

Office of Audit Services



Public Agency Review

San Joaquin County IHSS Public Authority

**CalPERS ID: 5529630040
Job Number: P14-032**

June 2015



California Public Employees' Retirement System
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June 30, 2015

CalPERS ID: 5529630040
Job Number: P14-032

George McHugh, Executive Director
San Joaquin County IHSS Public Authority
24 South Hunter Street, Suite 5
Stockton, CA 95202

Dear Mr. McHugh:

Enclosed is our final report on the results of the public agency review completed for the San Joaquin County IHSS Public Authority (Agency). CalPERS received your written response to the draft report, and a copy of the response is included as an appendix to the final report. We appreciate the additional information you provided in the response, and after consideration of this information, we added clarifying language to Finding 1 and removed Finding 2A from the report. The removal of Finding 2A resulted in Finding 2B changing to Finding 2 in the final 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 Young Hamilton

YOUNG HAMILTON, Acting Chief
Office of Audit Services

Enclosure

cc: Board of Supervisors, San Joaquin County IHSS Public Authority
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

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RESULTS IN BRIEF

The primary objective of our review was to determine whether the San Joaquin County IHSS Public Authority (Agency) complied with applicable sections of the California Government Code, California Public Employees' 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.
- Retroactive salary adjustment was incorrectly reported.

OAS recommends the Agency comply with applicable sections of the California 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 20, 2003 to provide retirement benefits for local miscellaneous employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the Board approved plan for fiscal year 2014-15, the OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled employees, records, and pay periods from July 1, 2011 through June 30, 2014. The review objectives and a summary of the procedures performed are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency did not have a publicly available pay schedule as required by the Government Code and CCR. OAS requested a copy of a publicly available pay schedule during the on-site review. The document provided was part of the Agency's Board approved budget for fiscal year 2013-14 and did not meet the requirements of a publicly available pay schedule pursuant to the Government Code and CCR.

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.

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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

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2: The Agency incorrectly reported a retroactive salary adjustment.

Condition:

The Agency incorrectly reported a retroactive salary adjustment for an employee. The San Joaquin County Board of Supervisors approved a one percent cost of living adjustment for its employees effective July 23, 2013. However, the Agency incorrectly reported the cost of living adjustment as a lump sum amount of \$425.60 in pay period ended September 8, 2013 rather than in the period earned. Retroactive adjustments should be reported in each pay period in which the compensation was earned.

Recommendation:

The Agency should ensure retroactive salary adjustments are reported in the correct pay periods.

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

Criteria:

Government Codes: § 20160, § 20630, § 20636

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. OAS limited the test of transactions to employee samples selected from the Agency's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the Agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, of California Code of Regulations.

Respectfully submitted,

Original signed by Young Hamilton

YOUNG HAMILTON, CPA, CIA, CISA
Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, Senior Manager
Chris Wall, Senior Manager
Jose Martinez, Lead Auditor
Marlene Noss, Lead Auditor

APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency complied with applicable sections of the California Government Code (Sections 20000 et seq.), California Public Employees' Pension Reform Act of 2013 (PEPRA) and Title 2 of the CCR.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

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.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the Agency's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
 - Provisions of the contract and contract amendments between the Agency and CalPERS
 - Correspondence files maintained at CalPERS
 - Agency Board minutes and Agency Board resolutions
 - Agency written labor policies and agreements
 - Agency salary, wage and benefit agreements including applicable resolutions
 - Agency personnel records and employee hours worked records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Other documents used to specify payrate, special compensation, and benefits for employees
 - Various other documents as necessary
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were

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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 entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

APPENDIX B

AGENCY'S WRITTEN RESPONSE

San Joaquin Cores...



IHSS Public Authority

June 8, 2015

Young Hamilton, Acting Chief
CalPERS Office of Audit Services
PO Box 942701
Sacramento CA 94229

Ms. Hamilton,

Thank you for agreeing to accept my response to draft CalPERs Audit Report.

1. We do not disagree with the findings.

We do disagree with the characterization of the errors and the proposed remedies. We agree that Finding 2 condition B the incorrectly retroactive salary adjustment report was an error that should be corrected. We disagree with the characterization of Finding 1 and Finding 2 Condition B.

2. Finding 1 and Finding 2 Condition B: The auditors did correctly identify a discrepancy, but their attribution of the nature of this discrepancy is incorrect.

Our disagreement with these findings is focused on the auditors decision to treat a feature of the IHSS PA budgeting process as if it were a Board approved pay schedule, when it was not considered a pay schedule by any party involved.

The employees pay was reported correctly. Our disagreement arises over the error of the auditors choice to view the budgeted salary summary feature of the Board budget document as if it were a board approved pay schedule. Although the auditors identified a problem with how our pay schedules are managed, their solution was to incorrectly identify another document as if it were the pay schedule. Their reasoning was that since it is the only document the board saw, and it was publicly available it should be used as a pay schedules.

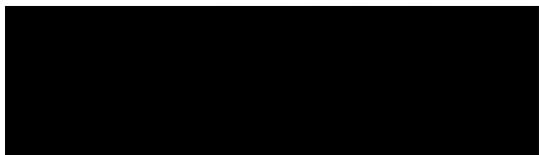
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The proposed remedy for Finding 2 Condition A will change the retirement contributions based on something that the employee did not earn. This solution essentially swaps a discrepancy in the administrative area for a discrepancy in the payroll reporting. Since Finding 1 already concludes that the pay schedule did not meet all the requirements of the Government Code and the CCR, using them as such perpetuates and expands this error.

3. We are proposing that we will submit all the pay schedules to our Governing board for retroactive approval.

This solution would both eliminate the discrepancies in the reports and meet the requirement to have publicly approved pay schedule documents available. It is currently being done as part of a process to meet the requirements of the Government Code and the CCR. Finding 1 would stand as presented, but with this solution Finding 2 Condition A would be eliminated. Sometimes creating a different problem is the only route available to resolve a more difficult problem. I do not think that the present situation is one of those occasions. Staff are working on the pay schedule documents for presenting to the Board, which we have tentatively scheduled for August 4th.

Thank you for your consideration.



Original signed by George McHugh

George McHugh
Executive Director
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