

Office of Audit Services



Public Agency Review

Heber Public Utility District

**CalPERS ID: 3710605884
Job Number: P13-072**

October 2014



California Public Employees' Retirement System
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October 24, 2014

CalPERS ID: 3710605884
Job Number: P13-072

Graciela Lopez, Finance Manager
Heber Public Utility District
P.O. Box H
Heber, CA 92249

Dear Ms. Lopez:

Enclosed is our final report on the results of the public agency review completed for the Heber Public Utility District (Agency). Your written response, included as an appendix to the report, indicates disagreement with the issues noted in the report. However, the Agency's response indicates it implemented the requirements to its pay schedule and agreed to make the administrative changes to report the value of uniforms. We appreciate the additional information regarding Finding 2 that you provided in your response. However, after consideration of this information, 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, Heber Public Utility District
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Anthony Suine, Chief, BNSD, CalPERS
Renee Ostrander, Assistant Chief, CASD, CalPERS

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RESULTS IN BRIEF

The primary objective of our review was to determine whether Heber Public Utility 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 one of the requirements of CCR Section 570.5.
- Special compensation was not reported as required by CCR Section 571.

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 16, 1988 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 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 23-25, 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: Agency's pay schedule did not meet all the Government Code and CCR requirements.

Condition:

The Agency did not have a formal pay schedule for the non-represented employee group. Additionally, the Agency's pay schedule for the represented employee group was not approved and adopted by the Agency's governing body, did not include the payrate for each position and did not identify all position titles. 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. According to 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).

HEBER PUBLIC UTILITY DISTRICT

Recommendation:

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

The Agency should work with CalPERS Customer Account Services Division (CASD) to make any 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 did not report special compensation as required by CCR 571.

Condition:

The Agency did not report the monetary value for the purchase of uniforms as special compensation. The Agency purchased and required represented employees to wear uniforms in accordance with its written labor agreement. 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. In addition, the Agency's written labor policy and agreement included a provision for uniforms; however, it did not specify the amount and conditions for payment as required by CCR Section 571(b).

Recommendation:

The Agency should report the monetary value of uniforms as special compensation and ensure its written labor agreement specifies the monetary value and conditions of payment for special compensation items.

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

Criteria:

Government Codes: § 20160, § 20636(c)(1), 20636(c)(6)
CCR: § 571

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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

HEBER PUBLIC UTILITY DISTRICT

APPENDIX A

OBJECTIVES

HEBER PUBLIC UTILITY 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.

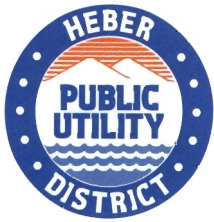
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- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's employment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 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



Heber Public Utility District

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Heber, CA 92249
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September 12, 2014

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

Regarding: Compliance Review – Heber Public Utility District

This letter is in response to the findings on the draft report of the compliance review of the Heber Public Utility District's contract with the California Public Employees' Retirement System. The Heber Public Utility District declares the following:

Finding: Pay Schedule did not meet one of the requirements of CCR Section 570.5.

Heber Public Utility District's response:

- Heber Public Utility District has Memorandum of Understanding with the Natural Resources Technical Association (NRTA) bargaining unit that complies with CCR 570.5.
- The Memorandum of Understanding was approved by the Governing Body and is publicly available. They have a three years term as follows:

FY 2010-2011, FY2011-2012 AND FY 2012-2013

FY 2013-2014, FY2014-2015 AND FY 2015-2016

- For the non-represented employees, with the exception of the General Manager, the salary schedule was approved by the Governing Body through the budget review and approval process for FY 2010-2011 and FY2011-2012. The General Manager is hired under separate contract. The General Manager is reviewed through an evaluation process and the Board of Directors may approve any modification to the contract relating to salary or any terms. Minutes of the Board of Directors Meetings record the approval of the salary schedule and any modification to the General Manager contact. The minutes are publicly available at Heber Public Utility Offices during normal business hours or on our website: www.heber.ca.gov
- The Heber Public Utility has, since 2009, made publicly available, the annual compensation reports published through the website: www.heber.ca.gov.

The Heber Public Utility District has taken the following corrective action to ensure compliance.

- During the budget review process for FY 2013-2014 and 2014-2015 the budget documents, which were approved, included a Salary Schedule listing all positions, hourly rates, and monthly salaries. The salary schedule is publicly available during normal business hours at the HPUD business office, and on the Heber Public Utility District website: www.heber.ca.gov.

Review Period and Notification of the CalPERS New Regulations.

The audit review period covers July 1st of 2010 through June 30, 2013. CCR 570.5 was adopted April 13, 2011 with an effective date of August 10, 2011. Circular Letter #200-056-11 dated August 19, 2011, was sent notifying all employers of the requirements of CCR 570.5

The first fiscal year under review, July 1, 2010 to June 30, 2011, was not subject to the CalPERS newly adopted regulation. The CalPERS circular was sent out after the Board had reviewed and adopted the salaries for the second fiscal year under review, July 1, 2011 to June 30, 2012. In addition to the timing concerns, it is important to mention that the Heber Public Utility District has published the annual compensation reports on the District's website since 2009.

Finding: Special Compensation was not reported as required by CCR Section 571.

Heber Public Utility District's response:

Heber Public Utility District provides the following services:

- Potable Water Treatment and Distribution
- Wastewater Treatment and Collection
- Solid Waste Services
- Parks and Recreation
- Storm Water Collection
- Street Lighting
- Fire Hydrants

To provide those services Heber PUD has 15 employees, 5 Administrative employees that are not required to wear uniforms and 10 employees that are required to wear uniforms while working. They are required to wear a uniform for safety reasons.

Personal Protective wear such as the HPUD uniform helps protect against injury while working in the water and wastewater treatment plants, in the distribution and collection systems, and in the parks and storm water basins. Employees are required to perform all of the job functions and duties for their positions that may include driving heavy equipment, using hand and all types of power tools, descending into the man holes or other confined spaces, installing, repairing and reading meters, fixing leaks in both water and sewer lines, mowing and cleaning the parks and restrooms, using dangerous chemicals as needed at the

treatment plants. It is the District's policy as related to Health and Safety of employees that requires they wear uniforms to protect them from chemicals, sewage, sludge, fertilizer, herbicides and other forms of contaminants that they are exposed to on a daily basis. It is the opinion of the Heber Public Utility District that uniforms are part of the employees' personal protection and the mandated use of uniforms are included in our Health and Safety Policy. Additionally, it is important that our employees are recognized as employees of the Heber Public Utility District when interacting with our customers in the field. Many times, our employees are required to make contact with customers at their homes and when wearing a uniform our customers are assured that the employee works for and is a legitimate representative of the District.

Heber Public Utility District rents the uniforms with the cost listed below:

2014-2015 cost

11 pants (the renting company cleans 5 every week) $\$4.05 \times 52 = \210.60 per year

11 shirts (the renting company cleans 5 every week) $\$3.39 \times 52 = \underline{\$176.28}$ per year

$\$386.88$ per year/employee

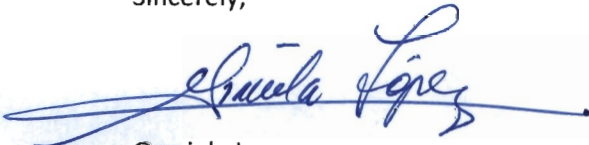
Actual cost per employee is **\$14.88** per pay period (bi-weekly)

The Heber Public Utility District has not implemented corrective action.

However, if the Heber Public Utility District's stated opinion, which is that uniforms are provided to the employee for health and safety reasons and not a reportable income to our employees, is incorrect, we will gladly do the necessary administrative changes in our payroll system to include the cost of the rented clean clothes/uniforms for Heber Public Utility District's employees.

We respectfully submit our responses and declarations for your consideration. Should you have any questions or need additional information or details, please don't hesitate to contact me or Mrs. Laura Fischer, General Manager at 760-482-2440.

Sincerely,



Graciela Lopez,
Finance Manager