



California Public Employees' Retirement System  
Office of Audit Services  
P.O. Box 942701  
Sacramento, CA 94229-2701  
TTY: (916) 795-3240  
(916) 795-0900 phone, (916) 795-4023 fax  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

September 8, 2011

Employer Code: 1589  
Job Number: P09-057

Southern California Public Power Authority  
Vernon Oates, Finance and Accounting Manager  
225 South Lake Avenue, Ste 1250  
Pasadena, CA 91101

Dear Mr. Oates:

Enclosed is our final report on the results of the public agency review completed for the Southern California Public Power Authority. Your agency's written response indicates agreement with the issues noted in the report, with exception to Risk 6. The Authority disagreed with the exception regarding the unlawful employment of a retired annuitant and indicated additional review of the issue was warranted. OAS reviewed CalPERS files and obtained additional information from the Authority regarding the issue; however, the information did not change the finding. 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  
Sue Kane, Assistant Chief, HAS, CalPERS  
Honorable Board Members, Southern California Public Power Authority

# Office of Audit Services



## Public Agency Review

### Southern California Public Power Authority

Employer Code: 1589  
Job Number: P09-057

September 2011

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# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

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# **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

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## **RESULTS IN BRIEF**

We reviewed the Southern California Public Power Authority's (Authority) 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:

- Reported payrates exceeded the authorized salary schedule for two sampled employees.
- One sampled retirement contribution payment was not remitted timely.
- A retired annuitant was unlawfully employed, erroneously classified as an independent contractor, exceeded 960 hours in a fiscal year, and was not reinstated into membership.
- Required health enrollment forms were not maintained.
- Health contribution payments were not remitted timely.
- Required ACES user security agreement forms were not maintained.

## **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 sections (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

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# **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

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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. 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 Southern California Public Power Authority is a public entity organized under the laws of the State of California. The Authority participants consist of 11 Southern California cities and one public district of the State of California. The Authority was formed for the purpose of planning, financing, developing, acquiring, constructing, operating and maintaining projects for the generation, transmission, and procurement of electric energy and natural gas for sale to its participants. The Joint Power Agreement has a term of 50 years. A Board of Directors governs the Authority which consists of one representative from each member agency.

The Authority contracted with CalPERS effective June 1, 1992, to provide retirement benefits for local miscellaneous employees. The Authority's current contract amendment identifies the length of the final compensation period as twelve months. The Authority contracted with CalPERS effective April 1, 1992, to provide health benefits to all eligible employees.

## **SCOPE**

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the Authority's payroll reporting and enrollment processes as these processes relate to the Authority's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the Authority 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 May 10, 2010 through May 12, 2010.

The review period was limited to the examination of sampled records and processes from January 1, 2007 through December 31, 2009. To accomplish the review objectives, we performed the following:

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- ✓ Reviewed the contract and subsequent amendments the Authority had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the Authority had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the Authority's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the Authority's payroll register with the data reported to CalPERS to determine whether the Authority correctly reported employees' compensation.
- ✓ Reviewed the Authority's payroll information reported to CalPERS to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the Authority'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 Authority'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 Authority's classification of employees to determine whether the Authority reported employees in the appropriate coverage groups.
- ✓ Reviewed the Authority's calculation and reporting of unused sick leave balances for retiring members.
- ✓ Reviewed employees and their dependents to determine whether the Authority properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health contribution payment information to determine whether the Authority remitted payments within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the Authority contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the Authority maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

## 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 Authority may not accurately report compensation to CalPERS.</p>	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of seven employees over two service periods. The service periods reviewed were the first service period of July 2009 (7/09-1) and the second service period of December 2009 (12/09-2).</p> <p>The earnings reported to CalPERS were reconciled to the Authority's payroll records. The Authority accurately reported compensation to CalPERS for the employees in our sample.</p>	<p>None.</p>
<p>2. The Authority may not report payrates in accordance with publicly available pay schedules.</p>	<p>We reviewed payrates reported to CalPERS and reconciled the payrates to the Authority's public salary information during the first service period of April 2009 (4/09-1) and the second service period of December 2009 (12/09-2) to determine whether payrates for the sampled employees were properly authorized and reported to CalPERS. Payrates were properly reported for the sampled employees except for two instances. Specifically,</p> <ul style="list-style-type: none"> <li>The reported payrate and regular earnings exceeded the publicly available pay schedule for one sampled</li> </ul>	<p>The Authority should ensure all employees' payrates are in accordance with public pay schedules.</p> <p>The Authority should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p>

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>2. The Authority may not report payrates in accordance with publicly available pay schedules. (continued)</p>	<p>employee during the 4/09-1 service period. The reported payrate and regular earnings were \$9,965.83; however, the maximum authorized payrate was \$8,465.83. As a result, the payrate and regular earnings were overstated by \$1,500.00.</p> <ul style="list-style-type: none"> <li>• The reported payrate and regular earnings exceeded the publicly available pay schedule for another sampled employee during the 12/09-2 service period. The reported payrate and regular earnings were \$4,158.00; however, the maximum authorized payrate was \$4,082.42. As a result, the payrate and regular earnings were overstated by \$75.58.</li> </ul> <p>Government Code § 20630(b), states, in part, "...Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636."</p> <p>Government Code § 20636(a), states, in part, "Compensation earnable by a member means the payrate and special compensation of the member."</p> <p>Government Code § 20636(b)(1), currently defines payrate as the normal monthly rate of pay or base pay of the member paid to similarly situated members of the same group or class of employment for services rendered on a</p>	<p>A confidential list identifying the employees mentioned in this section of the report has been sent to the Authority and CalPERS CASD as an appendix to our draft report.</p>

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
2. The Authority may not report payrates in accordance with publicly available pay schedules. (continued)	<p>full-time basis during normal working hours, pursuant to publicly available pay schedules.</p> <p>Government Code § 20636(d), states, "Payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny."</p>	
3. The Authority may not accurately report payroll information to CalPERS.	We reviewed the payroll information reported to CalPERS for the seven sampled employees for the sampled service periods (7/09-1 and 12/09-2). Our sample testing revealed that the Authority correctly reported the payroll information to CalPERS.	None.
4. The Authority may fail to or did not submit payroll in a timely manner to CalPERS.	We reviewed the payroll information for the first service period of July 2009 (7/09-1), the first service period of October 2009 (10/09-1) and the second service period of December 2009 (12/09-2) and found that payroll information and contributions were submitted within required timeframes except for one instance. The 12/09-2 Electronic Funds Transfer (EFT) payment in the amount of \$6,540.92 transferred from the Authority's account on January 25, 2010. However, the payment should have been received by January 15, 2010 to be timely. In addition, the Authority must allow two business days for the funds to settle; therefore, the payment was 12 days late.	<p>The Authority should implement procedures to ensure contributions are reported timely to CalPERS.</p> <p>The Authority should work with CalPERS CASD to assess the impact of this late contribution payment and determine what adjustments, if any, are needed.</p>



# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The Authority may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Independent Contractor</u></p> <p>We reviewed the Authority's IRS 1099 Miscellaneous Income forms for calendar years 2008 and 2009 in order to identify employees that may be misclassified as independent contractors. Five sampled individuals were properly classified as independent contractors and correctly excluded from CalPERS membership; however, based on the common law employment factors, we determined one individual was working in an employee/employer relationship. In addition, the individual was a retired annuitant; therefore, this issue is addressed further in Risk 6 below.</p>	<p>Refer to Risk 6.</p>
<p>6. The Authority may unlawfully employ retired annuitants.</p>	<p>We reviewed the employment relationship and hours worked for one retiree in fiscal year 2008/2009 to determine if the retiree was lawfully employed at the Authority. The individual retired from another CalPERS covered agency effective March 11, 2000. The retiree was classified at the Authority as an independent contractor; however, the individual worked full-time in a permanent position established by the Authority. Using the common law employment factors, we determined the retiree worked for the Authority in an employee/employer relationship. The determination was based on the following:</p>	<p>The Authority should ensure to properly classify retired annuitants and immediately reinstate those that exceed the 960-hour fiscal year threshold and begin reporting compensation earnable.</p> <p>The Authority should also ensure the Executive Director's compensation, which is to be reported to CalPERS, be duly approved and adopted by the</p>

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<ul style="list-style-type: none"> <li>• The retiree continuously worked full-time for the Authority as Executive Director since February 2000. The Authority’s Board of Directors hired the retiree to serve as the Authority’s Executive Director pursuant to the decisions and directions of the Board of Directors, and thereby controlled the manner and means of performing the service in question.</li> <li>• The Executive Director position was previously held by an employee of the Authority. The duties of the Executive Director were part of the employer's normal operations.</li> <li>• The retiree's established workweek was 40 hours, but on occasion, the retiree worked 50-55 hours in a week. However, invoices showed a consistent monthly amount paid based on the salary established by the employment service contract with the Authority.</li> <li>• The retiree supervised, hired and fired, and performed performance evaluations for the Authority employees.</li> <li>• The retiree was required to work at the Authority, with Authority equipment, on a normal basis in order to supervise and direct Authority personnel. Twenty percent of the work hours could be spent at the retired annuitant’s home office.</li> <li>• Per the contract, the retiree was required to perform the services himself and could not substitute another individual. The retiree was required to notify the Board</li> </ul>	<p>Authority’s governing body in accordance with requirements of applicable public meeting laws and meet the definition of compensation earnable as defined in § 20636.</p> <p>The Authority should work with CalPERS BNSD to assess the impact of this unlawful employment and determine what adjustments are needed. In addition, the Authority should work with CalPERS CASD to determine the appropriate compensation to be reported to CalPERS for the reinstated retired annuitant as the retired annuitant’s compensation was not approved during an open public Board meeting and to verify the compensation meets the definition of compensation earnable as defined in § 20636.</p> <p>A confidential list identifying the</p>

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>of Directors in writing if he desired to engage in other outside business activity so the Board of Directors could determine whether or not conflict existed with the obligations and duties undertaken by the retiree.</p> <ul style="list-style-type: none"> <li>• The Authority established the priorities and directed what goals and accomplishments should be met.</li> <li>• The retiree had authority to sign Authority documents as the Authority's Executive Director.</li> <li>• The retiree's business card with the Authority identified him as the Authority's Executive Director.</li> </ul> <p>To summarize, the retiree was in an ongoing relationship with the Authority for approximately 10 years and worked continuously in an established Authority position as the Executive Director. The retiree had full administrative control to hire and fire employees, to supervise, evaluate and direct employees, to assign tasks, and to sign Authority documents. The retiree was under an obligation as to where, when and how to perform his duties. In addition, the retiree was provided with office space and equipment and was required to perform the duties of Executive Director with no substitutions. As a result, an employer/employee relationship existed and therefore, the retiree was unlawfully employed as a retired annuitant. The retired annuitant worked an average of 40 hours per week, 12 months a year; therefore, the retired annuitant</p>	<p>retired annuitant mentioned in this section of the report has been sent to the Authority and CalPERS BNSD and CASD as an appendix to our draft report.</p>

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>consistently exceeded the 960-hour threshold each fiscal and calendar year. Notwithstanding this, the Authority failed to properly reinstate the retired annuitant.</p> <p>Government Code § 20085, states, in part: “(a) It is unlawful for a person to do any of the following:            (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system....            (3) Knowingly accept or obtain payment from this system with knowledge that the recipient is not entitled to the payment....            (4) Knowingly aid, abet, solicit, or conspire with any person to do an act prohibited by this section.            (b) For purposes of this section, “statement” includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system.            (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.</p>	

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system ... for the amount of the benefit unlawfully obtained.”</p> <p>Government Code § 20028(b), defines an employee as "Any person in the employ of a contracting agency."</p> <p>Government Code § 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.</p> <p>For the purposes of the Public Employees’ Retirement Law (PERL) and for the programs administered by the Board of Administration of CalPERS (the Board) the standard used for determining whether an individual is the employee of another person or entity is the California common law employment test as set forth in the California Supreme Court case entitled <i>Tieberg v. Unemployment Ins. App. Bd.</i>, (1970) 2 Cal. 3d 943, which was cited with approval in <i>Metropolitan Water Dist., v. Superior Court (Cargill)</i> (2004) 32 Cal. 4<sup>th</sup> 491, and which was adopted by the Board in a precedential decision, <i>In the Matter of Lee Neidengard</i>, Precedential Dec. No. 05-01, effective March 22, 2005.</p>	

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>Applying the California common law, the most important factor in determining whether an individual performs services for another as an employee 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 no clear independent evidence that the principal has the right to control the manner and means of performing the service in question, CalPERS, applying the common law, will consider the following additional factors in determining whether an individual is an employee:</p> <ul style="list-style-type: none"> <li>(a) whether or not the one performing the services is engaged in a distinct occupation or business;</li> <li>(b) 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;</li> <li>(c) the skill required in the particular occupation;</li> <li>(d) whether the principal or the individual performing the services supplies the instrumentalities, tools, and the place of work for the person doing the work;</li> <li>(e) the length of time for which the services are to be performed;</li> <li>(f) the method of payment, whether by the time or by the job;</li> </ul>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>(g) whether or not the work is part of the regular business of the principal; and whether or not the parties believe they are creating the relationship of employer-employee.</p> <p>CalPERS Procedures Manual, page 222, states, in part, "Many 'contracts' or 'employment agreements' entered into by retired persons and employers to give the retired person the status of an 'independent contractor', upon review by CalPERS, are found not to qualify the retired person as an independent contractor under California contract law. If CalPERS determines the contract is not within the guidelines for an 'independent contractor' after the retired person has entered into employment, the consequence of such employment is that the retired person may be 'illegally hired' and, therefore, subject to mandatory reinstatement from retirement. Such reinstatement is retroactive to the start date of the illegal employment and the retiree is liable for reimbursement of all retirement allowances received during the period of illegal employment. In addition, administrative penalties will be assessed to the employer. Therefore, the employer must submit the contract or employment agreement to CalPERS prior to the retiree accepting the employment."</p>	

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>Government Code § 21221(h), states, in part, "Upon appointment by the governing body of a contracting agency to a position deemed by the governing body to be of a limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business. These appointments, in addition to any made pursuant to Section 21224, shall not exceed a total for all employers of 960 hours in any fiscal year....Appointments under this subdivision may not exceed a total of 12 months."</p> <p>Government Code § 21224(a), states, "A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties."</p> <p>Government Code § 20160(a), states, in part, "...The board may, in its discretion and upon any terms it</p>	

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The Authority may unlawfully employ retired annuitants. (continued)</p>	<p>deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts exist:</p> <p style="padding-left: 40px;">(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.</p> <p style="padding-left: 40px;">(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect....</p> <p style="padding-left: 40px;">(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part....</p> <p>(b) ...The board shall correct all actions taken as a result of errors or omissions of ... any contracting agency...or this system.</p> <p>(e) Corrections of errors or omissions ...shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time....</p> <p>Government Code § 20283(a), states, "Any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
6. The Authority may unlawfully employ retired annuitants. (continued)	<p>employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears costs for member contributions and administrative costs of five hundred dollars (\$500) per member as a reimbursement to this system's current year budget.</p> <p>We determined that a bona fide separation from employment, per Government Code Section 21220.5, was not needed as the sampled retired annuitant's age at retirement was beyond the normal retirement age.</p>	
7. The Authority may not appropriately report members under the proper coverage group code.	Our sample testing revealed that the Authority reported individuals under the appropriate coverage group code.	None.
8. The Authority may not accurately report unused sick leave balances for retiring CalPERS members.	Effective July 1, 2005, the contractual provision of Government Code Section 20965, credit for unused sick leave, became a mandated benefit for the Authority. The Authority did not have any members retire during the review period. In addition, Authority employees did not accrue unused sick leave, therefore, no sick leave was reported.	None.

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The Authority may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>We reviewed a sample of five employees to assess the health benefits eligibility and enrollment of members and their dependents. Our sample testing revealed that the Authority properly enrolled eligible employees and their dependents in CalPERS Health Benefits Program, except the Authority did not properly maintain Declaration of Health Coverage (HB-12A) forms for the sampled members. The Authority completed and provided copies of HB-12A's for the sampled members during the on site review.</p> <p>The Public Agency Health Benefits Procedure Manual, page 12-01, states, in part, "The Declaration of Health Coverage Form (HB-12A) provides information on enrollment options and consequences for non-enrollment. The HB-12A is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes open enrollment changes, changing health plans when moving, adding or deleting a dependent, or canceling health benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the Health Benefit Plan Enrollment (HBD-12) form. The</p>	<p>The Authority must ensure that the proper member and dependent enrollment documentation is on file at the Authority for all employees within 60 days from the date of our final report.</p> <p>Please send an email to: <i>HBB_Audit_Services@calpers.ca.gov</i> once the requested documentation is on file. The CalPERS HAS may be contacted at (916) 795-3836 with any questions.</p> <p>A confidential list identifying the members mentioned in this section of the report has been sent to the Authority and CalPERS HAS as an appendix to our draft report.</p>

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
9. The Authority may not properly enroll eligible employees and their dependents in health benefits. (continued)	employer also must provide the employee a copy of the signed form and keep the original in the employee's file....”	
10. The Authority may not contribute the appropriate health contribution amounts for active employees.	We reviewed the health contributions reported for December 2009 for three sampled members. We determined that the Authority contributed the appropriate health contribution amount as part of the sampled members’ total monthly contribution amount.	None.
11. The Authority may not remit health contributions within the required timeframe.	<p>We reviewed health contribution payments for March 2009, August, 2009, September 2009 and October 2009. We determined that the Authority remitted one of the four health contribution payments within the appropriate timeframe; however, three were received late. Specifically,</p> <ul style="list-style-type: none"> <li>The March 2009 health benefits contribution payment of \$6,312.10 was dated March 5, 2009 for an EFT debit date of March 9, 2009. Bank records show a transfer of funds on March 9, 2009 and EFT payments require two banking days to settle; therefore, the payment was one day late.</li> </ul>	The Authority should ensure CalPERS receives health contribution payments by the 10th of each month for the month which the payments are due.

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>11. The Authority may not remit health contributions within the required timeframe. (continued)</p>	<ul style="list-style-type: none"> <li>• The August 2009 health benefits contribution payment of \$6,309.87 was dated August 6, 2009 for an EFT debit date of August 13, 2009. Bank records show a transfer of funds on August 13, 2009 and EFT payments require two banking days to settle; therefore, the payment was five days late.</li> <li>• The September 2009 health benefits contribution payment of \$6,319.40 was dated September 8, 2009 for an EFT debit date of September 10, 2009. Bank records show a transfer of funds on September 10, 2009 and EFT payments require two banking days to settle; therefore, the payment was two days late.</li> </ul> <p>Government Code § 22899(a), states, in part, "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 the 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...."</p>	

# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>11. The Authority may not remit health contributions within the required timeframe. (continued)</p>	<p>CalPERS Procedures Manual, page 165, states, in part, "...Two banking days from your settlement date, payment identification is downloaded into the CalPERS accounting system crediting your agency with a payment. Please make allowance for this time period when reviewing the date your payment is due and determining your settlement date...."</p>	
<p>12. The Authority may not maintain appropriate ACES security procedures.</p>	<p>We reviewed the security procedures for the Authority's ACES users to determine whether reasonable security precautions were maintained and to determine whether the required security documents were properly completed and filed for ACES users. We found the Authority did not properly maintain <i>Employer User Security Agreement(s)</i> (AESB-43) forms for the two authorized users. However, the AESB-43 authorization forms were completed and filed during the onsite review.</p> <p>CalPERS ACES security procedures outlined on the CalPERS website at <a href="http://www.calpers.ca.gov">www.calpers.ca.gov</a> require agencies to keep a signed copy of security documents on file for ACES users. An AESD-43 must be completed for each employee using CalPERS on-line access and be available to CalPERS upon request. 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</p>	<p>The Authority should ensure that ACES user security agreements are timely completed 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.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the Authority and CalPERS CASD as an appendix to our draft report.</p>

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## SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
12. The Authority may not maintain appropriate ACES security procedures. (continued)	immediately in the event that any of its sensitive or confidential information is subjected to unauthorized disclosure, modification or destruction.	

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# SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

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## 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 Authority'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.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared.

Respectfully submitted,

Original Signed by Margaret Junker  
MARGARET JUNKER, CPA, CIA, CIDA  
Chief, Office of Audit Services

Date: September 2011  
Staff: Michael Dutil, CIA, Senior Manager  
Diana Thomas, CIDA, Manager  
Terry Heffelfinger  
Karen Harlan

# APPENDIX

## AUTHORITY'S WRITTEN RESPONSE



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY  
225 South Lake Avenue, Suite 1250  
Pasadena, CA 91101  
(626) 793-9364 • Fax: (626) 793-9461  
www.scppa.org

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RIVERSIDE • VERNON • IMPERIAL IRRIGATION DISTRICT

*February 4, 2011*

Margaret Junker, CPA, CIA, CIDA  
Office of Audit Services  
California Public Employees' Retirement System  
P.O. Box 942701  
Sacramento, CA 94229-2701

Dear Ms. Junker:

The Southern California Public Power Authority (SCPPA) has reviewed the observations, statements, conclusions, and recommendations contained in attached the draft Public Agency Review (the "draft Review") dated October 29, 2010. Thank you for allowing SCPPA the time to investigate these matters and to provide our follow up comments.

In this communication I will follow the same sequence of risks, mitigation & observations and recommendations as appear in the draft Review, and in the same order they appear in the Risk and Mitigation Table set forth in the draft Review.

**Risk Item 1:**

Risk Item 1 concerning the accurate reporting of compensation appeared to reveal no discrepancies in this area and accordingly no recommendations were made in the draft Review with respect to this.

**Risk Item 2:**

This Risk Item identifies two instances in which the pay rate reported to CalPERS was not consistent with SCPPA's public salary information maintained under the requirements of Section 20636 of the Government Code. These discrepancies occurred in two instances, one involving a \$1,500.00 overstatement and the other involving a \$75.85 overstatement. Thank you for bringing this to our attention. SCPPA will periodically carry out of a comparison of our reported vs. public salary information to attempt to assure that these kinds of discrepancies do not occur in the future.

**Risk Item 3:**

In Risk Item 3 CalPERS reviewed the payroll information reported to CalPERS for seven sampled employees. This review revealed that SCPPA correctly reported the payroll information to CalPERS. Thus there were no recommendations in connection with this Risk Item.

**Risk Item 4:**

Risk Item 4 addressed the subject of timely submission of payroll information and contributions to CalPERS. Three separate service periods were reviewed and the draft Review noted that all of the required payroll information and contribution payments were submitted within the required time frames except for one instance. One electronic funds transfer payment in the amount of \$6,540.92 should have been received by CalPERS by January 15, 2010 but was not transferred until January 25, 2010. Further, because two business days are required in these instances for the funds to settle, this made the payment twelve days late. We apologize for this tardy payment. SCPPA has always endeavored to pay all of its bills on time and late payment, with respect to any of our obligations, is a circumstance we take special care to assiduously avoid. We will carry out the recommendation set forth in the draft Review and we will also attempt to assure that such payments to CalPERS in the future, are timely.

**Risk Item 5:**

Risk Item 5 addressed Excluded Employees and Temporary and Part-time Employees. The contract between SCPPA and CalPERS excludes the Board of Directors and Safety Employees. The draft Review properly reported that SCPPA did not hire any safety employees and properly excluded members of the Board of Directors. In addition the draft Review properly reported that SCPPA did not hire temporary or part time employees during the review period and therefore no instances were noted where employees were incorrectly enrolled. Accordingly no recommendations were made with respect to this particular Risk Item.

**Risk Item 6:**

Risk Item 6 concerned the potential for unlawful employment of retired annuitants. The proposed draft Review statements and findings with respect to Risk Item 6 come as a surprise to SCPPA, and we hope that you will reconsider the issue. To that end, we would welcome the opportunity to meet with you and other CalPERS staff to discuss the conclusion that BD Carnahan Management Services Incorporated ("BDCMS") is an "employee" under CalPERS rules. BDCMS was retained to provide very unique management services that SCPPA was unable to obtain despite an extensive nationwide search. At all times since the inception of the contract with BDCMS, the corporation has retained the right to consult with other clients, and has in fact done so. Moreover, BDCMS has been paid on a lump sum basis covering overhead. SCPPA does not control the time of BDMS and makes no effort to monitor specific hours, or to otherwise specifically direct the work of BDCMS.

While these are not the only factors suggesting that these initial CalPERS observations are incorrect, again, we welcome the opportunity to discuss the matter more fully with CalPERS. If it is not a burden, would you mind please forwarding a copy of the complete SCPPA file maintained by CalPERS, as we are hopeful it will shed light on early communications with CalPERS concerning this arrangement.

**Risk Item 7:**

Risk Item 7 addressed whether or not SCPPA properly reports individuals under the appropriate coverage group code. No discrepancies were noted with respect to this area and consequently there were no recommendations.

**Risk Item 8:**

This Risk Item concerned the provisions of Section 20965 of the Government Code requiring credit for unused sick leave. We agree with the draft Review that no employees of SCPPA have retired since July 1, 2005 when these requirements went into effect and that no such sick leave would have been reported.

**Risk Item 9:**

Risk Item 9 reflected a sampling of employees to assess health benefits eligibility to determine whether or not SCPPA was properly enrolling eligible employees and their dependents in health benefits. In this Risk Item the draft Review concluded that while SCPPA properly enrolled eligible employees and their dependents in the CalPERS Health Benefits Program, SCPPA had not always appropriately maintained the required executed Declaration of Health Coverage forms (Form HB-12A). This matter was pointed out to SCPPA during the site visit and the missing forms were completed and appropriately filed during this time. SCPPA will endeavor to assure that the appropriate documentation concerning this is kept on file in the future.

**Risk Item 10:**

In Risk Item 10 CalPERS reviewed specific health contributions reported for certain employees during a specified time frame. Based upon this review the draft Review concluded that SCPPA contributed the appropriate amounts with respect to these employees during the specified times. Consequently the draft Review contains no recommendation with respect to this subject.

**Risk Item 11:**

Risk Item 11 addressed the timely payment of health contributions. For purposes of assessing this Risk Factor a review of the health contributions made by SCPPA during March 2009, August 2009, September 2009 and October 2009. Section 22899 of the Government Code requires that such payments be remitted to CalPERS by the 10th of the month in which such payment is due. The draft Review observed that while the October 2009 payment was timely, the March 2009 payment was one day late, the August 2009 payment was five days late and the September 2009 payment was two days late. We greatly regret that these health payments were untimely and will work with you to assure that the recommendations in this Risk Item relating to the timely transmittal of health contribution payments is carried out.

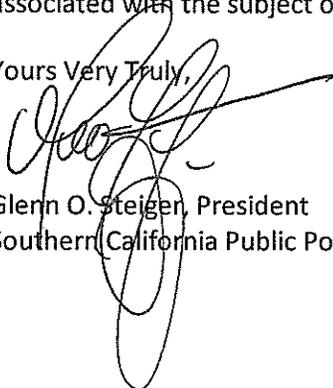
Margaret Junker, CPA, CIA, CIDA  
Office of Audit Services  
February 4, 2011  
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**Risk Item 12:**

Risk Item 12 deals with the appropriate implementation by SCPPA of ACES security procedures. The draft Review points out that the Employer User Security Agreements (PERS Form AESD-43) had not been properly maintained at SCPPA with respect to the two ACES authorized users. The appropriate AESD-43 agreements for these two authorized users were completed and filed during the onsite review. In the future we will follow the recommendations set forth in the draft Review with respect to this risk item and ensure that ACES user security agreements are timely completed and are maintained in a secure work site location for the requisite time, in accordance with CalPERS requirements.

Thank you for your careful consideration of this response to the CalPERS October 29, 2010 Public Agency Review of the Southern California Public Power Authority. We are in agreement with the Risk Item comments and recommendations which you have provided us, with the exception of Risk Item 6 for which we would welcome the opportunity to meet and provide further information. It is our belief that what is set forth in this Risk Item is not accurate. I am confident that with a review of the complete SCPPA file maintained by CalPERS, and a proper airing of the actual underlying factual matters associated with the subject of Risk Item 6, we will be able to properly conclude this matter.

Yours Very Truly,



Glenn O. Steigen, President  
Southern California Public Power Authority