

Office of Audit Services



Public Agency Review West Contra Costa Transportation Advisory Committee

**CalPERS ID: 8575333660
Job Number: P15-011**

March 2016



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

March 24, 2016

CalPERS ID: 8575333660
Job Number: P15-011

John Nemeth, Executive Director
West Contra Costa Transportation Advisory Committee
6333 Potrero Avenue, Suite 100
El Cerrito, CA 94530

Dear Mr. Nemeth:

Enclosed is our final report on the results of the public agency review completed for the West Contra Costa Transportation Advisory Committee (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 1. We appreciate the additional information regarding Finding 1 that you provided in your response. After consideration of this information, our recommendations remain as stated in the report. However, we added clarifying language to the finding.

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 Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

cc: Board of Directors, West Contra Costa Transportation Advisory Committee
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

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
Scope.....	1
Office of Audit Services Review Results	2
1: Compensation Earnable.....	2
2: Payrate and Earnings.....	3
3: Retired Annuitants.....	4
4: Member Reciprocal Self-Certification	5
Conclusion	6
Objectives	Appendix A
Agency's Written Response	Appendix B

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

RESULTS IN BRIEF

The objective of our review was to determine whether the West Contra Costa Transportation Advisory Committee (Agency) complied with applicable sections of the California Government Code (Government Code), California Public Employees' Pension 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.

- Compensation was not reported in accordance with Government Code and CCR.
- Payrate and corresponding earnings exceeded the maximum amounts listed in the Agency's pay schedule.
- Retired annuitant information was not reported in my|CalPERS.
- Member reciprocal self-certification information was not maintained.

OAS recommends the Agency comply with applicable sections of the 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 January 1, 2014 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 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 CalPERS' Board of Administration (Board) approved plan, OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review was limited to the examination of sampled employees, records, and pay periods from January 1, 2014 through June 30, 2014. The review objectives and methodology are listed in Appendix A.

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency did not report compensation in accordance with the Government Code and CCR.

Condition:

The Agency did not report compensation in accordance with Government Code Section 20636 and CCR Section 571 for an administrative clerk in the pay period ended May 31, 2014. Specifically, the administrative clerk received a five percent step increase and a 2.4 percent cost of living adjustment on July 10, 2013 that was effective July 1, 2013. In addition, the employee received a 7.5 percent salary increase identified as acting pay on July 10, 2013 that was retroactive to January 1, 2013. The Agency explained the acting pay was compensation for performing permanent additional duties during normal working hours. As a result, the employee's monthly payrate of \$4,396.72 exceeded the maximum monthly payrate listed on the publicly available pay schedule which was \$4,241.00. Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. Payrate and earnings are important factors in computing a member's retirement allowance.

Recommendation:

The Agency should ensure compensation meets the Government Code requirements.

The Agency should work with 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, § 20630, § 20636
CCR: § 571

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

2: The Agency reported payrate and earnings that exceeded the maximum amounts listed in the pay schedule.

Condition:

The Agency reported payrate and corresponding earnings that exceeded the maximum payrate listed in the Agency's publicly available pay schedule for a project manager. Specifically, the Agency reported a monthly payrate of \$8,591.80 for the project manager for the pay period ended May 31, 2014. However, the maximum monthly payrate listed in the pay schedule for this position was \$8,486.00.

Payrate and earnings are important factors in computing a member's retirement allowance because the service credit and final compensation are directly related to these components.

Recommendation:

The Agency should ensure that payrate and earnings are reported to CalPERS in accordance with the Agency's publicly available pay schedule.

The Agency should work with 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

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

3: The Agency did not enroll and report retired annuitant information as required.

Condition:

The Agency did not enroll and report the hours worked and earnings paid to retired annuitants in my|CalPERS to allow for monitoring of the 960-hour limit. Although the retired annuitants did not exceed 960 hours in a fiscal year, the Agency did not report the hours and compensation of the retired annuitants in my|CalPERS as required.

Recommendation:

The Agency should report retired annuitant information in my|CalPERS.

The Agency should work with 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: § 20120, § 20121, § 20122, § 20160

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

4: The Agency did not maintain the required member reciprocal self-certification.

Condition:

The Agency did not maintain the required member reciprocal self-certification for employees hired after January 1, 2013. CCR Section 579.3 requires individuals to self-certify in writing as to whether he or she is also a member of another public retirement system and is eligible for reciprocity. Agencies are required to retain the retirement and benefit-related information provided by the newly-hired individuals.

Recommendation:

The Agency should ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and provide the additional required information if reciprocity exists. Further, the Agency should ensure it retains this information.

The Agency should work with 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, § 7522.02, § 7522.04
CCR: § 579.3

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. The procedures performed provide reasonable, but not absolute, assurance that the Agency complied with the specific provisions of the PERL and CalPERS contract 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 CCR.

Respectfully submitted,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, CPA, MBA
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, CIDA, Senior Manager
Chris Wall, MBA, Senior Manager
Patrick McCasland, CPA, Auditor
Janice Ng, Auditor

**WEST CONTRA COSTA TRANSPORTATION
ADVISORY COMMITTEE**

APPENDIX A

OBJECTIVES

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

OBJECTIVES

The objectives of this review were limited to determine whether the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting and enrollment procedures prescribed in the Agency's retirement contract with CalPERS.

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.

METHODOLOGY

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 time records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Documents related to employee payrate, special compensation, and benefits
 - Various other relevant documents
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.

WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE

- ✓ 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.
- ✓ 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 entity organizational structure to determine whether employees of the affiliated entity qualified for CalPERS membership and were enrolled as required.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide additional service credits for unused sick leave.

**WEST CONTRA COSTA TRANSPORTATION
ADVISORY COMMITTEE**

APPENDIX B

AGENCY'S WRITTEN RESPONSE

Note: The name of an individual mentioned in the Agency's response was intentionally omitted from this appendix.

El Cerrito



Hercules

February 22, 2016

Pinole

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

Richmond

RE: Draft Report on WCCTAC Compliance Review

Dear Beliz:

San Pablo

We are writing in response to your letter dated February 1, 2016 regarding the draft report of your compliance review for our agency. Our CalPERS ID is: 8575333660. The job number is P15-011.

Contra Costa
County

The review was for the period from January 1, 2014 through June 30, 2014. There were four findings. Below I have listed each of the four finding along with our responses.

1. The Agency incorrectly reported non-reportable compensation with base payrate and regular earnings.

AC Transit

WCCTAC Response: We believe that this finding may not be correct. The administrative clerk took on some of the responsibilities of a departing employee in 2010, such as office management and invoice tracking. However, the clerk did not perform detailed accounting. That work was conducted by a contract accountant. As such, we do not believe that the employee was acting out of class. The payrate increase in 2013, proposed by the Interim Executive Director and approved by the Board, was both merit-based and an attempt to bring the employee's salary closer to a market rate. I believe that if a portion of the salary was described as "acting pay", such a description was not technically correct. The compensation

BART

WestCAT

for the Administrative Clerk never involved Temporary Upgrade Pay, as defined in the California Government Code. The Administrative Clerk's payrate increases have always been

permanent. In 2014, the employee was re-classified as an Administrative Assistant with job duties clarified and a new salary schedule established. In any case, if adjustments are necessary and some compensation deemed non-reportable, we will be happy to work with EAMD to make any necessary adjustments.

2. The Agency reported payrate and earnings that exceeded the maximum amounts listed in the pay schedule.

WCCTAC Response: We concur with this finding. In 2013 the Interim Executive Director recommended, and the Board approved, a payrate increase for the Project Manager. Unfortunately, that payrate exceeded the top end of the salary range. As a result, the Project Manager's salary was frozen. Subsequent cost of living adjustments have brought the Project Manager's payrate back into the official salary range. We will work with EAMD to make any adjustments if necessary.

3. The Agency did not enroll and report retired annuitant information as required.

WCCTAC Response: We concur with this finding. A WCCTAC employee, [REDACTED], retired in October 2013 and worked until March 2014. We were careful to ensure that her work hours did not exceed the 960 threshold in a given fiscal year. However, we were unaware that we needed to record these hours for tracking purposes. We will report this information in my|CalPERS and work with EAMD to make any necessary adjustments

4. The Agency did not maintain the required member reciprocal self-certification.

WCCTAC Response: We concur with this finding. Two employees (myself included) were hired in January, 2014. We were not asked by the Interim Executive Director to fill out Member Reciprocal Self-Certification Forms. We have since completed these forms and added them to our personnel files and have done the same for an employee hired in December, 2014. We have also added this task to our New Employee Check List to ensure that the forms are completed and filed in the future. We will also work with EAMD to make any necessary adjustments.

We would like to thank your staff for their courtesy and professionalism and for being willing to discuss some of these findings in detail over the phone. We look forward to receiving the final report and to ensuring that we meet all CalPERS reporting requirements in the future.

Sincerely,

A solid black rectangular box used to redact the signature of John Nemeth.

Original signed by John Nemeth

John Nemeth
Executive Director, WCCTAC