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December 28, 2010

Employer Code: 1140
Job Number: P09-059

North Kern Cemetery District
Jim Ludy, District Manager
P.O. Box 308
Delano, CA 93216

Dear Mr. Ludy:

Enclosed is our final report on the results of the public agency review completed for the North Kern Cemetery District. Your agency's written response indicates agreement with the issues noted in the report. The written response is included as an appendix to the report. As part of our resolution process, 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 Margaret Junker

Margaret Junker, CPA, CIA, CIDA
Chief, Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Lori McGartland, Chief, ERSD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Honorable Board Members, North Kern Cemetery District

North Kern Cemetery District



Public Agency Review



Office of Audit Services

Employer Code: 1140
Job Number: P09-059

January 2011

NORTH KERN CEMETERY DISTRICT

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NORTH KERN CEMETERY DISTRICT

RESULTS IN BRIEF

We reviewed the North Kern Cemetery District's (District) enrolled individuals, retirement contributions, member earnings and required retirement documentation for employees included in our test sample. A detail of the exceptions is noted in the Risk and Mitigation Table. Specifically, the following exceptions were noted during the review:

- Monetary value of uniform rental and maintenance was not reported to CalPERS.
- Reported payrates were not in a publicly available salary schedule.
- Payroll reports and contributions were not submitted timely.
- Temporary/part-time employees were not enrolled into CalPERS membership.
- Retired annuitant exceeded 960 hours worked and was not reinstated to active CalPERS membership.

BACKGROUND

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Employer Services Division (ERSD) manages contract coverage for public agencies and receives, processes, and posts payroll information. CalPERS Benefit Services Division (BNSD) provides services for eligible members who apply for service or disability retirement. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Office of Employer and Member Health Services (EMHS), as part of the Health Benefits Branch (HBB), provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period.

NORTH KERN CEMETERY DISTRICT

Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

The District was formed in January 1939 in accordance with the provisions of Chapter 1, Section 8890 and 9925 of the California Health and Safety Code. The District is situated in West Delano in the County of Kern. The Board of Trustees is appointed by the County Board of Supervisors for a term of four years. Memoranda of Understanding (MOU) and employment agreements outline all District employees' salaries and benefits and state the terms of employment agreed upon between the District and its employees.

The District contracted with CalPERS effective June 4, 1977, to provide retirement benefits for local miscellaneous employees. The District's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups.

SCOPE

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the District's payroll reporting and enrollment processes as these processes relate to the District's retirement contract with CalPERS. The objective of this review was limited to the determination that the District complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures were followed. The on-site fieldwork for this review was conducted on June 1, 2010 through June 4, 2010.

The review period was limited to the examination of sampled records and processes from April 1, 2007 through March 31, 2010. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the District had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the District had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the District's personnel and payroll procedures.

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- ✓ Reviewed the payroll transactions and compared the District's payroll register with the data reported to CalPERS to determine whether the District correctly reported employees' compensation.
- ✓ Reviewed the District's payroll information reported to CalPERS to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the District's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.
- ✓ Reviewed the District's enrollment practices pertaining to temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the District's classification of employees to determine whether the District reported employees in the appropriate coverage groups.
- ✓ Reviewed the District's calculation and reporting of unused sick leave balances for retiring members.

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RISK AND MITIGATION TABLE

In developing our opinions, we considered the following risks and mitigations. We also include our observations and recommendations.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The District may not accurately report compensation to CalPERS.</p>	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of six employees over two service periods. The service periods reviewed were the first service period of March 2008 (3/08-3) and the second service period of December 2009 (12/09-4).</p> <p>The earnings reported to CalPERS were reconciled to the District's payroll records. The District accurately reported compensation to CalPERS for the sampled employees, except for uniform allowance. Specifically, the District provided uniforms and the maintenance of uniforms to employees. However, the District did not report the monetary value of uniform and uniform maintenance to CalPERS as special compensation.</p> <p>Government Code, § 20636(c)(6), states, in part, "The board shall promulgate regulations that delineate more specifically and exclusively what constitutes special compensation as used in this section. A uniform allowance, the monetary value of employer-provided uniforms...shall be included as special compensation."</p> <p>California Code of Regulations, § 571(a)(5), defines</p>	<p>The District should report the monetary value of uniforms and uniform maintenance for all CalPERS members required to wear uniforms.</p> <p>The District should work with CalPERS ERSD to assess the impact of this non-reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The District may not accurately report compensation to CalPERS. (continued)</p>	<p>uniform allowance as compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes.</p>	
<p>2. The District may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed payrates reported to CalPERS and reconciled the payrates to the District's public salary information to determine whether payrates for the sampled employees were properly authorized and reported to CalPERS. Our sample testing for service period 12/09-4 revealed the District correctly reported payrates for the individuals tested except for two sampled employees' payrates, which were not listed in a publicly available salary schedule.</p> <p>Specifically, the MOU between the Kern County Public Employees Association and the District included pay schedules for the Groundsman I and Groundsman II classification. However, the MOU and salary schedules did not cover the payrates for the District Manager or District Secretary. The District was unable to provide a publicly available salary schedule supporting the District Manager and the District Secretary's reported payrates for service period 12/09-4.</p>	<p>The District should ensure all payrates are included in publicly available salary schedules. In addition, the District should work with CalPERS ERSD to assess the impact of this issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>2. The District may not report payrates in accordance with publicly available salary schedules. (continued)</p>	<p>Government Code, § 20636(b)(1), states, “Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.”</p>	
<p>3. The District may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll listing information reported to CalPERS for the sampled employees and service periods identified in Risk 1. We also reviewed payroll reporting elements to ensure the District utilized the correct pay codes, work schedule codes and service period type codes. Our sample testing revealed that the District correctly reported payroll information and payroll reporting elements to CalPERS.</p>	<p>None.</p>
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>Information received from CalPERS ERSD identified that out of 78 payrolls, the District reported eight payrolls in a timely manner.</p> <p>We reviewed the payroll information for service periods 3/08-3, 6/09-4 and 12/09-4 and found that payroll information and retirement contributions were not always submitted within required timeframes. Required timeframes, from the close of the pay period, are 30 days for submitting payroll summary reports and 15 days for submitting retirement contributions. Specifically, we noted the following:</p>	<p>The District should ensure that payroll information and retirement contributions are submitted to CalPERS timely.</p> <p>The District should work with CalPERS ERSD to assess the impact of this late payroll reporting and determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<ul style="list-style-type: none"> • Service period 3/08-3, ending March 14, 2008, the CalPERS Summary Report and Payroll Listing, due April 13, 2008, was dated July 11, 2008; 89 days late. The retirement contributions were due on March 29, 2008; however, the contribution check was issued on April 22, 2009; 389 days late. • Service period 6/09-4, ending June 19, 2009, the retirement contributions were due on July 4, 2009. The contribution check was issued on February 26, 2010; 237 days late. • Service period 12/09-4, ending December 18, 2009, the retirement contributions were due on January 2, 2010. The contribution check was issued on February 26, 2010; 55 days late. <p>California Code of Regulations, § 565, states, "Member and employer contributions shall be received in the System's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer."</p> <p>California Code of Regulations, § 565.1(a) states, "A complete and orderly payroll report for each pay period shall be filed with the System at its Sacramento office on or before 30 calendar days following the last day of the period to which it refers."</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The District may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract between the Board of Administration of CalPERS and the Board of Trustees of the District excluded all local safety employees from CalPERS membership. We found the District did not employ any local safety employees.</p> <p><u>Optional Membership</u></p> <p>Elective officers who serve on a public commission, board, council, or similar legislative or administrative body who have continuously served in office held on June 30, 1994, have optional membership rights. Elected or appointed officials elected for the first time on or after July 1, 1994, are not eligible for membership. We found no instances in which the District enrolled into CalPERS membership any member of the Board of Trustees.</p> <p><u>Temporary/Part-time Employees</u></p> <p>We selected a sample of four temporary/part-time employees and examined the number of hours worked in fiscal year 2007/2008 and 2008/2009 to determine whether they reached or exceeded the 1,000 hour membership eligibility criterion. We also reviewed CalPERS databases to determine if the sampled employees met eligibility requirements through</p>	<p>None.</p> <p>None.</p> <p>The District should implement procedures to monitor the hours worked by temporary and/or part-time employees in order to enroll eligible employees into CalPERS membership when eligibility criterion is met.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The District may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>membership with another CalPERS agency. Our sample testing revealed that the District did not properly enroll temporary/part-time employees into CalPERS membership when eligibility criterion was met. Specifically, in fiscal year 2007/2008, two employees were identified who met the eligibility requirements by working 1,000 hours in a fiscal year but were not enrolled into CalPERS membership. In fiscal year 2008/2009, three employees were identified who met eligibility requirements by working 1,000 hours in a fiscal year but were not enrolled into CalPERS membership.</p> <p>Qualification for membership is reached when the person works 1,000 hours in a fiscal year (if paid other on other than a daily or <i>per diem</i> basis). Any overtime hours worked are counted toward these 1,000 hours. Time during which the member is paid for time excused from working due to vacation, holiday pay, sick leave, etc., is included in the 1,000 hours. Membership becomes effective no later than the first day of the first pay period of the month following the month in which 1,000 hours was completed.</p> <p>Government Code, § 20305, states, in part, “(a) An employee serving on a less than full-time basis is excluded from this system unless...(3)(B) the person works more than...1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of</p>	<p>The District should work with CalPERS ERSD to determine the impact of this membership issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

NORTH KERN CEMETERY DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The District may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p>the first pay period of the month following the month in which...1,000 hours of service were completed.”</p> <p>Government Code, § 20044, states, defines a fiscal year as any year commencing on July 1st and ending with June 30th next following.</p> <p><u>Independent Contractor</u></p> <p>The District did not hire any independent contractors during the review period.</p>	<p>None.</p>
<p>6. The District may unlawfully employ retired annuitants.</p>	<p>We reviewed the hours worked for one retired annuitant in fiscal years 2007/2008 and 2008/2009. Our sample testing revealed that the retired annuitant exceeded the 960 hour threshold in fiscal years 2007/2008 and 2008/2009 and was not reinstated to active CalPERS membership. We also determined that a bona fide separation from employment, per Government Code, § 21220.5, was not needed as the sampled retired annuitant’s age at retirement was beyond the normal retirement age.</p> <p>Government Code, § 21224, allows a retired person to serve without reinstatement from retirement or loss of interruption of benefits provided the retiree has skills needed in performing work of limited duration. This section provides for the appointments not to exceed a total for all employers, of 960 hours in any fiscal year.</p>	<p>The District should review all hours worked in a fiscal year by retired annuitants and reinstate those that exceed the 960 hour threshold. The District should work with CalPERS BNSD to assess the impact of this membership issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the District and CalPERS BNSD as an appendix to our draft report.</p>

NORTH KERN CEMETERY DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
7. The District may not appropriately report members under the proper coverage group code.	Our sample testing revealed that the District reported individuals under the appropriate coverage group code.	None.
8. The District may not accurately report unused sick leave balances for retiring CalPERS members.	Effective July 1, 2005, the contractual provision of Government Code, § 20965, credit for unused sick leave, became a mandated benefit for the District. Our sample testing revealed that the District properly reported the balance of unused sick leave for the sampled retiree.	None.

NORTH KERN CEMETERY DISTRICT

CONCLUSION

We limited this review to the areas specified in the scope section of this report. We limited our test of transactions to samples of the District's payroll reports and personnel records. The sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code, except as noted above.

Respectfully submitted,

Original Signed by Margaret Junker

Margaret Junker, CPA, CIA, CIDA
Chief, Office of Audit Services

Date: December 2010

Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIDA, Manager
Jodi Epperson
Albert Sim

APPENDIX

DISTRICT'S WRITTEN RESPONSE

TRUSTEES
Johnny Muñoz
Hubert Rabanal
Dorothy Zaninovich
Richard Ruiz
Ruben Hill

North Kern Cemetery District

Post Office Box 308
627 Austin Street
Delano, California 93216
Office: (661) 725-8412 - Fax: (661) 725-6803

MANAGER
Jim Ludy

SECRETARY
Xochitl Tabian

CalPERS
Office of Audit Services

December 20, 2010
Job Number P09-059

As District Manager for the North Kern Cemetery District I have reviewed the draft report of our District's compliance review. I have listed the five compliance exceptions below with our District's response. I am a relatively new employee with the District and was not aware of issues regarding uniform rental, public reporting of pay rates and hour limits for seasonal and retired annuitants. I have participated in both online and classroom courses through CalPERS to prepare for online reporting of payroll and contributions. Our District has been super-funded until recently and our secretary reported payroll and sent contributions as she had been instructed in the past. I am eagerly awaiting implementation of the new online system to improve on our reporting in a timely manner.

A. Monetary value of uniform rental was not reported to CalPERS.

Agree with the recommendations. The District will include the uniform rental value when reporting compensation.

B. Reported pay rates were not in a publicly available salary schedule.

Agree with recommendations. The Managers and Confidential Secretaries salaries will be listed publicly.

C. Payroll reports and contributions were not submitted timely.

Agree with recommendations. Reports will be submitted on time.

D. Temporary/part-time employees were not enrolled into CalPERS membership.

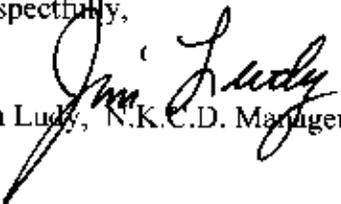
Agree with recommendations. The District will implement procedures to monitor temporary/part-time employees hours and enroll those that meet eligibility criterion.

E. Retired annuitant exceeded 960 hours worked and was not reinstated to active CalPERS membership.

Agree with recommendation. The District will implement procedures to monitor hours worked by retired annuitants and reinstate those that exceed the 960 hour threshold.

I have learned much about cemeteries and special districts in my short time as manager. I am learning more everyday and I now know much more of the rules governing CalPERS participation. Our District is proud to be affiliated with CalPERS and humbly asks to be allowed to correct compliance issues without penalties.

Respectfully,


Jim Ludy, N.K.C.D. Manager