

May 10, 2017

LGS Employees and Former LGS Employees

SUBJECT: CalPERS Audit of Local Government Services

In March 2016 LGS informed you of CalPERS activities in auditing LGS. As indicated, there was an early audit in 2006 which did not challenge our employees' eligibility for CalPERS service credit. A second audit commenced in 2012. After more than four and one-half years, the final audit results are now in. The sole finding was that LGS should not have enrolled employees into the CalPERS retirement plan because LGS did not sufficiently "control" employees assigned to partner agencies.

The LGS response to the preliminary compliance report explained why LGS was formed: to do exactly what it is doing, which is to serve as a cost-effective platform for public agencies to provide services to the public and fulfill internal operational needs, allowing these agencies to focus on their core missions while realizing the cost savings obtained by LGS purchasing benefits (including CalPERS retirement benefits) and insurance within a larger group. LGS also argued that co-employment – basically two employers sharing control of a worker – is an established legal concept that CalPERS should use to assess LGS' right to enroll employees in CalPERS. Repeated requests for meetings were denied and the additional information supplied to CalPERS was ignored, with the recent [dated April 28, 2017 and received on May 8, 2017] final audit results being essentially the same as the preliminary audit results. The findings are particularly disturbing because LGS' attorneys explained its organizational structure and mission to CalPERS when it was initially formed, and because the 2006 CalPERS payroll audit confirmed their understanding of the LGS assignment of staff to other public agencies.

LGS had already made the decision to stop taking new business until this matter was resolved. Over the last two years, LGS has reached out to CalPERS in-house legal counsel to try to resolve this matter expeditiously and in a manner consistent with LGS' contract with CalPERS. Our objective throughout this dispute with CalPERS has been and remains that we have honored our terms of the contract and they should too. CalPERS has steadfastly refused to have any substantive discussion with us. As indicated previously, LGS' priority has always been to protect the CalPERS service of LGS employees.

We are unsure if CalPERS will contact you via letter to let you know the results of the audit or to indicate that your service credit may be at risk. However, I and LGS wanted to alert you to these recent developments. If they do send you a letter, please let us know by forwarding a copy as their past practice is to not copy us on what is being sent to our employees.

LGS is still committed to trying to positively resolve this matter. Nevertheless, given that the final audit results are not different than the preliminary audit results LGS will, most likely, have to file an administrative appeal to prevent CalPERS from taking any adverse action against any of the affected individuals while a resolution is sought. If necessary, LGS will go to court for a temporary restraining order if CalPERS takes any adverse action prior to a final administrative appeal adjudication.

We are proud of the LGS model of public service, and appreciate your contribution to cost-effective and efficient local government in California. We also understand that any challenge to your earned pension service credit is a matter of great concern. I will endeavor to keep you informed as to the major steps we engage in to resolve this dispute. I look forward to a positive solution that ensures our continued service and success. Please feel free to communicate directly with me at raverett@rgs.ca.gov if you have questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "R. H. Averett". The signature is written in a cursive, flowing style.

Richard H. Averett, Executive Director