

July 31, 2017

LGS Employees and Former LGS Employees

SUBJECT: Additional Information about CalPERS Audit of Local Government Services

This is a continuing follow-up to the various letters about the CalPERS audit and results. We again would like to keep you informed of the status of the CalPERS' decision and next steps.

This July, LGS was finally able to meet with CalPERS program staff via teleconference, at which we were able to correct the errors they made in allocating some employees to other CalPERS contracting agencies. This meeting alone shows the value of staff talking directly with staff versus CalPERS' previous insistence that they would only allow attorney-to-attorney discussion.

Those affected should have received updated letters from the program staff correcting the misallocation about your assignment with LGS. However, LGS was not successful in getting CalPERS to research other employees' possible reallocation to other employer defined benefit plans (be they CalPERS or County plans) appropriate for the assignment through LGS. That research falls to us: LGS and the dozen 'stranded' employees. CalPERS did not agree to delay sending final notice letters to these employees, but did state that they would adhere to due process and not terminate membership (service credit) until the appeal process has concluded.

Below is the history to help you understand all that has occurred over the last 5 years. CalPERS notified LGS in December 2012 that they were doing an audit of LGS. CalPERS performed its audit, demanding hundreds of documents from LGS and concluded its work with an exit interview in May 2014 with CalPERS audit staff where LGS administrative staff were told the preliminary written audit findings would be received soon. Not until June 2015 (but dated in May 2015) were the written preliminary audit findings submitted to LGS, in which LGS was given 30 days to respond. The response sent by LGS was thorough in refuting CalPERS audit findings, citing case law and various other issues that CalPERS was asked to consider.

On November 25, 2015, LGS received a letter from CalPERS legal staff demanding approximately 50,000 documents within 30 calendar days. As you can imagine an agency the size of LGS does not have staff to produce that number of records, especially when many of the requested items were well outside the scope of CalPERS authority. LGS asked for extensions, that were granted, yet CalPERS has told you and others that LGS was non-responsive to that record demand. This is far from the truth. Between December 2015 and April 2016, LGS provided all the documents. In addition to CalPERS demanding documents, they retained the California Attorney General's office to do only part of the analysis, never addressing the issue of co-employment nor that in the CalPERS review of 2006 CalPERS demonstrated full understanding of the LGS model and expressed no problem with our providing staffing services for other agencies.

During this period of time LGS requested to meet with CalPERS. Even though the CalPERS letter to you claims they tried to meet with LGS; let me make it clear, they would only meet if LGS gave up its rights to appeal and pursue legal remedies if the issue could not be resolved. LGS could not in good faith do that for many reasons, but the most important one is that rights would be given up without knowing the outcome. CalPERS would not disclose their plans, other than to disallow service for some and work to keep service for other.

In May 2017, CalPERS issued the final audit results – 4.5 years after the beginning of the audit and three years after the exit meeting with the auditors. Now CalPERS is trying to push through the findings without taking any additional time or staff to research other factors that would help the 12 or so stranded employees with finding a service credit 'home' for their time with LGS. LGS continues to try to work with CalPERS staff while maintaining its right to appeal.

This appeal is a protective measure not intended to impede transfers of service credit where CalPERS has indicated it is ready to implement. However, there are a number of individuals that remain threatened by CalPERS' adverse determination of service. LGS is taking steps to counter CalPERS' erroneous decision and actions so that affected individuals might preserve their service credit.

We will continue to update you as key steps arise.

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