

Office of Audit Services



Public Agency Review

Apple Valley Fire Protection District

**CalPERS ID: 5376905521
Job Number: BI15-007**

April 2016



California Public Employees' Retirement System
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April 28, 2016

CalPERS ID: 5376905521
Job Number: BI15-007

Rosie Garrison, Administrative Services Manager
Apple Valley Fire Protection District
22400 Headquarters Drive
Apple Valley, CA 92307

Dear Ms. Garrison:

Enclosed is our final report on the results of the public agency review completed for the Apple Valley Fire Protection District (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 2. We appreciate the additional information that you provided in your response. After consideration of this information, we added clarifying language to Finding 2.

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, Apple Valley Fire Protection 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

APPLE VALLEY FIRE PROTECTION DISTRICT

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
Scope.....	1
Office of Audit Services Review Results	2
1: Scheduled Work Hours	2
2: Regular Earnings and Special Compensation.....	4
Conclusion	5
Objectives	Appendix A
Agency's Written Response.....	Appendix B

APPLE VALLEY FIRE PROTECTION DISTRICT

RESULTS IN BRIEF

The objective of our review was to determine whether the Apple Valley Fire Protection District (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.

- Scheduled work hours were incorrectly reported.
- Regular earnings and special compensation were incorrectly reported.

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 December 21, 1974 to provide retirement benefits for local miscellaneous and local fire safety 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 compliance with the PERL and its contract related to compensation and payroll reporting. The review was limited to the examination of the sampled employees, records, and pay periods from July 1, 2013 through October 31, 2015. OAS did not review the Agency's compliance with membership enrollment or employment after retirement. The review objectives and methodology are listed in Appendix A.

APPLE VALLEY FIRE PROTECTION DISTRICT

OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency incorrectly reported scheduled work hours.

The Agency incorrectly reported the number of scheduled full-time work hours for two fire safety employees. Misreporting the number of scheduled full-time work hours could impact the employees' monthly retirement allowance by as much as 29 percent.

- A. The Agency incorrectly reported the number of scheduled work week hours for a Paid Call Fire Fighter/Paramedic's (Paid Call) for Fiscal Year 2013-14. The Agency reported the Paid Call employee at a 53-hour work week schedule during July 2013 and September 2013 period. The Agency then changed and reported the Paid Call employee to a 40-hour work week schedule starting mid-September 2013. The employment agreement for the Paid Call employee did not specify the scheduled work week hours. As a result, the Agency could not demonstrate the correct number of scheduled work hours to report.

Accurate reporting of payroll information is key to ensure an employee's final compensation is properly calculated for retirement benefits. Specifically, reporting an incorrect number of scheduled work hours for employees with hourly payrates can result in over or under stated retirement allowances regardless of whether the employee works part-time, temporary, or full-time basis. For example, if an employee retires with an hourly payrate of \$10.50 per hour, and the scheduled work hours for the position is 40-hours per week; the average monthly payrate used to calculate retirement benefits would be \$1,820.00. However, if an employee with the same payrate retires with scheduled work hours of 56-hours per week, the average monthly payrate would be \$2,548.00.

- B. The Agency incorrectly reported the number of scheduled full-time work hours for a fire safety employee. OAS reviewed a full-time Fire Fighter and Paramedic's payroll information reported for the Fiscal Year 2013-14. The Agency reported the full-time Fire Fighter and Paramedic on an hourly basis and identified the scheduled the full-time hours as 53 per week. However, the Fire Fighter and Paramedic's normal full-time work schedule during this period was 56 hours per week.

APPLE VALLEY FIRE PROTECTION DISTRICT

Reporting an incorrect number of scheduled work hours may result in:

- Delays in member retirement processing
- Inaccurate retirement estimates
- Miscalculation of employer contributions
- Incorrect payments of benefits
- Hardship to retired members due to reduction in benefits

Recommendation:

The Agency should ensure the correct number of scheduled full time work hours are reported for all employees.

The Agency should work with CalPERS Employer Account Management Division (EAMD) to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20120, § 20121, § 20160, § 20630

APPLE VALLEY FIRE PROTECTION DISTRICT

2: The Agency incorrectly reported regular earnings and special compensation.

The Agency incorrectly reported regular earnings and Fair Labor Standard Act Pay (FLSA) premium pay for a full-time Fire Fighter and Paramedic whose normal work week was 56 hours as mentioned in Finding 1B. The Agency paid and reported regular earnings at the straight time rate of pay for 53 hours and FLSA premium pay at time and a half for the three hours worked above 53-hours up to 56-hours. The Agency should have reported regular earnings at straight time the rate of pay for 56 hours and FLSA premium pay at half-time the rate of pay for three hours each week. As a result, the Agency understated regular earnings and over reported special compensation each bi-weekly pay period. Government Code Section 20630(a) identifies compensation as payment for the member's services performed during normal working hours. Additionally, Government Code Section 20636(c)(6) and CCR Section 571(a) state the premium paid for the hours worked within the normally scheduled working hours that are in excess of the statutory maximum work week shall be included as special compensation.

Regular earnings and special compensation are important factors in computing a member's retirement allowance because service credit and final compensation are directly related to the payrate and earnings reported for a member.

Recommendation:

The Agency should ensure the correct amount of regular earnings and FLSA premium pay are reported for all employees.

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

Criteria:

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

APPLE VALLEY FIRE PROTECTION DISTRICT

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 California Code of Regulations.

Respectfully submitted,

Original signed by Beliz Chappuie

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Alan Feblowitz, CFE, Senior Manager
Alicia Watts, Manager
Emma Shaw, Auditor
Michelle O'Connor, CPA, Auditor

APPENDIX A

OBJECTIVES

APPLE VALLEY FIRE PROTECTION DISTRICT

OBJECTIVES

The objectives of this review were limited to determine whether member information was accurate and the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting procedure 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."

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 written labor policies and agreements
 - Agency salary, wage, and benefit agreements including applicable resolutions
 - Agency personnel records and employee time records
 - Agency payroll information
 - CalPERS payroll reports
 - Documents related to employee payrate 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.
- ✓ Reviewed payroll information reported to CalPERS and reconciled payroll records, personnel records, pay schedules, and written labor policies to determine whether the Agency correctly reported scheduled work hours, whether service credit was accurate, and whether retirement benefits were correct.

APPLE VALLEY FIRE PROTECTION DISTRICT

APPENDIX B

AGENCY'S WRITTEN RESPONSE



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April 4, 2016

VIA CERTIFIED MAIL AND E-MAIL
CHERYL.DIETZ@CALPERS.CA.GOV

Cheryl Dietz, Assistant Division Chief
Office of Audit Services
CalPERS
P.O. Box 942701
Sacramento, CA 94229-2701

Re: Response by Apple Valley Fire Protection District to March 7, 2015 Draft Audit Report

Dear Ms. Dietz:

We submit the following on behalf of our client, Apple Valley Fire Protection District ("District"). The District is in receipt of the Office of Audit Services' ("OAS") March 7, 2015 draft audit report ("Draft Report") related to the District's contract with the California Public Employees' Retirement System ("CalPERS"). The District appreciates the efforts of OAS in performing its compliance review and the opportunity to comment on the Draft Report. Although our written response was initially due March 21, 2016, the District was graciously given an extension until April 4, 2016 to provide this response. We thank you for granting us this additional time to prepare the District's response.

As detailed below, the District accepts the conclusions noted at Findings 1.A and 1.B. The District will work with designated representatives of CalPERS to make the appropriate corrections. While the District understands OAS's position in Finding 2, we respectfully draw your attention to the fact that the District has been reporting FLSA pay in accordance with the requirements of California Code of Regulations Section 571(a)(5) and that Finding 2 represents a divergence from existing guidance. Therefore, we respectfully request that the District's compliance with Section 571(a)(5) be reflected in the final audit report.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Cheryl Dietz
April 4, 2016
Page 2

FINDINGS AND THE DISTRICT'S RESPONSE

In order to facilitate your review of the District's position with respect to each of the findings noted in the Draft Report, we have organized our comments in chronological order based on the order of the findings.

FINDING 1.A: THE AGENCY INCORRECTLY REPORTED SCHEDULED WORK HOURS FOR A PART-TIME PAID CALL FIRE FIGHTER/PARAMEDIC.

Response:

The District recognizes the discrepancy noted in Finding 1.A regarding the reported scheduled work hours for the Paid Call Firefighter/Paramedic position. Please note, however, that Paid Call Firefighters do not have a regular work schedule. Paid Call Firefighters generally work irregular hours, and actual hours worked total, on average, 12.25 hours per month. However, the District recognizes the need for a scheduled hours base for purposes of CalPERS reporting, and is willing to correct the clerical error in the Paid Call Firefighter's work week schedule to classify the Paid Call Firefighter/Paramedic position as a 56-hour work week position (this takes into account those rare circumstances in which a Paid Call Firefighter/Paramedic could potentially work a full-time schedule (e.g., in case of a natural disaster). The District will work with designated representatives of CalPERS to make the appropriate corrections.

Despite the District's agreement with Finding 1.A, it is important that we point out that the illustration pointing out the effects of inaccurate reporting do not apply to the District. That is, while the scheduled work hours has been incorrectly reported, the actual hours worked by paid call firefighters and the hourly pay given to paid call firefighters has at all times been accurately reported by the District.

FINDING 1.B: THE AGENCY INCORRECTLY REPORTED SCHEDULED WORK HOURS FOR A FULL-TIME FIRE SAFETY EMPLOYEE.

Response:

The District agrees with Finding 1.B and will work with designated representatives of CalPERS to make the appropriate corrections.



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Cheryl Dietz
April 4, 2016
Page 3

FINDING 2: THE AGENCY INCORRECTLY REPORTED REGULAR EARNINGS AND SPECIAL COMPENSATION.

Response:

Please rest assured that the District ensures that only compensation earnable, as defined under Government Code Section 20636 and corresponding regulations, is reported to CalPERS. Although the Draft Report brought to light some minor issues with the District's reporting practices, the District's staff appreciates OAS' review of these practices as this will only improve its reporting to CalPERS. Further, please note that the District has been and is currently in compliance with the requirements of California Code of Regulations ("CCR") Section 571(a)(5). Specifically, the District reports FLSA premium pay for firefighters whose normal work schedule is 56 hours per week in accordance with the example listed in CCR Section 571(a)(5): "compensation [should] be reported for 53 hours per week and FLSA premium pay [should] be reported for 3 hours per week." The District understands that OAS' conclusions drawn with respect to Finding 2 are based on CalPERS' position that the statutory language in Government Code Section 20636(c)(6) and the language in the regulations at CCR Section 571(a)(5) are unclear and may be interpreted inconsistent with CalPERS' current position regarding how to report FLSA premium pay. In light of this discrepancy in available guidance, we respectfully submit that the District was reporting FLSA premium pay in accordance with a reasonable interpretation of the regulations, such that there is no error in reporting. We respectfully request that the District's compliance with the regulatory guidance be reflected in the final audit report. Should OAS maintain that the District's reasonable application of the example listed at CCR Section 571(a)(5) is not consistent with CalPERS' preferred reporting method for FLSA premium pay, the District will work with designated representatives of CalPERS to make the appropriate corrections going forward.

CONCLUSION

In closing and on the basis of the preceding, we respectfully request that CalPERS include acknowledgments in the final audit report reflecting the District's agreement to proceed with correction of the deficiencies noted in Findings 1.A and 1.B, and the District's compliance with existing regulations with respect to the deficiency noted in Finding 2.



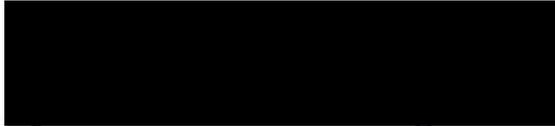
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Cheryl Dietz
April 4, 2016
Page 4

We thank you for the opportunity to submit this written response and we look forward to working with OAS and CASD to ensure that the final recommendations and the implementation of said recommendations are not only appropriate but equitable.

Respectfully submitted,

Original signed by Isabel C. Safie



Isabel C. Safie
of BEST BEST & KRIEGER LLP

cc: Rosie Garrison, Administrative Services Manager (via e-mail)

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