

Office of Audit Services



CalPERS

Public Agency Review

Bard Water District

CalPERS ID: 1792947556
Job Number: P13-071

September 2014



California Public Employees' Retirement System
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September 29, 2014

CalPERS ID: 1792947556
Job Number: P13-071

Ron Derma, General Manager
Bard Water District
1473 Ross Road
Winterhaven, CA 92283

Dear Mr. Derma:

Enclosed is our final report on the results of the public agency review completed for the Bard Water District (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 5. Based on the information contained in your agency's response pertaining to Finding 5, our recommendations remain as stated 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 and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Phyllis Miller
PHYLLIS MILLER, Acting Chief
Office of Audit Services

Enclosure

cc: Board of Directors, Bard Water District
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Renee Ostrander, Assistant Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

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RESULTS IN BRIEF

The primary objective of our review was to determine whether Bard Water District (Agency) complied with applicable sections of the California Government Code, California Code of Regulations (CCR) and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following findings during the review. Details are noted in the Results section beginning on page two of this report.

- Pay schedule did not meet the requirements of the Government Code and CCR.
- Payrate and earnings were incorrectly reported.
- Special compensation was not reported as required by CCR Section 571.
- Retroactive salary adjustment was incorrectly reported.
- Eligible part-time employees were not enrolled into membership.

OAS recommends the Agency comply with applicable sections of the California Government Code, CCR and its contract with CalPERS. We also recommend the Agency work with the appropriate CalPERS divisions to resolve issues identified in this report.

SCOPE

The Agency contracted with CalPERS effective June 1, 1982 to provide retirement benefits for miscellaneous employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and by the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the Board approved plan for fiscal year 2013-14, the OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled employees, records, and pay periods from July 1, 2010 through June 30, 2013. The employees selected were not subject to the Public Employees' Pension Reform Act of 2013. The on-site fieldwork for this review was conducted from March 26-28, 2014. The review objectives and a summary of the procedures performed are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency's pay schedule was not approved by the Agency's governing body, did not identify the position title for every employee position, did not show the payrate for each identified position, and did not indicate an effective date. 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 pay rate 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.
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). There are no exceptions included in Government Code Section 20636(b)(1).

BARD WATER DISTRICT

Recommendation:

The Agency should ensure its pay schedule meets all of the Government Code and CCR requirements.

The Agency should work with CalPERS Customer Account Services Division (CASD) to make all necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 20636(a), § 20636(b)(1), § 20636(d)
CCR: § 570.5

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2: The Agency incorrectly reported payrate and earnings.

Condition:

- A. The Agency incorrectly reported a monthly payrate for an employee in the pay period ending April 9, 2013. Specifically, the Agency reported an employee's hourly payrate as \$2,548.00 which was the employee's monthly rate of pay. Payrate is an important factor 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.

- B. The Agency incorrectly reported earnings for an employee who was not working for the Agency because the employee was out on workers compensation. Specifically, the employee was out on workers compensation effective August 20, 2012. However, myCalPERS indicated the Agency continued to report the employee's earnings of \$1,623.20 in the period under review. Compensation payments and employer payments in lieu of worker's compensation benefits are not reportable to CalPERS; however, if a member uses accrued leave credits such as sick leave, the compensation attributable to the leave credits are reportable.

Recommendation:

The Agency should ensure that payrates are correctly reported and in accordance with approved pay schedules.

The Agency should correctly report payrate and earnings for months worked and in accordance with an approved pay schedule.

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

Criteria:

Government Codes: § 20120, § 20121, § 20160, § 20630, § 20636
CCR: § 570.5

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3: The Agency did not report special compensation as required by the CCR.

Condition:

The Agency did not report special compensation of Holiday Pay earned by an employee who worked in a position that required staffing without regard for holidays. The employee was compensated \$191.20 for working on Memorial Day, an approved holiday, during the pay period ending June 4, 2013. Pursuant to CCR Section 571, Holiday Pay is a statutory item and should have been reported to CalPERS as special compensation.

Holiday Pay is defined as additional compensation for employees who are normally required to work on an approved holiday because their positions require scheduled staffing without regard to holidays. If employees are paid over and above their normal monthly payrate for approved holidays, the additional compensation is classified as holiday pay and reportable to CalPERS as special compensation.

Recommendation:

The Agency should ensure that Holiday Pay for all eligible employees is reported in the period earned.

The Agency should work with CASD 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

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4: The Agency incorrectly reported a retroactive salary adjustment.

Condition:

The Agency incorrectly reported a retroactive salary adjustment for an employee who received a pay increase effective January 1, 2011. Specifically, the Agency should have reported a retroactive salary adjustment in each of the pay periods from January 1, 2011 through March 1, 2011 with a payrate of \$6,517.00 and corresponding earnings. However, the Agency incorrectly reported a retroactive salary adjustment that resulted in a decrease in the employee's payrate and earnings in the pay period ending March 29, 2011. Retroactive salary adjustments should be reported separately in each of the pay periods in which the compensation was earned.

Recommendation:

The Agency should report retroactive salary adjustments in the correct pay periods with the correct payrate and earnings.

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

Criteria:

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

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5: The Agency did not enroll eligible part-time employees as required.

Condition:

The Agency did not enroll two part-time employees when membership eligibility requirements were met. Specifically, one employee exceeded 1,000 hours in the pay period ending March 13, 2012. A second employee exceeded 1,000 hours in the pay period ending March 22, 2013. The Agency should have enrolled the employees effective no later than the first pay period in of the month following the month in which 1,000 hours of service were completed.

Government Code Section 20305 requires employees who complete 1,000 hours within a fiscal year to be enrolled into membership effective not later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.

Recommendation:

The Agency should monitor the hours worked by part-time employees to ensure the employees are enrolled when membership eligibility requirements are met.

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

Criteria:

Government Codes: § 20160, § 20305

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix A. OAS limited the test of transactions to employee samples selected from the Agency's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the Agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, California Code of Regulations.

Respectfully submitted,

Original signed by Phyllis Miller

PHYLLIS MILLER, CPA, CIA

Acting Chief, Office of Audit Services

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

BARD WATER DISTRICT

APPENDIX A

OBJECTIVES

BARD WATER DISTRICT

OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the CCR.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

This review did not include an assessment as to whether the Agency is a "public agency", and expresses no opinion or finding with respect to whether the Agency is a public agency or whether its employees are employed by a public agency.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the Agency's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
 - Provisions of the contract and contract amendments between the Agency and CalPERS
 - Correspondence files maintained at CalPERS
 - Agency Board minutes and Agency Board resolutions
 - Agency written labor policies and agreements
 - Agency salary, wage and benefit agreements including applicable resolutions
 - Agency personnel records and employee hours worked records
 - Agency payroll information including Contribution Detail Transaction History reports
 - Other documents used to specify payrate, special compensation, and benefits for employees
 - Various other documents as necessary
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the Agency's governing body in accordance with requirements of applicable public meeting laws.

BARD WATER DISTRICT

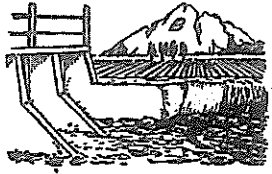
- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's employment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 960 hours were worked in a fiscal year.
- ✓ Reviewed the Agency's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the Agency's affiliated entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

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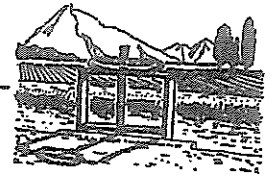
APPENDIX B

AGENCY RESPONSE

NOTE: The Agency provided additional informational attachments to the response which have been intentionally omitted from this appendix. The names of the individuals mentioned in the Agency's response were intentionally redacted from the response.



BARD WATER DISTRICT



1473 Ross Road — Winterhaven, California 92283
Phone 572-0704

July 25, 2014

CalPERS
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Office Audit Services
P.O. Box 942701
Sacramento, CA 94229-27041
Attention: Ms. Margaret Junker, Chief
Office of Audit Services

Reference: Employer Code: 1314 CalPERS ID: 1792947556 Job Number: P13-071
Draft Report on Compliance Review

Dear Ms. Junker:

Thank you for your letter dated June 27th, 2014 and the enclosed draft report on the compliance review. It was a pleasure working with Edward Fama; he was pleasant and exhibited very good business mannerisms. The Results in Brief as well as the recommendations provided in the draft have been reviewed.

The District would like to reiterate that there were extenuating circumstances when [redacted] started working for the District. The previous office manager was fired and subsequently convicted of felony embezzlement. Files were missing and there was very little paper trail left to follow. All accounting software and current programs containing information were erased or not on site. Payables and payroll were done by hand for a month by temporary help before [redacted] started.

The District recognizes the deficiencies and is willing and prepared to correct all of the recommendations with one (1) exception. The only item in dispute is *Finding 5: Temporary/Part-time employees were not enrolled when membership requirements were met*, concerning [redacted]. [redacted] was enlisted through the Quechan Indian Tribe T.E.R.O. Office and is considered "an Independent Contractor" and paid by the Quechan Indian Tribe. A copy of the Independent Contractor Agreement is attached. [redacted] was not an "employee" of Bard Water District and therefore exempt from the 1,000 hour per year CalPERS threshold.

A representative from CalPERS is scheduled to provide training here at the District August 11, 2014. This training should, hopefully, alleviate future inconsistencies with reporting and ensure procedures are followed correctly.

, the Office Manager Administrative Assistant, will be happy to work with CalPERS Customer Account Services Division (CASD) to make all the necessary adjustments. Please provide contact names, email addresses and direct line telephone numbers of the representatives in the Customer Account Services Division (CASD) that will be working with the District.

Thank you for your attention. We look forward to your response.

Respectfully,
BARD WATER DISTRICT



Ron Derma
General Manager



Tricia Hamblin
Office Manager Administrative Assistant

RD/TH/th

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