

Office of Audit Services



Public Agency Review

Murrieta Valley Cemetery District

**CalPERS ID: 3544064853
Job Number: P15-006**

July 2016



California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (877) 249-7442
(916) 795-0802 phone, (916) 795-7836 fax
www.calpers.ca.gov

July 28, 2016

CalPERS ID: 3544064853
Job Number: P15-006

Marc Baker, District Manager
Murrieta Valley Cemetery District
42800 Ivy Street
Murrieta, CA 92562

Dear Mr. Baker:

Enclosed is our final report on the results of the public agency review completed for the Murrieta Valley Cemetery 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 Trustees, Murrieta Valley Cemetery District
Debra Ross, District Secretary, Murrieta Valley Cemetery 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

MURRIETA VALLEY CEMETERY 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: Enrollment	6
4: Reciprocal Self-Certification	9
Observation: Census Data Reporting.....	10
Conclusion	11
Objectives	Appendix A
Agency's Written Response	Appendix B

MURRIETA VALLEY CEMETERY DISTRICT

RESULTS IN BRIEF

The objective of our review was to determine whether the Murrieta Valley Cemetery 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 Government Code and CCR requirements.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Eligible employees were not properly enrolled.
- Member reciprocal self-certification information was not maintained.
- Observation: Agency records did not agree with my|CalPERS 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 December 21, 2006 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 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. Additionally, OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 67: Financial Reporting for Pension Plans. The review was limited to the examination of sampled employees, records, and pay periods from July 1, 2012 through June 30, 2015. The review objectives and methodology are listed in Appendix A.

MURRIETA VALLEY CEMETERY DISTRICT

OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency did not have a pay schedule that met all of the Government Code and CCR requirements.

Condition:

The Agency did not have a pay schedule that met all the requirements of the Government Code and CCR. Specifically, the Agency did not have a pay schedule that identified position titles and the payrate for the General Manager position. In addition, the schedule did not indicate an effective date.

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.

MURRIETA VALLEY CEMETERY DISTRICT

Recommendation:

The Agency should ensure it has 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

MURRIETA VALLEY CEMETERY DISTRICT

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

Condition:

- A. The Agency did not report uniforms in accordance with the Government Code and CCR. Specifically, the Agency did not report the value of the uniforms provided and maintained for field employees enrolled as classic members. Government Code Section 20636 and CCR Section 571(a)(5) require the monetary value for the purchase, rental, and/or maintenance of required clothing to be reported as special compensation for classic employees.
- B. The Agency's written labor policy containing the uniform provision did not meet all the requirements of CCR Section 571(b)(1)(B). Specifically, the policy did not indicate the conditions for payment of the uniforms. Additionally, the Agency was unable to provide documentation to show the policy was approved by the Agency's governing body. CCR Section 571 requires that the written labor policy or agreement contain the conditions for payment, including, but not limited to, eligibility for, and amount of, the 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 ensure the monetary value of uniforms is reported as special compensation for classic members.

The Agency should ensure the conditions for payment of uniforms are contained in a written labor policy or agreement approved by the employer's governing body in accordance with requirements of applicable public meetings laws.

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.

MURRIETA VALLEY CEMETERY DISTRICT

Criteria:

Government Codes: § 20160, § 20636

CCR: § 571

MURRIETA VALLEY CEMETERY DISTRICT

3: The Agency did not properly enroll eligible employees into membership.

Condition:

- A. The Agency did not enroll two employees into CalPERS membership when eligibility requirements were met. Specifically, the General Manager and Grounds Keeper were hired on a full-time basis. However, the employees were not immediately enrolled into membership. Instead, the employees were enrolled into membership after a 90-day introductory period was completed. Government Code Section 20505 states that employees must be enrolled into membership immediately irrespective of any probationary period, if the employees would otherwise be eligible for membership.
- B. The Agency incorrectly classified an employee as an independent contractor and did not enroll the individual into membership when eligibility requirements were met. Specifically, OAS determined the individual worked in an employer/employee relationship performing services as a District Secretary. The Agency did not enroll the individual upon completion of 1,000 hours during the month of April 2014. Government Code Section 20305 requires employees who complete 1,000 hours within a fiscal year to be enrolled into membership effective no later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.

Management and control of CalPERS is vested in the Board as provided in Government Code Section 20120. Each member and each person retired is subject to this part and the rules adopted by the Board pursuant to Government Code Section 20122. Government Code Section 20125 provides that the Board shall determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system. For the purposes of the PERL and for programs administered by the Board, the standard used for determining whether an individual is the employee of another person is the California common-law employment test as set forth in the California Supreme Court case titled *Tieberg v. Unemployment Ins. App. Bd.*, (1970) 2 Cal. 3d 943, which was cited with approval in *Metropolitan Water Dist. v. Superior Court (Cargill)*, (2004) 32 Cal. 4th 491, and which was adopted by the Board in two precedential decisions, *In the Matter of Lee Neidengard*, Precedential Decision No. 05-01, effective April 22, 2005, and *In the Matter of Galt Services Authority*, Precedential Decision No. 08-01, effective October 22, 2008.

Applying the California common-law employment test, the most important factor in determining whether an individual performs services for another as employee

MURRIETA VALLEY CEMETERY DISTRICT

is the right of the principal to control the manner and means of job performance and the desired result, whether or not this right is exercised. Where there is independent evidence that the principal has the right to control the manner and means of performing the service in question, CalPERS will determine that an employer-employee relationship exists between the employee and the principal.

Other factors to be taken into consideration under the common-law employment test are as follows:

- Whether or not the one performing services is engaged in a distinct occupation or business.
- The kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of a principal or by a specialist without supervision.
- The skill required in the particular occupation.
- Whether the principal or the individual performing the services supplies the instrumentalities, tools, and the place of work for the person doing the work.
- The length of time for which the services are to be performed.
- The method of payment, whether by the time or by the job.
- Whether or not the work is a part of the regular business of the principal.
- Whether or not the parties believe they are creating the relationship of employer-employee.

OAS identified the following common facts which support that the Agency controlled the manner and means in which the individual performed the services provided. Specifically, the individual's work was directed, supervised, and reviewed by the Agency; all aspects of the job duties were closely monitored by the Agency; and the Agency had the right to control the employees work.

Based on our review of these facts, OAS determined that the control over the individual is with the Agency and that the employee was a common-law employee of the Agency. As a result, the Agency should have enrolled the individual upon completion of 1,000 hours.

Recommendation:

The Agency should correct the enrollment dates for all employees who were not enrolled timely. In addition, the Agency should report the employees' compensation and submit the appropriate contributions for the period prior to enrollment.

The Agency should monitor the hours worked by part-time employees to ensure the employees are enrolled when membership requirements are met.

MURRIETA VALLEY CEMETERY DISTRICT

The Agency should work with EAMD to assess the impact of this incorrect reporting and make any adjustments, if necessary, to any impacted retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20120, § 20122, § 20160, § 20283, § 20305, § 20505

MURRIETA VALLEY CEMETERY DISTRICT

4: Member reciprocal self-certification information was not maintained.

Condition:

The Agency did not obtain the required member reciprocal self-certification for employees 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 individuals.

Recommendation:

The Agency should ensure employees hired on or after January 1, 2013 self-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 assess the impact of this incorrect reporting and make any adjustments, if necessary, to any impacted retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 7522.02, § 7522.04
CCR: § 579.3

MURRIETA VALLEY CEMETERY DISTRICT

Observation: The Agency's records do not agree with my|CalPERS information.

Condition:

OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 67: *Financial Reporting for Pension Plans* requirements. The significant census data elements include, but are not limited to, date of birth, date of hire or years of service, marital status, gender, employment status (active, inactive, or retired), class of employee, and eligible compensation.

OAS identified one employee whose CalPERS enrollment date did not match the enrollment date with the Agency. Specifically, an employee was hired by the Agency and should have been enrolled on April 6, 2010; however, the enrollment date in my|CalPERS was April 5, 2010. OAS also identified one individual who had an employment status that was different from the employment status in my|CalPERS. The Agency's records show that the employee had separated; however, the employee was not separated through my|CalPERS. OAS recommends the Agency work with the appropriate CalPERS division to make any corrections, if necessary.

MURRIETA VALLEY CEMETERY 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, CFE, Senior Manager
Aileen Wong, MBA, Lead Auditor
Vincent Antolini, Auditor

MURRIETA VALLEY CEMETERY DISTRICT

APPENDIX A

OBJECTIVES

MURRIETA VALLEY CEMETERY DISTRICT

OBJECTIVES

The objectives of this review were 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.

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 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.

MURRIETA VALLEY CEMETERY DISTRICT

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

MURRIETA VALLEY CEMETERY DISTRICT

APPENDIX B

AGENCY'S WRITTEN RESPONSE

Murrieta Valley Cemetery District

Laurel Cemetery/District Office
42800 Ivy Street
Murrieta, CA 92562

Phone: 951.677.4223
Fax: 951.677.5559
www.murrietacemetery.org/

July 6, 2016

Ms. Beliz Chappuie, Chief
CalPERS Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

RE: Murrieta Valley Cemetery District
CalPERS ID # 3544064853
Job # P15-006

Dear Ms. Chappuie,

We appreciate the professionalism of your staff and all the help Vincent has given us. We are looking forward to guidance in correcting any issues and complying with CalPERS.

Murrieta Valley Cemetery has looked at the report and in full agreement with it.

Murrieta Valley Cemetery District will correct any issues that need to be addressed after CalPERS completes their audit and determines what and how it needs to be changed.



Original signed by Debra Ross

Debra Ross
District Secretary/Administrative Assistant



Original signed by Marc Baker

Marc Baker
District Manager