

# Monterey County Water Resources District



## Public Agency Review



**Office of Audit Services**

**Employer Code: 0409  
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**July 2010**

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# MONTEREY COUNTY WATER RESOURCES AGENCY

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## RESULTS IN BRIEF

We reviewed the Monterey County Water Resources Agency's (Agency) enrolled individuals, health and retirement contributions, member earnings and required health, 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:

- Retirement contributions were not remitted timely.
- Unused sick leave was not reported to CalPERS.
- Required health enrollment forms were not maintained, and eligibility verification for dependents enrolled in CalPERS Health Benefits Program was not provided.
- Health contribution payments were not remitted timely.

## 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.

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.

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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 Agency manages, protects, and enhances the quantity and quality of water and provides specified flood control services for present and future generations of Monterey County. The Agency is governed by a nine-member appointed Board of Directors. Memoranda of Understanding (MOU) and an employee benefit summary outline all Agency employees' salaries and benefits and state the terms of employment agreed upon between the Agency and its employees.

The Agency contracted with CalPERS effective July 1, 1959, to provide retirement benefits for local miscellaneous employees. The Agency contracted with CalPERS effective January 1, 2000, to provide health benefits to all employees.

## **SCOPE**

As part of the Board approved plan for fiscal year 2009/2010, we reviewed the Agency's payroll reporting and enrollment processes as these processes relate to the Agency's health and retirement contracts with CalPERS. The objective of this review was limited to the determination that the Agency 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 September 14, 2009 through September 17, 2009.

The review period was limited to the examination of sampled records and processes from July 1, 2006 through June 30, 2009. To accomplish the review objectives, we performed the following:

- ✓ Reviewed the contract and subsequent amendments the Agency had with CalPERS, correspondence files maintained at CalPERS, and employment agreements the Agency had with its employees.
- ✓ Interviewed key staff members to obtain an understanding of the Agency's personnel and payroll procedures.

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- ✓ Reviewed the payroll transactions and compared the Agency's payroll register with the data reported to CalPERS to determine whether the Agency correctly reported employees' compensation.
- ✓ Reviewed the Agency's payroll information reported to CalPERS to determine whether employees' payrates were reported pursuant to public salary information.
- ✓ Reviewed the Agency'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 Agency'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 Agency's classification of employees to determine whether the Agency reported employees in the appropriate coverage groups.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances for retiring employees.
- ✓ Reviewed employees and their dependents to determine whether the Agency properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed health premium payment information to determine whether the payments were remitted within the required timeframe.
- ✓ Reviewed health contribution payments to determine whether the Agency contributed the correct employee/employer contribution amounts.
- ✓ Determined whether the Agency maintained the required user security documents on file and reasonable security procedures were in place for ACES users.

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## 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 Agency may not accurately report compensation to CalPERS.</p>	<p>We reviewed payroll records and compensation reported to CalPERS for a sample of 12 employees over two service periods. The service periods reviewed were the second service period of August 2007 (8/07-4) and the first service period of June 2009 (6/09-3).</p> <p>The earnings reported to CalPERS were reconciled to the Agency's payroll records. The Agency accurately reported compensation to CalPERS for the sampled employees during the two sampled service periods.</p>	<p>None.</p>
<p>2. The Agency may not report payrates in accordance with publicly available salary schedules.</p>	<p>We reviewed payrates reported to CalPERS in service period 6/09-3 for the sampled employees identified in Risk 1. We reconciled the payrates to the Agency's public salary information. The employees' payrates were properly authorized, paid and reported in accordance with publicly available salary information.</p>	<p>None.</p>
<p>3. The Agency may not accurately report payroll information to CalPERS.</p>	<p>We reviewed the payroll listing information reported to CalPERS for the 12 sampled employees over two service periods, 6/09-3 and 8/07-4. We also reviewed payroll reporting elements to ensure the Agency utilized the</p>	<p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
3. The Agency may not accurately report payroll information to CalPERS. (continued)	correct pay codes, work schedule codes and service period type codes. Our sample testing revealed that the Agency correctly reported payroll information and payroll reporting elements to CalPERS.	
4. The Agency may fail to or did not submit payroll in a timely manner to CalPERS.	<p>We reviewed the payroll information for service periods 6/09-3 and 8/07-4 and found that payroll contributions were not submitted within required timeframes. Specifically, we noted the following:</p> <ul style="list-style-type: none"> <li>• Service period 6/09-3: The pay period ended June 5, 2009. The CalPERS summary report and payroll listing were due on July 5, 2009, and were received timely. The contributions were due on June 20, 2009; however, the contribution check dated June 18, 2009, was received late on June 24, 2009.</li> <li>• Service period 8/07-4: The pay period ended August 17, 2007. The CalPERS summary report and payroll listing were due on September 16, 2007, and were received timely. The contributions were due on September 1, 2007; however, the contribution check dated August 30, 2007, was received late on September 13, 2007.</li> </ul> <p>California Code of Regulations, § 565, states, "Member and employer contributions shall be received in the</p>	<p>The Agency should ensure contribution payments are submitted to CalPERS timely.</p> <p>The Agency should work with CalPERS ERSD to assess the impact of this late payroll reporting and determine what adjustments, if any, are needed.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>4. The Agency may fail to or did not submit payroll in a timely manner to CalPERS. (continued)</p>	<p>System's Sacramento office on or before 15 calendar days following the last day of the pay period to which they refer."</p>	
<p>5. The Agency may not enroll all eligible employees into CalPERS membership.</p>	<p><u>Excluded Employees</u></p> <p>The contract between the Board of Administration of CalPERS and the Board of Directors of the Agency excluded local safety employees from CalPERS membership. The Agency did not employ local safety employees during the review period.</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. We found no instances in which a member of the Board of Directors of the Agency was a CalPERS member.</p>	<p>None.</p> <p>None.</p>



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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>5. The Agency may not enroll all eligible employees into CalPERS membership. (continued)</p>	<p><u>Temporary/Part-time Employees</u></p> <p>We selected a temporary/part-time employee and examined the number of hours worked in fiscal year 2008/2009 to determine whether the employee reached or exceeded the 1,000 hour membership eligibility criterion. Our sample testing revealed the Agency correctly excluded the employee from CalPERS membership.</p> <p><u>Independent Contractor</u></p> <p>We reviewed the employment agreements for one independent contractor hired by the Agency in calendar years 2008 and 2009. The selected individual was properly classified as an independent contractor and correctly excluded from CalPERS membership.</p>	<p>None.</p> <p>None.</p>
<p>6. The Agency may unlawfully employ retired annuitants.</p>	<p>We reviewed the hours worked for one retired annuitant in fiscal year 2008/2009. Our sample testing revealed that the retired annuitant did not exceed the 960 hour threshold.</p> <p>We also determined that a bona fide separation from employment was not needed as the sampled retired annuitant had retired before the enactment of Government Code, § 21220.5.</p>	<p>None.</p> <p>None.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>7. The Agency may not appropriately report members under the proper coverage group code.</p>	<p>Our sample testing revealed that the Agency reported individuals under the appropriate coverage group code.</p>	<p>None.</p>
<p>8. The Agency may not accurately report unused sick leave balances for retiring CalPERS members.</p>	<p>Effective July 1, 2005, the contractual provision of Government Code, § 20965, credit for unused sick leave, became a mandated benefit for the Agency. We reviewed the Agency’s certification of unused sick leave for a sample of three employees. Our sample testing revealed that the Agency properly reported the balance of unused sick leave for two of the sampled retirees. However, the Agency did not report the balance of unused sick leave for one of the sampled retirees. Specifically, the retiree had 9.679 days of unused sick leave prior to retirement. However, the Agency did not report the balance to CalPERS.</p> <p>Government Code, § 20965, provides that, “a local miscellaneous member and local safety member, whose effective date of retirement is within four months of separation from employment,...be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her employer. The certification shall report only those days of unused sick leave that were accrued by the</p>	<p>The Agency should ensure that unused sick leave balances are reported to CalPERS for retiring members.</p> <p>The Agency should work with CalPERS BNSD to assess the impact of this non-reporting and determine what adjustments, if any, are needed.</p> <p>A confidential list identifying the individual mentioned in this section of the report has been sent to the Agency and CalPERS BNSD as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>8. The Agency may not accurately report unused sick leave balances for retiring CalPERS members. (continued)</p>	<p>member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found."</p>	
<p>9. The Agency may not properly enroll eligible employees and their dependents in health benefits.</p>	<p>We reviewed a sample of six employees to assess the health benefits eligibility and enrollment of members and their dependents in CalPERS Health Benefits Program. Our sample testing revealed that the Agency did not provide a copy of a marriage certificate to support the spousal enrollment for three of the six sampled members, and did not provide a birth certificate to support the enrollment of all six sampled members' dependents. In addition, the Agency did not complete and maintain a Declaration of Health Coverage (HB-12A) form for all six sampled employees. Finally, the Agency did not have on file the Health Benefits Plan Enrollment (HBD-12) form for all six sampled employees. The Agency instead provided us with an alternative to the HBD-12. However, upon review of the alternative enrollment form, it lacked the following elements:</p> <ul style="list-style-type: none"> <li>• An acknowledgement that the employee was enrolling or not enrolling in a Health Benefits Plan under the Public Employees' Medical and Hospital Care Act (PEMHCA).</li> </ul>	<p>The Agency must ensure that the proper member and dependent enrollment documentation is on file at the Agency within 60 days from the date of our final report.</p> <p>Please send an email to: <i>HBB_Audit_Services@calpers.ca.gov</i> once the requested documentation is on file. The CalPERS HBB may be contacted at (916) 795-3836 with any questions.</p> <p>A confidential list identifying the individuals mentioned in this section of the report has been sent to the Agency and CalPERS HBB as an appendix to our draft report.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The Agency may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<ul style="list-style-type: none"> <li>• Employee certification that any dependents listed were eligible family members as defined by PEMHCA.</li> <li>• Certification by the Health Benefits Officer that he/she was a duly appointed, qualified and acting officer of the Agency.</li> </ul> <p>We determined that the Agency’s health enrollment form was not a sufficient alternative to the HBD-12.</p> <p>Government Code, § 20085, states, in part, “(a) It is unlawful for a person to do any of the following: (1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system. (b) For purposes of this section, ‘statement’ includes, but is not limited to, any oral or written application for benefits, report of family relationship..., or continued eligibility for a benefit or the amount of a benefit administered by this system. (c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine. (d) A person violating any provision of this section may be</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The Agency may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>required by the court in a criminal action to make restitution to this system... for the amount of the benefit unlawfully obtained."</p> <p>Government Code, § 22797, states, "The board or an authorized representative may perform audits of each employer and may, at a specified time and place, require the employer to provide information or make available for examination and copying books, papers, data, and records, including, but not limited to, personnel and payroll records, as deemed necessary by the board to determine compliance with the provisions of this part. The information obtained from an employer shall remain confidential."</p> <p>California Code of Regulations, § 599.500 states, in part, "(f) 'Enroll' means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan."</p> <p>California Code of Regulations § 599.502(b)(1), states, "An eligible employee shall enroll or register not to enroll no later than his or her 60<sup>th</sup> calendar day of employment or reemployment following a break in service of at least one full monthly pay period."</p>	

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>9. The Agency may not properly enroll eligible employees and their dependents in health benefits. (continued)</p>	<p>The HB-12A provides information on enrollment options and consequences for non-enrollment and is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). Effective January 1, 1998, each employee must sign the HB-12A when they are first eligible to enroll or when they make any change to their health coverage. This includes open enrollment changes, changing health plans when moving, adding or deleting a dependent, or canceling health benefits. The employer must provide the HB-12A at the time the employee requests enrollment or with the HBD-12. The employer also must provide the employee a copy of the signed form and keep the original in the employee's file.</p>	
<p>10. The Agency may not contribute the appropriate health contribution amounts for active employees.</p>	<p>We reviewed the health contributions reported for January 2009 and March 2009. We determined that the Agency contributed the appropriate health contribution amount as part of the sampled members' total monthly premium amount.</p>	<p>None.</p>
<p>11. The Agency may not remit health contributions within the required timeframe.</p>	<p>We reviewed the health contribution payments for January 2009 and March 2009 to determine whether payments were submitted within the required timeframes to CalPERS. Health contribution payments must be received in full on or before the 10th day of the month for which the contribution is due. The Agency submitted the payment for March 2009 timely. However the health</p>	<p>The Agency should ensure health contribution payments are received by CalPERS no later than the 10th day of the month in which the contribution payment is due.</p>

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RISK	MITIGATION & OBSERVATION	RECOMMENDATION
<p>11. The Agency may not remit health contributions within the required timeframe. (continued)</p>	<p>contribution payment records provided by the Agency indicated that for January 2009, the check issued on January 20, 2009, and paid on January 27, 2009, exceeded the January 10, 2009, deadline by 17 days.</p> <p>Government Code, § 22899(a), states, in part, "The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due."</p>	
<p>12. The Agency may not maintain appropriate ACES security procedures.</p>	<p>We reviewed the security procedures for the Agency's ACES users to determine whether reasonable security precautions were maintained and whether the required security documents were properly completed and filed for ACES users. We determined that the Agency maintained appropriate ACES security procedures and user agreements were properly completed and on file.</p>	<p>None.</p>

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## 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 Agency'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,

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MARGARET JUNKER, CIA, CPA  
Interim Chief Auditor,  
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Date: July 2010

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# APPENDIX

## AGENCY'S WRITTEN RESPONSE

# MONTEREY COUNTY



## AUDITOR - CONTROLLER

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June 18, 2010

Margaret Junker, CIA, CPA  
Office of Audit Services CalPERS  
P. O. Box 942701  
Sacramento, CA 94229-2701

Dear Ms. Junker,

We have reviewed the draft report of your audit for Monterey County Water Resources Agency. We are in agreement with the recommendations in the report and have notified the appropriate staff of the recommendations and have implemented change where necessary.

Should you have any follow up questions or concerns, please feel free to contact me directly at (831) 759-6616.

Sincerely,

Patsy Girard  
Payroll Manager  
Auditor – Controller