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June 19, 2012

Employer Code: 0343
CalPERS ID: 2290669353
Job Number: P11-015

Oro Loma Sanitary District
Jason Warner, General Manager
2655 Grant Ave
San Lorenzo, CA 94580

Dear Mr. Warner:

Enclosed is our final report on the results of the public agency review completed for the Oro Loma Sanitary District. Your agency's written response, included as an appendix to the report, indicates agreement with the issues noted in the report with exception to finding 2. Based on the information contained in your agency's response pertaining to the incorrect reporting of bonus pay, our recommendations remain as stated in the report. In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed by Margaret Junker
MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: Risk and Audit Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Mary Lynn Fisher, Chief, BNSD, CalPERS
Honorable Board of Directors, Oro Loma Sanitary District

Office of Audit Services



Public Agency Review

Oro Loma Sanitary District

**Employer Code: 0343
Job Number: P11-015**

June 2012

ORO LOMA SANITARY DISTRICT

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RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the Oro Loma Sanitary District's (District) enrolled individuals, member compensation, required health, retirement, and California Employers' Retiree Benefit Trust (CERBT) documentation and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- Holiday pay was not reported for an employee required to work on holidays.
- Special compensation was overstated for an sampled employee.

DISTRICT BACKGROUND

The Oro Loma Sanitary District was formed on August 11, 1911 and is governed by a five-member Board of Directors. The District provides for the collection, treatment, and recycling of wastewater. Memoranda 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 June 1, 1956, to provide retirement benefits for local miscellaneous employees. The District's current contract amendment identifies the length of the final compensation period as twelve months. The District contracted with CalPERS effective August 1, 1987, to provide health benefits to all eligible employees. The District contracted with CalPERS to participate in the CERBT effective January 17, 2008.

All contracting public agencies, including the District, are responsible for the following:

- Determining CalPERS membership eligibility for its employees.
- Enrolling employees into CalPERS upon meeting membership eligibility criteria.
- Enrolling employees in the appropriate membership category.
- Establishing the payrates for its employees.
- Approving and adopting all compensation through its governing body in accordance with requirements of applicable public meeting laws.
- Publishing all employees' payrates in a publicly available pay schedule.
- Identifying and reporting compensation during the period it was earned.
- Ensuring special compensation is properly identified and reported.
- Reporting payroll accurately.

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- Notifying CalPERS when employees meet Internal Revenue Code annual compensation limits.
- Ensuring the employment of a retired annuitant is lawful and reinstating retired annuitants that work more than 960 hours in a fiscal year.
- Ensuring only eligible members and their dependents are enrolled for health coverage.
- Keeping accurate and up to date records of all health enrollment related information such as enrollment forms, parent-child relationship affidavits, divorce decrees, and other documentation.

SCOPE

As part of the Board approved plan for fiscal year 2011/2012, the OAS reviewed the District's payroll reporting, member enrollment, payment records, and participant data processes, as these processes relate to the District's retirement, health and CERBT contracts with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2008, through June 30, 2011. The on-site fieldwork for this review was conducted on November 7, 2011, through November 10, 2011. The review objectives and a summary of the procedures performed are listed in Appendix B.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: The District did not report statutory holiday pay.

Recommendations:

The District should ensure statutory holiday pay is reported as special compensation for employees required to work on a holiday.

OAS recommends CASD work with the District to assess the impact of this non-reporting issue and determine what adjustments are needed pursuant to Government Code Section 20160.

Conditions:

The District's Plant Operations require staffing without regard to holidays. Employees who worked on a holiday received additional compensation. During the second service period of November 2010 an employee worked on two approved holidays and received \$975.19 of reportable compensation for the 16 hours worked. In addition, during the second service period of December 2010 the same employee received \$487.56 of reportable compensation for eight hours worked on the holiday. The compensation paid over the normal rate of pay for approved holidays is holiday pay and reportable to CalPERS. However, the District did not report the additional compensation earned for either service period.

Criteria:

Government Code: §20160, § 20636(c)(1), § 20636(c)(2), § 20636(c)(6)

California Code of Regulations: § 571(a)(5)

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Finding 2: The District over-reported bonus pay.

Recommendations:

The District should ensure that only compensation earnable as defined under Government Code Section 20636 is reported to CalPERS.

OAS recommends CASD deny all non-reportable bonus compensation amounts. CASD should make the necessary adjustments to members' accounts pursuant to Government Code Section 20160.

Conditions:

The City over-reported bonus pay for an employee. Specifically, the City paid and reported a bonus of \$16,600 as special compensation for the District General Manager in the 2009/2010 fiscal year. This bonus amount was 9.48 percent of base salary and was paid in accordance with the General Manager's employment contract. However, the bonus amounts payable to the next closest group or class of employees, District Managers, was limited to five percent of base salary.

Government Code Section 20636(c)(2) stipulates that if an individual is not part of a group or class of employees, compensation reported to CalPERS shall be limited to that which is received by similarly situated members in the next closest related group or class of employees. Therefore, although the District is responsible for establishing payrates, including bonus compensation amounts for its employees, the District should have limited the amount of reported special compensation to the five percent received by the next closest group or class of employees. Government Code Section 20636(e)(1) stipulates that one employee may not be considered a group or class.

Criteria:

Government Code: §20160, § 20636(c)(2), § 20636(e)(1), § 20636(e)(2)

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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 B. OAS limited the test of transactions to employee samples selected from the District's payroll and health 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 at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within thirty 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: June 2012

Staff: Michael Dutil, CIA, Senior Manager

Diana Thomas, CIA, CIDA, Manager

Alan Feblowitz, CFE, Manager

Karen Harlan, CIA, CGAP

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APPENDIX A

BACKGROUND

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BACKGROUND

California Public Employees' Retirement System

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 Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD 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.

CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits. CalPERS California Employers' Retiree Benefit Trust (CERBT) provides investment management, trust administration, and GASB 43 compliant reporting to California public employers who wish to pre-fund their Other Post-Employment Benefits (OPEB).

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 employer's 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.

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APPENDIX B

OBJECTIVES

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OBJECTIVES

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

- Whether the District complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the District's retirement, health benefits, and CERBT contracts with CalPERS were followed.

This review covers the period of July 1, 2008, through June 30, 2011.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the District's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
 - Provisions of the Contract and contract amendments between the District and CalPERS
 - Correspondence files maintained at CalPERS
 - District Council minutes and District Council resolutions
 - District written labor policies and agreements
 - District salary, wage and benefit agreements including applicable resolutions
 - District personnel records and employee hours worked records
 - District payroll information including Summary Reports and PERS listings
 - Other documents used to specify payrate, special compensation and benefits for all employees
 - Health Benefits Program enrollment records and supporting documentation
 - Various other documents as necessary
- ✓ Reviewed District payroll records and compared the records to data reported to CalPERS to determine whether the District correctly reported compensation.

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- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to District 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 District's governing body in accordance with requirements of applicable public meeting laws.
- ✓ Reviewed CalPERS listing reports to determine whether the following payroll reporting elements were reported correctly.
- ✓ Reviewed the District's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the District'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 District's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the District's affiliated entities to determine if the District shared employees with an affiliated entity and if the employees are CalPERS members and whether their earnings are reported by the District or by the affiliated entity.
- ✓ Reviewed the District's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick.
- ✓ Reviewed health records to determine whether the District properly enrolled eligible individuals into CalPERS Health Benefits Program.
- ✓ Reviewed the District's participation in the California Employers' Retiree Benefit Trust (CERBT) Fund. Reviewed payroll and personnel records to determine whether the District accurately reported premiums paid directly to providers other than CalPERS. Reviewed participant data used in the OPEB cost valuation.

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APPENDIX C

DISTRICT RESPONSE



ORO LOMA SANITARY DISTRICT

BOARD OF DIRECTORS
Howard W. Kerr, President
Laython N. Landis, Vice President
Roland J. Dias, Secretary
Timothy P. Becker, Director
Frank V. Sidari, Director

GENERAL MANAGER
Jason Warner

June 14, 2012

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

**SUBJECT: FINDINGS OF NOVEMBER 2011 CALPERS AUDIT AT ORO
LOMA SANITARY DISTRICT**

Dear Ms. Junker,

We have received the draft report on the CalPERS review of Oro Loma Sanitary District, and wish to comment on the findings. Before we do that, however, we would like to acknowledge Karen Harlan, the CalPERS Field Auditor, whose professionalism and extensive knowledge of government codes and codes of regulations requirements was extraordinary and greatly appreciated by our staff.

Page 3 of the draft report addresses the first finding – ‘The District did not report statutory holiday pay’. We now understand the requirements of Government Code Sections 20160, 20636(c)(1), 20636(c)(2), and 20636(c)(6), and have remedied the situation as soon as we became aware of it. Effective with the first payroll of 2012, a new code was created for ‘holiday worked’, specifically to ensure that statutory holiday pay is reported as special compensation for employees required to work on a holiday. The District’s standard practices now include the reporting of statutory holiday pay to CalPERS as special compensation.

Page 4 of the draft report addresses the second finding – ‘The District over-reported bonus pay’. CalPERS indicated that the District has over-reported the bonus for the General Manager (9.48% of base salary), while the bonuses of the employees in the next closest group or class were limited to 5% of base salary. We are in disagreement with this finding, based on the provisions of the June 3, 2009 ‘Management Incentive Compensation Plan’ (Plan) - attached. The Plan was authorized by the Sanitary Board in Resolution No. 3539, A Resolution of Oro Loma Sanitary District Establishing Terms and Conditions for Services in the Management and Confidential Employees’ Group – 2011-2016’. Section 1 of the Plan, ‘Determination of Amount of Incentive’, requires that 5% of the total annual payroll-reported base salary for all Management Resolution employees constitutes the pool of incentive compensation available for distribution. Each employee’s bonus shall not exceed 5% of his/her annual salary, but if the pool is not depleted, the General Manager can authorize the distribution of the left-over bonus (from

those who did not complete 100% of their goals and objectives) among management and confidential employees in any way he/she sees fit. This practice has been in existence for many years, and every year some management employees are assigned bonuses whose total values exceed 5% of base salary.

Therefore, while we believe that the District is in compliance with the provisions of Government Code Sections 20160, 20636(c)(2), 20636(e)(1), and 20636(e)(2), we wish to further clarify the intent of the Management Incentive Compensation Plan and explain the way it has been administered for years. As such, we have amended the Plan to include language saying that while the General Manager has the authority to allocate final bonus amounts in excess of 5% of base pay (an existing provision of the Plan), the final bonus amount shall not exceed 10% of base salary (new clarification). This clarification, while not changing current practices, provides uniformity in terms in regards to the bonus for the General Manager and the bonuses for the employees in the next closest group or class.

Thank you for reviewing the Oro Loma practices, policies and procedures with thoroughness and professionalism. The CalPERS audit has validated the fact that the Oro Loma staff performs its duties at the highest standards of integrity, and has assisted us in rectifying one shortcoming and clarifying one issue. If you have any questions or need additional information, please contact me by phone at (510) 276-4700 or by email at jwarner@oroloma.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Warner", written over a horizontal line.

Jason Warner
General Manager

Enclosures