

Office of Audit Services



CalPERS

Public Agency Review

County of Alpine

**CalPERS ID: 6525616833
Job Number: P13-059**

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 30, 2016

CalPERS ID: 6525616833
Job Number: P13-059

Janet Dutcher
Assistant CAO to Budget and Finance
County of Alpine
P.O. Box 266
Markleeville, CA 96120

Dear Ms. Dutcher:

Enclosed is our final report on the results of the public agency review completed for the County of Alpine (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Findings 2B, 2D, 3A-3C, 4, and 8A. We appreciate the additional information that you provided in your response. After consideration of this information we have added clarifying language to the findings and moved Finding 2B to 3D. As a result, Findings 2C and 2D are now 2B and 2C.

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 Supervisors, County of Alpine
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

COUNTY OF ALPINE

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief	1
Scope	1
Office of Audit Services Review Results	2
1: Pay Schedule	2
2: Special Compensation	4
3: Payrate and Earnings	6
4: Non-Reportable Compensation.....	8
5: Membership.....	10
6: Membership Reciprocal Self-Certification.....	12
7: Optional Membership.....	13
8: Retired Annuitants	14
Conclusion	16
Objectives	Appendix A
Agency's Written Response	Appendix B

COUNTY OF ALPINE

RESULTS IN BRIEF

The objective of our review was to determine whether the County of Alpine (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.

- Pay schedule did not meet all of the Government Code and CCR requirements.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Payrates and earnings were incorrectly reported.
- Amounts reported did not qualify as compensation earnable.
- Eligible employees were not enrolled into membership as required.
- Member reciprocal self-certification information was not maintained.
- Optional members enrolled did not meet eligibility requirements.
- Retired annuitant employment did not comply with all Government Code requirements.

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, 1964 to provide retirement benefits for local miscellaneous and 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 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 July 1, 2010 through June 30, 2013. Additionally, a retired annuitant who provided services under an employment contract that was extended through October 15, 2014 was included in this review. The review objectives and methodology are listed in Appendix A.

COUNTY OF ALPINE

OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency's pay schedules for miscellaneous, deputy sheriff, and law enforcement management employees did not meet all the requirements of the Government Code and CCR. Specifically, the pay schedules were not duly approved and adopted by the Agency's governing body in accordance with the requirements of applicable public meeting laws. In addition, the pay schedules did not include the position title and payrate for every employee position.

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 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.

COUNTY OF ALPINE

Recommendation:

The Agency should ensure its pay schedule 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

COUNTY OF ALPINE

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

Condition:

- A. The Agency incorrectly reported Uniform Allowance as a lump sum amount for sheriff deputy employees. Specifically, the Agency provides sheriff employees an annual Uniform Allowance of \$750.00 to be paid semi-annually in June and December of each year. The Agency incorrectly reported Uniform Allowance as a lump sum in the pay period ended December 31, 2013. Government Code Section 20636 requires that the employer identify the pay period(s) in which special compensation was earned.
- B. The Agency incorrectly reported Holiday Pay for a deputy sheriff employee during the pay period ended December 31, 2013. Specifically, the Agency incorrectly included Detective Incentive Pay and Police Officer Standard Training (POST) Incentive Pay, items of special compensation, with base payrate when calculating the Holiday Pay. As a result, Holiday Pay was over reported.
- C. The Agency incorrectly reported Advanced POST Incentive Pay. Specifically, the Agency's governing body approved Advanced POST Incentive Pay of eight percent for the County Sheriff. However, employees in the Law Enforcement Management Employees Association (LEMA) and Deputy Sheriff's Association (DSA) were eligible to receive Advance Post Incentive Pay of five percent and four percent, respectively. Government Code Section 20636 limits the special compensation reported to that received by similarly situated members in the closest related group or class. Therefore, eight percent for Advanced POST Certificate is not available to all members in the group or class.

Reportable special compensation is defined in CCR Section 571(a) and must be reported if it conforms to 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.

COUNTY OF ALPINE

Recommendation:

The Agency should ensure special compensation is reported in the period in which it was earned.

The Agency should ensure it does not include items of special compensation when calculating and reporting Holiday Pay.

The Agency should ensure items of special compensation meet the Government Code and CCR 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, § 20691
CCR: § 571

COUNTY OF ALPINE

3: The Agency incorrectly reported payrate and earnings.

Condition:

- A. The Agency incorrectly reported payrate and regular earnings for the Director of Health and Human Services. Specifically, the Agency reported a monthly payrate of \$10,453.00. The Director of Health and Human Services received a monthly payrate of \$8,500.00 as stipulated by an employment agreement. Effective June 16, 2013, the employment agreement for the Director of Health and Human Services was amended and approved by the Agency's governing body to include additional compensation of \$1,953.00 per month for assuming job responsibilities of the Interim Director of Behavioral Health Services during normal work hours. However, the additional compensation did not meet any of the special compensation definitions listed in CCR Section 571 including Temporary Upgrade Pay, which is reportable only if an employee works in an upgraded position and is not reportable for assuming additional duties.
- B. The Agency incorrectly reported payrate and earnings for a Senior Building and Grounds Supervisor who performed additional duties as a special assignment. Specifically, the Agency reported a payrate of \$3,920.00, which included an additional five percent (\$187.00) for performing temporary additional duties. However, the additional compensation did not meet any of the special compensation definitions listed in CCR Section 571 including Temporary Upgrade Pay which is only reportable if an employee works in an upgraded position. As a result, the additional five percent included in payrate is not reportable.
- C. The Agency reported a payrate that exceeded the maximum amount listed on a pay schedule. Specifically, the Agency reported a payrate of \$8,933.00 for the Under Sheriff. However, the maximum monthly payrate for the Under Sheriff position listed on the LEMA pay schedule was \$8,508.00.
- D. The Agency reported a payrate that exceeded the maximum amount listed on the pay schedule. Specifically, the Agency reported a payrate of \$5,064.79 for a Lead Maintenance Worker. The maximum monthly payrate for the Lead Maintenance Worker position listed on the Miscellaneous Employee's pay schedule was \$4,459.00.

Government Code Section 20636 defines payrate as the normal rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal

COUNTY OF ALPINE

working hours, pursuant to publicly available pay schedules. Payrate and earnings are important factors in computing a member's retirement allowance because service credit and final compensation are directly related to these components.

Recommendation:

The Agency should ensure payrates and earnings are reported correctly.

The Agency should ensure payrates are reported in accordance with approved publicly available pay schedules.

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, § 20635, § 20636
CCR: § 570.5, § 571

COUNTY OF ALPINE

4: The Agency incorrectly reported amounts to CalPERS that did not qualify as compensation earnable.

Condition:

The Agency reported final settlement pay as compensation earned. Specifically, the Agency reported compensation in the pay period ended December 15, 2013 for the pay period October 15, 2013 through November 15, 2013. The individual served a suspension period from October 1, 2013 through November 15, 2013, subsequently separated from the Agency on December 17, 2013, and retired on December 30, 2014. Records provided by the Agency confirmed that the individual was to be reimbursed for a suspension period of 160 hours during October 1, 2013 through November 15, 2013 upon separation from the Agency. The pay reported for the suspension period did not meet the definition of payrate under the Government Code Section 20636(b) (1) which defines payrate as the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to a publicly available pay schedule. Therefore, the Agency incorrectly reported earnings in the amount of \$6,838.12 and special compensation in the amount of \$683.91 in the pay period ended December 15, 2013 that did not qualify as compensation earnable. In addition, 0.0954 years of service credit was incorrectly posted to the individual's account and included in the final service credit at retirement. As a result, final compensation and service credit was overstated at retirement.

Further, the payment reported was not for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions. Therefore, the payment did not qualify as special compensation. Instead it was payment for time spent serving a suspension under the terms of a settlement agreement. As such, the pay was final settlement pay and should not have been reported since final settlement pay is excluded from compensation earned. Final settlement pay is pay or cash conversions of employee benefits that are used in excess of compensation earnable, that are granted or awarded to a member in connection with, or in anticipation of, a separation from employment as defined in Government Code Section 20636(f). Also, CCR Section 570 states that final settlement pay is excluded from payroll reporting to CalPERS in either payrate or special compensation.

Recommendation:

The Agency should ensure it reports compensation earnable in accordance with the Government Code and CCR.

COUNTY OF ALPINE

The Agency should work with EAMD and CalPERS Benefit Services Division (BNSD) 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, § 20962
CCR; § 570, § 571

COUNTY OF ALPINE

5. The Agency did not properly enroll employees into membership.

Condition:

- A. The Agency incorrectly enrolled and reported an employee hired after January 1, 2013. Specifically, the Agency hired a Work Force Development Specialist on July 1, 2013 and incorrectly enrolled and reported the employee as a classic member instead of a PEPRA member. Government Code Section 7522.04, states an employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was not employed by any other public employer prior to that date shall be classified as a PEPRA employee. The employee did not have prior membership with CalPERS through another agency; therefore, should have been enrolled as a PEPRA employee.
- B. The Agency did not enroll an eligible part-time employee with prior membership. Specifically, the employee provided part-time services to the Agency since 2003 and was subsequently hired and enrolled by another contracting agency effective September 1, 2009. Therefore, the part-time employee met the membership eligibility requirement. The employee provided service as a part-time Recycling Coordinator in Fiscal Year 2011-2012; however, the Agency did not enroll and report the employee's earnings to CalPERS. Government Code Section 20305 requires the Agency to enroll and report earnings for employees with active membership.
- C. The Agency did not enroll another EMS/Fire Administrator hired to work an average schedule of 25 hours per week from October 1, 2011 through September 30, 2012. Government Code 20305 requires the Agency to enroll employees hired into regular, part-time service with a work schedule of at least 20 hours per week for one year or longer or if 1,000 hours is worked within a fiscal year.

Government Code Section 20283 provides that any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears cost for member contributions and administrative costs of five hundred dollars (\$500) per member as reimbursement to this system's current year budget.

COUNTY OF ALPINE

Recommendation:

The Agency should ensure that employees hired after January 1, 2013 are correctly enrolled as PEPRA members.

The Agency should review the membership status of all part-time employees and enroll those that have prior non-refunded membership with CalPERS.

The Agency should enroll employees that meet membership eligibility criteria.

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: § 7522.04, § 20160, § 20028, § 20283, § 20305

COUNTY OF ALPINE

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

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 individual.

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 the information provided.

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

COUNTY OF ALPINE

7. The Agency did not submit written election for an optional membership enrollment.

Condition:

The Agency did not submit a written election for optional membership for an elective officer. The elective officer was previously enrolled in membership in 1997 and at that time, completed an Election of Optional Membership Form. However, in 2001 the elective officer separated from the Agency and was refunded contributions. Therefore, the elected officer should have filed a new election form with the Board. Government Code Section 20322 states that an elective officer is excluded from membership in the CalPERS retirement system unless the officer files with the board an election in writing to become a member.

Recommendation:

The Agency should work with EAMD to ensure elective officers are advised of their CalPERS optional membership rights when first elected and file the appropriate election in writing with CalPERS for those who elect to be members.

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, § 20283, § 20322

COUNTY OF ALPINE

8. Retired annuitants' employment did not comply with all Government Code requirements.

Condition:

- A. The Agency compensated two retired annuitants with payrates that exceeded the maximum payrate paid to employees performing comparable duties. One retired annuitant was hired to perform the duties of an Administrative Assistant with an hourly payrate of \$25.69. The maximum hourly payrate listed on the pay schedule for the Administrative Assistant position was \$23.75. A second retired annuitant was hired to perform the duties of the Chief Probation Officer with a monthly payrate of \$3,764.00. However, the Chief Probation Officer's payrate of \$3,764.00 was not listed in a pay schedule. Government Code Section 21221(h) and 21224 limits compensation to the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule.
- B. The Agency incorrectly employed a retiree who did not meet bona fide separation requirements. Specifically, the individual retired effective October 30, 2010 at the age of 54 and returned to work on November 1, 2010. The retired annuitant's normal retirement benefit was two percent at 55 under CCR Section 586.1. CCR Section 586.2 requires a member who has not attained normal retirement age to have a bona fide separation in service of at least 60 calendar days between the date of the member's retirement and the first day of work for the employer as a retired person. The 60 days shall commence on the day after retirement.

Government Code Section 21220 addresses the conditions and consequences of unlawful employment of a person who has been retired under this system. The Government Code states that any retired member employed in violation of this article shall reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law, pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment plus interest thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

The Government Code also states that any public employer that employs a retired member in violation of this article shall pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest

COUNTY OF ALPINE

thereon and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

Recommendation:

The Agency should limit the payrate for retired annuitants to the payrate of comparable positions as listed on the pay schedule.

The Agency should not employ a CalPERS retired annuitant who has not yet attained normal retirement age, as defined in CCR Section 586.1, unless the annuitant has met bona fide separation requirements.

OAS recommends the Agency work with CalPERS Benefit Services Division (BNSD) to determine the appropriate course of action.

Criteria:

Government Codes: § 20160, § 21202, § 21220, § 21220.5, § 21221, § 21224
CCR: § 586

COUNTY OF ALPINE

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
Diana Thomas, CIA, Senior Manager
Monica Bynum, Auditor

COUNTY OF ALPINE

APPENDIX A

OBJECTIVES

COUNTY OF ALPINE

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."

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 Agency's governing body in accordance with requirements of applicable public meetings laws.

COUNTY OF ALPINE

- ✓ 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.

COUNTY OF ALPINE

APPENDIX B

AGENCY'S WRITTEN RESPONSE



COUNTY OF ALPINE
Department of Finance
Carol McElroy- CAO/DOF
Janet Dutcher- Asst CAO to Budget and Finance

February 25, 2016

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

Re: Response by the County of Alpine to the January 27, 2016 Draft Audit Report, CALPERS
ID: 6525616833 JOB NUMBER: P13-059

Dear Chief Chappuie:

The County of Alpine (County) is in receipt of the Office of Audit Service's (OAS) January 27, 2016 Draft Audit Report (Report) relating to the County's contract with the California Public Employee's Retirement System (CalPERS). The County appreciates OAS's efforts in conducting its compliance review and the opportunity to comment on the Report. We are in agreement with some of the findings but, unfortunately, disagree with others. This response should clarify those areas of disagreement. The County agrees that there are issues needing correction (some corrections have already been initiated), and the County looks forward to working with OAS to remedy any deficiencies in the County's compliance with its CalPERS contract.

FINDINGS, RECOMMENDATIONS AND THE COUNTY'S RESPONSE

Finding 1: The County's pay schedule did not meet all of the Government Code (GC) and CCR requirements.

- Condition: The County's pay schedules were not duly approved and adopted by the County's governing body and did not include the titles for every employee position in accordance with CCR 570.5.
- Recommendation: The County should ensure its pay schedule meets all of the Government Code and CCR requirements.

COUNTY RESPONSE: The County agrees with this finding. Our pay schedules at the time of the audit were generated from our payroll processing software. These schedules did not include all positions or all pay ranges and steps. The County has since corrected its pay schedule in compliance with CCR 570.5 and we have routinely updated it as changes are made in our compensation structure.

Finding 2: The County did not report special compensation in accordance with the GC and CCR. This finding includes four conditions and four recommendations as noted below.

- Condition:
 - a. The County incorrectly reported the uniform allowance as a lump sum amount twice a year for sheriff deputy employees.
 - b. The County incorrectly reported special compensation, specifically longevity pay, with base pay rate and regular earnings.
 - c. The County incorrectly reported holiday pay by including detective incentive pay and POST incentive pay with the base pay rate when reporting special compensation.
 - d. The County report POST incentive pay for the County Sheriff at the wrong rate.

- Recommendation:
 - a. The County should ensure special compensation is reported in the period in which it was earned.
 - b. The County should ensure that items of special compensation are reported separately from base pay rate and regular earnings.
 - c. The County should ensure it does not include other items of special compensation when calculating and reporting holiday pay.
 - d. The County should ensure all items of special compensation meet the requirements of CCR 571.

COUNTY RESPONSE:

- a. The County agrees with this portion of this finding. We agree that the uniform allowance should be reported to CalPERS ratably over the period in which it is earned regardless of when payment is made.

- b. We disagree with this portion of this finding. We reported the correct base payrate for the individual in question. The OAS auditor arrived at the wrong conclusion because our pay schedule did not include all of the pay steps for this individual's position (see finding number one).

- c. The County agrees in principle with this portion of this finding. Our current payroll system is incapable of handling this level of complexity. Our only option at this time for achieving compliance is to manually calculate special compensation for those individuals affected until an automated solution is developed or CalPERS eases its reporting requirements.

- d. The County disagrees with this portion of this finding. We believe there is a factual misunderstanding and a misapplication of GC 20636(c)(2). That section provides that absence a labor policy or agreement, special compensation is limited to that which is received by similarly situated members in the closest related group or class. The Report concludes that the County should pay the Sheriff's POST incentive pay at five percent because there was no agreement to pay the given

eight percent and OAS believes the LEMA bargaining unit rate of five percent should be used because it is the closest aligned labor group.

We disagree. LEMA existed for a short duration of time, from 2005 to 2015. During its short history, it had no more than three members: the Undersheriff and two lieutenants. Aligning with this small select group causes the Sheriff's POST incentive pay to vary over time first dropping from eight percent to five percent when the LEMA group was organized in 2005 and rising back to eight percent when the LEMA group was disbanded in 2015 as attrition left it with just one member. The County believes consistency is a factor in selecting the best aligned group and therefore should not be LEMA.

It is our opinion the Sheriff is more closely aligned to a larger group consisting of employees commanded by the Sheriff. That group is the Deputy Sheriff's Association (DSA). There isn't any other group more closely aligned than the Sheriff's deputies, being sworn deputies commanded, directed and supervised by the elected Sheriff. Therefore, the POST incentive pay rate of eight percent as provided in the DSA agreement is the correct rate to use. We would also argue that the elected Sheriff should not receive a lesser POST incentive rate than the rate given to those individuals which he supervises.

Also, the Board of Supervisors at its August 31, 1999 and September 1, 1999 meeting passed a motion agreeing to pay the Sheriff an eight percent POST incentive benefit. This motion is documented in the minutes of the Board of Supervisors maintained by the County Clerk. This record of the Board of Supervisors decision was found in the Sheriff's payroll file.

Lastly, GC includes labor policy as a basis for determining a member's special compensation and/or rate. It has been long standing practice in Alpine County for more than twenty years to pay the elected sheriff an eight percent POST incentive, the same rate of pay received by the sworn deputies the Sheriff supervises and commands.

Finding 3: The County incorrectly reported payrate and earnings. This finding includes three conditions and two recommendations as noted below.

- Condition:
 - a. The County incorrectly reported payrate and regular earnings for the Director of Health and Human Services who concurrently rendered services in two positions and was paid additional compensation of \$1,953 per month for assuming the duties and responsibilities of the second position. The County incorrectly reported the combined compensation for both positions as regular pay. OAS argues the additional compensation is not reportable because it is considered overtime. The Report also states the payrate on the pay schedule was the lower compensation of \$8,500 per month for the first position.

- b. The County incorrectly reported payrate and regular earnings for a Senior Buildings and Grounds Supervisor who performed additional duties. The member's regular pay was combined with the additional pay and was reported as regular pay.
- c. The County reported an incorrect payrate for the Undersheriff. The payrate reported was greater than the payrate listed on the pay schedule for employees of LEMA.

- Recommendation:

- a. The Agency should ensure payrates and earnings are reported correctly.
- b. The Agency should ensure payrates are reported in accordance with approved publicly available pay schedules.

COUNTY RESPONSE: The County disagrees with this finding in its entirety. While we agree the County's pay schedule is incorrect, incomplete and noncompliant, the County cannot agree to compensate employees based on this incorrect, incomplete and noncompliance pay schedule. Doing so results in the County violating agreements entered into with employees.

The County's specific response to each of the conditions listed above is enumerated below:

- a. OAS alleges the individual's additional compensation was overtime and not reportable. OAS reasons any additional duties must have been completed in overtime because the individual already had a full time job.

We disagree. This individual did not work overtime but, instead, included the additional duties within the regular work day. Additionally, this individual is an exempt employee not subject to overtime provisions. How then could the additional duties result in overtime? The County believes the additional compensation is reportable as special compensation. GC 20636(c)(3) restricts special compensation to payments received for a work assignment that is performed during normal working hours. Here, the employee was given a work assignment which included extra duties and those duties were performed during normal working hours.

The Report also alleges the increased compensation exceeded the amount listed on the pay schedule for this position. On the contrary, this position was not listed on any pay schedule. The rate of pay was established by agreement setting the payrate at the higher amount. Therefore, the County argues either the additional compensation is reportable as special compensation or is correct as reported as regular pay.

- b. The County disagrees with this portion of this finding. OAS asserts this individual's additional compensation was nonreportable because it was considered overtime. For the same reasons given above, the additional compensation is special compensation within the meaning of GC 20636(c)(3). Here is another

employee who was given a work assignment which included extra duties and those duties were performed during normal working hours.

- c. The County disagrees with this portion of this finding because of a factual misunderstanding. The Report alleges the employee's approved payrate was 53BL2. The Report is incorrect. The employee's approved payrate was 53BL3. This payrate was approved at the April 5, 2011 Board of Supervisors meeting. The underlying cause of the problem stems from the L3 step not being listed on the County's pay schedule. The cause of the problem is not that the County reported the wrong pay rate but rather that the County's pay schedule was incorrect and incomplete (see finding number one).

Finding 4: The County incorrectly reported amounts to CalPERS that did not qualify as compensation earnable.

- Condition: The County reported final settlement pay as compensation earned for an individual who served a suspension, subsequently separated from the County and was reimbursed for the suspension period of 160 hours. CalPERS argues that the reimbursement did not qualify as compensation earnable under GC 20636(b)(1), neither as base pay or as special compensation, because it was payment for time spent serving a suspension under the terms of a settlement agreement.
- Recommendation: The County should ensure it reports compensation earnable in accordance with the GC and CCR.

COUNTY RESPONSE: The County disagrees with this finding. This individual had been on administrative leave. As such, the County suspended the individual's duties during this time, paid the individual's normal monthly salary (except for the period of October 1, 2013 to November 15, 2013) and reported such to CalPERS. It is clearly established that pay while on administrative leave is reportable.

Nevertheless, the County will work with EAMD and CalPERS Benefit Services Division to identify and make adjustments, if necessary, to this individual's account pursuant to GC 20160.

Finding 5: The County did not properly enroll employees into membership. This finding includes three conditions and three recommendations as noted below.

- Condition:
 - a. The County incorrectly enrolled and reported an employee hired after January 1, 2013 as a classic member instead of a PEPRA member as provided in GC 7522.04. Because the individual did not have prior membership with CalPERS through another agency, the County should have enrolled the individual as a PEPRA member.

- b. The county did not enroll an eligible part-time employee with prior membership. The part-time individual was enrolled by another agency while working concurrently for Alpine. Since the part-time employee was enrolled by another agency during Alpine employment, likewise the County should have enrolled the individual and reported the individual's earnings.
 - c. The County did not enroll another Recycling Coordinator hired to work an average schedule of 25 hours per week. The Report cites GC 20305 as requiring the County to enroll employees hired into regular, part-time service with a work schedule of at least 20 hours per week for one year or longer or if 1,000 hours is worked within a fiscal year.
- Recommendations:
 - a. The County should ensure that employees hired after January 1, 2013 are correctly enrolled as PEPRA members.
 - b. The County should review the membership status of all part-time employees and enroll those that have prior non-refunded membership with CalPERS.
 - c. The County should enroll employees that meet membership eligibility criteria.

COUNTY RESPONSE:

- a. The County agrees with this portion of this finding. While enrolling the individual using CalPERS automated on-line system, an incorrect start date of August 1, 2008 was used by (or enter into) the system to enroll the individual and as a result the automated system classified the member as classic.
- b. The County agrees with this portion of this finding. The County was not aware the individual had secured concurrent employment with another contracting agency. This individual was hired before the January 1, 2013 effective date established by CCR 579.3 for self-certifying membership. Other than periodically checking the on-line CalPERS automated system, we would ask for guidance on how to monitor compliance with this requirement.
- c. The County agrees with this portion of the finding except for a misstatement of fact. The correct position title for the individual in question is "EMS/Fire Administrator", not Recycling Coordinator.

Finding 6: The County did not maintain the required member reciprocal self-certification information.

- Condition: The County did not obtain the required member reciprocal self-certification form as required by CCR 579.3 for employees hired after January 1, 2013.

- Recommendation: The County should ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and the County should retain this information on file.

COUNTY RESPONSE: The County agrees with this finding. The County recently became aware of this requirement to have all new hires self-certify about membership in other retirement systems. Corrective action has already been taken. The Member Reciprocal Self-Certification Form has been added to our new hire package and is required to be returned to Personnel during the hiring process.

Finding 7: The County did not submit written election for an optional membership.

- Condition: The County did not submit a written election for optional membership for an elective officer who was previously enrolled in membership but separated from County employment and was refunded contributions.
- Recommendation: The County should work with EAMD to ensure elective officers are advised of their CalPERS optional membership rights when first elected and file the appropriate election in writing with CalPERS for those who elect to be members.

COUNTY RESPONSE: The County agrees with this finding. At the time, the County was unaware of this requirement. This individual believed she was already an enrolled member of CalPERS through her prior elected position and believed she had elected not to withdraw her previous contributions after separation from employment.

Finding 8: Retired annuitants' employment did not comply with all GC requirements. This finding includes two conditions and two recommendations as noted below.

- Condition:
 - a. The County compensated two retired annuitants (Administrative Assistant III and Chief Probation Officer) with payrates that exceeded the maximum payrate paid to employees performing comparable duties as listed on the County's pay schedule.
 - b. The County incorrectly employed a retiree who did not meet the bona fide separation requirements. The Report cites CCR 586.1 which requires a member who has not attained normal retirement age to have a bona fide separation in service of at least 60 calendar days.
- Recommendation:
 - a. The County should limit the payrate for retired annuitants to the payrate of comparable positions as listed on the pay schedule.
 - b. The County should not employ a CalPERS retired annuitant who has not yet attained normal retirement age unless the annuitant has met bona fide separation requirements.

COUNTY RESPONSE:

- a. With regard to the Administrative Assist III which was paid an hourly rate of \$25.69, the County agrees with this portion of this finding except the County believes the correct payrate is \$24.93 per hour, not the \$23.75 per hour quoted in the Report. The authorized payrate for this position for this timeframe is a range of R1 at \$17.71 per hour to L3 at \$24.93 per hour. Because our pay schedule was incorrect and incomplete, the L3 step was not listed (see finding number 1). The rate of \$24.93 per hour was the last paid rate for this vacant position temporarily held by the named retiree.

We disagree with the Report's assertion that the maximum payrate for the retired annuitant in the Probation Officer position is \$3,136 per month. OAS claims this is the payrate listed on our pay schedule except the County did not list this position on its pay schedule (see finding number 1). The County has an ongoing recruitment for this position. Few applicants have applied. None have met the minimum qualifications. One factor contributing to the poor response is below market payrate. Therefore, the County increased the payrate from \$3,136 per month, or \$39.20 per hour, to \$3,764 per month, or \$47.05 per hour. The higher rate is comparable to other representative counties and should be the appropriate payrate under GC 21221(h) and 21224.

- b. The County agrees to work with CalPERS Benefit Services Division to determine the appropriate course of action.

FINAL COUNTY RESPONSE: Notwithstanding any of the foregoing responses, the County agrees to work with CalPERS Employer Account Management Division (EAMD) and also with CalPERS Benefit Services Division (BNSD), if applicable, to determine the most appropriate course of action and to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to GC 20160.

Conclusion

The County desires to resolve all outstanding issues regarding the accounts of it's employees and will work closely with EAMD to do so. Any further documentation or clarification of factual issues will be provided to OAS.

Sincerely,



Original signed by Janet Dutcher

Janet Dutcher, CPA, CGFM
Assistant CAO to Budget and Finance