.

Finding 1: The Agency's pay schedule did not meet all of the government code and CCR requirements.

The pay Schedule has since been modified to meet the government code.

Finding 2: The Agency did not report special compensation in accordance with the Government code and CCR requirements.

- A. FLSA has since been reported under the special compensation tab.
- B. Uniform allowance has been divided by the 26 pay periods for the fiscal year.
- C. This was a miscalculation by the past administration reporting to Cal PERS
- D. This was a miscalculation by the past administration reporting to Cal PERS.
- E. This was a miscalculation by the past administration reporting to Cal PERS.
- F. This was a miscalculation by the past administration reporting to Cal PERS.

Finding 3: The Agency incorrectly reported pay rate, earnings, and payroll information.

A. This was a miscalculation by the past administration reporting to Cal PERS. It has since been corrected.

B. This was a miscalculation by the past administration reporting to Cal PERS. It has since been corrected.

In closing, The Mokelumne Rural Fire District has had some difficult times these last few years. We have had some major changes to staffing levels and administration personnel as well. While I can agree to the findings your office and staff has concluded in its audit of our agency. I would like to point out that the person in charge of the reporting of payroll to Cal PERS is no longer an employee of the district. It is difficult to answer some of the questions asked in the audit because only she could answer them and she is not available to do so. We have fixed some of the errors moving forward. We will also make sure to fix the corrections that need to be fixed. We look forward to working with a member of the EAMD so that we are in compliance with our Cal-PERS contact and Laws.

Please feel free to contact me if you have any questions about the above responses by the Mokelumne Rural Fire District.

Sincerely,

A black rectangular redaction box covering the signature of Rob Firman.

Original signed by Rob Firman

Rob Firman, Fire Captain