

# **Office of Audit Services**



## **Public Agency Review**

### **Santa Cruz Port District**

**CalPERS ID: 3817767080**  
**Job Number: P14-022**

**May 2015**



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](http://www.calpers.ca.gov)

May 7, 2015

CalPERS ID: 3817767080  
Job Number: P14-022

Marian Olin, Administrative Services Manager  
Santa Cruz Port District  
135 5th Avenue  
Santa Cruz, CA 95062

Dear Ms. Olin:

Enclosed is our final report on the results of the public agency review completed for the Santa Cruz Port District (Agency). Your written response, included as an appendix to the report, indicates acceptance of 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 Young Hamilton

YOUNG HAMILTON, Acting Chief  
Office of Audit Services

Enclosure

cc: Board of Commissioners, Santa Cruz Port 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

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# SANTA CRUZ PORT DISTRICT

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## RESULTS IN BRIEF

The primary objective of our review was to determine whether the Santa Cruz Port District (Agency) complied with applicable sections of the California Government Code, 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 incorrectly reported.
- Retired annuitants' compensation did not comply with Government Code.
- Eligible part-time employee was not enrolled into membership as required.

OAS recommends the Agency comply with applicable sections of the California Government Code, 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 April 1, 2003 to provide retirement benefits for 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. Some of the employees selected were subject to the Public Employees' Pension Reform Act of 2013. 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's pay schedule did not meet all of the Government Code and CCR requirements

***Condition:***

The Agency's pay schedule effective April 1, 2014 did not meet all the requirements of Government Code Section 20636 and CCR Section 570.5. Specifically, the pay schedule did not list the position title and payrate for a part-time position and did not indicate the time base for all employees.

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 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). There are no exceptions included in Government Code Section 20636(b)(1).

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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 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 special compensation.

**Condition:**

- A. The Agency incorrectly reported Temporary Upgrade Pay as special compensation for two employees in the pay period ending May 31, 2014. Although Temporary Upgrade Pay is defined in CCR Section 571, the Agency did not include it in its written labor policy or agreement as required by the CCR. As a result, Temporary Upgrade Pay is not reportable as special compensation.
- B. The Agency incorrectly reported Uniform Allowance for two classic employees as a lump sum instead of when earned. Specifically, the classic employees worked in positions that required uniforms and were paid a quarterly Uniform Allowance in arrears. The Agency's labor agreement provided a Uniform Allowance of \$140.00 per quarter for day employees and \$190.00 per quarter for night employees who were required to wear uniforms. However, the Agency incorrectly reported the uniform allowance in arrears on a quarterly basis instead of identifying the pay periods in which the special compensation was earned as required by Government Code Section 20636(c)(3).
- C. The Agency incorrectly reported overtime pay as special compensation. Specifically, the Agency incorrectly reported an additional \$340.29 as Holiday Pay for working on July 4, 2013. The employee worked five hours in excess of the normal eight hour shift. Compensation for hours worked above an employee's regular eight hour work schedule is overtime and is not reportable compensation.

Reportable special compensation is exclusively listed and defined in CCR Section 571. Reportable 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. In addition, special compensation must not be paid exclusively in the final compensation period and not be final settlement pay.

**Recommendation:**

The Agency should ensure all items reported as special compensation meet the definition as listed in the CCR and are contained in a written labor policy or

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agreement. In addition, the Agency should discontinue reporting special compensation that do not meet the CCR requirements.

The Agency should ensure special compensation is reported in the pay period earned.

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

***Criteria:***

Government Codes: § 20049, § 20160, § 20630, § 20635, § 20636  
CCR: § 571

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**3:** The Agency reported compensation for retired annuitants that did not comply with Government Code requirements.

***Condition:***

The Agency incorrectly compensated two retired annuitants hired to perform the duties of a Deputy Harbor Master and an Operations Assistant. Specifically, the Agency paid the retired annuitants a Uniform Allowance of \$95.00 per quarter. Government Code Section 21221 specifies that a retired person appointed to a vacant position shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate.

***Recommendation:***

The Agency should ensure that retired annuitants only receive an hourly rate for compensation that complies with the Government Code.

The Agency should work with CalPERS Benefit Services Division (BNSD) to determine the appropriate course of action and make any adjustments, if necessary, to the retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 21202, § 21220, § 21221

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4: The Agency did not enroll an eligible employee into membership as required.

***Condition:***

The Agency did not enroll a part-time employee with prior CalPERS membership. Employees who have previous CalPERS membership are required to be immediately enrolled upon the first day of rendering service to the Agency. Pursuant to Government Code Section 20305, if an employee is already a member at the time he or she renders services, and is not excluded by a provision of a contract, he or she cannot be excluded.

***Recommendation:***

The Agency should ensure that part-time employees with prior CalPERS membership are immediately enrolled upon hire. In addition, the Agency should implement procedures to identify newly hired employees with prior CalPERS membership.

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

***Criteria:***

Government Code: § 20044, § 20160, § 20305

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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

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Diana Thomas, CIA, CIDA, Senior Manager  
Aileen Wong, Lead Auditor  
Edward Fama, Auditor

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# 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.) 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.

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 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.

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- ✓ 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.

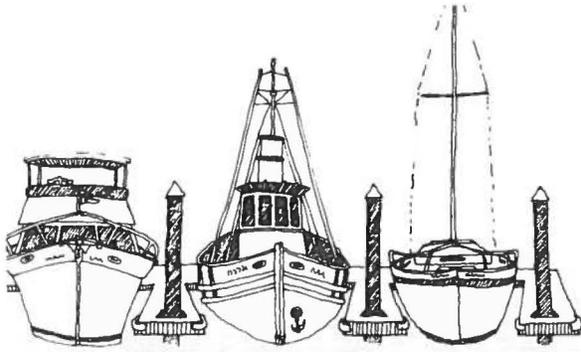
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# **APPENDIX B**

**AGENCY'S WRITTEN RESPONSE**



## SANTA CRUZ HARBOR

*Gateway to the Monterey Bay  
National Marine Sanctuary*

April 24, 2015

Young Hamilton, Acting Chief  
Office of Audit Services  
CalPERS  
P.O. Box 942701  
Sacramento, CA 94229-2701

SUBJECT: CalPERS ID 3817767080  
Audit P14-022

Dear Mr. Hamilton:

The following are our responses to recommendations contained in the draft audit report P14-022 for Santa Cruz Port District:

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

The Port District Commission adopted a salary schedule on November 25, 2014, for Unrepresented (part-time) Positions. The pay schedule lists all position titles, pay rates and the time base as required by Government Code Section 20636 and CCR Section 570.5. Though the Port District previously maintained pay schedules for unrepresented employees that were available to the public, auditors determined they did not meet all of CalPERS' current requirements.

The Port District Commission recently adopted new labor contracts<sup>1</sup> with its various bargaining groups. We believe that the newly adopted salary schedules are compliant with current Government Code requirements.

The Port District intends to continue meeting all of the specific requirements that CalPERS has determined are necessary for publicly available pay schedule documents for the purpose of determining compensation earnable .

We do not believe any adjustments are necessary to active and retired member accounts.

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<sup>1</sup> August 2014 Port Director Contract; November 2014 Harbor Management Group; January 2015 Harbor Employees' Association; February 2015 Operating Engineers Local No. 3.

## 2. The Agency incorrectly reported special compensation

### A. Temporary Upgrade Pay

The Port District believes that the Temporary Upgrade Pay reported to CalPERS for two employees is eligible and reportable as special compensation.

The Port District's Personnel Policies Manual, Article I.C, defines a Project Employee as *someone "...hired to fulfill a specific workload with specific completion criteria (funding, time, project workload, etc.)."* Additionally, Article III.C allows reclassification for an employee *"...working above the designated duties as outlined in the job description for the particular position..."*

It is our interpretation that the above provisions meet the requirement that special compensation be included in a written labor policy. However, to ensure that Temporary Upgrade Pay meets CalPERS' definition of special compensation, recently adopted MOU's with the Harbor Employees Association (Section 10.3) and Operating Engineers Local No. 3 (Section 11.3) include a "Temporary Upgrade Pay or Working Out of Class Pay" provision to clarify policies previously contained in the Port District's Personnel Policies Manual.

We do not believe any adjustments are necessary to active or retired member accounts.

### B. Uniform Allowance Reporting

The Port District has reported Uniform Allowance to CalPERS on a quarterly basis as a lump sum.

The Port District will hereafter report uniform allowance in the pay period it was earned. The Port District will continue to pay employees in arrears on a quarterly basis in accordance with its labor contracts.

### C. Overtime Pay

The Port District agrees overtime pay earned by an employee working on July 4, 2013, was incorrectly reported to CalPERS as special compensation.

The Port District will make the necessary retroactive adjustment to correct this error.

**3. The Agency reported compensation for retired annuitants that did not comply with Government Code requirements**

The Port District has paid a quarterly uniform allowance to retired annuitants. This practice pre-dated pension reform legislation and continued through March 31, 2015.

In accordance with audit findings, the Port District will discontinue the practice of paying a quarterly uniform allowance to retired annuitants commencing April 1, 2015. We do not believe that any additional adjustments are necessary.

**4. The Agency did not enroll an eligible employee into membership as required**

As a result of the audit, Port District accounting staff discovered that five part-time employees should have been enrolled in CalPERS immediately upon hire. The Port District retroactively adjusted its CalPERS reporting for four of the employees who were still employed by the Port District. One employee, per the audit finding, should have been enrolled in CalPERS upon the first day of rendering service to the Port District.

The Port District has already implemented new procedures to ensure that eligible part-time employees and newly hired employees with prior CalPERS membership are immediately enrolled upon hire.

The Port District will retroactively adjust wage reporting for the one part-time employee, per the audit finding.

Sincerely,



Original signed by Marian Olin

Mariah Olin  
Administrative Services Manager

cc: Cheryl Dietz, Assistant Division Chief  
Diana Thomas, Senior Manager  
Aileen Wong, Lead Auditor  
Edward Fama, Auditor