CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

Agenda
Joint Informational Hearing

Assembly Public Employees, Retirement and Social Security Committee
and
Senate Public Employment and Retirement Committee
Rodriguez and Pan, Chairs

Wednesday, June 28, 2017
10:30 am – 1:00 pm: State Capitol, Room 127

SUBJECT: CalPERS Contracting with Participating Employers - Cities, Counties, Towns, Joint Powers Authorities, Special Districts, Nonprofits, and Others

1) **Opening Remarks**
Assemblymember Freddie Rodriguez, Co-Chair
Senator Richard Pan, M.D., Co-Chair

2) **CalPERS Contracting with Participating Employers**
Panel: Marcie Frost, Chief Executive Officer, CalPERS
Scott Terando, Chief Actuary, CalPERS
Marlene Timberlake D'Adamo, Interim Chief Financial Officer, CalPERS

3) **Employers Contracting with CalPERS**
Panel 1: Dane Hutchings, Legislative Representative, League of California Cities
Panel 2: Dorothy Johnson, Legislative Representative, CA State Association of Counties
Marc Fox, Director of Human Resources, Solano County
Panel 3: Paul Cook, General Manager, Irvine Ranch Water District
Sheena Newman, Human Resources Analyst, Cosumnes Community Services District
~~*Michael Schmitz, Fire Chief, North Tahoe Fire Protection District*~~

4) **Employees Working for Employers that Contract with CalPERS**
Panel: Brian Allison, Political and Legislative Director (CA), AFSCME, AFL-CIO
Robert Briare, President, Marin Professional Firefighters, Local 1775
Terry Brennand, Director, SEIU California

5) **Public Comment**

California Public Employees' Retirement System
Financial Office
P.O. Box 942709
Sacramento, CA, 94229-2709
(888) CalPERS (or **888**-225-7377)
TTY: (877) 249-7442
Fax: (916) 795-3005
www.calpers.ca.gov

PUBLIC AGENCY APPLICANT QUESTIONNAIRE

Thank you for your interest in the California Public Employees' Retirement System (CalPERS) benefit programs. Please complete this Public Agency Applicant Questionnaire (Application) as thoroughly as possible and provide supporting documentation for all responses. Your application cannot be reviewed until all requested information has been provided. We ask that you provide clear and complete answers to avoid delays in the review of your Application.

Once you submit your completed Public Agency Applicant Questionnaire, a CalPERS analyst will be assigned to your case and will be available to assist you in the contracting process. Keep in mind this Application is only the first step in the application process and we may require additional information or supporting documentation from you as part of the application process. CalPERS staff will contact you with more specific details on the contracting process after we receive your completed Application and be available to you throughout the process.

Before fully reviewing your application information, we cannot guarantee you will be eligible to contract with CalPERS for participation in the CalPERS benefit plans (CalPERS Plans). This Application is not an offer to contract. Therefore, do not withhold CalPERS retirement contributions from any of your employees in anticipation of eligibility to participate in the CalPERS Plans, nor should you report your employees under any other agency currently participating in the CalPERS Plans.

Agency Contact Information

Official Agency Name: _____
Mailing Address: _____
Street Address: _____
City, State, Zip: _____
County: _____

Authorized Agency Representative

Name: _____
Title: _____
Telephone: _____
E-Mail: _____

Please provide complete copies of the Employer's JPA agreement, Articles of Incorporation, Bylaws, any amendments, and any filings with the Secretary of State, as applicable. Please feel free to provide your answers on additional pages, if necessary.

Public Agency Applicant Questions:

1. Is the entity a City or County?

☐ No.
☐ Yes. If yes, you do not need to answer any additional questions. Please proceed to signing the attached "Employer Certification" on page 8 of this Application along with your supporting documentation (e.g. charter, formation documents).

2. What type of entity is the Employer?

☐ Joint Powers Authority (JPA) ☐ Non-Profit Corporation ☐ Other: Describe:

3. Please list:
   - the current members of the Employer's governing board or body
   - the date each individual was elected or appointed, and
   - The individual's current job/title.

Current Members of Employer's Governing Board or Body	Date Each Individual was Elected or Appointed	Current Job/Title

4. Please indicate whether the members of the Employer's governing board or body are ☐ Elected or ☐ Appointed?

   If appointed, who has the power to appoint members of the Employer's governing board or body?

5. Does any person or entity have the power to remove members of the Employer's Governing board or body?

   ☐ No.
   ☐ Yes. If yes, please describe in detail and include references to Bylaws, contracts or agreements, or other governing documents:

6. Please list other individuals or entities that have control or voting powers or that have ownership or other interests in the Employer:
   - describe the powers or interests in detail
   - include references to Bylaws, contracts or agreements, or other governing documents.

Individuals/Entities	Powers/Interests	References

7. Please list:
   - any entity(ies) or organization(s) that is/are related to or affiliated with the Employer
   - describe the relationship between the Employer and such entity(ies) or organization(s) in detail
   - include references to Bylaws, contracts or agreements, or other governing documents.

Affiliated Entities / Organizations	Relationship	References

8. Does the State (or a City or County or other political subdivision of the State) have fiscal responsibility for the general debts and other liabilities of the Employer?

☐ No.
☐ Yes. If yes, please describe in detail and include references to Bylaws, contracts or agreements, or other governing documents

9. Does the Employer have the terms and conditions to address the outstanding bonded indebtedness and long-term liability obligations (such as pension obligation) of the Employer?

☐ No.
☐ Yes. If yes, please describe in detail and include references to Bylaws, contracts or agreements, or other governing documents and list the successor entity(ies).

10. Please describe in detail:
- All governmental or quasi-governmental powers exercised and functions performed by the Employer. Please make sovereign powers explicit (e.g. police, taxation, eminent domain)
- Include references to statutes, Bylaws, contracts or agreements, or other governing documents relating to the Employer's powers and functions.

Sovereign Powers	Governmental Functions Performed	References Related to Powers/Functions

11. Was the Employer created by a specific enabling statute that prescribes the purposes, powers, duties, or obligations of the Employer?

☐ No.
☐ Yes. If yes, please describe in detail:

12. Does the State (or a City or County or other political subdivision of the State) exercise control over the Employer's operations or property or have the right to exercise such control?

☐ No.
☐ Yes: If yes, please describe in detail and include references to Bylaws, contracts or agreements, or other governing documents

13. Are the Employer's employees treated the same as State, City or County employees for purposes other than providing employee benefits? Please describe in detail.

Examples:

- Are the Employer's hiring practices subject to a competitive examination process? If so, please provide an example.
- Are employees subject to civil service law and rules
- Are employees subject to collective bargaining laws (e.g. Meyers-Milias-Brown Act)
- Are the Employer's employees' salaries and benefits subject to collective bargaining? If so, please provide the name of employee organization group(s) who represent the Employer's employees in collective bargaining.
- What grievance procedures and administrative appeals rights are made available by the Employer?

☐ No.
☐ Yes. Describe:

14. Please provide a detailed description of all sources of revenue or funding, including a description of any non-public sources, received or expected to be received by the Employer to establish or operate the Employer.

- Please include the percentages of total funding coming from all sources.

Sources of Revenue/Funding	Percentage of Total Funding (all sources)

15. Is the Employer treated as a governmental entity for any other purposes? Please describe in detail.

Examples:

- For federal employment or income tax purposes (such as the authority to issue tax-exempt bonds under Internal Revenue Code section 103(a))?
- Is the Employer subject to open meeting laws (such as the Brown Act), the California Public Records Act or similar laws?
- Are the Employer's employees subject to the California Political Reform Act? Please provide a copy of the Employer's current Conflict of Interest Code.
- Does the State Attorney General represent the Employer in court under a statute that only permits representation of State entities?
- Has any State or federal court or administrative agency made a formal written determination that the Employer is a governmental entity for any purpose?

☐ No.
☐ Yes. Describe:

16. Does the Employer currently have employees?

☐ No.
☐ Yes. If yes, please address the questions below:

- If so, how many? Number of current employees:
- How many employees does the entity expect to have once it is fully operational?

17. Do any of the Employer's employees perform services for one or more other entities or organizations that are related to or affiliated with the Employer?

☐ No.
☐ Yes. If yes, please describe in detail.

18. Does any other entity perform Human Resources or Payroll functions for the Employer?

☐ No.
☐ Yes. If yes, please describe in detail:

19. Are any of the Employer's employees currently participating in or reported to CalPERS by or through another entity?

☐ No.
☐ Yes. If yes, please explain the current arrangement and identify any other entity(ies) or organization(s) involved.

20. Please submit your recent Independent Auditor's Report.

Employer Certification

The undersigned hereby agrees and acknowledges that Employer is aware and understands that the participation of its employees and retirees in one or more of the CalPERS benefit plans (the "CalPERS Plans") is subject to, among other things, the determination of Employer's eligibility to participate in a governmental plan pursuant to the Internal Revenue Code (the "Code"). Employer acknowledges that the Internal Revenue Service (the "IRS") is in the process of drafting regulations under Section 414(d) of the Code and that these regulations, when final, may impact Employer's eligibility to participate in the CalPERS Plans.

Employer understands that even if CalPERS determines that Employer is eligible to participate in the CalPERS Plans based upon its good faith interpretation of existing IRS guidance, upon publication of final Treasury Regulations pursuant to Section 414(d) of the Code (the "Final Regulations"), it may be determined that Employer would not be eligible to participate in a governmental plan under such Final Regulations. Employer further understands that in the event of such a determination, CalPERS will be obligated to comply with the Final Regulations and, if required, terminate the Employer's participation in the CalPERS Plans, including cancellation of all benefits for employees and retirees of the Employer (the "Termination").

By executing this Certification below, the undersigned certifies that all information provided to CalPERS in connection with Employer's application to contract, including all information provided in this Application, is true and correct. The undersigned agrees to update the information contained in this Application within ten (10) calendar days of the date the undersigned knows or should have known of any error or change to any information provided to CalPERS.

The undersigned certifies that he or she has been duly authorized by Employer to execute this Certification on behalf of Employer.

I, the official named below, acknowledge and declare I have read and understand the Application and Employer Certification. I am duly authorized to make this declaration on behalf of the above-named Employer, and declare the foregoing is true and correct as of the date of execution of this document. I further acknowledge my Employer's responsibility to provide updates in the event this information is determined to be incorrect or has changed.

Signature:_____

Name: _____

Title:_____

Date: _____

CalPERS

Finance and Administration Committee

Agenda Item 8a

May 16, 2017

Item Name: Reporting on Participating Employers

Program: Pension Contract Management Services

Item Type: Information

Executive Summary

This information item is presented as part of the quarterly update to the Committee regarding the status of participating employers. The presentation provides demographic information regarding the participating employers, general information on funded status for this population as well as information regarding employers with inactive plans and process improvements the team has made in order to further strengthen and protect the Pension Fund.

Strategic Plan

This agenda item supports Fund Sustainability and Risk Management Goals of the CalPERS 2017-2022 Strategic Plan, which aims to strengthen the long-term sustainability of the pension fund. Pension and health funding are considered a strategic risk to the organization, and proper management of employer contracts and collection of payments are critical to ensuring long-term sustainability.

Background

In February 2017, staff presented an information item updating the FAC on the status of contracting agencies that were significantly delinquent in payment of obligations to the California Public Employees' Retirement System ("CalPERS" or "System"). The FAC continued discussions in March 2017 during the East San Gabriel Valley termination agenda item where staff was directed to explore statutory changes for Joint Powers Authority ("JPA") contracting agencies and provide an update on work done to improve the collection and termination process and notifications to members.

Analysis

The attached participating employers' quarterly report provides an update on the process improvements made to improve oversight of contracting employer partners. Process improvements include:

- Streamlined the collection and termination process to reduce the timeframe and accelerate notifications to the Board and members.
- Adopted a risk oversight process to improve early detection of financial hardship issues to reduce the risk of benefit reductions to the members.
- Developed monitoring tools to identify and quantify risks using a standardized review criteria.
- Identified agencies with inactive plans thus improving the level of oversight and monitoring of these agencies.

Budget and Fiscal Impacts
Not applicable

Benefits and Risks
Clearly defined processes for risk oversight, collections and contract terminations will provide the following benefits:

- Timely resolution of routine collections issues;
- Timely attention to and escalation of serious collections issues to CalPERS management;
- Improved long-term sustainability of the Pension Fund.

Potential risks could include:

- Misunderstanding of the Program and its purpose.

Attachments
Attachment 1 – Reporting on Participating Employers

Arnita Paige, Chief
Pension Contract Management Services & Prefunding Programs

Marlene Timberlake D'Adamo
Interim Chief Financial Officer

Reporting on Participating Employers

Quarterly Report
Finance & Administration Committee
May 16, 2017

Process and Monitoring Improvements

- Thorough view of employer financial health:
  - Strengthened and streamlined the collection and termination process, including member notification.
  - Adopted a risk oversight process to improve monitoring and reduce risk to members.
  - Developed tools to identify risks using a standardized review criteria.
  - Improved oversight of agencies with all inactive plans to reduce risk.

CalPERS Retirement Program

- **3,018** - Total Employers in Retirement Program

1,496
School Districts

1
State of California

1,521
Public Agencies

Source: June 30, 2015 Annual Valuation Reports

Public Agency Demographics

1,521 - Total Public Agencies in Retirement Program[1]

Agency Type	# of Agencies	% of Total Agencies	Total Participants [2]	% of Total Participants	Current UAL & Funded % @ 7.5% ($ in Millions)	
Cities or Towns	449	30%	371,032	52%	$28,071	73%
Counties	39	3%	195,191	27%	$10,051	75%
Special Districts						
• JPAs	170	11%	23,878	3%	$641	80%
• Non-Profits	63	4%	15,057	2%	$218	85%
• Others[3]	800	52%	114,537	16%	$6,582	77%
Total	**1,521**	**100%**	**719,695**	**100%**	**$45,563**	**74.38%**

[1]Data Source: June 30, 2015 Annual Valuation Reports
[2] Includes members who have service in more than one rate plan.
[3]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

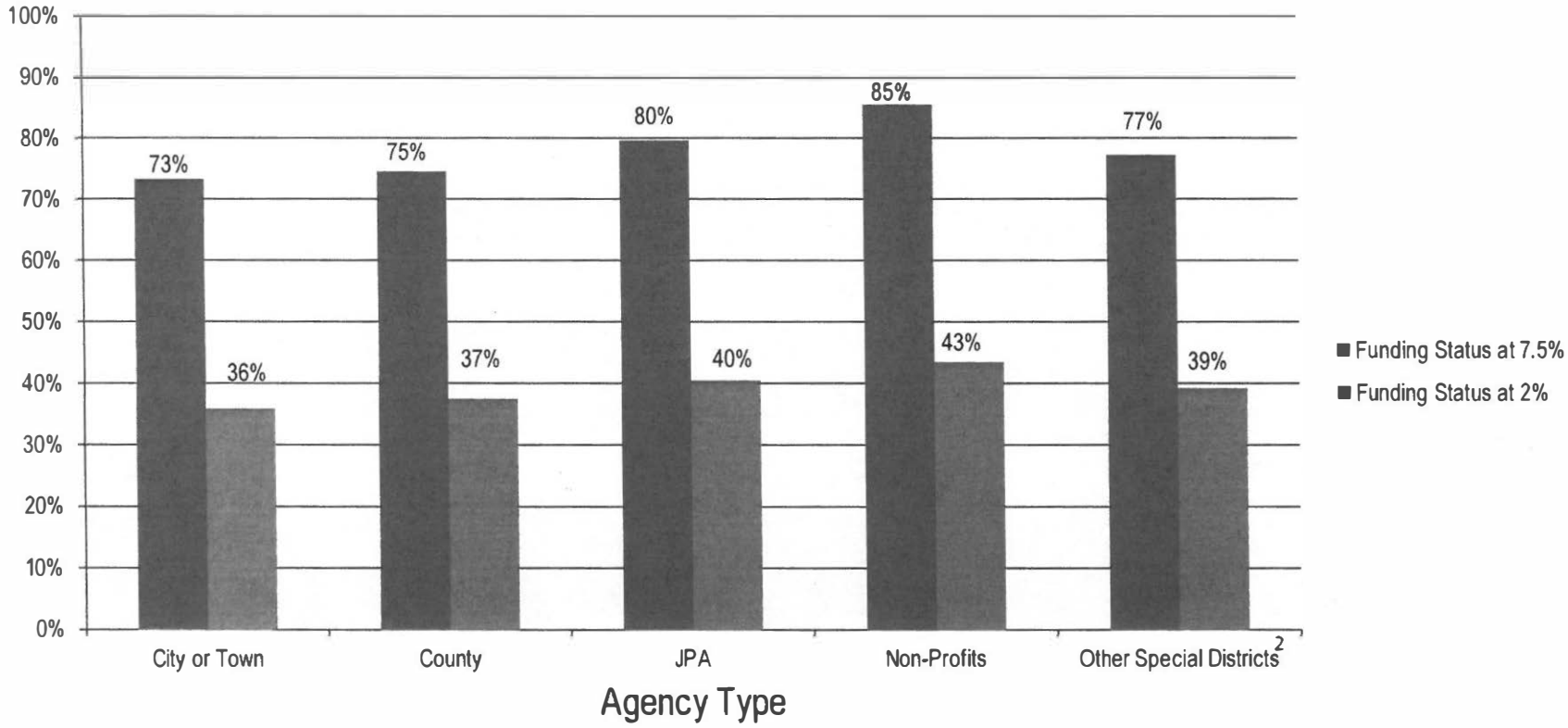
Public Agency Funded Status at 7.5%[1]

Agency Type	0% - 25%	> 25% - 50%	>50% - 75%	>75% - 100%	>100%	Total
Cities or Towns	0	0	198	247	4	449
Counties	0	0	21	18	0	39
Special Districts						
• JPAs	0	0	23	145	2	170
• Non-Profits	0	0	10	50	3	63
• Others[2]	0	1	136	631	32	800
Total	**0**	**1**	**388**	**1,091**	**41**	**1,521**

[1]Data Source: June 30, 2015 Annual Valuation Reports;
[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

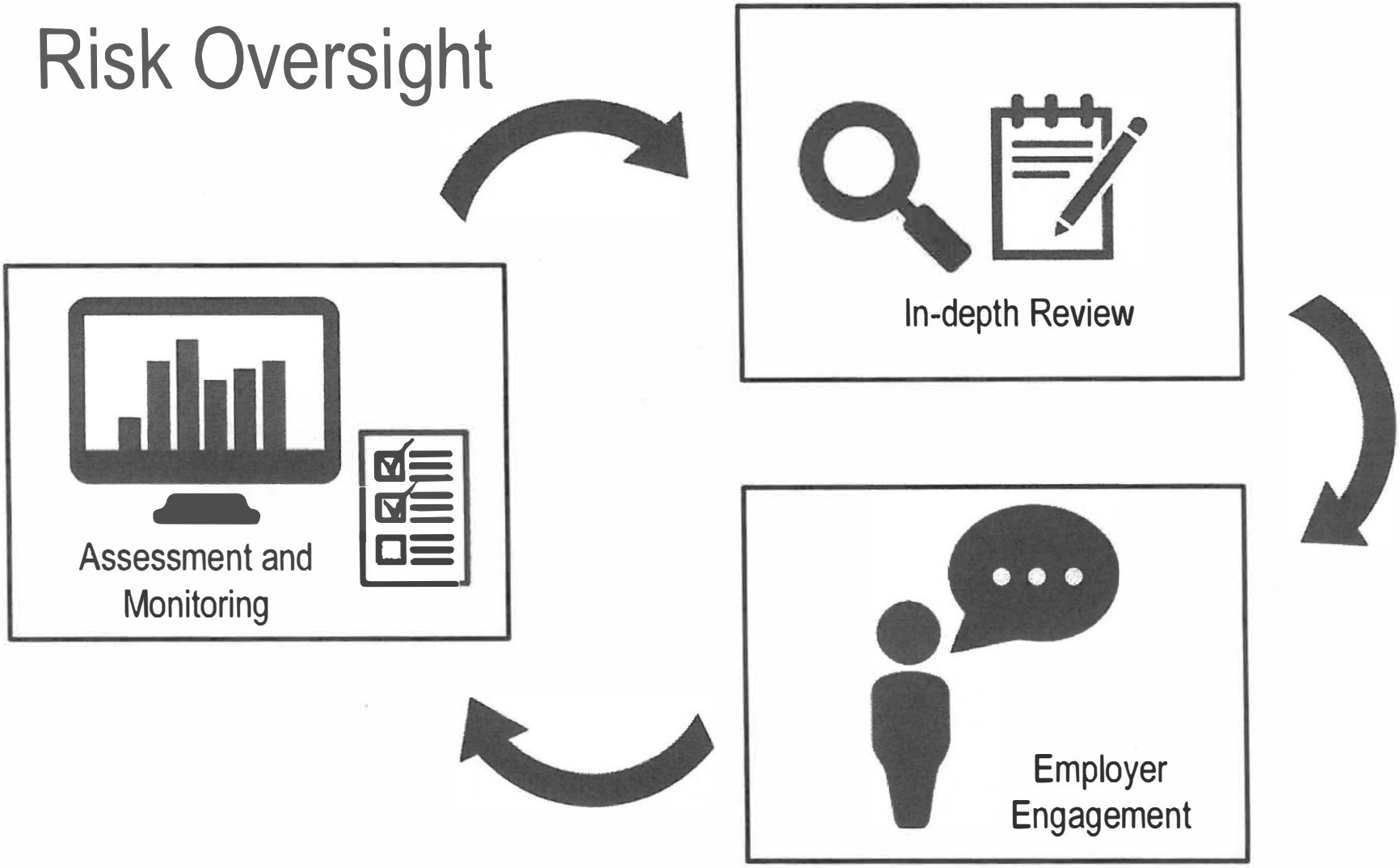
All Public Agency Funded Status[1]



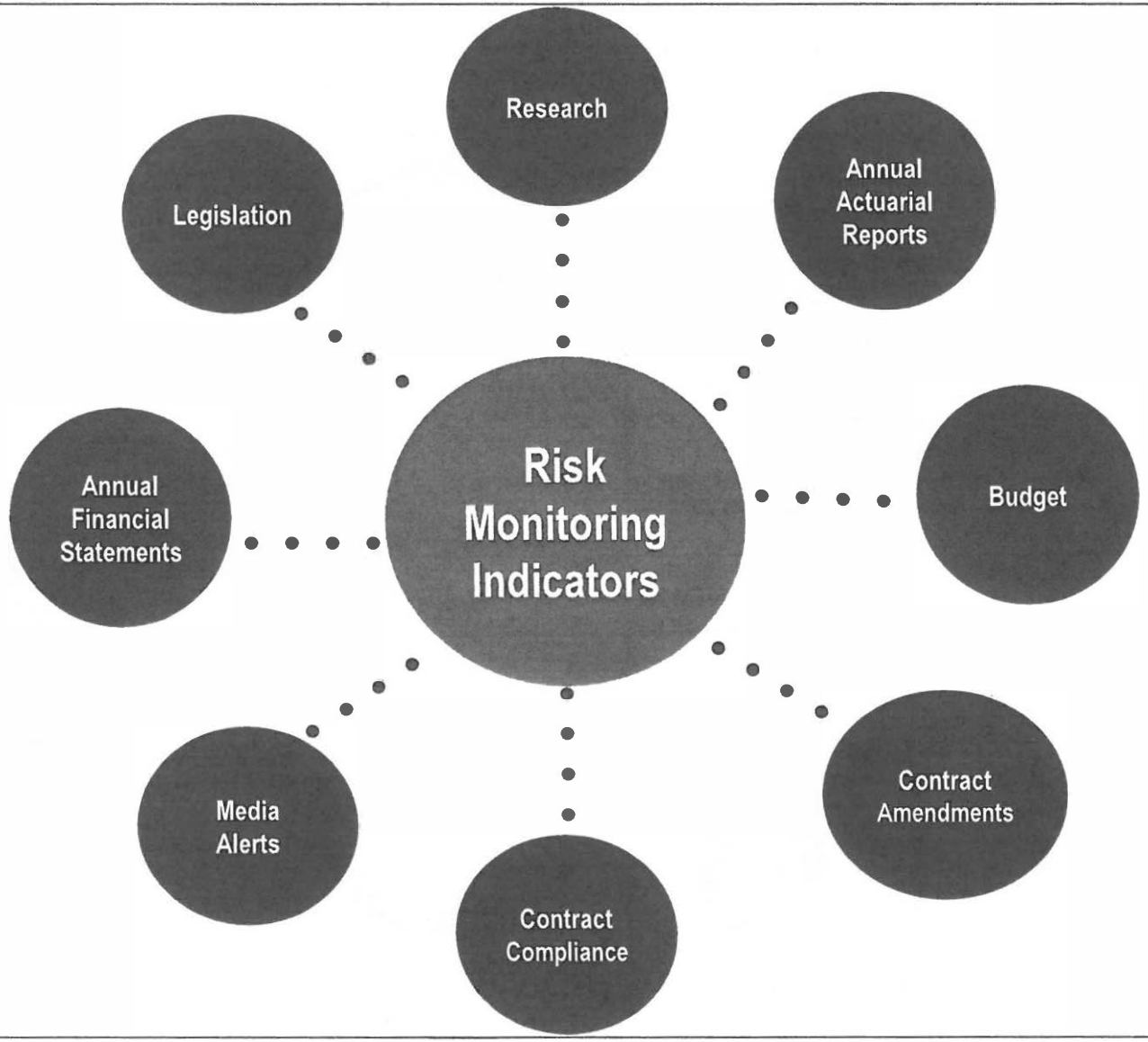
[1]Data Source: June 30, 2015 Annual Valuation Reports
[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

Risk Oversight



Risk Assessment

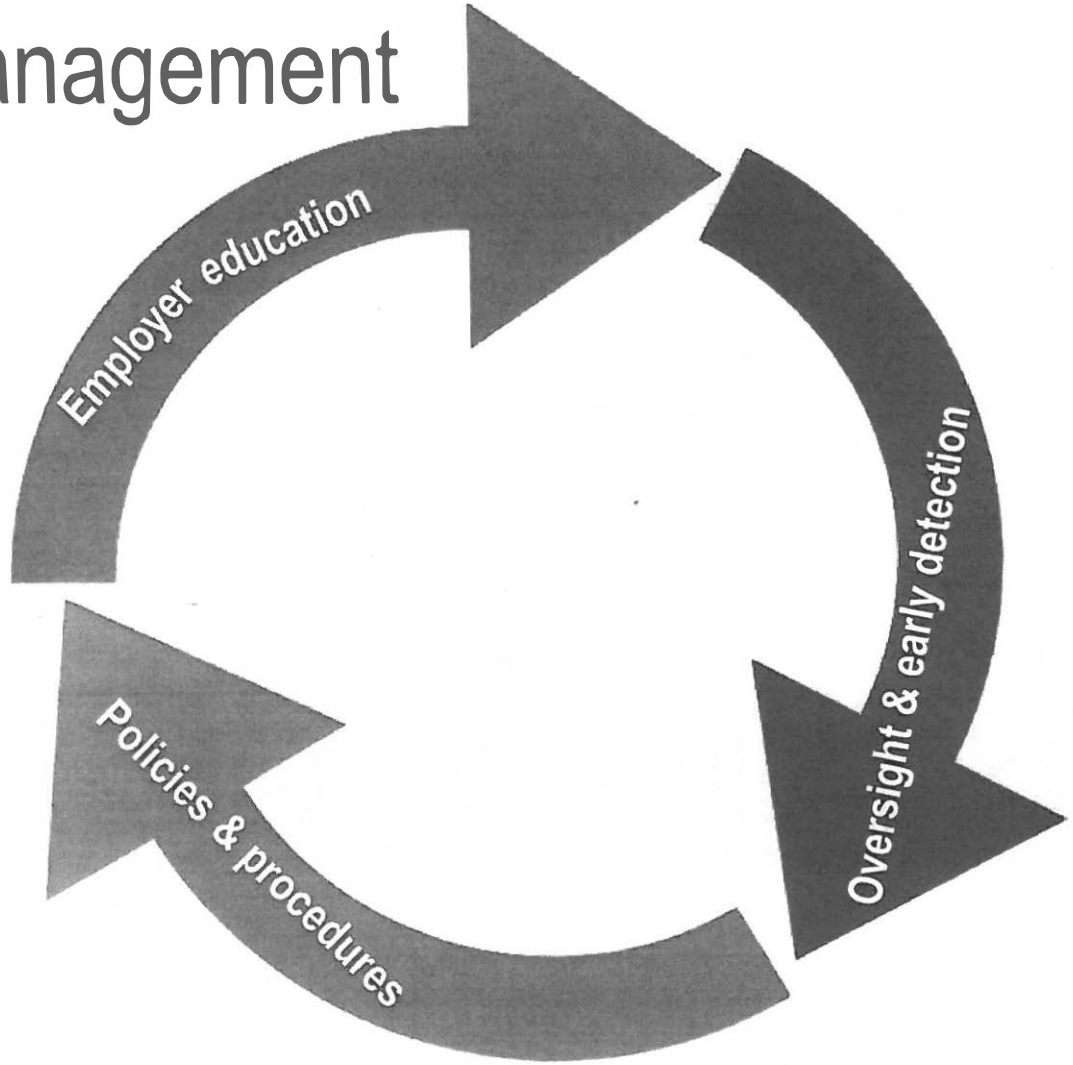


CalPERS

Risk Response Prioritization

Tier One	Tier Two	Tier Three
 Risk detected requires immediate attention and has a significant impact.	 Risk detected that may lead to more serious impact.	 Risk detected may require greater controls and oversights.

Risk Management



Inactive Agency Demographics

59 – Inactive Public Agencies in Retirement Program[1]

Agency Type	# of Agencies	% of Total Agencies	Total Participants	% of Total Participants
Cities or Towns	0	0%	0	0%
Counties	1	2%	348	18%
Special Districts				
• JPAs	13	22%	684	36%
• Non-Profits	10	17%	271	14%
• Others[2]	35	59%	595	32%
Total	**59**	**100%**	**1,898**	**100%**

[1]Data Source: 2016 valuation report dataset; Total participants represent the actual participants in each rate plan.
[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

Inactive Agency Unfunded Accrued Liability

59 - Inactive Agencies in Retirement Program[1]

Agency Type	# of Agencies	Current UAL & Funded % @ 7.5% ($ in Millions)		Termination UAL & Funded % @ 2.0% ($ in Millions)	
Cities or Towns	0	$0	0%	$0	0%
Counties	1	$10	75%	$40	44%
Special Districts					
• JPAs	13	$45	75%	$236	36%
• Non-Profits	10	$3	86%	$27	44%
• Others[2]	35	$23	82%	$153	40%
Total	**59**	**$81**	**78%**	**$456**	**39%**

[1]Data Source: 2016 valuation report dataset
[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

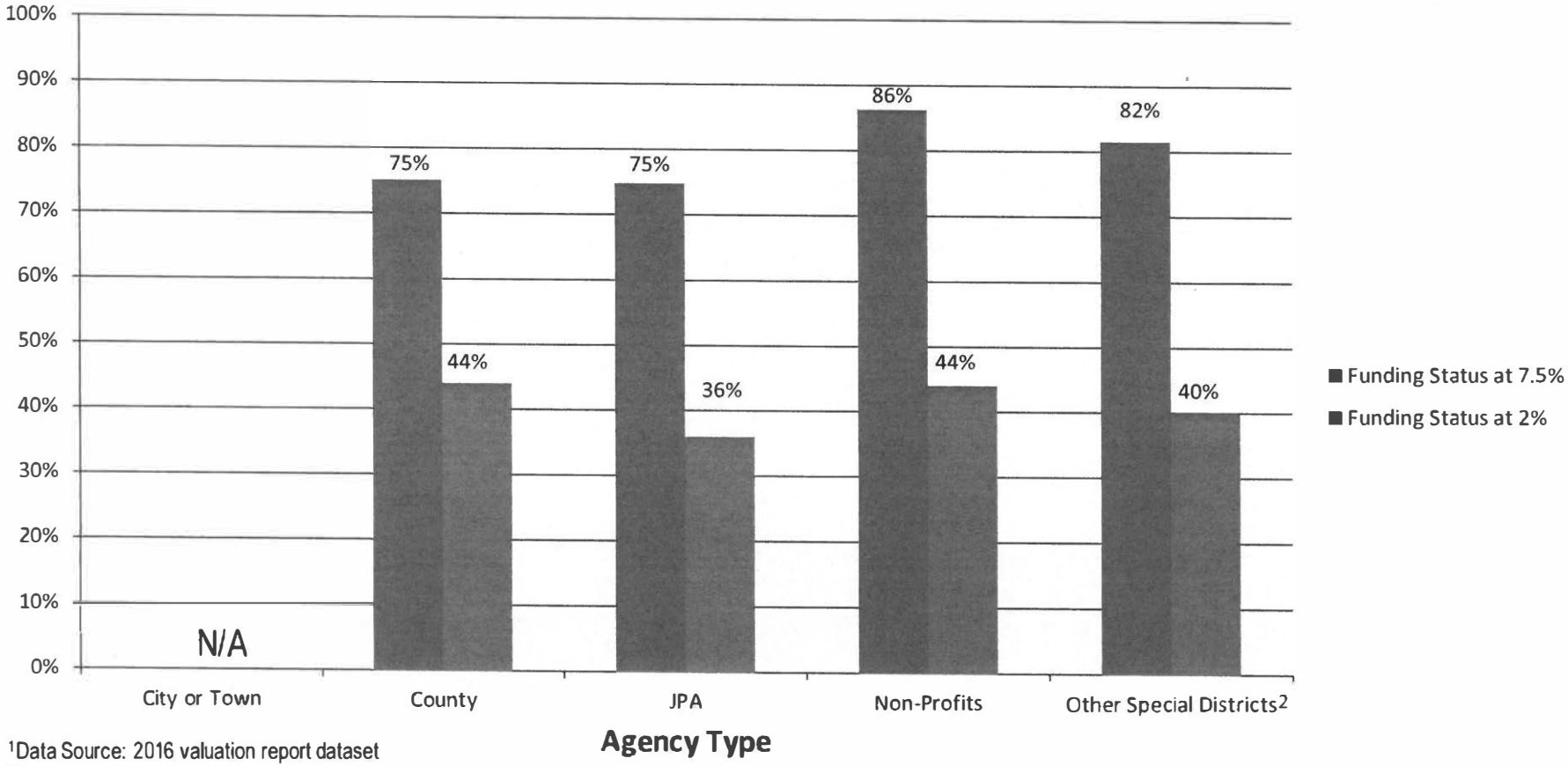
Inactive Agency Funded Status at 7.5%[1]

Agency Type	0% - 25%	> 25% - 50%	>50% - 75%	>75% - 100%	>100%	Total
Cities or Towns	0	0	0	0	0	0
Counties	0	0	0	1	0	1
Special Districts						
• JPAs	0	0	5	7	1	13
• Non-Profits	0	0	3	4	3	10
• Others[2]	0	1	16	8	10	35
Total	**0**	**1**	**24**	**20**	**14**	**59**

[1]Data Source: 2016 valuation report dataset
[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

Inactive Agency Funded Status at 7.5 and 2% [1]



[1]Data Source: 2016 valuation report dataset

[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

CalPERS

Preliminary Review[1]

Agency Type	Dissolved	Function Merger	Service Agreement	Reporting	Total
Cities or Towns	0	0	0	0	0
Counties	0	1	0	0	1
Special Districts					
• JPAs	7	0	6	0	13
• Non-Profits	2	2	4	2	10
• Others[2]	4	3	23	5	35
Total	**13**	**6**	**33**	**7**	**59**

[1]Four agencies omitted from the audit due to pending termination or merging process.
[2]Represents special districts in California who formed and are governed under a specific California government Code, such as Fire Protection Districts, Sanitation Districts, Transit District, Utility District and Water District.

Background on Agencies Experiencing Financial Hardship

Public Agency	Rate Plan & Formula	Plan Participants	Current Unfunded Accrued Liability (UAL) & Funded % at 7.5%		Termination* (UAL) & Funded % at 2.0%	
East San Gabriel Valley Human Services	Misc. 2.0@55	Transferred= 36 Separated= 93 Retired= 62 **Total= 191**	($3,370,467)	77.1%	($19,352,259)	37.0%
	Misc. PEPRA 2.0 @ 62	Separated= 6 **Total= 6**	$1,242	105.9%	($7,685)	74.5.%
Niland Sanitary District	Misc. 2.0@60	Transferred= 1 Separated= 2 Retired= 1 **Total= 4**	($13,306)	78.6%	($132,539)	27.0%
Trinity County Water Works District #1	Misc. 2.7@55	Transferred= 0 Separated= 5 Retired=0 **Total= 5**	($339,131)	63.7%	($1,707,720)	25.9%

Dat
*In

CalPERS

Agencies Experiencing Financial Hardship

Amount Owed to CalPERS in $ Report Date: 4/7/2017					
Public Agency	**Contributions**	**Reporting Arrears**	**Unfunded Accrued Liability**	**Termination Liability**	**Total Delinquent Amount**
East San Gabriel Valley Human Services	–	–	$462,025	–	$462,025
Niland Sanitary District	–	$21,562	$859	–	$22,421
Trinity County Water Works District #1				$1,534,409	$1,534,409
Total	—	**$21,562**	**$462,884**	**$1,534,409**	**$2,018,855**

Data Source: myCalPERS as of April 7, 2017 and Final Termination Valuation

CalPERS

Next Steps

- Develop and implement assessment, monitoring and reporting tools
- Discussions with inactive agencies
- Identify legislative strategies
- Report progress to FAC in September 2017

Background: Collection Process Timeline

Day 1 Step 1
Monthly billing of payroll

Day 31 Step 2
Account considered delinquent (DQ) if payment not received

Day 36 Step 3
Employer (ER) receives collection calls & myCalPERS system generates late notice to ER

Day 50 Step 4
Review to determine if audit needed

Day 40-60 Step 5
Agency elevated to Contract Management Team (CMT).

Month 2 Step 6
Final collection letter sent giving 10 days notice for payment. Members receive notification

Month 3 Step 7
Final demand letter with 30 days to pay. Members notified of status and risk of benefit reduction

Month 4 Step 8
Prepare agenda item for Board review

Month 5 Step 9
Board review for approval to terminate/reduce benefits based on non-payment

Month 7-9 Step 10
Assets moved to Terminated Agency Pool (TAP) with immediate benefit reductions

Glossary of Terms

Funded Status – A measure of how well funded, or how "on track" a plan or risk pool is with respect to assets versus accrued liabilities. A ratio greater than 100 percent means the plan or risk pool has more assets than liabilities and a ratio less than 100 percent means liabilities are greater than assets.

Inactive Agencies – Agencies with all inactive rate plans

Inactive Rate Plan – Agency is not currently reporting payroll; may have an unfunded accrued liability.

Non-active member – A member on an inactive rate plan who no longer contributes to a pension plan, including retirees and those entitled to a deferred pension.

Unfunded Accrued Liability (UAL) – When a plan or pool's Value of Assets is less than its Accrued Liability, the difference is the plan or pool's Unfunded Accrued Liability (or unfunded liability). If the unfunded liability is positive, the plan or pool will have to pay contributions exceeding the Normal Cost.

Terminated Agency Pool

April 2017

CalPERS

Topics

- Purpose
- TAP Facts at a Glance
- Termination Funding Calculations
- TAP Investment Policy
- TAP Funded Status
- Legislative history

TAP Purpose

- Secure (immunize) the benefits for members of agencies which have terminated their CalPERS contract
- Prudently manage the short and long term benefit payment and investment risks associated with terminated plan liabilities
- Accurately track and account for terminated agencies and their members

TAP Facts at a Glance

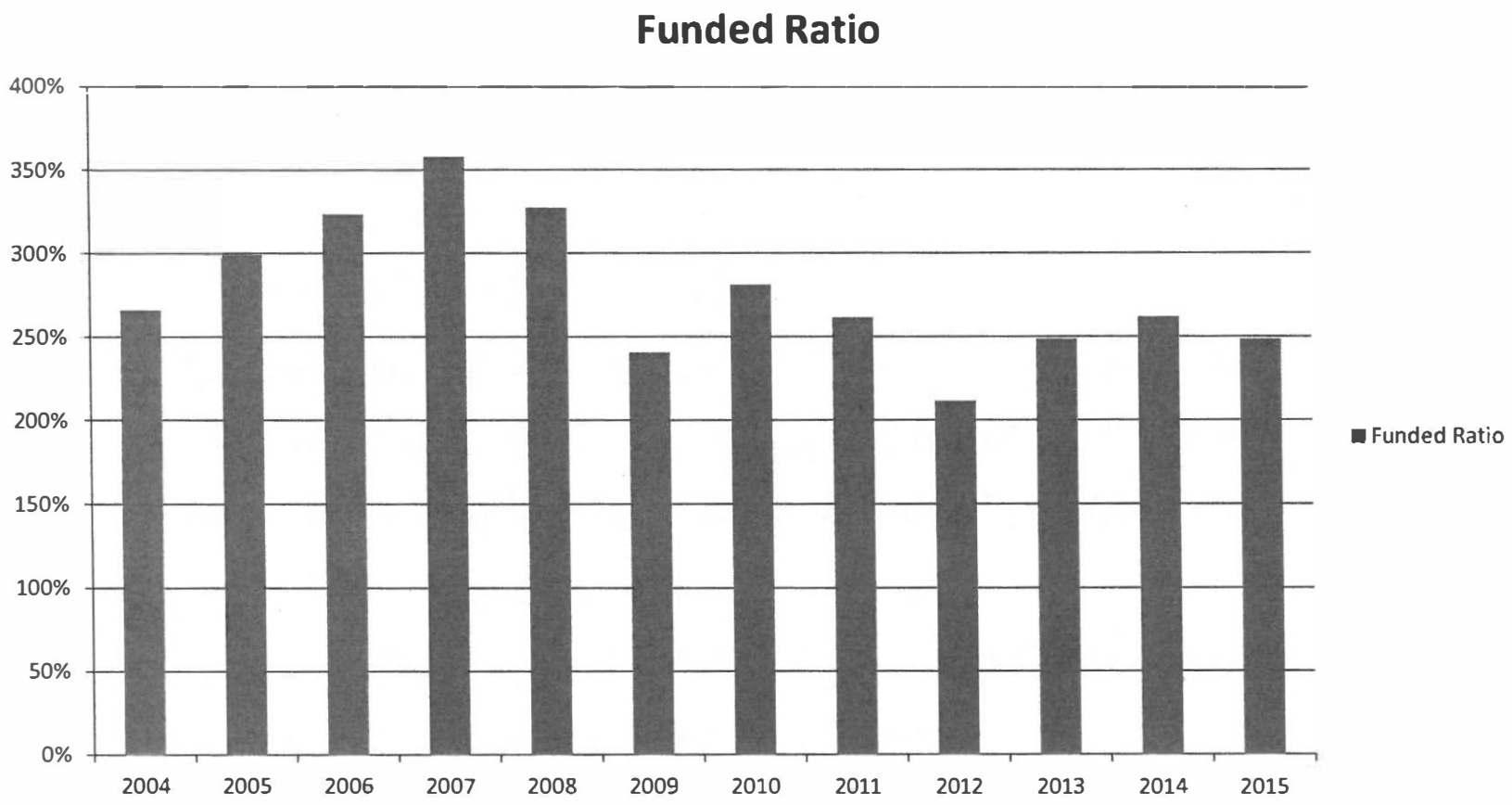
- As of June 30, 2015

Number of Agencies	93
Total Membership	1,051
- Retirees	716
- Average Monthly Pension	$573

- Comparison of Current & Prior Year Financial results

$ Millions	2015	2014
MV Assets	$219.7	$215.4
Liabilities	$88.5	$82.2
Unfunded Accrued Liability	$(131.2)	$(133.1)
Funded Ratio	248.3%	261.9%

TAP Facts at a Glance



TAP Facts at a Glance: Risks

- Small plan size is highly sensitive to change
- Any additional agency that enters the TAP will lower the funded status of the plan even if it is fully funded.
- The funded status of the TAP is largely a result of the last 3 decades of unprecedented performance of long duration bonds, however, going forward the Market return outlook for U.S. Government Securities is low
- Final compensation for 8% of TAP members not frozen and other variables, such as mortality, exist; potential increase in future liabilities
- Significant changes jeopardize retirement security of current TAP members, erodes surplus
- CalPERS has no future recourse to agencies in the TAP after termination

Financial Impact

- Example 1
  - New agency added to pool
  - Fully funded: $30 million of Assets and Liabilities
- Financials as of June 30, 2015

	Current	New Agency Added	After Agency Added
MV Assets	$219.7	$30	$249.7
Liabilities	$88.5	$30	$118.5
UAL	$(131.2)	$0	$(131.2)
Funded Ratio	248.3%		210.7%

Financial Impact

- Example 2
  - New agency added to pool
  - Fully funded: $60 million of Assets and Liabilities
- Financials as of June 30, 2015

	Current	New Agency Added	After Agency Added
MV Assets	$219.7	$60	$279.7
Liabilities	$88.5	$60	$148.5
UAL	$(131.2)	$0	$(131.2)
Funded Ratio	248.3%		188.4%

Termination Funding Calculation

- CalPERS Actuarial Offices determines if any deficiency or surplus exists at termination date on an individual Employer Plan level
  - Use immunized discount rate not PERF discount rate
  - Deficiency amounts are owed to CalPERS
  - Surplus amounts are repaid to agency
- Market based discount rate used to value termination liabilities
  - Blend of yields on 10 Year and 30 Year US Treasury Bonds
  - Match duration of liabilities at termination date
- CalPERS has no future recourse to agencies after termination

TAP Investment Policy

Risk minimizing investment policy utilized

- Immunized Segment
  - Cash flow matching with US Government securities
  - Adequate liquidity to meet future needs
- Segment when funded status exceeds 100%
  - Invested along side assets of the PERF
  - Capture potential gains (and losses) of the PERF

TAP Funded Status

TAP's financial condition attributable to:

- Termination Funding on a risk minimizing basis
- Performance of TAP assets exceeded expected returns
  - 10% annual average return since 1977
- TAP funds were never diluted to improve benefits
- Reactivated agencies removed from the TAP at 100% funding level
  - Excess investment returns remain in the TAP

Legislation and Board Review

Voluntary Terminations

- Agencies may terminate their CalPERS contract
  - PERL § 20570 Termination by Governing Body
  - Contract in effect for at least 5 years
  - Resolution of governing body of intention to terminate (ROI)
- Termination Process
  - Presentation to FAC Termination Process in November 2016
  - Finance & Administration Committee November 2016 Agenda Item 7.b. Collections and Termination Process

Legislation

Involuntary Terminations

- CalPERS Board resolution
  - PERL § 20572 Failure to Pay Contributions or File Information
  - 30 days after demand to pay
  - Termination effective 60 days after board resolution adopted

Legislation

Involuntary Terminations

- Required to reduce benefits
  - Proportionate reduction in benefits
  - PERL § 20572
- Authority not to reduce benefits for underfunded plans
  - Subject to "not impact actuarial soundness of the terminated agency pool"
  - PERL § 20577.5

Discussion & Questions

CalPERS

Finance and Administration Committee

Agenda Item 7b

September 20, 2016

Item Name: Public Agency Contracts Review

Program: Financial Office

Item Type: Information

Executive Summary

This information item is provided to update the Finance and Administration Committee ("FAC") on the status of three contracting agencies that are significantly delinquent in payment of obligations to the California Public Employees' Retirement System ("CalPERS" or "System"). These agencies include one terminated agency, the City of Loyalton ("Loyalton"), and two inactive but not yet terminated agencies, the California Fairs Financing Authority ("CFFA") and the Niland Sanitary District ("Niland").

Staff's efforts to collect delinquent amounts owed to CalPERS have been ongoing for a prolonged time period. However, to date these agencies have not paid the amounts owed to CalPERS. As a result, on August 31, 2016, a final demand letter was sent to each agency. The letters provide the agencies 30 days to bring their accounts current. If the 30 days pass without full payment, staff will initiate termination proceedings under Government Code § 20572 and seek the Board's approval to terminate the contracts of Niland and CFFA. Although Loyalton voluntarily terminated its contract in March 2013, it has not paid the termination liability. If Loyalton does not pay the amount owed, the Board will be asked to declare Loyalton in default under Government Code section 20577. For all three agencies, failure to pay the termination liabilities required by the contracts will result in a reduction of retirement benefits under Government Code § 20577.

Staff anticipates that it will bring Agenda Items to the FAC addressing each of these three cases in November. The purpose of today's Agenda Item is to inform the FAC in advance of these potential recommendations.

Strategic Plan

The Agenda item supports Goal A of the CalPERS 2012-17 Strategic Plan, which aims to improve long-term pension and health benefit sustainability. Pension and health benefit funding are considered a strategic risk to the organization, and proper management of employer contracts and collection of payments are critical to ensuring the long-term sustainability of the System.

Background

The Public Employees' Retirement Fund ("PERF") is a trust that holds and invests the assets needed to pay retirement benefits that participating agencies have agreed to provide to their employees. The California Constitution and state statutes define the trust relationship and the

rights and duties of the Board, the public agencies, and the members of the System. The CalPERS Board has the fiduciary duty to ensure the integrity of the System in order to pay benefits. CalPERS does not have the authority to forgive employer contributions that are necessary to sustain the soundness of the System.

When a public agency voluntarily chooses to provide retirement benefits to its employees at various levels (*e.g.*, 3% at 50, 2% at 55) through the System, the public agency contracts with CalPERS and agrees to be bound by the statutory provisions governing the System. This includes agreeing to make its eligible employees members of the System and to timely pay required contributions. Employer contribution rates are determined by periodic actuarial valuations in accordance with state law. Actuarial valuations are based, in part, on the benefit formulas the agency has adopted and the employee groups covered.

Participating public agencies may voluntarily terminate their relationship with CalPERS. However, termination of this relationship does not terminate the public agency's obligations to pay required contributions to CalPERS to fund benefits accrued prior to termination. Instead, state law provides for a valuation of the assets and the liabilities of the employer at the time of termination. Because termination of the relationship effectively closes the pension plan for that employer, any unfunded liabilities as of the effective date of termination must be fully paid by the employer.

State law also provides for the involuntary termination of public agency contracts. Specifically, Government Code § 20572 sets forth the provisions governing involuntary terminations and provides the Board the authority, by resolution adopted by a majority vote, to terminate the contract if:

- The contracting agency fails to pay any installment of required contributions for 30 days after a demand for payment; or
- The contracting agency fails to provide information with respect to that agency's employees required for the administration of the system for three months after a demand for the information; or
- CalPERS determines that the agency no longer exists.

Moreover, Government Code § 20577 requires the Board to reduce member benefits in proportion to the amount of the employer's deficiency in paying the required contributions. In limited situations, when a deficiency exists, § 20577.5 allows the Board to merge a terminated plan into the Terminated Agency Pool ("TAP") without benefit reduction or with a lesser reduction if the Board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and if the Board finds that the merger of the plan into the TAP without benefit reduction would not impact the TAP's actuarial soundness. The Board has delegated this determination to the General Counsel (reasonable efforts to collect) and the Chief Actuary (impact on the TAP's actuarial soundness).

In order to most effectively carry out its responsibilities under the laws cited above, Staff has initiated a multi-pronged approach to enhance employer contract management including the following:

- Implementation of rigorous underwriting and due diligence standards prior to contracting with new employers that desire to enter the system;
- Enhancement of collections processes;

- Increased engagement with employers regarding education and account status support;
- Initiation of employer financial analysis to monitor employer capacity to fund pension obligations; and
- Exploration of additional mitigation strategies for employer plans to enter the TAP.

Analysis

Employer pension accounts receivable are considered delinquent when payments have not been received within 30 days of the due date. Employer health receivables are considered delinquent when payments have not been received by the 10th of the month. When a payment is late, delinquency notices are sent in 30-day intervals and interest is assessed until the receivable is paid.

Niland, Loyalton and CFFA are significantly delinquent on the amounts due to the System. The Financial Office ("FINO") has performed a detailed escalation process and conducted extensive research to ensure the accuracy and escalated engagement to provide every reasonable opportunity to these agencies to facilitate payment of the funds due to the System. These efforts have not been successful and the last recourse is to send the Final Demand Letters. The table below summarizes the amounts owed to CalPERS:

	*Amounts Owed to CalPERS in $ Report Date: 9/1/16				
Name	Arrears	Accrued Unfunded Liability	GASB Reporting Fees	Termination Costs	Total
Niland	21,562	583	1,650		23,795
CFFA		359,658	1,300		360,958
Loyalton				1,661,897	1,661,897

*In addition to the amounts owed above, termination costs for Niland and CFFA would be calculated at the effective date of termination.

After several unsuccessful attempts (including numerous letters and calls) by staff to collect the contributions owed by each of the agencies, a final demand letter was sent by certified mail to each agency on August 31, 2016. These letters give the agencies 30 days to bring their accounts current. If the 30 days pass without full payment, staff will initiate termination proceedings under Government Code section § 20572 and seek the Board's approval to terminate the contracts of Niland and CFFA. Loyalton voluntarily terminated its contract in March 2013. For all three agencies, failure to pay the termination liabilities required by the contracts will result in a reduction of retirement benefits under Government Code § 20577.

If Niland and CFFA fail to make the required payments, staff will bring agenda items to the FAC in November asking for the adoption of a resolution that would terminate the contract of each agency, which would be effective 60 days after mailing of the notice of termination. The November agenda items will describe in detail staff's attempts to collect the delinquent contributions and provide the estimated amount of the benefit reductions to the members.

Budget and Fiscal Impacts
This is an information item and does not create any budget of fiscal impact at this time.

Benefits and Risks
Moving forward with the referenced contract terminations and potential reductions in retiree pension benefits entails certain benefits and risks.

Benefits include:

- Fulfills CalPERS fiduciary obligations through strengthening the long-term sustainability of the System.

Risks include:

- Benefit reductions could trigger potential litigation.

Attachments
Attachment 1 – Employer Demand Letters
Attachment 2 – Member Notifications

SCOTT TERANDO
Deputy Chief Actuary

MATTHEW G. JACOBS
General Counsel

CHERYL EASON
Chief Financial Officer

CalPERS

Finance and Administration Committee

Agenda Item 7b

November 15, 2016

Item Name: Collections & Termination Process for Public Agencies

Program: FINANCIAL OFFICE

Item Type: Information

Executive Summary

At the September 2016 meeting of the Finance and Administration Committee ("FAC") staff was asked to provide an overview of the process with respect to the collection of employer pension contributions, the termination of employer contracts, and the reduction in pension benefits to members in the event that an employer contract is terminated and the employer does not fully pay its pension obligations to the California Public Employees' Retirement System ("CalPERS" or "System").

Strategic Plan

This agenda item supports CalPERS Strategic Plan Goal A: improve long-term pension and health benefit sustainability.

Background

The process for collections and contract terminations, both involuntary and voluntary, including the potential reduction in benefits to members if an employer does not pay its pension obligations to CalPERS, is guided by provisions in the California Public Employees' Retirement Law ("PERL"), particularly "Part 3. Chapter 5. Article 5. Termination of Contracts". The process involves cross-program collaboration within CalPERS and contains multiple steps, decision points, and safeguards.

The Public Employees Retirement Fund ("PERF") is a trust that holds and invests the assets needed to pay retirement benefits that participating agencies have agreed to provide to their employees. The California Constitution and state statutes define the trust relationship and the rights and duties of the Board, the public agencies, and the members of the System. The CalPERS Board has the fiduciary duty to ensure the integrity of the System in order to pay benefits. CalPERS does not have the authority to forgive employer contributions that are necessary to sustain the soundness of the System.

When a public agency voluntarily chooses to provide retirement benefits to its employees at various levels (e.g., 3% at 50, 2% at 55) through the System, the public agency contracts with CalPERS and agrees to be bound by the statutory provisions governing the System. This includes agreeing to make its eligible employees members of the System and to timely pay required contributions. Employer contribution rates are determined by periodic actuarial valuations in accordance with state law. Actuarial valuations are based, in part, on the benefit formulas the agency has adopted and the employee groups covered.

Participating public agencies may voluntarily terminate their relationship with CalPERS. However, termination does not eliminate the agency's obligation to pay required contributions to

CalPERS to fund benefits accrued prior to termination. Instead, state law provides for a valuation of the assets and the liabilities of the employer at the time of termination. Because termination effectively closes the pension plan for that employer, any unfunded liabilities as of the effective date of termination must be fully paid by the employer. It should be noted that the total liability at termination is calculated using a risk-free discount rate based on the duration of the remaining liabilities in order to "immunize" the System from funding risk going forward.

The PERL also provides for the involuntary termination of public agency contracts. Specifically, Government Code section 20572 sets forth the provisions governing involuntary terminations and provides the Board the authority, by resolution adopted by a majority vote, to terminate the contract if:

- The contracting agency fails to pay any installment of required contributions for 30 days after a demand for payment; or
- The contracting agency fails to provide information with respect to that agency's employees required for the administration of the system for three months after a demand for the information; or
- CalPERS determines that the agency is no longer in existence.

Moreover, section 20577 requires the Board to reduce member benefits in proportion to the amount of the employer's deficiency in paying the required contributions. In limited situations, when a deficiency exists, section 20577.5 allows the Board to merge a terminated plan into the Terminated Agency Pool ("TAP") without benefit reduction or with a lesser reduction if the Board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and if the Board finds that the merger of the plan into the TAP without benefit reduction would not impact the TAP's actuarial soundness.[1]

The "Analysis" section below describes the detailed process staff follows to ensure all reasonable efforts are made to collect pension obligations and that contract terminations and the reduction in member benefits in the event an employer defaults on its obligations are carried out as prescribed by law.

Analysis

The recent escalation in seriously delinquent cases has led staff to focus carefully on the collection and termination process. The collection and termination functions now report directly up to the Chief Financial Officer ("CFO"). A key development has been the establishment of the Case Management Team ("CMT"). Chaired by the CFO, the oversees the collection and termination process and includes, in addition to the CFO, CMT representatives from the Financial Office ("FINO"), ACTO, Legal Office ("LEGO"), Customer Service Support ("CSS"), Communications and Stakeholder Relations ("CSR"), and Office of Audit Services OFAS. The roles of each participating group are as follows:

FINO
- Owns and leads the overall collection and termination process.
- Contract Support Unit ("CSU") within FINO manages this process.

ACTO
- Performs actuarial valuations and determines benefit reduction percentages.

[1] Although section 20577.5 permits merger into the TAP without benefit reductions, section 20578, subdivision (b) caps the level of benefits at the level that was in place 36 months prior to contract termination. The stated intent of this cap is to discourage employers from increasing benefits prior to going into the TAP with the expectation that those benefit increases would be funded by the TAP.

LEGO	▪ Provides legal input and opinions. Validates, when required, that "all reasonable efforts" have been made to collect on monies owed.
CSS	▪ Compiles member data for FINO. ▪ Determines actual benefit reductions for members and issues 'Intent to Adjust Benefit' notifications.
CSR	▪ Provides advice re: communications and stakeholder relations.
OFAS	▪ Performs audits of terminating cases.

Cross-divisional efforts resulted in the development of a process with a shared approach between CSS, FINO, ACTO and OFAS. Process enhancements were developed to the application of the PERL relative to public agency terminations from an enterprise–wide prospective. The following improvements promote efficiency and effectiveness of the process to reduce risk to the fund.

- Employer education regarding contract termination unfunded liability responsibilities and consequences of failure to pay.
- Improved coordination between ACTO and FINO staff handling accounting tasks including termination invoice and discussions with employers regarding amounts owed.
- Centralizing pension contract and collection functions to improve services to employers and mitigate the risk of nonpayment.
- Enhanced coordination between pension contract and collection staff in regards to contract compliance, identifying responsible parties, performing financial assessments, repayment options, and services delivery.
- Collection staffs participate in CMT meetings to improve communication and expedite resolutions to complex cases.
- Development of contract reporting regarding status of active and inactive rate plans, areas of risks to improve employer education.
- Coordinate with OFAS and FINO to standardize review criteria for inactive plans, and provide cross-divisional support on employer reviews.
- Streamline end-to-end process for employer communication, member notification and benefit reductions.

Voluntary Terminations

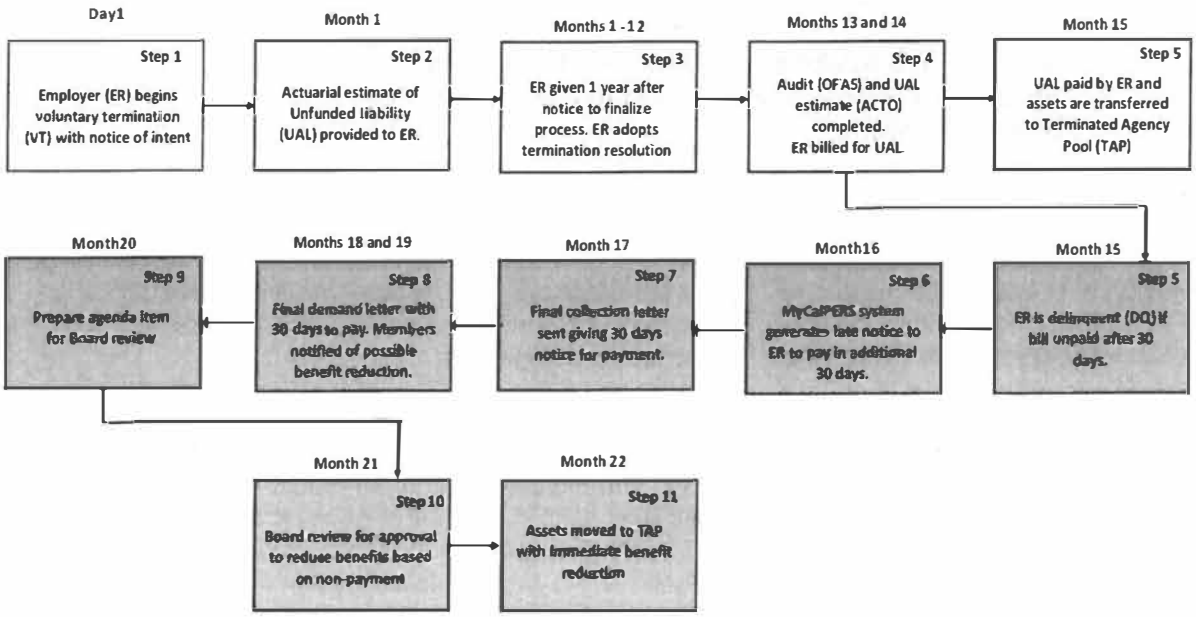
Employers may also terminate their contracts on a voluntary basis. Under section 20570, the governing body of an employer may terminate a contract by the adoption of a resolution giving notice of intention to terminate and by the adoption, not less than one yeathereafter, of a resolution terminating the contract. Termination shall be effective with Board approval on the date designated in the resolution terminating the contract.

During the one year from the time CalPERS receives the notice of intention to terminate and the resolution terminating the contract, staff works closely with the employer to ensure they fully understand the implications of voluntary termination [Step 1]. In particular, ACTO calculates a preliminary termination valuation and estimates the unfunded liability the employer will need to pay to CalPERS at termination. Staff discusses this unfunded liability with the employer and attempts to verify the employer's financial ability to pay this obligation [Step 2]. It should be noted that the termination unfunded liability amount is provided to every employer for each of their plans on an annual bases through the annual valuation report prepared by ACTO, including the calculation under a hypothetical termination using a discount rate of 2.0%.

If the employer decides not to proceed with the termination at this point, the process ends and the employer remains status quo, provided that the employer stays current in the payment of its obligations. If the employer proceeds, staff would terminate the contract upon receipt of the employer's final resolution to terminate [Step 3]. After termination, ACTO performs a final valuation and determines the final unfunded liability after OFAS completes a final audit of the rate plan. The employer is then billed for the unfunded liability [Step 4]. Under section 20573, the board may "negotiate the effective date of termination and the terms and conditions of the termination and of the payment of unfunded liabilities." If the employer pays the bill within 30 days, the assets and liabilities of the rate plan are moved to the TAP [Step 5]. However, if the employer becomes delinquent in the payment of this bill, the collection process starts and is followed according to the illustration below [Steps 5 to 11]. In certain circumstances we may consider allowing an agency to pay its term liability over more than one payment (with interest). If the agency misses a payment we could seek default and reduce benefits

As indicated in the illustration below, the process from the time an employer adopts a resolution giving notice of intention to terminate to the actual termination and the payment of the final unfunded liability takes roughly 15 months. If the employer becomes delinquent in paying its final unfunded liability in a voluntary termination, the collection process is initiated to recover amounts owed. . The benefit reduction process is similar to the involuntary termination process outlined in Illustration 2 following, but the timeframes are more compressed because the contract has already been terminated.

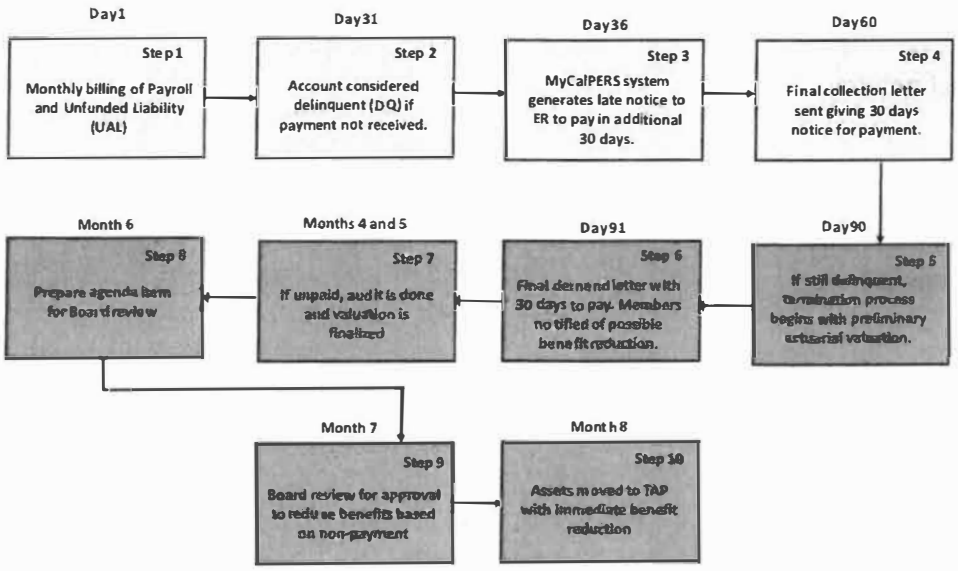
Voluntary Termination Process and Timeline



Involuntary Terminations

As indicated below, the process from the time an employer becomes delinquent to the point of involuntary contract termination takes approximately 8 to 10 months. After the termination is completed, OFAS delivers its final audit, ACTO completes its final valuation, and the employer is billed for its final unfunded liability. If the employer fails to pay this obligation, the reduction in benefits takes place 14 to 17 months after the process began. This overall length of time is driven by the employer payment delinquency requirements and the employer and member notification requirements in order to proceed with termination and reduce benefits to members under the law, as well as staff's efforts to ensure that collections and terminations are carried out with the proper care and fairness to all parties warranted by the seriousness of the issue being addressed. While the process below shows a 14 to 17 month timeframe, each situation is different and the timeline may vary depending on the specific circumstances of each case. In addition, as staff continues to learn from experience, adjustments may be made to the process.

Involuntary Termination Process and Timeline



Budget and Fiscal Impacts

This is an information item and does not create any budget or fiscal impact at this time. The staff resources to implement the processes shown above have been included in the budget for FY 2016-17. If the caseload of contract terminations increases in the future, staff will address additional budget requirements at that time.

Benefits and Risks

Having clearly defined and rigorous processes for collections, contract terminations and potential reductions in retiree pension benefits provides certain benefits, including the following:

- Ensures timely resolution of routine collections issues.

- Ensures that serious collections issues receive timely attention from the proper levels of management within CalPERS.
- Strengthens overall pension funding by eliminating the unfunded liabilities of employers, who cannot or will not pay their unfunded liabilities at termination, through a corresponding reduction in benefits.

Risks include the following:

- Benefit reductions could trigger potential litigation against CalPERS.
- While employers are contractually obligated to pay their required contributions, contract terminations with a reduction in benefits exposes CalPERS to reputational risk.

Attachments
None

Scott Terando
Deputy Chief Actuary

Cheryl Eason
Chief Financial Officer

CalPERS

Board of Administration
Agenda Item 8

November 16, 2016

Item Name: Delinquent Contracting Agencies Matter

Program: Pension Contract Management Services

Item Type: Action

Recommendation
Staff recommends the Board of Administration ("Board") declare the City of Loyalton ("Loyalton" or "City") in default of its obligations to California Public Employees' Retirement System ("CalPERS" or "System"), and reduce the retirement benefits to be paid to Loyalton's employees and retirees in accordance with Government Code section 20577.

Executive Summary
At the September 2016 meeting of the Finance and Administration Committee ("FAC"), staff presented an update on contracting agencies significantly delinquent in the payment of obligations to the System. These agencies include one terminated agency, the City of Loyalton, and two delinquent but not yet terminated agencies, the California Fairs Financing Authority ("CFFA") and the Niland Sanitary District ("Niland"). Included in this agenda item are updates on actions taken by CFFA and Niland to avoid initiation of involuntary termination proceedings under Government Code section 20572, and staff's recommendation to declare Loyalton in default and reduce retirement benefits under Loyalton's contract in accordance with Government Code section 20577.

Strategic Plan
This Agenda item supports Goal A of the CalPERS 2012-17 Strategic Plan, which aims to improve long-term pension and health benefit sustainability.

Background
CFFA
In response to CalPERS' collection efforts, CFFA met with staff on October 5, 2016 and made a significant payment on its delinquent balance. CFFA has acted promptly to bring its account current and resolve the delinquent amounts owed to CalPERS, ensuring the remaining delinquent amounts, plus interest, will be fully current by June 30, 2017.

Niland
As reported at the September FAC meeting, staff sent a final demand letter to Niland on August 31, 2016, giving the agency 30 days to bring its account current or staff would initiate termination proceedings under Government Code section 20572. However, Niland recently informed staff that it completed the voluntarily termination process under section 20570. Niland provided its termination documents to CalPERS on November 1, 2016.

A participating public agency may voluntarily terminate its relationship with CalPERS. However, termination of this relationship does not end the agency's obligations to pay CalPERS the amount necessary to fund accrued benefits prior to termination. Because termination of the relationship effectively closes the pension plan for that employer, any unfunded liabilities as of the effective date of termination must be fully paid by the employer to avoid a benefit reduction.

As part of the voluntary termination process, next steps include the Office of Audit Services ("OFAS") performing a final audit of Niland and for the Actuarial Office ("ACTO") to perform a final valuation and determine Niland's termination liability. Please note that since October 31, 2013 Niland has reported to CalPERS that it has no active employees. However, recent discussions with Niland lead staff to believe that Niland may presently have active employees who should have been reported to CalPERS. The final audit will be used to ensure that ACTO has accurate and complete data to calculate the final termination valuation.

Loyalton

Loyalton contracted with CalPERS for pension benefits beginning in January 1986. In September 2004, Loyalton amended its contract to provide its employees the current benefit formula of 2.7% at 55. The City terminated its contract with an effective date of March 31, 2013. On June 10, 2014, CalPERS provided the City with an invoice for the termination liability in the amount of $1,661,897. Subsequent to the invoice, staff has had multiple discussions with Loyalton regarding the termination process, accuracy of the final valuation, the City's ability to rescind the termination, and whether it could establish a new contract. Staff addressed the City's questions and followed up with a final collections letter on December 15, 2015.

Subsequent to the final collection letter, Loyalton reiterated the same concerns that staff previously addressed. Staff again addressed these concerns and determined them to be unfounded. Staff resumed collection efforts and, to date, Loyalton has not made any payments toward its voluntary termination costs. In total, staff's ongoing collection efforts and addressing concerns from Loyalton have resulted in over 50 telephone calls and 10 collection notices to the City.

On August 31, 2016 staff sent a "Final Demand Letter" to Loyalton demanding the City bring its account current within 30 days or be declared in default. In addition, a certified letter pursuant to Government Code section 20577 was sent to the affected members to advise them of CalPERS' proposed action to reduce benefits. The 30 days have passed, and the City has not paid the amount owed to CalPERS. A meeting with Loyalton's counsel on October 31, 2016 did not lead to a payment resolution.

Government Code section 20577 provides that if an agency fails to pay the full amount of the termination valuation, the Board can declare the agency in default and consequently reduce member retirement benefits from the date of contract termination in proportion to the amount of the employer's deficiency in paying its required contributions. Staff has exhausted all reasonable efforts to collect from the City the amounts owed, including giving the City multiple opportunities to bring its account current. Because the City has failed to make any payment towards its termination liability, staff recommends that the Board declare the City in default in accordance with section 20577. As discussed, this will result in a reduction in benefits to Loyalton's employees and retirees. Further notice will be provided to affected employees and retirees of benefit reductions effective for the following pay period.

While a final calculation of the unfunded liability will be made by ACTO as of the date of actual benefit reductions, this table indicates that the City was only 39.5% funded as of March 31, 2013, indicating that a substantial reduction in retirement benefits that were based on a 2.7% at 55 formula can be expected.

Termination Cost		Employees/Retirees Impacted		
Termination Unfunded Accrued Liability	Funded %	Active Members	Retirees	Separated not yet retired
1,661,897	39.5%	0	4	1

In very limited situations regarding involuntary terminations, when a deficiency (unfunded accrued liability) exists, section 20577.5 allows the Board to merge a terminated plan into the Terminated Agency Pool ("TAP") without benefit reduction or with a lesser reduction if the Board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and if the Board finds that the merger of the plan into the TAP without benefit reduction would not impact the TAP's actuarial soundness. The Board has delegated this determination to the General Counsel (reasonable efforts to collect) and the Chief Actuary (impact on the TAP's actuarial soundness). However, Loyalton is not eligible to be evaluated under section 20577.5 as this section does not apply to voluntary terminations.

Budget and Fiscal Impacts
Eliminating the outstanding liabilities of Loyalton, and, therefore, its unfunded liability, through the reduction in benefits will improve the overall funding ratio of the System.

Benefits and Risks
CalPERS is charged with administering the System in accordance with the law. Enforcing the provisions of the contract and the statutes with respect to contract terminations and resulting benefit reductions, when appropriate, helps ensure that employers contracting with CalPERS comply with the statutory provisions governing the System. This includes agreeing to make its eligible employees members of the System and to timely pay required contributions as well as on termination to fund benefits accrued prior to termination. The CalPERS Board has a fiduciary duty to ensure the integrity of the System in order to pay benefits and to protect the soundness of the System when employers do not pay their required contributions to CalPERS.

Other contracted agencies are not impacted by the voluntary termination of Loyalton, the benefits of the four retirees and one separated employee as members of the Loyalton plan will be impacted by a benefit reduction. There is a risk that the benefit reductions could trigger potential litigation by employees against their employer that could require CalPERS' involvement.

CHERYL EASON
Chief Financial Officer

SCOTT TERANDO
Deputy Chief Actuary

MATTHEW G. JACOBS
General Counsel

CalPERS

CalPERS Finds the City of Loyalton in Default for Non-Payment of Pension Obligation

November 16, 2016

Communications & Stakeholder Relations
(916) 795-3991
Brad W. Pacheco, Deputy Executive Officer
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SACRAMENTO, CA – The Board of Administration for the California Public Employees' Retirement System (CalPERS) today declared the city of Loyalton in default of its obligations to CalPERS after failing to pay what it owes to fund its pension plan. The decision means that Loyalton's retirees will see their benefits reduced in accordance with California Public Employees' Retirement Law.

"This is a decision we take very seriously and one we very much regret had to be made," said Rob Feckner, president of the CalPERS Board. "As a Board, we have a fiduciary responsibility to keep the CalPERS Fund on secure footing, and as part of this duty we must ensure that employers adhere to the contracts they agreed to. When they don't, the law requires us to act. The people who suffer for this are Loyalton's public servants who had every right to expect that the city would pay its bill and fulfill the benefit promises it made to them."

The city of Loyalton voluntarily terminated its contract effective March 2013. In June 2014, CalPERS provided city officials with an invoice for the termination liability in the amount of $1,661,897. CalPERS has had multiple discussions with the city on several important topics, including:

- How the termination process works
- Loyalton's final valuation and the cost to terminate its contract with CalPERS
- Loyalton's subsequent request to rescind termination and its desire to establish a new contract with CalPERS to administer its pension plan

Once it was determined that Loyalton could not legally rescind its voluntary termination, a final collections letter was sent on December 15, 2015. After receiving no payment, a final demand letter was sent in August 2016 requiring Loyalton to bring its account current within 30 days or be declared in default.

Subsequent meetings with Loyalton officials failed to lead to a resolution. To date, Loyalton has not made any payments toward its voluntary termination costs. In total, CalPERS has had over 50 telephone calls with Loyalton officials and sent 10 collection notices.

In addition, a certified letter explaining CalPERS' proposed action to reduce benefits was sent to the four affected retirees and one individual who no longer works for the city but does not yet collect retirement benefits. Under Government Code 20577, the Board can reduce member retirement benefits from the date of contract termination in proportion to the amount of the employer's deficiency in paying its required contributions. In Loyalton's case, the reduction could amount to a 60 percent reduction in benefit payments.

Loyalton originally contracted with CalPERS for pension benefits in January 1986. In September 2004, the city amended its contract to provide its employees a retirement benefit formula of 2.7 percent at age 55.

Other Public Agencies Working Out Solutions

Two other agencies, the California Fairs Financing Authority (CFFA) and the Niland Sanitary District (Niland), have taken actions to avoid involuntary termination proceedings under Government Code 20572 due to non-payment. CFFA has made a significant payment on its delinquent balance, ensuring the remaining delinquent amounts, plus interest, will be fully current by June 30, 2017.

Niland recently informed CalPERS staff that it completed the voluntarily termination process and provided its termination documents to CalPERS on November 1, 2016. As part of the voluntary termination process, next steps include a final audit of Niland and a final valuation to determine Niland's termination liability.

"Our employers are now far more proactive with their pension payments and understand the obligation they have to pay the benefits they promised to their employees and retirees," said Cheryl Eason, CalPERS chief financial officer. "We're grateful for their efforts and their partnership, and look forward to working with them to ensure that the CalPERS Fund is sustainable for decades to come."

For more information, see the Board of Administration's agenda item (PDF) outlining this issue.

For more than eight decades, CalPERS has built retirement and health security for state, school, and public agency members who invest their lifework in public service. Our pension fund serves more than 1.8 million members in the CalPERS retirement system and administers benefits for more than 1.4 million members and their families in our health program, making us the largest defined-benefit public pension in the U.S. CalPERS' total fund market value currently stands at approximately $299 billion. For more information, visit www.calpers.ca.gov.

CalPERS

Finance and Administration Committee

Agenda Item 5a

March 14, 2017

Item Name: East San Gabriel Valley Human Services Recommended Termination of Agency Contract

Program: Pension Contract Management Services

Item Type: Action

Recommendation

Staff requests the Finance and Administration Committee (FAC) recommend that the Board of Administration (Board) terminate the East San Gabriel Valley Human Services Consortium (Consortium) contract with the California Public Employees' Retirement System (CalPERS or System), in accordance with Government Code section 20572. Staff further requests that the Committee recommend that the Board declare the Consortium in default on the effective date of termination if the Consortium has not paid the amounts required under Government Code section 20577.

Executive Summary

At the February 2017 FAC meeting, Staff presented an update on agencies that are significantly delinquent in the payment of required contributions to the System. Staff's update included the status of the Consortium, an agency which has not yet terminated its contract. The purpose of this agenda item is to recommend termination of the Consortium's contract with CalPERS in accordance with Government Code section 20572. To the extent the Consortium fails to pay the full amount owed under Government Code section 20577, Staff is further requesting the Board declare the Consortium in default, which will require CalPERS to reduce the retirement benefits of the Consortium's employees and retirees.

Strategic Plan

This Agenda item supports Goal A of the CalPERS 2012-17 Strategic Plan, which aims to improve long-term pension and health benefit sustainability.

Background

The Consortium is a joint power authority (JPA) formed in September 1979 by the Cities of West Covina, Covina, Azusa, and Glendora. The primary objective of the Agency was to provide employment and training services to local residents and to inmates incarcerated by the Los Angeles County Sheriff's Department (LACSD). The Consortium contracted with CalPERS effective December 1, 1979 to provide retirement

benefits for local miscellaneous employees. In September 2014, the Consortium terminated all employees due in part to the loss of a contract with LACSD and closed its headquarters. The Consortium currently has an active board with no programs in place.

The Consortium became delinquent on its Unfunded Accrued Liability (UAL) payment obligations to fund its members' benefits in August 2015. CalPERS Staff contacted the agency to address the outstanding UAL. The Consortium informed staff that it could not pay its obligations due to the loss of all funding sources. The Consortium has been delinquent on the UAL owed for FY 2015/2016 and FY 2016/2017 for the classic miscellaneous plan and will owe UAL on all plans in FY 2017/2018. Staff have made over 34 telephone calls and sent multiple collection notices to the Consortium in an effort to collect the outstanding total amount of $406,345. A final collection letter was sent to the agency on November 1, 2016, demanding that the outstanding amount be paid within 10 days of the date of the letter (Attachment 2).

On January 3, 2017, staff sent a final demand letter by certified mail to the Consortium, providing it 30 days to pay the amount owed or Staff would recommend termination of the Consortium's contract (Attachment 3). Staff sent copies of the demand letter to the four founding members of the Consortium. In addition, Staff sent certified letters to the Consortium's employees and retirees to advise them of CalPERS' proposal to terminate the contract, which would require benefit reductions. The 30 days lapsed without any payment.

On February 2, 2017, staff sent letters to each of the four founding member agencies of the Consortium requesting payment of amount owed within 15 days (Attachments 4, 6, 8, & 10). The 15 days passed with all of the member agencies stating that they would not pay the amounts owed to CalPERS (Attachments 5, 7, 9, & 11). Consequently, Staff seeks the Board's approval to terminate the contract of the Consortium under Government Code section § 20572.

Government Code section 20572 provides that if an agency fails for 30 days after demand by the Board to pay in full any installment of contributions required by its contract, the Board can terminate that contract by a resolution adopted by a majority vote of its members. The resolution to terminate is effective 60 days after notice of its adoption has been mailed by registered mail to the governing body of the agency. Staff has exhausted all reasonable efforts to collect from the Consortium the amounts owed, including providing the Consortium multiple opportunities to bring its account current. Because the Consortium has failed to make any payments towards its UAL for FY 2015/2016 and FY 2016/2017 within 30 days of the date of CalPERS' final demand letter, staff recommends that the Board terminate the contract of the Consortium.

Further, under Government Code section 20577, if an agency fails to pay the full amount owed upon termination, the Board can declare the agency in default and consequently shall reduce member retirement benefits as of the date the Board declares default, in proportion to the amount of the deficiency in accumulated contributions of the agency and its employees. Staff recommends that, to the extent that the Consortium fails to pay

the full amount of its termination liability by the effective date of termination, the Board declares the Consortium in default and retirement benefits paid to employees and retirees of Consortium reduced, in accordance with section 20577.

While the Actuarial Office will calculate the final amount of termination UAL, the Consortium is only 37.0% funded as of June 30, 2015, based on a benefit formula of 2.0% at 55 as shown in the table below. The agency's current funded status represents a benefit reduction of approximately 63% for their 191 members in the classic miscellaneous plan and approximately 24% for the six members in the PEPRA plan. The reduction of benefits would only apply to the members' portion of benefits derived from their service to the Consortium.

	Termination Cost[1]		**Employees/Retirees Impacted**
Rate Plan	Termination Unfunded Accrued Liability at 2%	Funded % at 2%	Plan Participants[2]
Misc.	$19,352,259	37.0%	**Total= 191** Transferred= 36 Separated= 93 Retired= 62
PEPRA Misc.	$7,685	74.5	**Total= 6** Separated= 6

[1]Estimated
[2]No active members

Pursuant to Government Code section 20572, termination is effective 60 days after the mailing of the notice of termination to the Consortium. If the Consortium fails to pay the amount of the termination liability and benefit reductions are required under Government Code section 20577, CalPERS will notify current and former employees of the Consortium of this decision before the implementation of the reduction. The reduction in members' benefits will occur on the first pay period 30 days after the contract termination date.

Budget and Fiscal Impacts
Termination of the pension contracts and addressing the outstanding liabilities of the Consortium through the reduction in benefits will align the benefits received by members with the contribution amounts paid into the System on their behalf.

Benefits and Risks
CalPERS is charged with administering the System in accordance with the law. Enforcing the provisions of CalPERS' contracts and the Public Employees' Retirement Law with respect to contract terminations and resulting benefit reductions, when appropriate, helps ensure that employers contracting with CalPERS comply with the statutory provisions governing the System. This includes agreeing to timely payment of required contributions and termination liabilities in order to fully fund benefits accrued

prior to termination. The Board has a fiduciary duty to ensure the integrity of the System in order to pay benefits and to protect the soundness of the System when employers do not pay their required contributions to CalPERS.

Other contracting agencies will not be impacted by the involuntary termination of the Consortium. However, the retirement benefits of a total of 62 retirees and 135 separated employees will be impacted by future benefit reductions.

Attachments
Attachment 1 – East San Gabriel Valley Human Services Consortium PowerPoint
Attachment 2 – Final Collections Letter
Attachment 3 – Formal Demand Letter
Attachment 4 – Payment Request – City of Azusa
Attachment 5 – Payment Request – City of Azusa Response
Attachment 6 – Payment Request – City of Covina
Attachment 7 – Payment Request – City of Covina Response
Attachment 8 – Payment Request – City of Glendora
Attachment 9 – Payment Request – City of Glendora Response
Attachment 10 – Payment Request – City of West Covina
Attachment 11 – Payment Request – City of West Covina Response

Scott Terando
Chief Actuary

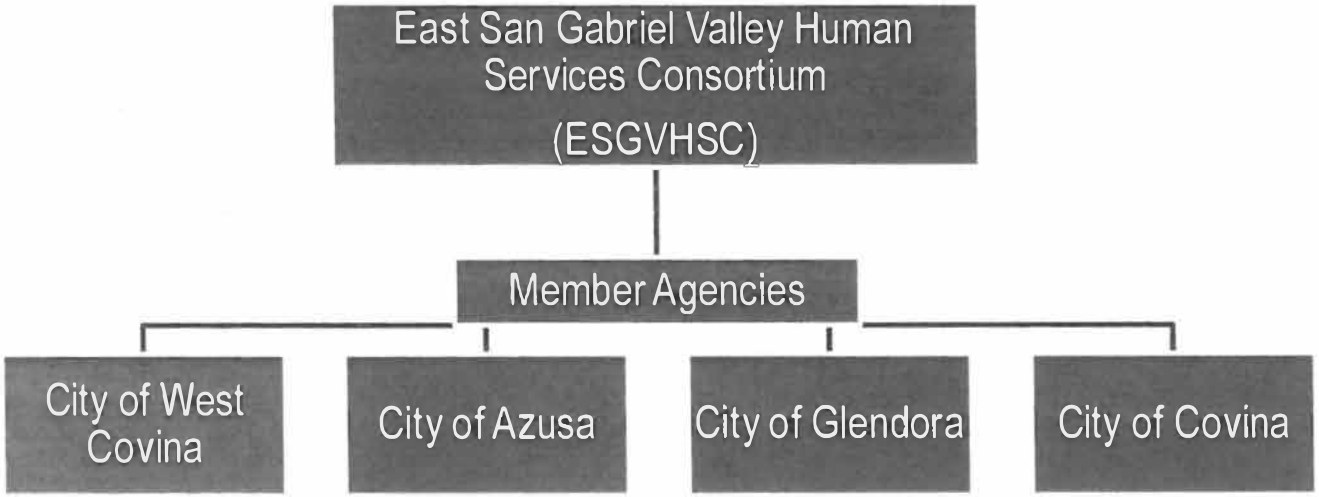
Matthew G. Jacobs
General Counsel

Marlene Timberlake D'Adamo
Interim Chief Financial Officer

East San Gabriel Valley Human Services Consortium

Finance & Administration Committee
March 14, 2017

Background



- September 1979 – Joint Powers of Authority (JPA) formed
- September 2014 – it no longer performs any business functions and has been winding down
- July 2016 – JPA failed to pay unfunded accrued liability for FY 15/16 & 16/17 - $406,345

Collection Efforts

Made 34 phone calls and sent multiple collection notices

Sent final collection and demand letters

Requested financial assistance from JPA members

Notified stakeholders, city council members and impacted members

California Public Employees' Retirement LAW (PERL)

- Section 20572
  - No payment after 30 days
- Section 20577
  - Reduction of benefit

Contract Termination Impact

Employees/Retirees			Termination Cost[1]	
Rate Plan	**Formula**	**Plan Participants[2]**	**Termination UAL & Funded % at 2.0%**	
Miscellaneous	2.0@55	Transferred= 36 Separated= 93 Retired= 62 **Total= 191**	($19,352,259)	37.0%
Miscellaneous-PEPRA	2.0@62	Separated =6 **Total= 6**	($7,685)	74.5%

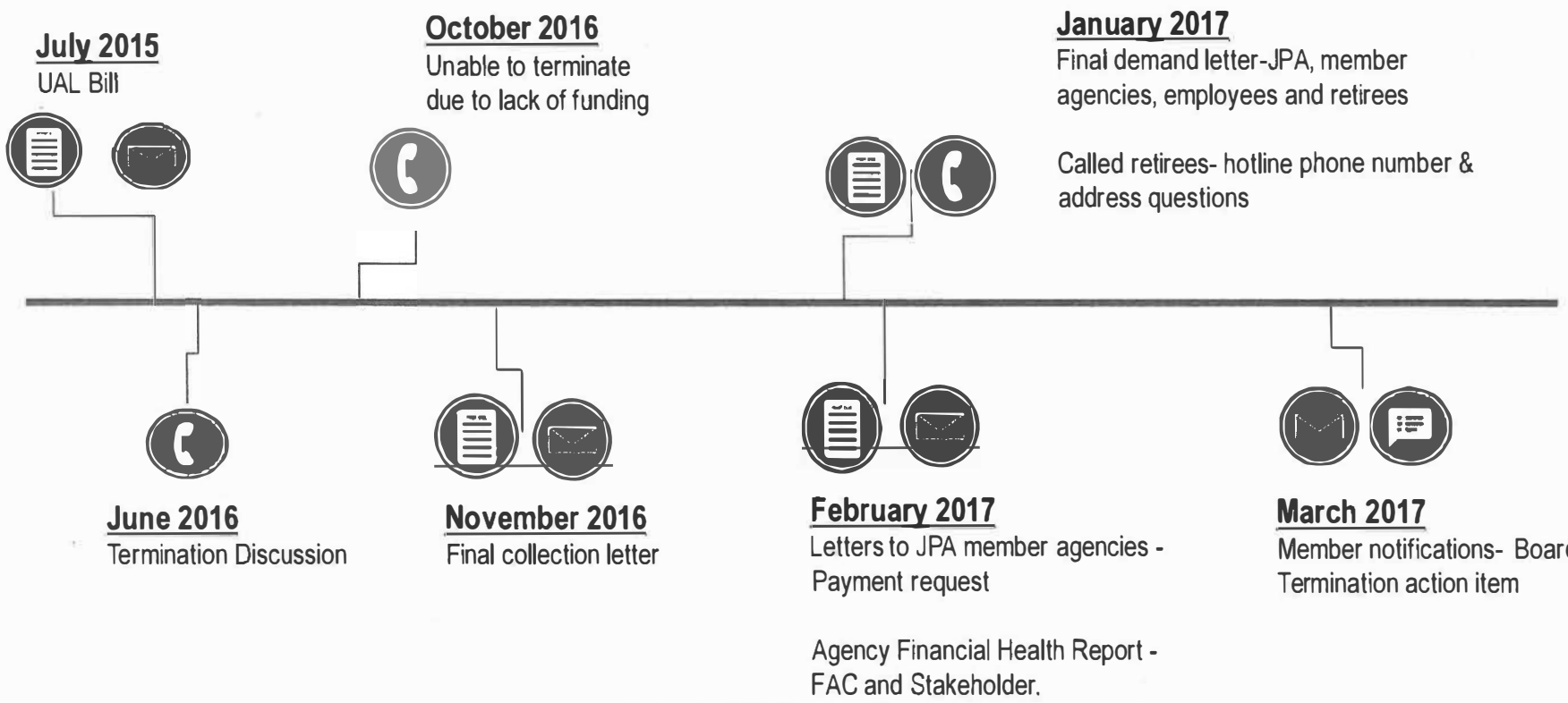
[1]Estimated
[2]No active members

Benefit Reduction

- Approximately 63% for the classic members
- Approximately 25% for the PEPRA members
- Reductions will occur on July 1, 2017

Summary of Process Timeline

July 2015 – present: Ongoing efforts, including multiple phone calls, to collect delinquent amounts owed by the ESGVHSC.



CalPERS

APPENDIX

- Agencies Experiencing Financial Hardship
  - Future termination risk
  - Ongoing efforts to mitigate risk

Agencies Experiencing Financial Hardship

Future Termination Risk

- Agencies Over 90 Days Delinquent
  - Independent Cities Association, Inc.
  - Niland Sanitary District

Ongoing Efforts to Mitigate Risk

- Conduct a review and gather intelligence on employers and rate plans to identify and quantify the risks
  - Segment plans into risk categories
    - Develop and implement risk mitigation strategies
    - Develop monitoring and reporting tools
- Report progress to the FAC in May 2017

CalPERS

California Public Employees' Retirement System
Financial Office
P.O. Box 942715
Sacramento, CA 94229-2715
TTY: (877) 249-7442
(916) 795-0492 phone · (916) 795-7622 fax
www.calpers.ca.gov

VIA Email and Certified Mail

November 1, 2016

East San Gabriel Valley Human Services Consortium
Mr. Tom Mauk
Management Consultant
P.O. Box 1647
Covina, Ca 91722-0647

SUBJECT: Final Collection Letter

Mr. Mauk
We are contacting you regarding your unpaid accounts receivable(s) in the amount of **$355,028.**

Past due unfunded accrued liability (UAL) are described below.

Breakdown of Past Due Amounts owed to CalPERS	
Unfunded Accrued Liability	$355,028
Total	**$355,028**

Our collection staff and managers have contacted your agency numerous times both by telephone/email (Exhibit 1) and in writing through invoices/statements (Exhibit 2).

Exhibit 1-Telephone/Email Attempted Contact Dates:

- Suzanna H Villanueva, Accounts Payable: 7/10/2015, 7/29/2015 , 9/24/2015,
- Richard Jewik, Contract Services: 7/10/2015, 7/1/2016, 7/12/2016, 7/15/2016, 7/20/2016, 7/21/2016, 7/25/2016
- Tom Mauk, Management Consultant: 8/1/2016, 8/3/2016, 8/12/2016, 8/17/2016, 8/19/2016, 8/25/2016, 8/26/2016, 10/24/2016, 10/27/2016, 10/28/2016, 10/31/2016,

Exhibit 2-Invoices and Letters mailed

Unfunded Accrued Liability (UAL) – CalPERS Issued Invoices & Notices Total Amount Due: **$355,028**			
Notice Type	**Time Period**	**Count**	**Address**
Invoice and Dunning Letters	2015/17 Fiscal Years	112	P.O. Box 1647 Covina, CA 91722-0647

Remit the full amount owed Immediately, but no later than 10 days from the date of this letter. If we do not receive full payment, we will refer your delinquent account(s) to CalPERS' Chief Financial Officer's for further proceedings. Inaction on your part may result in contract termination pursuant to Government Code section 20572, *et seq.*

CalPERS reserves all rights and remedies to collect contributions if not paid timely. This includes, without limitation, the right to recover costs and attorneys' fees associated with the collection of past due payments.

If you have any questions, please feel free to contact me at (916) 795-2464 or Theo Akana at (916) 795-9763.

Sincerely,

Amita Paige
Pension Contract Manager

California Public Employees' Retirement System
Financial Office
P.O. Box 942715
Sacramento, CA 94229-2715
TTY: (877) 249-7442
(916) 795-0492 phone • (916) 795-7822 fax
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VIA Email and Certified Mail

January 3, 2017

Tom Mauk
Management Consultant
East San Gabriel Valley Human Services Consortium
P.O. Box 1647
Covina, CA 91722

SUBJECT: FINAL DEMAND FOR PAYMENT AND NOTIFICATION OF INTENT TO INTIATE TERMINATION OF CONTRACT WITH CALPERS

Mr. Mauk,

East San Gabriel Valley Human Services Consortium (ESGVHSC) entered into a retirement contract with the California Public Employees' Retirement System (CalPERS), effective November 30, 1979, to make its employees members of CalPERS. Despite repeated requests and instructions to do so, ESGVHSC failed to pay the required employer contributions for its eligible employees.

Pursuant to the provisions of Article 5 (commencing with Section 20570) Chapter 5, Part 3, Title 2, Division 5 of the Government Code, this letter serves as:

(1)Notice that ESGVHSC has not paid contributions for the unfunded accrued liability required by its contract and/or filed information required by its contract, and

(2)Demand for payment of past due contributions for unfunded accrued liability $402,911 is due within 30 days of the date of this letter.

The demand amount is the minimum amount CalPERS will accept.

If ESGVHSC fails to pay the demand amount within the time prescribed, CalPERS will proceed to terminate the contract as provided in Government Code Section 20572. CalPERS may reduce any and all benefits to which past and current ESGVHSC employees otherwise would have been entitled, as appropriate, pursuant to Government Code Sections 20577. A copy of this letter will be provided to past and current ESGVHSC employees.

If you have any questions, please do not hesitate to call me directly at (916) 795-1024.

Sincerely,

Arnita Paige, Chief
Pension Contracts & Prefunding Programs Division
Public Employees' Retirement System

Cc:

Chris Freeland
City Manager
City of West Covina
1444 W. Garvey Ave S
West Covina, CA 91270-2716

Geoffrey Cobbett
City Treasurer
City of Covina
125 East College Street
Covina, CA 91723

Troy Butzlaff
City Manager
City of Azusa
P.O. Box 1395
Azusa, CA 91702

Chris Jeffers
City Manager
City of Glendora
116 East Foothill Blvd
Glendora, CA 91741

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Sacramento, CA 94229-2715
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www.calpers.ca.gov

VIA Email and Certified Mail

February 2, 2017

Troy Butzlaff
City Manager
City of Azusa
P.O. Box 1395
Azusa, CA 91702

Subject: Intent to initiate termination of contract with East San Gabriel Valley Human Services Consortium and potential retiree benefit reductions

Dear Mr. Butzlaff,

This follows up on the January 3, 2017 letter CalPERS sent to the East San Gabriel Valley Human Services Consortium (the "Consortium") of which Azusa along with the cities of Covina, West Covina and Glendora are the member agencies.

In 1979, Azusa and the other cities formed, for their "mutual benefit", the Consortium as a joint powers authority (JPA). According to its formation documents, the cities created the Consortium to, among other things, contract with certain governmental entities "for the funding of programs to be developed, coordinated and implemented for the delivery of comprehensive human services" and to "undertake actions to eliminate unemployment and poverty by increasing opportunities for education, training and employment."[1] That same year, the Consortium voluntarily contracted with CalPERS to provide retirement benefits to its employees.

As member agencies of the Consortium, the cities committed to fund the pension obligations of the Consortium's employees under the CalPERS contract. However, the cities of Azusa, Covina, Glendora and West Covina have not honored that commitment to these employees. As CalPERS explained in its January 3, 2017 letter, to date, the Consortium and its member agencies have not paid contributions for the unfunded accrued liability required by the Consortium's contract in the amount of $406,027. As a consequence of their failure to pay this overdue amount, CalPERS will be forced to recommend to the Board of Administration (Board) in March 2017 both that CalPERS terminate the Consortium's contract with CalPERS and that the Board authorize staff to reduce retirement benefits under the contract, as appropriate, under Government Code section 20577. This would likely result in significant benefit cuts to the Consortium's

[1] JPA Agreement dated September 11, 1979, Sec. I (Purposes of Agency).

employees and retirees.

To provide the Consortium's member agencies with the opportunity to honor their commitment to the Consortium's employees and retirees and to prevent this significant hardship, CalPERS hereby requests and entreats Azusa and the other member agencies of the JPA to pay in full their $406,027 accrued liability. Please remit this amount by February 17, 2017.

If you have any questions, please do not hesitate to call me directly at (916) 795-1024.

Sincerely,

Amita Paige, Chief
Pension Contract Management Services and Prefunding Programs

cc:

Chris Freeland
City Manager
City of West Covina
1444 W. Garvey Ave S
West Covina, CA 91270-2716

Geoffrey Cobbett
City Treasurer
City of Covina
125 East College Street
Covina, CA 91723

Chris Jeffers
City Manager
City of Glendora
116 East Foothill Blvd
Glendora, CA 91741

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2017/02/24 08:37:20 S8 462

2017FEB 22 PM 3 27

February 13, 2017

Anita Paige Chief
Pension Contract Management Services and Prefunding Programs
California Public Employees' Retirement System (CalPERS)
Financial Office
P O Box 942715
Sacramento, CA 94229-2715

Re LA Works Pension Obligations with CalPERS

Dear Ms Paige

I am in receipt of your February 2 2017 letter requesting that the City of Azusa and the other member cities of the East San Gabriel Valley Human Services Consortium (aka LA Works) remit payment of $406 027 in order to satisfy LA Works' accrued pension liability While the demise of LA Works and the situation it has created for current and former employees is truly unfortunate we must respectfully decline your request for payment

In your letter you state that if the above referenced amount is not paid on or before February 17 2017, CalPERS will be forced to terminate LA Works contract and reduce retirement benefits for former LA Works employees While it would be unfortunate if CalPERS followed through in reducing the retirement benefits of former LA Works employees the City strongly disagrees with your assertion that [A]s member agencies of the Consortium [LA Works] the cities committed to fund the pension obligations of the Consortium s employees under the CalPERS contract This is completely incorrect The pension contract with CalPERS and every amendment thereto was entered into solely by LA Works At no time did any of LA Works' member cities enter into such a contract or amendment with CalPERS

I think it is worth pointing out that LA Works is a duly established Joint Powers Authority (JPA) formed as an independent agency under State law by the cities of Azusa Covina, Glendora and West Covina One of the primary purposes of forming a JPA is to provide for a separation between the actions of the JPA and the member cities That separation includes ensuring that the obligations of the JPA are not the obligations of the member cities Section III of LA Works Joint Powers Agreement clearly states that the 'debts liabilities and obligations do not constitute debts liabilities or obligations of any [member city] party to this agreement' Section III further states that LA Works must indemnify the member cities from any liability it incurs and is required to carry insurance to cover such liability

Further California law is clear that to the extent a JPA's liabilities are contractual in nature, they remain solely those of the JPA and do not pass through to its members Only the tort liabilities of a JPA can pass through to its members *Tucker Land Company v State of California*, (2001) 94 Cal App 4th 1191

It is evident that the pension obligations of LA Works are purely contractual in nature The pension framework was established by contract in 1979 along with amendments to the contract in 1994 and 2001 Your letter acknowledges that the Consortium voluntarily contracted with CalPERS to provide retirement benefits to its employees Further, you indicate that CalPERS recourse for non-payment is to terminate the contract and "reduce retirement benefits under the contract Had there been no contract between LA Works and CalPERS there would be no basis for CalPERS to demand pension contributions

On the other hand, tort liability is defined as

> "a legal wrong committed upon the person or property independent of contract It may be either (1) a direct invasion of some legal right of the individual, (2) the infraction of some public duty by which special damage accrues to the individual or (3) the violation of some private obligation by which like damage accrues to the individual (Black's Law Dictionary 6th Ed – emphasis added)

We are aware of no California law that turns a contractual liability into tort liability In other words, tort liabilities are wrongful "injuries" to a person or a person's property (such as assault and battery trespass, violation of civil rights slander, conversion/theft of property negligence, etc) for which a person may be compensated by the offender The fundamental distinction is that one may seek money damages under the law for tort injuries " even if a contract never existed between the injured party and the offender

The City of Azusa acknowledges that the demise of LA Works is unfortunate and depending on what CalPERS does the current and former employees of LA Works may be adversely impacted That said, LA Works pension obligations are entirely contractual in nature and remain the sole obligation of LA Works The City of Azusa and the other member cities are not responsible for funding LA Works accrued pension obligations

Please feel free to contact me with any questions or comments

Sincerely,

Troy L Butzlaff ICMA-CM
City Manager

cc Honorable Mayor and Members of the Azusa City Council
Marco A Martinez, City Attorney
Jason Gonsalves, Joe A Gonsalves and Sons

Troy L Butzlaff ICMA CM City Manager
213 E Foothill Blvd Azusa CA 91702
626 812 5234 tbutzlaff@azusaca us

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www.calpers.ca.gov

VIA Email and Certified Mail

February 2, 2017

Geoffrey Cobbett
City Treasurer
City of Covina
125 East College Street
Covina, CA 91723

Subject: Intent to initiate termination of contract with East San Gabriel Valley Human Services Consortium and potential retiree benefit reductions

Dear Mr. Cobbett,

This follows up on the January 3, 2017 letter CalPERS sent to the East San Gabriel Valley Human Services Consortium (the "Consortium") of which Covina along with the cities of Azusa, West Covina and Glendora are the member agencies.

In 1979, Covina and the other cities formed, for their "mutual benefit", the Consortium as a joint powers authority (JPA). According to its formation documents, the cities created the Consortium to, among other things, contract with certain governmental entities "for the funding of programs to be developed, coordinated and implemented for the delivery of comprehensive human services" and to "undertake actions to eliminate unemployment and poverty by increasing opportunities for education, training and employment."[1] That same year, the Consortium voluntarily contracted with CalPERS to provide retirement benefits to its employees.

As member agencies of the Consortium, the cities committed to fund the pension obligations of the Consortium's employees under the CalPERS contract. However, the cities of Azusa, Covina, Glendora and West Covina have not honored that commitment to these employees. As CalPERS explained in its January 3, 2017 letter, to date, the Consortium and its member agencies have not paid contributions for the unfunded accrued liability required by the Consortium's contract in the amount of $406,027. As a consequence of their failure to pay this overdue amount, CalPERS will be forced to recommend to the Board of Administration (Board) in March 2017 both that CalPERS terminate the Consortium's contract with CalPERS and that the Board authorize staff to reduce retirement benefits under the contract, as appropriate, under Government Code section 20577. This would likely result in significant benefit cuts to the Consortium's

[1] JPA Agreement dated September 11, 1979, Sec. I (Purposes of Agency).

employees and retirees.

To provide the Consortium's member agencies with the opportunity to honor their commitment to the Consortium's employees and retirees and to prevent this significant hardship, CalPERS hereby requests and entreats Covina and the other member agencies of the JPA to pay in full their $406,027 accrued liability. Please remit this amount by February 17, 2017.

If you have any questions, please do not hesitate to call me directly at (916) 795-1024.

Sincerely,

Arnita Paige, Chief
Pension Contract Management Services and Prefunding Programs

cc:

Chris Freeland
City Manager
City of West Covina
1444 W. Garvey Ave S
West Covina, CA 91270-2716

Troy Butzlaff
City Manager
City of Azusa
P.O. Box 1395
Azusa, CA 91702

Chris Jeffers
City Manager
City of Glendora
116 East Foothill Blvd
Glendora, CA 91741

CITY OF COVINA www.covinaca.gov
125 East College Street • Covina, CA 91723-2199

February 15, 2017

Amita Paige, Chief Pension Contract Management Services and Prefunding Programs
California Public Employees' Retirement System (CalPERS)
Financial Office
P.O. Box 942715
Sacramento, CA 94229-2715

Re: LA Works Pension Obligations with CalPERS

Dear Ms. Paige:

This letter responds to your letter dated February 2, 2017 to Geoffrey Cobbett, City of Covina Treasurer, in which you request that the City of Covina and the other member cities of the East San Gabriel Valley Human Services Consortium (aka "LA Works") pay $406,027 to CalPERS to satisfy LA Works' accrued pension liability to CalPERS. While the demise of LA Works and the situation it has created for current and former employees of that entity is truly unfortunate, we are declining your request for payment because the City of Covina has no legal obligation to make the requested payments.

You contend in your letter that, "[a]s member agencies of the Consortium [LA Works], the cities committed to fund the pension obligations of the Consortium's employees under the CalPERS contract." This is not true.

The pension contract with CalPERS and every amendment thereto was entered into solely by LA Works. At no time did the City of Covina or, to the best of my knowledge, any of the other member cities enter into such a contract or amendment with CalPERS or agree to make any payments whatsoever to CalPERS, whether related or unrelated to LA Works' pension plan.

LA Works is a duly established Joint Powers Authority (JPA) formed as an independent agency under State law by the cities of Azusa, Covina, Glendora and West Covina. One of the primary purposes of forming a JPA is to provide for a separation between the JPA and the member entities. That separation includes ensuring that the obligations of the JPA are not and do not become the obligations of the member cities.

Government Code Section 6508.1 provides, in part, as follows:

> ". . . the debts, liabilities, and obligations of the agency shall be debts, liabilities, and obligations of the parties to the agreement, **unless the agreement specifies otherwise.**"

Emphasis added.

In the case of LA Works, the members do have an agreement that specifies otherwise. Pursuant to the authority provided by Government Code Section 6508.1, Section III of LA Works' Joint Powers Agreement states that the "debts, liabilities, and obligations [of LA Works] **do not** constitute debts, liabilities or obligations of any party to this agreement."

Further, California law is clear that to the extent a JPA's liabilities are contractual in nature, they remain solely those of the JPA and do not pass through to its members. Only the tort liabilities of a JPA can pass through to its members. *Tucker Land Company v. State of California*, (2001) 94 Cal. App. 4th 1191. There is no question that the obligations of LA Works to pay CalPERS for LA Works' employees' retirement benefits are based in contract, not tort. In the absence of any evidence that the members cities of LA Works ever agreed to be responsible for cost of these benefits, it is clear that the cities have no obligation to make good on LA Works' obligations to CalPERS.

The City of Covina acknowledges that the demise of LA Works is unfortunate and, depending on what CalPERS chooses to do, current and former employees of LA Works may be adversely impacted. Nevertheless, LA Works' pension obligations remain the sole obligation of LA Works and the City of Covina is not responsible for funding LA Works' accrued pension obligations.

Please feel free to contact me with any questions or comments.

Sincerely,

CITY OF COVINA

Brian Saeki
City Manager

cc: Honorable Mayor and Members of the Covina City Council
Candice Lee, City Attorney

California Public Employees' Retirement System
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P.O. Box 942715
Sacramento, CA 94229-2715
TTY: (877) 249-7442
(916) 795-7622 fax
www.calpers.ca.gov

VIA Email and Certified Mail

February 2, 2017

Chris Jeffers
City Manager
City of Glendora
116 East Foothill Blvd
Glendora, CA 91741

Subject: Intent to initiate termination of contract with East San Gabriel Valley Human Services Consortium and potential retiree benefit reductions

Dear Mr. Jeffers,

This follows up on the January 3, 2017 letter CalPERS sent to the East San Gabriel Valley Human Services Consortium (the "Consortium") of which Glendora along with the cities of Covina, West Covina and Azusa are the member agencies.

In 1979, Azusa and the other cities formed, for their "mutual benefit", the Consortium as a joint powers authority (JPA). According to its formation documents, the cities created the Consortium to, among other things, contract with certain governmental entities "for the funding of programs to be developed, coordinated and implemented for the delivery of comprehensive human services" and to "undertake actions to eliminate unemployment and poverty by increasing opportunities for education, training and employment."[1] That same year, the Consortium voluntarily contracted with CalPERS to provide retirement benefits to its employees.

As member agencies of the Consortium, the cities committed to fund the pension obligations of the Consortium's employees under the CalPERS contract. However, the cities of Azusa, Covina, Glendora and West Covina have not honored that commitment to these employees. As CalPERS explained in its January 3, 2017 letter, to date, the Consortium and its member agencies have not paid contributions for the unfunded accrued liability required by the Consortium's contract in the amount of $406,027. As a consequence of their failure to pay this overdue amount, CalPERS will be forced to recommend to the Board of Administration (Board) in March 2017 both that CalPERS terminate the Consortium's contract with CalPERS and that the Board authorize staff to reduce retirement benefits under the contract, as appropriate, under Government Code section 20577. This would likely result in significant benefit cuts to the Consortium's employees and retirees.

[1] JPA Agreement dated September 11, 1979, Sec. I (Purposes of Agency).

To provide the Consortium's member agencies with the opportunity to honor their commitment to the Consortium's employees and retirees and to prevent this significant hardship, CalPERS hereby requests and entreats Glendora and the other member agencies of the JPA to pay in full their $406,027 accrued liability. Please remit this amount by February 17, 2017.

If you have any questions, please do not hesitate to call me directly at (916) 795-1024.

Sincerely,

Arnita Paige, Chief
Pension Contract Management Services and Prefunding Programs

cc:

Chris Freeland
City Manager
City of West Covina
1444 W. Garvey Ave S
West Covina, CA 91270-2716

Geoffrey Cobbett
City Treasurer
City of Covina
125 East College Street
Covina, CA 91723

Troy Butzlaff
City Manager
City of Azusa
P.O. Box 1395
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February 16, 2017

Arnita Paige
California Public Employees' Retirement System
Financial Office
Post Office Box 942715
Sacramento, CA 94229

Re: Intent to initiate termination of contract with East San Gabriel Valley Human Services Consortium and potential retiree benefit reductions

Dear Ms. Paige:

I am the City Attorney for the City of Glendora. This shall serve as a response to your February 2, 2017 letter to the City of Glendora, a member city of the East San Gabriel Valley Human Services Consortium ("Consortium"), in which you contend that the Consortium's member cities committed to fund the pension obligations of the Consortium's employees under the CalPERS contract. The City of Glendora respectfully disagrees with your contention.

The Consortium was formed as a Joint Powers Authority pursuant to Gov't Code Section 6500, et seq.. Constituent members of a Joint Powers Agency ("JPA") are not jointly and individually liable for a contractual obligation of the JPA, where the agreement creating the JPA provides that they would not be so liable. *Tucker Land Co. v. State of California (App. 2 Dist. 2001) 114 Cal.Rptr.2d 891, 94 Cal.App.4th 1191.* See also *Gov't Code § 6508.1.*

The Consortium's JPA agreement provides that the Consortium "shall be a public entity separate and apart from the parties to this agreement. Its debts, liabilities, and obligations do not constitute debts, liabilities or obligations of any party to this agreement."

As such, the City of Glendora respectfully disputes your contention that the City of Glendora, or any of the Consortium's members, are liable to fund the pension obligations of the Consortium's employees under the CalPERS contract.

The City of Glendora is displeased that any of the Consortium's employees might suffer any adverse financial impacts as a result of the Consortium's demise. However, the City of Glendora is not legally liable to, and is not willing and able to, undertake the financial responsibilities of an independent agency. The CalPERS contract was with the Consortium, not with the City of Glendora.

Please contact me if you have any questions regarding the foregoing.

Very truly yours,

D. Wayne Leech
Attorney at Law
DWL/d

cc Mayor and City Councilmembers of the City of Glendora
Chris Jeffers, Glendora City Manager
West Covina City Manager
Azusa City Manager
Covina City Manager

California Public Employees' Retirement System
Financial Office
P.O. Box 942715
Sacramento, CA 94229-2715
TTY: (877) 249-7442
(916) 795-7622 fax
www.calpers.ca.gov

VIA Email and Certified Mail

February 2, 2017

Chris Freeland
City Manager
City of West Covina
1444 W. Garvey Ave S
West Covina, CA 91270-2716

Subject: Intent to initiate termination of contract with East San Gabriel Valley Human Services Consortium and potential retiree benefit reductions

Dear Mr. Freeland,

This follows up on the January 3, 2017 letter CalPERS sent to the East San Gabriel Valley Human Services Consortium (the "Consortium") of which West Covina along with the cities of Azusa, Covina and Glendora are the member agencies.

In 1979, West Covina and the other cities formed, for their "mutual benefit", the Consortium as a joint powers authority (JPA). According to its formation documents, the cities created the Consortium to, among other things, contract with certain governmental entities "for the funding of programs to be developed, coordinated and implemented for the delivery of comprehensive human services" and to "undertake actions to eliminate unemployment and poverty by increasing opportunities for education, training and employment."[1] That same year, the Consortium voluntarily contracted with CalPERS to provide retirement benefits to its employees.

As member agencies of the Consortium, the cities committed to fund the pension obligations of the Consortium's employees under the CalPERS contract. However, the cities of Azusa, Covina, Glendora and West Covina have not honored that commitment to these employees. As CalPERS explained in its January 3, 2017 letter, to date, the Consortium and its member agencies have not paid contributions for the unfunded accrued liability required by the Consortium's contract in the amount of $406,027. As a consequence of their failure to pay this overdue amount, CalPERS will be forced to recommend to the Board of Administration (Board) in March 2017 both that CalPERS terminate the Consortium's contract with CalPERS and that the Board authorize staff to reduce retirement benefits under the contract, as appropriate, under Government Code section 20577. This would likely result in significant benefit cuts to the Consortium's

[1] JPA Agreement dated September 11, 1979, Sec. I (Purposes of Agency).

employees and retirees.

To provide the Consortium's member agencies with the opportunity to honor their commitment to the Consortium's employees and retirees and to prevent this significant hardship, CalPERS hereby requests and entreats West Covina and the other member agencies of the JPA to pay in full their $406,027 accrued liability. Please remit this amount by February 17, 2017.

If you have any questions, please do not hesitate to call me directly at (916) 795-1024.

Sincerely,

Amita Paige, Chief
Pension Contract Management Services and Prefunding Programs

cc:

Geoffrey Cobbett
City Treasurer
City of Covina
125 East College Street
Covina, CA 91723

Troy Butzlaff
City Manager
City of Azusa
P.O. Box 1395
Azusa, CA 91702

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February 14, 2017

2017 FEB 21 AM 0:05

Arnita Paige
California Public Employees' Retirement System
Financial Office
Post Office Box 942715
Sacramento, CA 94229

Re: Intent to initiate termination of contract with East San Gabriel Valley Human Services Consortium and potential retiree benefit reductions

Dear Ms. Paige:

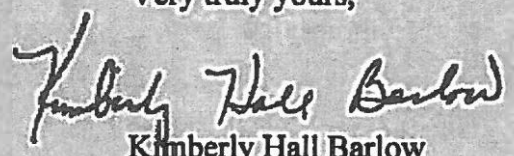
I write in response to your letter dated February 2, 2017 addressed to the City of West Covina, for which I serve as City Attorney. Your letter, addressed to the member cities of the East San Gabriel Valley Human Services Consortium ("the Consortium") formed in 1979, states, without support, that the member cities *themselves* "committed to fund the pension obligations of the Consortium's employees under the CalPERS contract." This is simply not the case.

The Consortium was lawfully created as a Joint Powers Authority in 1979 under California Law. As provided by California Government Code section 6500, et seq., individual public agencies may contract together as Joint Powers Authorities to perform various governmental functions. When doing so by means of a formal agreement, the member agencies create a completely separate public agency, and they may by contract, provide that the debts, obligations and liabilities of the new public agency are *not* those of the member agencies. That is what occurred here. Section III of the Consortium's JPA Agreement expressly provides that the Consortium "shall be a public entity separate and

apart from the parties to this agreement. Its debts, liabilities, and obligations do not constitute debts, liabilities or obligations of any party to this agreement."

While it is regrettable that the Consortium has reached this point, its obligations to PERS are not the obligations of the City of West Covina. Therefore, West Covina declines PERS' demands that it stand in the Consortium's place, either wholly or partly, with respect to the Consortium's PERS contract.

Very truly yours,



Kimberly Hall Barlow

KHB:wag

cc: Mayor and City Council
Chris Freeland, City Manager
Glendora City Manager
Azusa City Manager
Covina City Manager

CalPERS

Finance and Administration Committee

Agenda Item 9a

April 18, 2017

Item Name: Annual Actuarial Valuation for the Terminated Agency Pool

Program: Actuarial Office

Item Type: Information

Executive Summary

This agenda item represents the third time an annual actuarial valuation report is presented to the Board for the Terminated Agency Pool Program. As of June 30, 2015, the Terminated Agency Pool is well-funded with a funded status of 248.3 percent.

The following table summarizes key results from the valuation:

Comparison of Current and Prior Year Results		
	June 30, 2014	**June 30, 2015**
Present Value of Benefits	$ 82,254,488	$ 88,473,668
Accrued Liability	$ 82,254,488	$ 88,473,668
Market Value of Assets	$ 215,414,591	$ 219,694,509
Funded Status	261.9%	248.3%

Strategic Plan

This item is presented as part of the regular ongoing workload of the Actuarial Office and supports the Strategic Plan Goal A of improving long-term pension and health benefit stability.

Background

The Terminated Agency Pool (TAP) Program exists to provide benefit payments to CalPERS members who are credited with service from terminated agencies. Agencies of the TAP Program do not pay regular contributions into the fund. Instead, each plan that terminates is required to have a funded status of 100 percent plus a 7 percent load for mortality fluctuation to enter the pool. The 7 percent load for mortality fluctuation is set by Board Resolution ACT-11-02 and was approved by the Board on June 15, 2011.

Since regular contributions are not received for this Program, funding options for the TAP are limited. Employers that have a funded status at termination that exceeds 107 percent are provided a refund for the difference. Those with a funded status below 107 percent are required to make up the difference at the time of termination.

On December 2012, the Board approved an asset allocation change for the TAP Program that splits the TAP asset portfolio into two segments: the "immunization" segment and the "surplus" segment. The immunization segment of the portfolio consists of long-term U.S. Treasury bonds, which are purchased to match liability cash flows and mitigate interest rate risk. The surplus segment is the surplus of the TAP assets and is invested in the Public Employees Retirement Fund (PERF) at the normal expected rate of return of 7.5 percent.
This agenda item represents the third actuarial valuation presented to the Board.

Analysis
As of June 30, 2015, the TAP Program is overfunded with a funded status of 248.3 percent. The funded ratio has reduced since the prior valuation. As of June 30, 2014, the funded status was 261.9 percent. This decrease is due mostly to the change in the discount rate and asset loss the plan experienced during Fiscal Year 2014-15.

The discount rate used for the determination of the actuarial liabilities was 3.26 percent. This rate is the 30-year U.S. Treasury Separate Trading of Registered Interest and Principal of Securities (STRIPS) yield as of June 30, 2015. The discount rate used in the June 30, 2014 valuation was 3.64 percent.

Budget and Fiscal Impacts
This section is not applicable to this agenda item.

Benefits and Risks
Interest rate risk or investment volatility is typically the greatest risk that a pension plan faces for funding purposes. However, because a significant portion of the TAP is immunized, the pool is not subject to a large amount of interest rate risk. Therefore, the greatest risk to the pool is mortality risk, assuming no changes in current pool membership. A sensitivity analysis was performed on the TAP to evaluate the volatility of the funded status due to a change in mortality rates over the long-term. The following table summarizes the analysis:

Sensitivity of the Funded Status to a Change in Mortality Rates			
As of June 30, 2015	**Current Mortality Rates**	**-10% Mortality Rates**	**+10% Mortality Rates**
Funded Ratio	248.3%	239.6%	256.6%

A 10 percent decrease in mortality rates over the long-term would decrease the funded status of the TAP by 9 percentage points. A 10 percent increase in mortality rates over the long-term would increase the funded status of the TAP by 9 percentage points.

Funded Ratio Dilution Risk
Another significant risk for the TAP Program is the dilution of the pools funded status due to the termination of a plan with a large liability. For example, as of June 30, 2015 at a funded status of 248.3 percent, a termination of a $50 million liability plan would decrease the funded status of the TAP by about 50 percentage points. However, assuming that each plan entering the TAP has a funded status of at least 107 percent as required by Board Resolution ACT-11-02, the pools funded status will never fall below this level, assuming no losses due to other risks.

Inflation Risk
The U.S. Treasury securities purchased for the TAP portfolio are expected to cover projected benefit payments growing over a range of conservative inflation forecasts ranging from 2 percent to 6 percent. Therefore, inflation risk at this time is minimal.

Attachments
Attachment 1 – Terminated Agency Risk Pool Actuarial Valuation as of June 30, 2015

Julian Robinson
Senior Pension Actuary

Scott Terando
Chief Actuary