



Memorandum

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by:  Date: 2/8/19
General Manager

DATE: February 8, 2019
TO: Board of Directors
FROM: Accounting Manager and HR Manager
SUBJECT: CalPERS Public Agency Review Findings and Request for Approval of Amendments to 2012-2018 Salary Schedules and Longevity Pay Clause of the Memoranda of Understanding

RECOMMENDATION: That the Board Accept California Public Employees Retirement System Public Agency Review Report and Approve Amendments to: 1) 2012-2018 Salary Schedules to Comply with the Public Employees' Retirement Law (PERL); 2) July 1, 2011 and October 17, 2014 Memoranda of Understanding with Bargaining Units (Longevity Pay Clause) to Comply with the Public Employees' Retirement Law (PERL)

BACKGROUND

The Monterey Regional Waste Management District was provided with the attached Public Agency Review (PAR) audit conducted by CalPERS' Office of Audit Services on December 6, 2018. The PAR findings report was reviewed by Staff in its entirety, as it affects the District's ability to contract with CalPERS to provide retirement benefits to its employees and is attached hereto as Attachment A. As a contracting agency with CalPERS, the District agreed to comply with the California Code of Regulations and Government Code contained within the Public Employees' Retirement Law (PERL).

The PAR identified areas where the District is not in compliance with the PERL and is therefore in violation of their Contract with CalPERS. The District has a responsibility to comply with all terms and conditions set forth therein and upon receipt of the PAR, Staff has been working with the CalPERS' designated program liaisons to obtain full resolution of the areas identified as non-compliant.

DISCUSSION

At the January 30, 2019 Personnel Committee, staff reviewed the PAR finding report and options for resolution with the committee members. The Personnel Committee agreed with Staff's recommendations to amend the 2012-2018 Salary Schedules and the contract language related to Longevity Pay in the Memoranda of Understanding (2011 and 2014) to comply with California Code of Regulations and applicable Government Code sections identified as non-compliant in the PAR findings report and directed staff to present the amended documents to the Board for consideration and approval at the February Board Meeting

To summarize, CalPERS found the District is non-compliant in two areas:

1. Salary schedules 2012-2014 do not include all required information.

RESOLUTION: Amend the Salary Schedules to include all required information. (Attachment B)

Specifically, Steps 7 and 8 must be re-labeled to accurately reflect that these represent longevity pay, add an effective date and time base (hourly, semi-monthly, etc) and present the amended Salary Schedules to the Board for approval and adoption.

2. Longevity Pay has been reported to CalPERS as earnable compensation (AKA 'PERSable') for all eligible employees, however, the Longevity Pay clause in the four (4) MOUs do not meet the definition of Longevity in California Code of Regulations 571 (a) (1), making those earnings ineligible as earnable compensation. Specifically, in accordance with the current MOU contract language, an employee is eligible for Longevity Pay when they 1) are an performing their duties satisfactory and 2) they meet 10 or 15 years of service. California Code of Regulations §571 (a)(1) only allows for tenure conditions (time on the job); it does not permit any performance requirements such as that currently written in our MOUs.
RESOLUTION: Amend MOU contract language to meet the definition of Longevity Pay in the California Code of Regulations §571 (a)(1) and intent of MOU contract language.

While the scope of the Public Agency Review was for years 2012-2017, the compliance issues that were identified continue through the current date, requiring amendments to more recent Salary Schedules as well as multiple Memoranda of Understanding. (Attachment C)

CONCLUSION

Staff is requesting Board approval and adoption of Amended 2012 through 2018 Salary Schedules and Amended Longevity Pay MOU contract language to comply with the Public Employees' Retirement Law and resolve the compliance issues identified in the Public Agency Review conducted by CalPERS' Office of Audit Services on December 6, 2018.



Garth Gregson
Accounting Manager



Berta R. Torres
HR Manager

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Objective and Scope			
CalPERS ID	Job Number	Contract Date	Classification
7676557366	3P17-038	July 1, 1972	Miscellaneous

The objective of our review was to determine whether increases to member payrates were granted to members and reported to CalPERS in compliance with the Public Employees' Retirement Law (PERL). Reporting active member payrates correctly is a necessary precursor to correctly calculating member benefits at retirement. Specifically, incorrect reporting could cause the following: miscalculation of a member's service credit, miscalculation of a member's retirement allowance, delays in processing a member's retirement benefits, inaccurate retirement estimates, incorrect payment of benefits, and hardship to retired members due to a reduction in benefits.

Payrates must be reported to CalPERS in accordance with Government Code (GC) sections 20636, 20636.1, 7522.34(a) and corresponding sections of the California Code of Regulations (CCR) section 570.5. Specifically, payrate is deemed as the normal monthly rate of pay or base pay of the member paid pursuant to a publicly available pay schedule for services rendered on a full-time basis during normal working hours. The publicly available pay schedules must meet criteria listed in CCR section 570.5. Payrates cannot include additional compensation such as special compensation, must be correctly calculated, must be accurately reported for the period earned, and cannot be granted or awarded to a member in connection with or anticipation of separation from employment.

The review was limited to the examination of a sample of active and/or retired employee records for the period July 1, 2012 to June 30, 2017. Unless otherwise specified, the Office of Audit Services (OFAS) did not review the Agency's compliance with the PERL with regard to any areas outside the scope described herein, including, but not limited to, reported earnings, special compensation, payroll information, member contributions, membership enrollment, or employment after retirement.

Results in Brief			
	Area	Exception	Observation
1	Pay Schedule	Effective Date	The Agency did not maintain pay schedules in compliance with the requirements set forth in the Government Code and the CCR. Specifically, the September 2014 pay schedule did not include a specified effective date as required by CCR section 570.5.
2	Payrates	Additional Compensation	The Agency reported payrates that included additional compensation. Specifically, for one sampled employee who retired in July 2016, longevity pay was added to the base payrate in amounts that varied from \$124.54 to \$314.39 per month. The incorrect reporting resulted in an increase to the employee's reported payrates that were not in compliance with Government Code section 20636.

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Criteria

Under Government Code sections 20636, 20636.1 and/or 7522.34, payrate is deemed as 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 work hours, pursuant to 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; and
- Not reference another document in lieu of disclosing the payrate.

Recommendation

The Agency should ensure reported payrates are granted and reported to CalPERS in compliance with the PERL. The Agency should work with the CalPERS Employer Account Management Division to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

Government Codes: § 20120, § 20121, § 20122, § 20160

Conclusion

OFAS limited this review to the areas specified in the objective and scope section of this report. Sample testing procedures provide reasonable, but not absolute, assurance that the Agency complied with the specific provisions of the PERL and CalPERS contract that were subject to this review. The results 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 with regard to the results noted within the report. The appropriate CalPERS divisions will notify the Agency of the final determinations and provide appeal rights, if applicable, at that time.

Summarized Response

The Agency agreed with the Observations noted in the report.