

Office of Audit Services



Public Agency Review

Midpeninsula Regional Open Space District

**CalPERS ID: 2857159579
Job Number: SP15-030**

May 2016



California Public Employees' Retirement System
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May 31, 2016

CalPERS ID: 2857159579
Job Number: SP15-030

Candice Basnight, Human Resources Supervisor
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022

Dear Ms. Basnight:

Enclosed is our final report on the results of the public agency review completed for the Midpeninsula Regional Open Space District (Agency). Your written response, included as an appendix to the report, indicates agreement with 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 Beliz Chappuie

BELIZ CHAPPUIE, Chief
Office of Audit Services

Enclosure

cc: Board of Directors, Midpeninsula Regional Open Space 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

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

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RESULTS IN BRIEF

The objective of our review was to determine whether the Midpeninsula Regional Open Space 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 and observation during the review. Details are noted in the Results section beginning on page two of this report.

- Pay schedules did not meet all of the requirements of the Government Code and CCR.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Contributions were incorrectly reported.
- Observation: Agency records did not agree with my|CalPERS information.

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 31, 1973, 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 compliance with the PERL and its contract related to compensation and payroll reporting. Additionally, OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 67: Financial Reporting for Pension Plans. The review was limited to the examination of the sampled employees, records, and pay periods from July 1, 2013 through June 30, 2014. 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.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency's pay schedule effective July 1, 2013 was not duly approved and adopted by the Agency's governing body. The Agency's board approved a pay schedule effective November 26, 2012. The Agency's board later approved a three percent salary increase effective July 1, 2013 as part of the Field Employees' Association labor agreement. By practice, the Agency extended the three percent increase to the Office, Supervisory, and Management employees. The Agency created a new pay schedule with the effective date of July 1, 2013. However, the new schedule was not approved by the Agency's board.

Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. For purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount identified on a publicly available pay schedule. Per CCR Section 570.5, a pay schedule, among other things, must:

- Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identify the position title for every employee position;
- Show the payrate as a single amount or multiple amounts within a range for each identified position;
- Indicate the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicate an effective date and date of any revisions;
- Be retained by the employer and available for public inspection for not less than five years; and
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the payrate definition and pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). When an employer does not meet the requirements for a

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publicly available pay schedule, CalPERS, in its sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

Recommendation:

The Agency should ensure it has a pay schedule that meets all of the Government Code and CCR requirements.

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

Criteria:

Government Codes: § 20160, § 20636
CCR: § 570.5

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

Condition:

- A. The Agency incorrectly reported the value of Employer Paid Member Contributions (EPMC) as special compensation for the General Manager in the pay period ended July 21, 2013. Although the Agency had a resolution to pay six percent EPMC for the Board Appointees Group, the resolution did not include reporting the value of EPMC as special compensation. The General Manager was part of the Agency's Board Appointees Group. CCR Section 571(a) requires an agency to provide CalPERS with a resolution or ordinance indicating the group or class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation. The resolution must also be formally adopted by the employer's governing body, and submitted to CalPERS for review and approval.
- B. The Agency did not report uniforms in accordance with the Government Code and CCR requirements. Specifically, the Agency did not report the monetary value of the initial uniforms provided to newly hired employees of the Field Employees' Association and certain eligible non-represented Supervisory Field staff enrolled as classic employees. Although the Agency reported the annual uniform allowances correctly, it did not report the value of the initial uniform purchased by the Agency. CCR Section 571 requires the monetary value for the purchase, rental and/or maintenance of required uniforms be reported to CalPERS as special compensation.
- C. The Agency's Personnel and Policies Procedures Manual (written labor agreement), which covered the non-represented employees, did not meet all the requirements of CCR Section 571(b)(1)(B). Specifically, the written labor agreement did not include the conditions for payment of the uniforms, including, but not limited to, the amount of special compensation.
- D. The Agency incorrectly reported a bonus as a lump sum amount for an Assistant General Manager in the pay period ended December 22, 2013, instead of in the pay period the bonus was earned. Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which special compensation was earned.

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- E. The Agency incorrectly reported one hour of overtime as Holiday Pay in the pay period ended July 7, 2013. Specifically, the Agency paid Holiday Pay for a Ranger who worked nine hours on a holiday and reported \$159.56. However, one of the nine hours, or \$17.73, was for overtime. Compensation for overtime is not reportable pursuant to Government Code Section 20635.

- F. The Agency incorrectly reported special compensation in payrate and earnings for three employees. Specifically, the Agency included Temporary Upgrade Pay (Acting Pay) in the payrates and earnings for an Open Space Technician and an Area Superintendent in various pay periods. The Agency also included Medical Trainer Pay in the payrate and earnings for a Ranger. Government Code Section 20636(b)(1) defines payrate as the normal monthly rate of pay or base pay paid to members pursuant to a publicly available pay schedule. Government Code Section 20636(c)(1) identifies special compensation as a payment for special skills, knowledge, abilities, work assignment, work days or hours, or other work conditions. The Agency should report special compensation separately from base payrate and regular earnings.

Reportable special compensation is defined in CCR Section 571(a) and must be reported if it conforms with all of the requirements listed in CCR Section 571(b). Specifically, 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.

Recommendation:

The Agency should ensure it correctly reports special compensation pursuant to the Government Code and the Agency's resolutions.

The Agency should ensure that it reports the monetary value of the initial uniforms provided to employees with classic membership.

The Agency should ensure its written labor agreement includes the conditions for payment of the uniforms.

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

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The Agency should ensure compensation for overtime hours are not reported to CalPERS.

The Agency should ensure it reports special compensation separate from base payrate and regular earnings.

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, § 20635, § 20636
CCR: § 571

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3: The Agency incorrectly reported Employer Paid Member Contributions (EPMC).

Condition:

The Agency incorrectly reported the value of EPMC for all employees. Specifically, the Agency had resolutions to pay a percentage of the normal member contributions as EPMC. However, the Agency incorrectly reported all member contributions as EPMC.

Recommendation:

The Agency should ensure member contributions are reported correctly.

The Agency should work with EAMD to assess the impact of this incorrect reporting and make any adjustments, if necessary, to any impacted retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: 20120, § 20121, § 20160, § 20691, § 20774

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Observation: The Agency's records do not agree with my|CalPERS information.

Condition:

OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 67: *Financial Reporting for Pension Plans* requirements. The significant census data elements include, but are not limited to, date of birth, date of hire or years of service, marital status, gender, employment status (active, inactive, or retired), class of employee, and eligible compensation.

OAS identified three employees who had hire dates that were different from the hire dates in my|CalPERS. The hire dates in my|CalPERS were based on the contract effective date instead of the actual date of hire. OAS also identified four individuals who had employment statuses that were different from the employment statuses in my|CalPERS. The Agency's records show that the employees have separated; however, the employees were not separated through my|CalPERS. OAS recommends the Agency work with the appropriate CalPERS division to make any corrections, if necessary.

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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. 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
Noah Schreier, Auditor

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APPENDIX A

OBJECTIVES

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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 procedures prescribed in the Agency's retirement contract with CalPERS.

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.
- ✓ 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

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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 records to determine whether member census data agreed with my|CalPERS information.

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APPENDIX B

AGENCY'S WRITTEN RESPONSE



May 17, 2016

Beliz Chappuie, Chief
California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

RE: Compliance Review (CalPERS ID: 2857159579; Job Number SP15-030)

Dear Ms. Chappuie:

This letter is in response to the draft report that was received by Midpeninsula Regional Open Space District on May 4, 2016. Below is the District's response to the review findings:

Finding 1: Agree

The District is correcting the process for board approval for pay schedules to ensure that any and all revisions to pay schedules are approved by the District's board before implementation. District will ensure that all pay schedules meet all the Government Code and CCR requirements.

Finding 2: Agree

- A. Corrections have been made for the District to ensure that EPMC is correctly reported pursuant to the Government Code and the District's resolutions.
- B. The District is working to ensure that the monetary value of the initial uniforms provided to employees with classic membership is reported.
- C. The District is revising written labor agreements to include the conditions for payment of uniforms.
- D. The District will ensure that special compensation is reported in the pay periods earned.
- E. The District staff is also working to ensure that compensation for overtime hours are not reported to CalPERS.
- F. The District is making corrections to ensure that the District reports temporary upgrade pay and medical trainer pay separate from base payrate and regular earnings.

G. The District will work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments if necessary to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Finding 3: Agree

The District is working to make sure all member contributions are reported correctly. The District will work with EAMD to assess the impact of all incorrect reporting and make any adjustments, if necessary to any impacted retired member accounts pursuant to Government Code Section 20160.

Observation:

The District will work with the appropriate CalPERS division to ensure that all District records agree with my/CalPERS information and make any necessary corrections.

The District is in agreement with the three findings and will make any correction needed regarding the audit observation. In most cases corrections and/or adjustments to processes have been made in compliance with audit findings. The District greatly appreciates the professionalism and assistance from Associate Auditor Noah Schreier during the audit process. Thank you for taking the time to prepare this compliance review document. We look forward to receiving the final report.

Sincerely,


Candice Basnight
Human Resources Supervisor

Original signed by Candice Basnight

CC: Midpeninsula Regional Open Space District –Finance Division