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April 14, 2011

Employer Code: 1593
Job Number: P09-001

Port San Luis Harbor District
Stephen McGrath, Harbor Manager
P O Box 249
Avila Beach, CA 93424

Dear Mr. McGrath:

Enclosed is our final report on the results of the public agency review completed for the Port San Luis Harbor 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, Chief
Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Darryl Watson, Chief, CASD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Don Martinez, Interim Chief, HAS, CalPERS

Office of Audit Services



Public Agency Review

Port San Luis Harbor District

Employer Code: 1593
Job Number: P09-001

April 2011

PORT SAN LUIS HARBOR DISTRICT

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RESULTS IN BRIEF

We reviewed the Port San Luis Harbor District's (District) enrolled individuals, health and retirement contributions, member earnings and required health, retirement and Automated Communications Exchange System (ACES) 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:

- Value of uniforms was not reported.
- Salaries were not in accordance with a publicly available salary schedule.
- Notary pay was incorrectly included in the reported base payrate and regular earnings.
- Eligible temporary/part-time employees were not enrolled in CalPERS membership.
- Health contributions were not timely submitted.
- Required ACES user security document was not completed and maintained at the District.

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 Customer Account Services Division (CASD) 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 Health Account Services section (HAS), as part of the CASD, 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

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consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employer's 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 is a political subdivision of the County of San Luis Obispo. It is governed by an elected board of five commissioners. 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 September 1, 1992 to provide retirement benefits for local safety and miscellaneous employees. The District's current contract amendment identifies the length of the final compensation period as three years for all coverage groups. The District contracted with CalPERS effective August 1, 1993, to provide health benefits to all eligible employees.

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 health and retirement contracts 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 14, 2010 through June 18, 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.

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- ✓ Interviewed key staff members to obtain an understanding of the District's personnel and payroll procedures.
- ✓ 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 process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the District's calculation and reporting of unused sick leave balances for retiring members.
- ✓ Reviewed employees and their dependents to determine whether the District properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health contribution payment information to determine whether the District remitted payments within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the District contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the District maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

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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 eight employees over two service periods. The service periods reviewed were the second service period of April 2009 (4/09-2) and the first service period of February 2010 (2/10-1).</p> <p>The earnings reported to CalPERS were reconciled to the District's payroll records. The District accurately reported compensation to CalPERS for the employees in our sample; however, the District did not report the value of uniforms provided to the employees who were required to wear uniforms.</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), states, "Compensation paid or the monetary value for the</p>	<p>The District should report the monetary value of employer provided uniforms on behalf of the employees who are required to wear uniforms.</p> <p>The District should work with CalPERS CASD to assess the impact of this non-reporting and determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The District may not accurately report compensation to CalPERS. (continued)</p>	<p>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.</p> <p>Two of the sampled employees’ reported payrates did not reconcile to the employees’ individual employment agreements. We were unable to trace the salaries from the employment agreements to what was reported in the 02/10-1 service period. The variance was due to cost of living adjustments and pay increases. These increases were approved during the District’s closed session board meetings. A memo and an email were provided to the accounting department to make the changes on the payroll; however, the information was not publicly available, nor duly approved and adopted by the District’s governing body in accordance with requirements of applicable public meeting laws.</p>	<p>The District should ensure that payrates are reported in accordance with publicly available salary information.</p> <p>The District should work with CalPERS CASD to determine the impact of this incorrect reporting and 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 CASD 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, in part, “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>Government Code § 20636(d), states, “Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.”</p>	
<p>3. The District may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll information reported to CalPERS in the 02/10-1 service period. Our sample testing revealed that the District correctly reported the payroll information to CalPERS except one sampled employee. Specifically, the District incorrectly included 2.5 percent notary pay in the employee’s reported base payrate and regular earnings. The 2.5 percent for notary pay should have been reported separately as special compensation.</p> <p>Government Code §20636(a), defines compensation earnable for a member as the payrate and special compensation of the member.</p> <p>Government Code §20636(b)(1), states, in part, “Payrate</p>	<p>The District should immediately begin reporting special compensation items separately from base payrate and regular earnings.</p> <p>The District should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p>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>Government Code §20636(c)(1), defines special compensation as any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.</p> <p>CalPERS Procedure Manual, page 71, states that, “All special compensation should be reported separately as special compensation, as it is earned.”</p>	<p>section of the report has been sent to the District and CalPERS CASD as an appendix to our draft report.</p>
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>We reviewed the payroll information for service periods 4/09-2 and 2/10-1 and found that payroll information and contributions were submitted within required timeframes.</p>	<p>None.</p>
<p>5. The District may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract CalPERS and the District excludes members of the governing body and firefighters from CalPERS membership. The District did not employ any members of the governing body or firefighters during the review period.</p>	<p>None.</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><u>Temporary/Part-time Employees</u></p> <p>We reviewed temporary/part-time employees who worked in fiscal year 2007/2008 and 2008/2009 to determine whether the individuals met CalPERS membership eligibility criterion. Our sample testing revealed the District properly monitored hours worked by the temporary/part-time employees to ensure they did not exceed the 1,000 hour membership eligibility threshold.</p> <p>In addition, CalPERS' database was reviewed to determine if any of the employees were CalPERS members through membership with another CalPERS agency. In fiscal year 2007/2008, we found that the District did not properly enroll two temporary/part-time employees who were members of CalPERS.</p> <p>Government Code § 20305(a)(1), states, "An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless he or she is a member at the time he or she renders that service and is not otherwise excluded pursuant to this article or by a provision of a contract."</p>	<p>The District should enroll all temporary/part-time employees immediately upon meeting membership eligibility requirements.</p> <p>The District should work with CalPERS CASD to assess the impact of this enrollment and reporting issue and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this report has been sent to the District and CalPERS CASD as an appendix to the draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
5. The District may not enroll all eligible employees into CalPERS membership. (continued)	<p><u>Independent Contractor</u></p> <p>We reviewed the District's IRS 1099 Miscellaneous Income forms for calendar years 2008 and 2009 in order to identify employees that may be misclassified as independent contractors. We determined that a sampled individual was properly classified as an independent contractor and was correctly excluded from CalPERS membership.</p>	None.
6. The District may unlawfully employ retired annuitants.	The District did not employ any retired annuitants during the review period; therefore, no further testing was performed.	None.
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 appropriately process industrial disability retirement determinations and appeals for safety members.	We reviewed the District's procedures for processing applications for industrial disability retirement. We found that the District had appeals procedures in place. We identified one individual who applied for industrial disability retirement during the scope of our review and determined that the District processed the determination timely.	None.

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
9. The District may not accurately report unused sick leave balances for retiring CalPERS members.	Our sample testing revealed that the District properly reported the balance of unused sick leave for the five sampled retirees.	None.
10. The District may not properly enroll eligible employees and their dependents in health benefits.	We reviewed a sample of eight employees to assess the health benefits eligibility and enrollment of members and their dependents. Our sample testing revealed that the District properly enrolled eligible employees and their dependents in CalPERS Health Benefits Program.	None.
11. The District may not contribute the appropriate health contribution amounts for active employees.	We reviewed the February 2010 health contribution reported for one sampled employee. We determined that the District contributed the appropriate health contribution amount in accordance with the CalPERS contract and the employees' MOU.	None.
12. The District may not remit health contributions within the required timeframe.	<p>We reviewed the health contributions remitted for January 2009, April 2009 and February 2010 to determine whether the agency remitted contributions within the required timeframe. Health contributions are due by the 10th day of the month for which the contributions are due.</p> <p>We determined that the District remitted two of the health contribution payments within the appropriate timeframes; however, the April 2009 payment was not received by</p>	<p>The District should remit health contribution payments by the 10th day of the month for which the contributions are due.</p> <p>The District should work with CalPERS HAS to determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>12. The District may not remit health contributions within the required timeframe. (continued)</p>	<p>CalPERS until April 24, 2009 (14 days late).</p> <p>Government Code § 22899 (a), states, “The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due.”</p> <p>California Code of Regulations § 599.515(b), states in part, “The agency shall file in Health Benefits Division on or before the tenth day of each month such reports covering the employees and annuitants enrolled as of the first day of the month as the Board may require, and the total contributions due for each. The report shall be accompanied by payment of the total of such contributions for employees and the employer contributions due for annuitants of the agency enrolled under the program and the employer contribution for administrative costs and the Public Employees’ Contingency Reserve Fund.”</p>	
<p>13. The District may not maintain appropriate ACES security procedures.</p>	<p>We reviewed the security procedures for the District’s ACES users to determine whether reasonable security precautions were maintained and whether the required security documents were properly completed and filed for ACES users.</p> <p>We determined that the District had reasonable security</p>	<p>The District should ensure that ACES user security agreements are completed timely and retained in a secure worksite location for the life of the Agreements and for two years following the deactivation or</p>

PORT SAN LUIS HARBOR DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>13. The District may not maintain appropriate ACES security procedures. (continued)</p>	<p>procedures in place; however, the District was missing a Delete ACES User Access Form (AESD-42) for an employee who retired and no longer required ACES access. During the on-site fieldwork, the District completed an AESD-42 for this employee.</p> <p>CalPERS ACES Security procedures outlined on the CalPERS website at www.calpers.ca.gov require agencies to complete and submit a Delete “ACES User Access” form when requesting the deletion of a user account. Agencies must complete and submit this form to notify CalPERS when an employee will no longer be an ACES user.</p> <p>All ACES user forms must be retained in a secure work site location of the employer, for the life of the Agreement and for two years following the deactivation or termination of the Agreement. CalPERS is to be notified immediately in the event that any of its sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.</p>	<p>termination of the Agreements.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the District and CalPERS CASD as an appendix to our draft report.</p>

PORT SAN LUIS HARBOR 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: April 2011
Staff: Michael Dutil, CIA, Senior Manager
Diana Thomas, CIDA, Manager
Terry Heffelfinger
Carol Northrup

APPENDIX

DISTRICT'S WRITTEN RESPONSE

JIM BLECHA
BRIAN KREOWSKI
JACK SCARBROUGH
DREW BRANDY
CAROLYN MOFFATT

President
Vice President
Secretary
Commissioner
Commissioner



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STEPHEN A. McGRATH Harbor Manager
THOMAS D. GREEN Legal Counsel
PHILLIP J. SEXTON, CPA Treasurer

March 15, 2011

CalPERS- Office of Audit Services
Margaret Junker, Chief
P.O. Box 942701
Sacramento, CA 94229-2701

Re: Draft Public Agency Review Report

Dear Ms. Junker:

In response to the Draft Public Agency Review report-

- 1. **Finding: The District did not report the value of uniforms provided to the employees who were required to wear uniforms.**

Response: The Port San Luis Harbor District (District) agrees to conform to the finding and is estimating the monetary value of employer provided uniforms, excluding the value of safety items.

The District believes that the benefit to the employee will be negligible and the associated cost for implementing the reporting and tracking of uniform costs will outweigh that benefit. The District also believes that California Code of Regulations §571(a)(5) and Government Code §20636(c)(6) should allow for an exclusion up to a certain dollar amount.

- 2. **Finding: Pay rates for managers were not publicly available.**

Response: The District will implement a policy to publicly report manager pay rates.

The managers' pay rates were in compliance with the employees' contracts. Currently, the 2009 managers' pay rates are publicly available on the California State Controller's web-site (http://www.sco.ca.gov/compensation_search.html) as required by the State and have always been available to the general public via a request for information.

- 3. **Finding: The District incorrectly included 2.5% notary pay in the employee's reported base pay rate and regular earnings.**

Response: The District will begin reporting the 2.5% notary pay as special compensation. This change will not have a financial impact to the District or the employee and is merely an administrative reporting issue.

- 4. Finding: The District did not properly enroll two temporary/part-time employees who were members of CalPERS.**

Response: The District obtained "Notice of Exclusion" forms signed by the employees in question. Both employees failed to notify the District that they were CalPERS members. The employees in question have been reported by their primary CalPERS employers. The District will work with CalPERS and the employers to determine necessary adjustments, if any.

- 5. Finding: A health contribution payment was 14 days late.**

Response: The District agrees that amounts should be paid on a timely basis and has had an excellent history of complying with this requirement. The District recently implemented on-line payment capabilities for health and retirement payments. This capability allows the District to schedule payments in advance and will assist the District in obtaining 100% compliance.

- 6. Finding: The District should ensure that ACES user security agreements are completed timely and retained in a secure worksite location for the life of the Agreements and for two years following the deactivation or termination of the Agreements.**

Response: The District will keep Agreements on file in a central location. The underlying control of immediately stopping employee's access upon separation from employment was performed in a timely manner. As stated in the report, a form was filled out and filed as required once this issue was brought to our attention.

The District recommends that ACES or the new PERT system have a reminder that the employer needs to fill out the AESD-42 when the employer's administrator adds or deletes users in the system.

The District appreciates the opportunity to be audited by CalPERS and the auditor's identification of items to be changed for the benefit of the District CalPERS members.

Sincerely,



Stephen A. McGrath
Harbor Manager