

Office of Audit Services



Public Agency Review

North County Dispatch Joint Powers Authority

**CalPERS ID: 3900103978
Job Number: P13-077**

September 2014



California Public Employees' Retirement System
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September 19, 2014

Employer Code: 1966
CalPERS ID: 3900103978
Job Number: P13-077

Lesli Wilson, Administrator
North County Dispatch JPA
P.O. Box 410
Rancho Santa Fe, CA 92067-0410

Dear Ms. Wilson:

Enclosed is our final report on the results of the public agency review completed for the North County Dispatch JPA (Agency). Your written response, included as an appendix to the report, indicates agreement or partial agreement with the issues noted in the report except for Finding 1. We appreciate the additional information regarding Finding 1 that you provided in your response. However, after consideration of this information, our recommendation remains 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, North County Dispatch JPA
Risk and Audit Committee Members, CalPERS
Matthew G. Jacobs, General Counsel, CalPERS
Renee Ostrander, Assistant Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

NORTH COUNTY DISPATCH JOINT POWERS AUTHORITY

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NORTH COUNTY DISPATCH JOINT POWERS AUTHORITY

RESULTS IN BRIEF

The primary objective of our review was to determine whether North County Dispatch Joint Powers Authority (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 all the Government Code and CCR requirements.
- Payroll was incorrectly reported.
- Special compensation was incorrectly reported.
- Regular earnings and Fair Labor Standards Act premium pay were incorrectly reported.

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 November 11, 2007 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 as 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 February 20-21, 2014. The review objectives and a summary of the procedures performed are listed in Appendix A.

NORTH COUNTY DISPATCH JOINT POWERS AUTHORITY

OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

Condition:

The Agency's pay schedule effective May 23, 2013 was not approved and adopted by the Agency's governing body. In addition, the pay schedule did not indicate a revision date of July 1, 2013, the date the Staff Assistant's and Operations Manager's payrates were revised. Further, the payrates for the Dispatcher and Dispatch Supervisor do not agree with the annual payrates listed on the pay schedule. 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.
- 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).

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Recommendation:

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

The Agency should work with CalPERS Customer Account Services Division (CASD) to make any necessary adjustments to active or 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 reported incorrect payroll information.

Condition:

- A. The Agency reported incorrect work hours for a Dispatcher. Specifically, the Agency reported 34 scheduled hours per week for the pay period ending June 1, 2013. However, the Dispatchers and Dispatch Supervisors work an average of 42 hours per week. As a result, the Dispatcher's required average work week hours were understated. Although the Dispatcher was employed on a part-time basis, the Agency is required to report the full-time scheduled hours per week for the position.
- B. The Agency reported an incorrect payrate for an employee. Although the Agency reported the correct earnings, it did not report the correct payrate for the employee in pay period ending June 1, 2013. The Agency reported an hourly payrate of \$36.50 instead of \$38.23. As a result, payrate was understated. Payrate is an important factor in computing a member's retirement allowance because service credit and final compensation are directly related to the payrate and earnings reported for a member.

Recommendation:

The Agency should ensure scheduled hours per week and payrate are correctly reported and in accordance with approved pay schedules.

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

Criteria:

Government Codes: § 20120, § 20121, § 20160, § 20636(b)(1)

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

Condition:

- A. The Agency incorrectly reported a floating holiday within Holiday Pay. As a result, special compensation of Holiday Pay was over reported. The Agency pays its employees Holiday Pay as a lump sum in the first pay period of November as specified in the Agency's written labor policy. The Holiday Pay includes one floating holiday. Floating holidays are not recognized holidays and should not be included when reporting special compensation.
- B. The Agency incorrectly reported special compensation of Holiday Pay for an employee as a lump sum instead of as earned. Specifically, the Agency reported \$3,976.70 in pay period November 3, 2012 instead of when the Holiday Pay was earned. Pursuant to Government Code Section 20636(c)(3), the Agency shall identify the pay period(s) in which compensation was earned.
- C. The Agency did not report the monetary value of uniforms for employees required to wear uniforms. The Agency provided employees with shirts and sweatshirts with the Agency logo and reimbursed employees for pants and skirts. However, the Agency did not report the monetary value for the purchase of uniforms as special compensation. In addition, the Agency's written labor policy or agreement did not include the conditions for payment of the uniforms, including, but not limited to, eligibility for, and amount of, the special compensation as required by CCR Section 571.

Recommendation:

The Agency should discontinue reporting floating holidays in Holiday Pay.

The Agency should ensure it correctly reports special compensation as earned.

The Agency should ensure it reports the monetary value of uniforms as special compensation and the conditions for payment of uniforms is included in a written labor policy or agreement.

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

NORTH COUNTY DISPATCH JOINT POWERS AUTHORITY

Criteria:

Government Codes: § 20160, § 20630, § 20636
CCR: § 571

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4: The Agency incorrectly reported regular earnings and Fair Labor Standards Act premium pay.

Condition:

The Agency incorrectly reported Fair Labor Standard Act (FLSA) pay for two dispatchers. The incorrect reporting resulted in under-reporting the employees' regular earnings and over-reporting special compensation. Government Code Section 20636(c)(6) requires that premium pay for hours worked within the normally scheduled or regular period applicable to the employee are reported to CalPERS. The normal work schedule for Dispatchers required them to work 54 hours per week, for two out of every six weeks. The Agency paid the Dispatchers at time and one half their regular rate of pay for all hours worked above 40. Since the 54 hours were normally scheduled hours, the Agency should have reported compensation for 54 hours of regular earnings and compensation for 14 hours at the half time rate of pay as special compensation. Instead, the Agency reported compensation for 40 hours as regular earnings, and compensation for 14 hours at time and a half as special compensation. The incorrect reporting resulted in employees' service credit being understated each reporting period.

Recommendation:

The Agency should ensure FLSA is correctly reported to CalPERS.

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

Criteria:

Government Codes: § 20160, § 20636
CCR: § 571

NORTH COUNTY DISPATCH JOINT POWERS AUTHORITY

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
Alan Feblowitz, CFE, Manager
Noah Schreier, Auditor

APPENDIX A

OBJECTIVES

NORTH COUNTY DISPATCH JOINT POWERS AUTHORITY

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.
- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.

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- ✓ 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.

APPENDIX B

AGENCY'S WRITTEN RESPONSE

**MCDUGAL LOVE ECKIS
BOEHMER & FOLEY IIIII**

September 5, 2014

Via Facsimile & FedEx Overnight

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

**RE: North County Dispatch JPA response to the June 30, 2014 Draft Audit Report
Job Number: P13-077**

Dear Ms. Junker:

This firm represents North County Dispatch JPA ("JPA"). The JPA is in receipt of the June 30, 2014, draft audit report prepared by the California Public Employees' Retirement System ("CalPERS"). The JPA was given an extension to September 8, 2014, to provide this response. The JPA intends to work with CalPERS' staff to make any required changes, however, the JPA disputes some of CalPERS' findings and recommendations set forth in the draft audit report.

Included below are the Findings and Recommendations from the draft audit report followed by the JPA's response.

Finding 1: The JPA's pay schedule did not meet all the requirements of the CCR.

CalPERS Recommendation:

The JPA should ensure its pay schedule meets all the CCR requirements

The JPA should work with CalPERS Customer Accounts Services Division (CASD) to make any necessary adjustments to active or retired member accounts pursuant to Government Code 20160.

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JPA's Response to Finding and Recommendation 1:

The JPA disagrees with this CalPERS Finding. CalPERS' findings state that the JPA's pay schedule, effective May 23, 2013, was not approved and adopted by the JPA's governing body. This statement is not entirely accurate as during the meet and confer process, both the JPA Dispatchers Association and JPA agreed to, and established, wages, hours and other conditions of employment. This meet and confer process was embodied into a memorandum of understanding between JPA and JPA Dispatcher's Association (MOU). The MOU was submitted to JPA's Board of Directors for ratification. An MOU was passed and adopted by the Board of Directors on August 23, 2012 and covers the period from August 23, 2012 through June 30, 2014, which included the wages as Appendix A to the MOU. Nonetheless, the JPA has taken the additional step of passing Resolution 14-05 North County Dispatch JPA Publicly Available Pay Schedule at their regularly scheduled Board meeting on May 22, 2014.

The JPA also disputes the assertion that the pay rates for the Dispatcher and Dispatch Supervisor were reported incorrectly. The actual amount of pay rate paid to the Dispatchers and Dispatcher Supervisors were the amounts reported to CalPERS. While there may have been an oversight in updating the published pay rate, it was unintentional, and as stated above was corrected. Nonetheless, the JPA will work with CalPERS to correct the values, if any, of any incorrect pay rates for Dispatcher and Dispatch Supervisor and make any necessary adjustments to active or retired member accounts.

Finding 2: The JPA reported incorrect payroll information.

- a. The JPA reported incorrect work hours for a Dispatcher.
- b. The JPA reported an incorrect pay rate for an employee.

CalPERS Recommendation:

The JPA should ensure scheduled hours per week and pay rate are correctly reported and in accordance with approved pay schedules.

The JPA should work with CASD to make any necessary adjustments to active or retired member accounts pursuant to Government Code 20160.

JPA's Response to Findings and Recommendation 2:

2a. The JPA agrees, in part, with this CalPERS Finding and Recommendation. The JPA agrees it reported 34 hours per week for a part-time Dispatcher. The JPA also agrees in the future to report the full-time scheduled hours per week for the position. However, due to varying regular hours per week based on different schedules for the Dispatcher position, the JPA seeks additional information and clarification from CalPERS regarding the correct number of hours to report per week for the full-time position. The JPA staff will work with CASD staff to make any necessary adjustments.

2b. The JPA agrees with this CalPERS Finding and Recommendation. Any incorrect payrate reported for an employee was an unintentional and inadvertent error. The JPA staff will strive to correctly report payrate moving forward and will work with CASD staff to make any necessary adjustments.

Finding 3: The JPA did not report special compensation as required by CCR.

a. The JPA incorrectly reported a floating holiday with Holiday Pay.

b. The JPA incorrectly reported special compensation of Holiday Pay for an employee as a lump sum instead of as earned.

c. The JPA did not report the monetary value of uniforms for employees required to wear uniforms.

CalPERS Recommendation:

The JPA should discontinue reporting floating holidays in Holiday Pay.

The JPA should ensure it correctly reports special compensation as earned.

The JPA should ensure it reports the monetary value of uniforms as special compensation and the conditions for payment of uniforms is included in a written labor policy or agreement.

The JPA should work with CASD to make any necessary adjustments to active or retired member accounts pursuant to Government Code 20160.

JPA's Response to Findings and Recommendation 3a:

The JPA agrees with this CalPERS Finding and Recommendation. This issue has been addressed in the current MOU. Floating Holidays are no longer provided to employees, and instead employees receive an additional holiday for Columbus Day.

JPA's Response to Findings and Recommendation 3b:

The JPA agrees with this CalPERS Finding and Recommendation and will work with CASD staff to make the necessary adjustments.

JPA's Response to Findings and Recommendation 3c:

The JPA disputes this Finding and Recommendation in part. The policy for full payment of the uniforms is included in the duly adopted Dispatchers' MOU, which allows for full cost of the uniforms for all employees without any conditions. Therefore, the JPA believes the MOU is in conformance with CCR Section 571. However, the JPA will work with CASD staff if alternative language should be introduced.

Any changes to the amount of payment would be subject to meet and confer with the Dispatchers' Association. If necessary, the JPA will seek a side letter to the Dispatchers'

Association MOU to explicitly set forth the amount of uniform allowance or the monetary value to be reported.

In addition, JPA staff has some concerns about implementing CalPERS' recommended changes, how to properly track the cost of the uniforms, and how to address uniforms for new hires under PEPR (Gov't Code § 7522.34(c)(7)). However, the JPA will work with CASD staff on these issues and make any necessary adjustments.

Finding 4: The JPA incorrectly reported regular earnings and Fair Labor Standards Act premium pay.

CalPERS Recommendation:

The JPA should ensure FLSA is correctly reported to CalPERS.

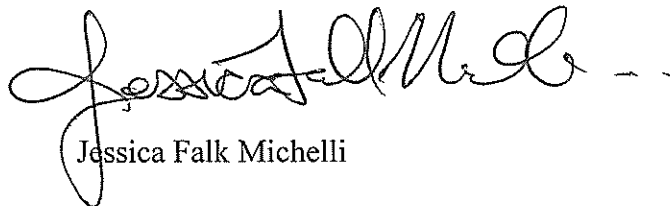
The JPA should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

JPA's Response to Findings and Recommendation 4:

The JPA agrees with this CalPERS Finding and Recommendation and will work with CASD staff to make any necessary adjustments. MyCalPERS limitations do not allow JPA staff to accurately reflect an employee's regular work schedule. Employee work schedules may include the following plans: 8 hour shifts; a 9/80 work schedule; a 4/10 work schedule; 12 hours shifts; 24 hour shifts; or any approved alternative schedule. For employees working 12-hour shifts, the regular work schedule is 42 hours per week. For employees working 24-hour shifts, the regular work schedule will be either 54 hours in a workweek, or 36 hours in a workweek, depending on the rotation of shifts. MyCalPERS does not permit JPA staff to accurately input the regular full time hours per week for employees working a 24 hour shift. The JPA requests CalPERS' assistance to correct the MyCalPERS system in order for the JPA to accurately report an employee's regular weekly work schedule and to comply with CalPERS' recommendation. JPA staff will work with CASD to rectify this issue and make any necessary adjustments to member accounts.

Please contact me if you have any questions.

Sincerely,



Jessica Falk Michelli