

Office of Audit Services



Public Agency Review

Chester Public Utility District

CalPERS ID: 6929609618
Job Number: P13-086

June 2015



California Public Employees' Retirement System
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June 26, 2015

CalPERS ID: 6929609618
Job Number: P13-086

Joseph W. Waterman, General Manager
Chester Public Utility District
251 Chester Airport Road
Chester, CA 96020

Dear Mr. Waterman:

Enclosed is our final report on the results of the public agency review completed for the Chester Public Utility 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 Young Hamilton

YOUNG HAMILTON, Acting Chief
Office of Audit Services

Enclosure

cc: Board of Directors, Chester Public Utility 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

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RESULTS IN BRIEF

The primary objective of our review was to determine whether the Chester Public Utility District (Agency) complied with applicable sections of the California 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.

- The pay schedule did not meet all of the requirements of the Government Code and CCR.
- The Agency reported an incorrect amount of earnings.
- Special compensation was not reported as required.
- Employer Paid Member Contributions (EPMC) was under paid.
- Unused sick leave was incorrectly reported.
- Observation: Salary and Compensation.

OAS recommends the Agency comply with applicable sections of the California 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, 1991 to provide retirement benefits for local miscellaneous employees. The contract was later amended to include local firefighters. 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 January 1, 2011 through December 31, 2013. 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 did not have a pay schedule that met all of the Government Code and CCR requirements.

Condition:

- A. The Agency did not have a public pay schedule that met all of the requirements of the Government Code and CCR. Although the Agency included payrates for some employee positions in written labor policies, the policies did not meet the definition of a pay schedule as defined in CCR Section 570.5.
- B. Monthly payrates identified in the written labor policy for the Stationary Engineers Local No. 39 Firefighters were incorrect. The payrates included Fair Labor Standards Act (FLSA) premium pay and overtime earnings. In addition, the payrates were incorrectly calculated because they were based on ten 24-hour shifts per month or 240 hours per month. Fire shift employees work an average of 56 hours per week which converts to 242.67 hours per month.

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.

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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). There are no exceptions included in Government Code Section 20636(b)(1). When an employer does not meet the requirements for a 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 its pay schedule meets all 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 incorrectly reported regular earnings.

Condition:

The Agency incorrectly reported regular earnings. Specifically, the Agency over reported the earnings for an employee during the pay period ending December 28, 2013. The employee was paid \$305.34; however, the Agency reported \$581.60.

Recommendation:

The Agency should ensure regular earnings are accurately reported.

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

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

Condition:

- A. The Agency did not report FLSA Premium Pay as special compensation. The Agency's fire safety employees work an average of 56 hours per week and are paid FLSA Premium Pay. The Agency paid the FLSA Premium Pay in the pay period ending December 28, 2013. However, the Agency did not report the pay as special compensation. FLSA Premium Pay is a statutory item reportable to CalPERS as special compensation per CCR Section 571.
- B. The Agency did not report Holiday Pay for fire safety employees who were required to work on scheduled holidays. Fire safety employees are required to work on holidays and are paid time and one half if they work on the holiday. In addition, the Agency allows fire safety employees to bank and cash out Holiday Pay each December. OAS verified that neither the Holiday Pay, nor the Holiday Pay cash outs were reported. CCR Section 571(a)(5) states that if employees are paid over and above their normal monthly rate of pay for approved holidays, the additional compensation is Holiday Pay and reportable to CalPERS.
- C. The Agency did not report a Uniform Allowance or the monetary value of uniforms provided as special compensation for classic fire safety employees required to wear uniforms. The Agency requires and provides uniforms to new employees and provides fire safety employees with embroidered logo hats and a pocket t-shirt that they are required to wear. In addition, the Agency provides the fire safety employees an annual Uniform Allowance of \$400.00, paid to the employees on a quarterly basis. However, the Agency does not report the monetary value of the uniforms provided, or the Uniform Allowances as special compensation. CCR Section 571 requires that the monetary value for the purchase, rental and/or maintenance of required clothing, a statutory item, be reported as special compensation.
- D. The Agency's written labor policy for fire safety employees did not include an amount for uniforms provided and Holiday Pay cash outs. The conditions for payment, including, but not limited to eligibility for, and amount of, the special compensation is required by CCR Section 571 to be included in a written labor policy.

Reportable special compensation is exclusively listed and defined in CCR Section 571. Reportable special compensation is required to be contained in a written labor policy or agreement indicating the eligibility for and amount of special compensation. Also, special compensation must be available to all members in the

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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. In addition, special compensation must not be paid exclusively in the final compensation period and not be final settlement pay.

Recommendation:

The Agency should ensure it correctly reports FLSA Premium Pay, Holiday Pay and Holiday Pay cash outs as special compensation.

The Agency should ensure Uniform Allowances and the monetary value of uniforms provided are reported as special compensation for classic members.

The Agency should ensure the conditions for the payment of special compensation items are contained in a written labor policy or agreement as required by the CCR.

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

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4: The Agency under paid Employer Paid Member Contributions (EPMC).

Condition:

The Agency did not pay the full amount of EPMC for an employee in the pay period ended December 28, 2013. The amount of EPMC remitted to CalPERS was \$133.97; however, the amount due was \$139.51.

Recommendation:

The Agency should ensure it pays the correct amount of EPMC.

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, § 20691
CCR: § 569

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5: The Agency reported incorrect unused sick leave balances.

Condition:

The Agency incorrectly reported the unused sick leave balances for retiring members. The Agency reported an unused sick leave balance of 0.00 for one retiree; however, the retiree had an unused sick leave balance of 997.36 hours or 124.67 days.

OAS was unable to verify the correct unused sick leave balance at retirement for another retiree because the Agency was unable to provide records to show the retiree's remaining unused sick leave balance. The Agency explained the retiree was the former General Manager/Fire Chief, and he maintained his own records. The Agency also explained they were unable to locate these records after the former General Manager/Fire Chief retired.

Because records were not available, OAS performed a reasonableness test based on the accrual rate and time worked to determine whether the retiree could have accumulated the unused sick leave days reported. OAS determined the retiree could not have earned the unused sick leave days reported during the time worked. Specifically, the Agency certified an unused sick leave balance of 1,296 hours or 162.00 days for the retiree. However, the unused sick leave reported was incorrect based on the retiree's hire date, his unused sick leave accrual rate, and his separation date. The retiree was hired effective September 23, 2002 with the Chester Fire Protection District, an Agency that was merged with Chester Public Utilities District effective August 17, 2009. Employees of both agencies accrued unused sick leave at the same rate, eight hours per month. The employee separated from service at the Agency on November 20, 2011. The maximum unused sick leave the retiree could have accrued was approximately 880 hours, or 110 days. As a result of the incorrect reporting, the retiree's unused sick leave was over reported by a minimum of 416 hours, or 52 days.

Retiring members are eligible for additional service credit for unused sick leave accrued by the members during the normal course of employment. The total number of unused sick leave hours at retirement is converted to days to determine additional service credit.

Recommendation:

The Agency should ensure the correct amount of unused sick leave is reported to CalPERS.

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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, § 20965

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Observation: The denial of salary and compensation in computing the retirement benefit amount for the former General Manager/Fire Chief.

Observation:

Subsequent to the retirement of the General Manager/Fire Chief, CalPERS performed a review of his salary and compensation. The review resulted in CalPERS denying the payrate and compensation for the former General Manager/Fire Chief. Specifically, the reported payrate included compensation for a "Living Stipend", an item of compensation that is not reportable per Government Code Sections 20630 and 20636 and CCR Section 571. Additionally, salary increases were not contained in an approved pay schedule and therefore cannot be used to calculate retirement benefits as stated in Government Code 20636(b)(1).

OAS determined EAMD appropriately denied the salary and compensation for the former General Manager/Fire Chief. The former General Manager/Fire Chief has filed an administrative appeal with CalPERS.

OAS recommends BNSD and EAMD determine the adjustments to the member's retirement account and allowance, if any, upon conclusion of the case.

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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. 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, of California Code of Regulations.

Respectfully submitted,

Original signed by Young Hamilton

YOUNG HAMILTON, CPA, CIA, CISA
Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Alan Feblowitz, CFE, Senior Manager
Chris Wall, Senior Manager
Jose Martinez, Lead Auditor

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APPENDIX A

OBJECTIVES

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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.), California Public Employees' Pension Reform Act of 2013 (PEPRA) 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.

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.

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

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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 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'S WRITTEN RESPONSE

Chester Public Utility District

P.O. BOX 503
CHESTER, CALIFORNIA 96020
(530) 258-2171

Young Hamilton
Chief (Acting), Office of Audit Services
CalPERS
P. O. Box 942701
Sacramento, CA, 94229-2701

6/17/2015


Dear Ms. Hamilton:

After review of the Draft Public Agency Review for our district, I agree with the recommendations given in the report. A number of the recommendations have already been implemented.

Thank you for your assistance and professionalism in the conducting of this review; your staff has provided great customer service.

Sincerely,

 Original signed by Joe Waterman

 Joe Waterman
General Manager / Chief
Chester Public Utility District
Chester Fire Department