

Office of Audit Services



Public Agency Review

Novato Sanitary District

**Employer Code: 0800
CalPERS ID: 5952313545
Job Number: P13-012**

February 2014



California Public Employees' Retirement System
Office of Audit Services
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February 24, 2014

Employer Code: 0800
CalPERS ID: 5952313545
Job Number: P13-012

Novato Sanitary District
Attn: Beverly James, Manager-Engineer
500 Davidson Street
Novato, CA 94947

Dear Ms. James:

Enclosed is our final report on the results of the public agency review completed for the Novato Sanitary District (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 2 and Finding 4. Based on the information provided in your Agency's response, we have removed Finding 2. As a result of discussion with your Agency, we have clarified Finding 3 (previously Finding 4); however, the recommendation remains. 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 Margaret Junker

MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: Honorable Board of Directors, Novato Sanitary District
Risk and Audit Committee Members, CalPERS
Gina M. Ratto, Interim General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

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RESULTS IN BRIEF

The primary objective of our review was to determine whether Novato Sanitary District (Agency) complied with applicable sections of the California Government Code, California Code of Regulations (CCR) and the Agency's contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) identified the following findings during its review. Details are noted in the results section of this report beginning on page two.

- Pay schedules did not meet all the requirements of the CCR.
- A retroactive salary increase was incorrectly reported.
- Employer Paid Member Contributions (EPMC) was 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 appropriate CalPERS divisions to resolve the findings identified in this report.

SCOPE

Effective November 1, 1969, the Agency contracted with CalPERS to provide retirement benefits for its local miscellaneous employees. By way of its agreement with CalPERS, the Agency agreed to be bound by the terms of its contract, and the Public Employees Retirement Law (PERL). The Agency agreed to make its employees members of CalPERS subject to the provisions of PERL.

As part of the Board approved audit plan for fiscal year 2013/2014, OAS reviewed the Agency's payroll reporting and member enrollment processes for compliance with its agreement with CalPERS. The review period was limited to an examination of sampled employees, records and pay periods from July 1, 2010 through June 30, 2013. On-site fieldwork for this review was conducted from August 14, 2013 through August 16, 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: Pay Schedule did not meet all the requirements of the California Code of Regulations (CCR) section 570.5.

Condition:

The Agency's pay schedule did not meet all the requirements of CCR section 570.5 for two of three sampled employees. The pay schedule did not meet one of the requirements of CCR 570.5 (a)(2), for a third employee, whose position title for a Collection Systems Worker III classification was omitted.

- A. The July 1, 2012 pay schedule did not include position title, pay rate, and time base for two of the three employees, a Manager-Engineer and a part-time Electrician.
- B. While the third employee's payrate and time base were included on the July 1, 2012 pay schedule, the position title, Collection Systems Worker III, was not listed.

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.
- 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.
- 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.

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Recommendation:

The Agency should ensure its pay schedules meet all CCR requirements.

The Agency should work with CalPERS Customer Account Services Division (CASD) to ensure the Agency's pay schedules meet requirements of the California Code of Regulations, section 570.5.

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 (b)(1), § 20636 (d)

CCR: § 570.5, § 570.5 (a)(2)

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2: The Agency incorrectly reported a retroactive salary adjustment.

Condition:

The Agency incorrectly reported a retroactive salary adjustment for one employee. The Agency approved a salary increase in December 2012 of \$446.82 which was retroactive from July 1, 2012. However, the Agency incorrectly reported the increase for July through November as a lump sum of \$2,234.10 (\$446.82 x 5 months) in the December 2012 pay period. Retroactive adjustments should be reported separately in each of the pay periods compensation was earned.

Recommendation:

The Agency should ensure that retroactive salary adjustments are reported correctly.

The Agency should work with CASD to assess the impact of this incorrect reporting and determine the adjustments needed for the member in our sample, and for similar situations relating to member raises not included in our sample, pursuant to Government Code section 20160.

Criteria:

Government Codes: § 20160, § 20630 (b)

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3: The Agency reported EPMC incorrectly.

Condition:

The Agency did not pay and report EPMC as stipulated in Resolution 3053. The Agency incorrectly paid and reported seven percent on special compensation instead of the approved 4.5 percent. As a result, EPMC was overstated.

Recommendation:

The Agency should ensure that EPMC is correctly paid and reported to CalPERS in accordance with its approved resolutions.

The Agency should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code section 20160.

Criteria:

Government Codes: § 20160, § 20636 (c)(4), § 20691
CCR: § 571 (a), § 571 (a)(1)

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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 Margaret Junker

MARGARET JUNKER, CPA, CIA, CIDA
Chief, Office of Audit Services

Date: February 2014

Staff: Cheryl Dietz, CPA, Assistant Division Chief

Diana Thomas, CIA, CIDA, Manager

Alan Feblowitz, CFE, Manager

Karen Harlan, Auditor

Aileen Wong, Auditor

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APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency complied with applicable sections of the California Government Code and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

This review covers the period of July 1, 2010 through June 30, 2013. 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 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
 - Board of Director minutes and Board of Director 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 Summary Reports and CalPERS listings
 - Other documents used to specify payrate, special compensation, and benefits for all 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 listing 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 enrollment 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'S WRITTEN RESPONSE

NOTE: The Agency provided additional informational attachments to the response which have been intentionally omitted from this appendix. The names of the individuals mentioned in the Agency's response were intentionally redacted from the response.



NOVATO SANITARY DISTRICT

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December 3, 2013

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

Re: Employer Code 0800; CalPERS ID 5952313545; Job No. P13-012

Dear Ms. Junker:

This is our response to your draft report on your review of the Novato Sanitary District dated November 15, 2013 and received on November 18, 2013.

1. Pay Schedules did not meet all the requirements of the California Code of Regulations (CCR) section 570.5

A. The July 1, 2012 pay schedule did not include position title, pay rate, and time base for two of the three employees, a Manager-Engineer and a part-time Electrician.

Response: The District has corrected the pay schedule and will ensure that all pay schedules meet all CCR requirements. The District notes that this information was included in the Budget adopted by the District Board of Directors and was available to the public for review. A copy of the relevant budget page is included as Attachment 1.

B. While the third employee's payrate and time base were included on the July 1, 2012 pay schedule, the position title, Collection System Worker III, was not listed.

Response: The Collection System Worker III position was not created or filled until February 1, 2013. The title and payrate are included in the adopted Budget as shown in Attachment 1. The District has corrected the pay schedule and will ensure that all pay schedules meet all CCR requirements.

2. The Agency did not report special compensation as required.

Response: The District disagrees with the finding since the special compensation for Confined Space Response Duty Pay does not meet the criteria for Hazard Premium Pay.

CalPERS contends that the District did not report Confined Space Response Duty Pay as special compensation and that "Confined Space Response Duty Pay is for employees who are routinely and consistently exposed to toxic, radioactive, explosive or other hazardous substances..."

The District's Confined Space Response Duty Pay is not for employees who are routinely and consistently exposed to toxic, radioactive, explosive or other hazardous substances. It is to compensate employees for taking the additional training and complying with annual physical examinations and requirements related to safe use of facemasks, SCBA gear, and other safety equipment in the event of an accident. The District has never had an accident that required employees to employ this safety gear and training. Accordingly, we believe the District's Confined Space Response Duty Pay does not meet the CCR Section 571 requirements for Hazard Premium Pay, and therefore does not need to be reported as special compensation.

3. The Agency incorrectly reported a retroactive salary adjustment.

Response: The District agrees with the finding. However, it should be noted that at the time the District made the retroactive salary adjustment CalPERS computer system would not allow retroactive adjustments to pay reports. The District will ensure that retroactive salary adjustments are reported correctly in the future.

4. The Agency incorrectly reported contributions.

Response: The District disagrees with the finding that the District did not report contributions as stipulated in its written labor policy

The two relevant documents are Resolution 3053 "Resolution for Paying and Reporting the Value of Employer Paid Member Contributions" adopted in accordance with CalPERS guidelines and the MOU for the period July 1, 2012 through June 30, 2013. Copies of the relevant sections

of these documents are included as Attachment 2. Both documents are silent as to whether the District or the employee pays the CalPERS contribution for the 4.5% reported as EPMC. The labor agreement states on page 19:

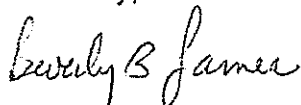
"Effective January 1, 2013 for all employees hired before January 1, 2012, the District pays Employer Paid Member Contributions (EPMC) of 4.5% of base pay and reports this as "Special Compensation". The employee will pay the remaining 2.5% of the employee's PERS contribution."

Since the agreement does not specify that the employee is responsible for a portion of the PERS contribution for the EPMC, the District remains responsible for making this contribution. The District will discuss adding clarifying language with the represented employees.

| Period | Employee | Base Salary | Reported EPMC 4.5% Special Comp (a and b) | Reported 7% of the 4.5% EPMC (c) | EPMC Employer | Member Paid 2.5% | Total EPMC |
|---------|----------|-------------|--|---|------------------|---------------------|------------|
| 5/31/13 | | 13,518.00 | 608.31 | 42.58 | 650.89 | 337.95 | 988.84 |
| 5/31/13 | | 6,042.00 | 271.89 | 19.03 | 290.92 | 151.05 | 441.97 |

We appreciate this opportunity to provide a response to your review and would be happy to work with you and your staff to resolve any outstanding issues.

Sincerely,



Beverly B. James
Manager-Engineer

Attachments