



Office of Audit Services

P.O. Box 942701

Sacramento, CA 94229-2701

Telecommunications Device for the Deaf - (916) 795-3240

(916) 795-0900, FAX (916) 795-7836

February 2, 2011

Employer Code: 0849

Job Number: P09-054

Kelseyville Fire Protection District
Robert L Stone, Fire Chief
P. O. Box 306
Kelseyville, CA 95451

Dear Chief Stone:

Enclosed is our final report on the results of the public agency review completed for the Kelseyville Fire Protection District. Your agency's written response indicates agreement with some of the issues noted in the report and disagreement with others. The written response is included as an appendix to the report. As part of our resolution process, 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 Margaret Junker
Margaret Junker, CPA, CIA, CIDA
Chief, Office of Audit Services

Enclosure

cc: Finance Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Lori McGartland, Chief, ERSD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Honorable Board of Directors, KFPD

Kelseyville Fire Protection District



Public Agency Review



Office of Audit Services

**Employer Code: 0849
Job Number: P09-054**

February 2011

KELSEYVILLE FIRE PROTECTION DISTRICT

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Results in Brief.....	1
Background.....	1
Scope.....	2
Risk and Mitigation Table.....	4
Exceptions	
Risk 1: Compensation Reporting.....	4
Risk 2: Payrate Reporting	6
Risk 3: Payroll Reporting.....	6
Risk 4: Payroll Payments	11
Risk 5: Membership	12
Risk 6: Retired Annuitant.....	14
Conclusion	17
Written Response	Appendix

KELSEYVILLE FIRE PROTECTION DISTRICT

RESULTS IN BRIEF

We reviewed the Kelseyville Fire Protection District's (District) enrolled individuals, retirement contributions, member earnings, retirement and Automated Communications Exchange System (ACES) documentation for employees included in our test sample. A detail of the exceptions is noted in the Risk and Mitigation Table. Specifically, the following exceptions were noted during the review:

- Paid time-off earnings were not reported.
- Earnings were not properly reported.
- Payrate was incorrectly reported for one individual in our sample.
- Special compensation was incorrectly reported.
- Value of Employer Paid Member Contributions (EPMC) was incorrectly reported.
- Fair Labor Standards Act (FLSA) premium pay was incorrectly reported.
- Work schedule codes were incorrectly reported.
- Retirement contributions were not remitted in a timely manner.
- A temporary part/time employee was not enrolled timely.
- A retired annuitant was not reinstated after exceeding 960 hours.

BACKGROUND

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Employer Services Division (ERSD) manages contract coverage for public agencies and receives, processes, and posts payroll information. CalPERS Benefit Services Division (BNSD) provides services for eligible members who apply for service or disability retirement. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. The Office of Employer and Member Health Services (EMHS), as part of the Health Benefits Branch (HBB), provides eligibility and enrollment services to the members and employers that participate in the CalPERS health benefits program, including state agencies, public agencies, and school districts.

KELSEYVILLE FIRE PROTECTION DISTRICT

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

The Kelseyville Fire Protection District was organized pursuant to Section 14001-14314 of the California Health and Safety Code. The District is governed by an appointed Board of Directors, and provides fire protection services to the Kelseyville and Clearlake Riviera areas of Lake County. Memorandum of Understanding (MOU) and employment agreements outline all District employees' salaries and benefits and state the terms of employment agreed upon between the District and its employees.

The District contracted with CalPERS effective March 1, 1971, to provide retirement benefits for local safety employees and subsequently added miscellaneous employees effective March 1, 1980. The District's current contract amendment identifies the length of the final compensation period as three years for all coverage groups.

SCOPE

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the District's payroll reporting and enrollment processes as these processes relate to the District's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the District complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures were followed. The on-site fieldwork for this review was conducted on March 5, 2010, through March 9, 2010.

The review period was limited to the examination of sampled records and processes from January 1, 2007 through December 31, 2009. To accomplish the review objectives, we performed the following:

KELSEYVILLE FIRE PROTECTION DISTRICT

- ✓ Reviewed the contract and subsequent amendments the District had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the District had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the District's personnel and payroll procedures.
- ✓ Reviewed the payroll transactions and compared the District's payroll register with the data reported to CalPERS to determine whether the District correctly reported employees' compensation.
- ✓ Reviewed the District's payroll information reported to CalPERS to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the District's process for reporting payroll to CalPERS to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed reported payroll to determine whether the payment of contributions and the filing of payroll reports were submitted within the required timeframes.
- ✓ Reviewed the District's enrollment practices pertaining to temporary/part-time employees, retired annuitants, and independent contractors to determine whether the individuals met CalPERS membership requirements.
- ✓ Reviewed the District's classification of employees to determine whether the District reported employees in the appropriate coverage groups.
- ✓ Reviewed the District's process for industrial disability retirement determinations and appeals for local safety members.
- ✓ Reviewed the District's calculation and reporting of unused sick leave balances for retiring members.

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK AND MITIGATION TABLE

In developing our opinions, we considered the following risks and mitigations. We also include our observations and recommendations.

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The District may not accurately report compensation to CalPERS.</p>	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of 11 employees over two service periods. The service periods reviewed were January 2009 (1/09-0) and July 2009 (7/09-0).</p> <p>The earnings reported to CalPERS were reconciled to the District's payroll records. The District accurately reported compensation to CalPERS for the employees in our sample, except for the following instances:</p> <p><u>Earnings Not Reported.</u></p> <p>Our sample testing revealed that compensation paid to two sampled employees for paid time-off in service period 1/09-0 was not reported. Specifically, the two sampled employees utilized paid time-off hours during normal working hours in the month of July 2009, however, the District did not report the employees' paid time-off earnings to CalPERS. Compensation received for paid time-off is reportable compensation if taken during normal working hours.</p>	<p>The District should report all compensation earnable to CalPERS.</p> <p>The District should work with CalPERS ERSD to assess the impact of this nonreporting and determine what adjustments, if any, are needed.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>1. The District may not accurately report compensation to CalPERS. (continued)</p>	<p>Government Code, § 20630, defines compensation as the remuneration paid for the member’s services performed during normal working hours or for time during which the member is excused from work.</p> <p>Government Code, § 20636, states, in part, "(a) Compensation earnable by a member means the payrate and special compensation of the member."</p> <p><u>Compensation Incorrectly Reported</u></p> <p>The District did not correctly report a retroactive payment for one sampled employee. Specifically, the employee received a payment in July 2009, retroactive to June 2009. However, the District did not apply the retroactive payment received in July 2009 to the correct service period.</p> <p>Government Code, § 20630 (b), states, “When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid.”</p>	<p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p> <p>The District should report compensation in the period earned. The District should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>2. The District may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed the payrates reported to CalPERS in service period 7/09-0 for 10 employees. We reconciled the payrates to the District's public salary information to determine whether payrates for the sample employees were properly authorized and reported to CalPERS. The employees' salaries were properly authorized and reported in accordance with publicly available salary schedules, except for one sampled employee.</p> <p>Specifically, in service period 7/09-0, an inter-facility transport driver was paid an hourly rate of \$10.30; however, the District incorrectly reported a payrate of \$10.27 to CalPERS. Effective July 1, 2009, the District's salary schedule provides an hourly rate of \$10.30 for the inter-facility transport driver.</p> <p>Government Code, § 20636, states "(b)(1) Payrate means 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 publicly available pay schedules."</p>	<p>The District should report the correct payrates to CalPERS.</p> <p>The District should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>
<p>3. The District may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll information reported to CalPERS. Our sample testing revealed the District correctly reported the payroll information to CalPERS, except for the following instances:</p>	

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p><u>Special Compensation Included In Regular Earnings</u></p> <p>The District incorrectly included items of special compensation in the reported regular earnings and base payrate. Specifically, the District incorrectly added hazmat and certificate pay in the reported regular earnings and base payrate for four sampled members. Special compensation must be reported separately as special compensation.</p> <p>Government Code, § 20636, states, in part, "(a) Compensation earnable by a member means the payrate and special compensation of the member... (b)(1), Payrate means the normal monthly rate of pay or base pay of the member....(c)(1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignments, workdays or hours, or other work conditions."</p> <p><u>EPMC Incorrectly Reported</u></p> <p>On July 1, 2008, the District's Board passed resolution 2008/09-2 to pay and report the value of EPMC as additional compensation up to 99 percent. The same 11 employees were reviewed for service periods 1/09-0 and 7/09-0. We found that the District incorrectly reported the</p>	<p>The District should report items of special compensation separately as special compensation.</p> <p>The District should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p> <p>The District should report the correct value of EPMC for all employees entitled to this benefit.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p>value of EPMC to CalPERS for seven of the 11 employees during service period 1/09-0 and eight of the 11 employees during service period 7/09-0.</p> <p>Government Code, § 20636(c)(4), states, in part, “Special compensation may include the full monetary value of normal contributions paid to the board by the employer.”</p> <p>California Code of Regulations, § 571(a)(1), states, “Employer Paid Member Contribution (EPMC) is the full monetary value of employer-paid member contributions paid to CalPERS and reported as an item of special compensation on behalf of all members in a group or class. The value of EPMC is calculated on all ‘compensation earnable’ excluding the special compensation of the monetary value of EPMC paid to CalPERS by the employer under Government code Section 20636(c)(4) thus eliminating a perpetual calculation. A Resolution or ordinance of the governing body must be provided to CalPERS indicating the group or class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation.”</p>	<p>The District should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p><u>FLSA Pay Incorrectly Computed And Reported</u></p> <p>Shift firefighters are scheduled to work a 24-day cycle and an average of 56 hours per week. The District and the District employees agreed to average the FLSA premium pay to 12.67 hours per month, paid at one-half the amount of the regular pay rate. Eight of the eleven sampled employees were eligible and received FLSA during the two service periods sampled. However, we found the District paid incorrect amounts of FLSA to employees and incorrectly reported FLSA to CalPERS by computing the FLSA premium pay using incorrect payrates.</p> <p>Government Code, § 20636 (c)(6), states, in part, “The board shall promulgate regulations that delineate more specifically and exclusively what constitutes ‘special compensation’ as used in this section...premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 et seq. of Title 29 of the United States Code shall be included as special compensation....”</p> <p>California Code of Regulations, § 571(a)(5), defines FLSA pay as, “Compensation paid for normal full-time work schedule including premium pay required by FLSA.” Any</p>	<p>The District should correctly report FLSA premium pay for employees eligible for FLSA premium pay compensation. The District should work with CalPERS ERSD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p>work performed above the normal work schedule would be considered overtime and would not be reportable to CalPERS.</p> <p><u>Work Schedule Codes</u></p> <p>The District correctly reported the payroll information to CalPERS for the sampled employees except for the reported work schedule codes. Specifically, our sample testing revealed that in service period 7/09-0, the District incorrectly reported work schedule code 173 for seven employees scheduled to work an average of 243 hours per month. The District should have reported work schedule code 243 for employees working an average of 243 hours per month.</p> <p>The work schedule code is a 3-digit numeric code used in calculating both employer rate and the member's retirement benefit. It identifies the full-time employment for employees in the same work group, such as by department or duties, but not by individual employee. Approved work schedule codes range from 34 to 60 hours per week. The work schedule code typically will not vary from report to report.</p>	<p>The District should ensure that correct work schedule codes are reported to CalPERS.</p> <p>The District should work with CalPERS ERSD to determine the impact of this incorrect reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employees mentioned in this section of the report has been sent to the District and CalPERS ERSD as an appendix to our draft report.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>3. The District may not accurately report payroll information to CalPERS. (continued)</p>	<p>The following formula is used to determine the work schedule code for a full-time monthly paid employee:</p> $\frac{\text{Number of hours per week} \times 52 \text{ weeks per year}}{12 \text{ months per year}}$	
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS.</p>	<p>We reviewed payroll information for service periods 1/09-0 and 7/09-0 to determine whether the District submitted payroll information within the required timeframes. Payroll information consists of contribution payments and CalPERS summary and listing reports. Contribution payments must be received within 15 days of the close of the pay period and summary and listing reports must be on file within 30 days after the close of the pay period. Our testing revealed the following:</p> <ul style="list-style-type: none"> • Service Period: 1/09-0: Contribution payments due on February 15, 2009, were paid on February 27, 2009; 12 days late. • Service Period: 7/09-0: Contribution payments due on August 15, 2009, were paid on August 25, 2009; 10 days late. <p>California Code of Regulations, § 565, states that "Member and employer contributions shall be received in the System's Sacramento office on or before 15 calendar</p>	<p>The District should ensure that payroll contribution payments are submitted timely.</p> <p>The District should work with CalPERS ERSD to assess the impact of this late reporting and determine what adjustments, if any, are needed.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The District may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>days following the last day of the pay period to which they refer."</p>	
<p>5. The District may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract between CalPERS and the District excludes Police Officers from CalPERS membership. The District did not employ any police officers during the review period. Additionally, we did not notice any Police employees listed on the employee roster.</p> <p><u>Optional Membership</u></p> <p>Elective officers who serve on a public commission, board, council, or similar legislative or administrative body who have continuously served in office held on June 30, 1994, have optional membership rights. Elected or appointed officials elected for the first time on or after July 1, 1994, are not eligible for membership. The District's Board members did not receive compensation for their service; therefore, they were correctly excluded from membership.</p>	<p>None.</p> <p>None.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The District may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Temporary/Part-Time Employees</u></p> <p>We reviewed the hours worked by a sample of five temporary/part-time employees during fiscal years 2007/2008 and 2008/2009 to determine whether they met membership eligibility, and if so, were timely enrolled into CalPERS membership. The District enrolled employees once eligibility requirements were met, except in one instance. Specifically, we found that one part-time employee was enrolled into CalPERS membership by the District, with an effective date of March 31, 2008. However, the employee met CalPERS eligibility by working over 1,000 hours as of December 2007, and therefore, should have been enrolled effective no later than January 1, 2008.</p> <p>Government Code, § 20305 (a), states, in part, “An employee serving on a less than full-time basis is excluded from this system unless... (3)(B) The person works more than...1,000 hours within the fiscal year, in which case, membership shall be 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.”</p>	<p>The District should ensure that all part-time employees are enrolled in a timely manner when membership requirements are met.</p> <p>The City should work with CalPERS ERSD to assess the impact of this late membership enrollment and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the employee mentioned in this section of the report has been sent to CalPERS ERSD as an appendix to our draft report.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The District may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Independent Contractor</u></p> <p>We reviewed the District's IRS 1099 Miscellaneous Income forms for calendar years 2008 and 2009 in order to identify employees that may be misclassified as independent contractors. The selected individuals were properly classified as independent contractors and correctly excluded from CalPERS membership, with the exception of one sampled retired annuitant that was paid as an independent contractor. This issue is discussed further in Risk 6.</p>	<p>The District should request an approval from CalPERS BNSD by submitting the retiree's contract or employment agreement prior to the retiree accepting employment as an independent contractor.</p>
<p>6. The District may unlawfully employ retired annuitants.</p>	<p>We reviewed the hours worked for one retired annuitant who worked for the District in fiscal years 2007/2008 and 2008/2009. Our sample testing revealed that the retired annuitant worked as a bookkeeper for the District a total of 959 hours as of March 2008. On March 13, 2008, the retired annuitant signed a three-month contract to become an independent contractor of the District, and performed the same duties as an independent contractor through June 30, 2008.</p> <p>The individual worked 959 hours as a retired annuitant and 248 hours while incorrectly classified as an independent contractor for a total of 1,207 hours in fiscal year 2007/2008. However, the retired annuitant was not reinstated into CalPERS membership once the threshold</p>	<p>The District should review all hours worked in a calendar year by all retired annuitants and reinstate those that exceed the 960 hour criteria.</p> <p>In addition, the District should implement procedures to monitor the hours worked by retired annuitants in order to reinstate retired annuitants who exceed the 960 hour threshold.</p> <p>A confidential list identifying the retired annuitant mentioned in</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>6. The District may unlawfully employ retired annuitants. (continued)</p>	<p>of 960 hours was reached. The District repeated the same hiring practice in fiscal year 2008/2009 and the retired annuitant worked a total of 1,325 hours.</p> <p>Government Code, § 21224(a) states, in part, "A retired person may serve without reinstatement from retirement or loss or interruption of benefit during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year."</p>	<p>this section of the report has been sent to the District and CalPERS BNSD as an appendix to our draft report.</p>
<p>7. The District may not appropriately report members under the proper coverage group code.</p>	<p>Our sample testing revealed that the District reported individuals under the appropriate coverage group code.</p>	<p>None.</p>
<p>8. The District may not appropriately process industrial disability retirement determinations and appeals for safety members.</p>	<p>We reviewed the District's procedures for processing applications for Industrial Disability Retirement. We found that one District employee filed for industrial disability retirement. The District made the industrial disability retirement determination within the required six month timeframe.</p>	<p>None.</p>

KELSEYVILLE FIRE PROTECTION DISTRICT

RISK	MITIGATION & OBSERVATION	RECOMMENDATION
9. The District may not accurately report unused sick leave balances for retiring CalPERS members.	The District elected the optional provision of Government Code, § 20965, credit for unused sick leave for the safety group. On July 1, 2005 this provision was mandated for miscellaneous employees. We sampled three CalPERS members that retired during the review period and determined that the District properly reported the balance of unused sick leave for the three sampled retirees.	None.

KELSEYVILLE FIRE PROTECTION DISTRICT

CONCLUSION

We limited this review to the areas specified in the scope section of this report. We limited our test of transactions to samples of the District's payroll reports and personnel records. The sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code, except as noted above.

Respectfully submitted,

Original Signed by Margaret Junker

Margaret Junker, CPA, CIA, CIDA
Chief, Office of Audit Services

Date: February 2011

Staff: Michael Dutil, CIA, Senior Manager

Diana Thomas, CIDA, Manager

Nancy Sayers

Jose Martinez

January 7, 2011

CalPERS

Margaret Junker, Chief Officer, Audit Services

P.O. Box 942701

Sacramento, Ca. 94229-2701

1 (916) 795-7836 fax

Dear Ms. Junker,

The fire district is in receipt of the public agency review of the Kelseyville Fire Protection District, Employer Code 0849, Job Number P09-054, and offer the following response.

May we start out by stating that on January 3, 2011 we contacted PERS and requested that Jody Cozad, Liz Lott and Liz Burke contact us so that we might receive guidance in complying with the recommendations relating to membership, compensation and the details of independent contractor status. To date, we have not been in contact with these individuals and have therefore formulated the following response without their input.

We will answer in the order of risks, beginning with number 1.

Risk 1: .: We agree that PTO was not included in retirement calculations.

We have changed the schedule of the employees eligible to receive "paid time off" so that this will not be an issue in the future.

We disagree with the finding due to the fact that we can't pay for time not worked. Due to the district's pay periods, income from the end of one month (i.e. 6/09-7/09) time worked after the 28th would be included in the next month's calculations for payroll and PERS purposes.

Risk 2: : We agree with the finding. Pay rate was corrected as soon as identified by Jose Martinez. This payroll correction would have been also reflected in the next month's payroll report with PERS.

Risk 3: We agree with the finding. The work schedule code has been corrected for all employees.

1. : A) The error occurred with a carry-over figure in pay rate from August 2008 on the PERS report. B) \$536.16 in regular pay was not used in PERS calculations as employee had changed from an hourly employee to a salaried employee and had some carry-over hours.
2. : We agree with the finding. Special compensation has been removed from regular earnings. Was misreported but was being included with regular earnings.
3. We agree with the finding. Hazardous materials certificate pay has been moved to special compensation, thus correcting the error.
4. : We agree with the finding. The employee had a rate increase in January 09. Special compensation was in fact underreported for that month as well as EPMC. Error was corrected in February with payroll.
5. : We agree with finding. Special compensation was included in regular pay. Employee retired prior to having error corrected.
6. We agree with the findings.
7. : We agree with the findings.
8. : We disagree with the findings. ██████ was not employed until July 2009. As such, he had a separate employee contract stating that the district would pay 100% of EPMC.
9. : We disagree with the finding. Employee has separate agreement stating that in January 2009, district would pay 100% of EPMC.

Risk 4: The district agrees that payments were late. However the lateness was due to the dates of the District's monthly board meetings where the bills are paid. The District will, in the future, make every effort to provide payment in a timely manner, even if our meetings are later in the month.

Risk 5: The district agrees that the employee was enrolled late. A new procedure has been put in place to more closely monitor employee hours worked.

Risk 6: . We disagree with this finding.

In November or December of 2006 ██████ called PERS because she was going to put out feelers in early 2007 to various Special Districts to work for them part-time. She asked about the limitations because she was going to be drawing PERS retirement, and was going to put herself out there for possibly working for several districts at once. She was told that she could work a total of 960 hours, and after that would have to be an independent contractor for the remainder of the fiscal year if she exceeded that amount. She asked the question several different ways to make sure she understood the answer correctly.

Sometime between her retirement date of 12/14/06 and the first week of January in 2007, when she approached this department (Kelseyville Fire), we asked her to come to work for us on a part time basis. She started employment with us on 1/8/07. At that time, she again called PERS to explain the situation and again ask what the limitations would be. Again she was told

that she could work 960 hours, then would have to become an independent contractor if she exceeded those hours.

In the spring of 2008, as she was nearing the 960 hour mark, she called PERS one more time. She explained what she was doing and that she was going to become an independent contractor for the District for the remainder of the fiscal year. Again she was told this would be OK, as long as no one told her when or how to complete her duties. She was to complete her assigned tasks in her own time and in her own way. This was definitely the case in her duties at Kelseville Fire. She worked on her own schedule, answering to no one.

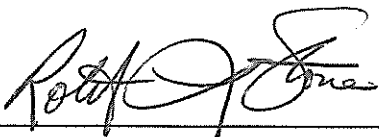
During one of these phone calls to PERS, the man she talked to told her that once her 960 hours were up and she went on contract, she could work "1000 hours a week if she wanted. It didn't matter as long as she wasn't on the payroll, but worked as a self employed contractor."

During the time worked as an independent contractor, she billed the department for her services, carried her own insurance, and paid self employment taxes.

She took these PERS employees at their word, thinking she was truly working within the limits of PERS rules. Unfortunately, she did not save the names of the parties she talked to, or the exact dates of these calls.

The district acknowledges that may have worked 248 hours over the 960 allowed. This, however, has been corrected with a schedule change. In the future will not work more than 960 hours in a fiscal year. intends to remain a retiree. This correction was made in FY 2010/11.

Respectfully Submitted,



Robert L. "Mike" Stone, Fire Chief