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Date: October 29, 2014

To: Tom Hughes, Council President
Shirley Craddick, Councilor, District 1
Carlotta Collette, Councilor, District 2
Craig Dirksen, Councilor, District 3
Kathryn Harrington, Councilor, District 4
Sam Chase, Councilor, District 5
Bob Stacey, Councilor, District 6

From: Suzanne Flynn, Metro Auditor

Re: **Audit of Metro's Implementation of Employee-paid contributions for Public Employee Retirement System**

In mid-August, I received information that Metro had implemented a policy change in the payment of contributions to PERS prior to notifying PERS of the change. Oregon Revised Statutes require a public employer to notify PERS prior to any change being implemented. I completed an audit based upon this information and found it to be true. Attached is my report.

Implementation of Employee paid PERS Contributions

Suzanne Flynn, Metro Auditor

The Auditor's Office received information that employee-paid contributions to the Public Employee Retirement System (PERS) commenced for non-represented employees prior to PERS being notified of the change. ORS 238A.335 requires a participating public employer to give written notice to the Public Employees Retirement Board at the time a written employment policy or collective bargaining agreement is adopted or changed. Changes in the manner in which employee contributions are paid can only be applied on and after the date the notice is received by the Board.

Metro changed its policy about who pays for PERS contributions on July 1, 2011. Non-represented employees hired after that date were responsible for contributing to PERS. Prior to the change, Metro paid these contributions. Notice of this change was sent to PERS on July 18, 2012; more than a year after the change was implemented. We identified eight employees that contributed to PERS prior to the notification date.

Concerns were also raised for a similar policy change that was made on July 1, 2012. That change affected employees represented by AFSCME and hired after that date. We did not find evidence that contributions from these employees were made prior to the notification to PERS (July 18, 2012). Although the letter notifying PERS was dated after the policy went into effect, there is a six-month waiting period for newly hired AFSCME employees to receive PERS benefits. This means that an employee hired after July 1, 2012 would not be eligible for PERS and able to make a contribution until January 2013 at the earliest. As a result, the 17 day delay in notification did not result in erroneous employee-paid contributions.

For both changes, there is a possibility that additional employees had deductions for PERS taken in error. For example, employees who had previously been members of PERS, but were hired by Metro after one of the policy change dates, may not have been subject to the six-month waiting period. As a result, they may have immediately begun making contributions to PERS after their hire date.

Metro stated that employees who were hired after July 1, 2011 were notified via job announcement or by employee contract that they would be required to pay the employee portion of the PERS contribution.

Scope and Methodology

The purpose of this audit was to determine if (1) Metro had implemented payroll deductions for non-represented employees' contributions to PERS prior to notifying the Public Employee Retirement Board, and (2) Metro had implemented payroll deductions for AFSCME 3580 employees' contributions to PERS prior to providing notification. We downloaded payroll data for the time period January 2011 to June 2012. We identified payroll deductions that occurred for non-represented employees hired on or after July 1, 2011.

This audit was added to the FY 2014-15 audit schedule. It was done in response to information provided to the Metro Auditor's Office. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Recommendation

To comply with statutory requirements, we recommend that the Human Services Department formalize procedures to follow when the policy regarding employee-paid contributions to PERS is changed.

Management Response

Attached on following pages.



Date: October 23, 2014
To: Suzanne Flynn, Metro Auditor
From: Mary Rowe, Human Resources Director
Cc: Martha Bennett, Chief Operating Officer
Scott Robinson, Deputy Chief Operating Officer
Alison Kean, Metro Attorney
Subject: Management Response to Implementation of Employee-paid Contributions for Public Employee Retirement System

The following represents management's response to the audit report which will be issued by your office later this month. As a public agency we recognize the importance of ensuring the public funds are managed responsibly and with proper controls in place, and we appreciate your review of these matters.

Background

Based on agency-wide budget and financial projections, the decision was made to change who pays the employee portion of the PERS contribution. This was done to ensure the financial stability and fiscal responsibility of Metro. Prior to implementation of the change, Metro's HR department consulted with PERS via phone conversations, and it was determined that the employee contribution needed to be paid either entirely by the employee or entirely by Metro, and that an agency could have the contributions made by different parties based on bargaining unit or non represented status and within those groups they could be further differentiated by date of hire.

It was decided that for non-represented employees hired after July 1, 2011, the employee would pay the employee portion of PERS. For represented employees this would be bargained and any changes agreed to in bargaining would be implemented according to next collective bargaining agreement. Employees were notified of the change, and applicants were notified of the change through the job announcements.

PERS was notified in writing at a later date. PERS acknowledged receipt of the change. Upon subsequent clarification notice, PERS via email stated that it could not make the change retroactively. At this point, OMA became involved and sought advice of outside counsel with special expertise in PERS. Working with special outside PERS counsel, changes were made in PERS' regulations regarding groups of employees allowed to pay their own PERS contributions. It also led to Metro's decision that it did not need to take any further action with PERS in regard to the delayed notification.

It was verified that PERS has received the correct amount of contributions for each employee and the PERS retirement accounts are correct.

Action Items

Since this occurred HR has taken the following steps:

- 1) Changed internal procedures to notify PERS in writing prior to an effective date of change.
- 2) Job offer letters to employees now also confirm if the PERS employee portion will be paid by the employee or employer.
- 3) Per the Auditor's recommendation, HR now has written documentation of current internal procedures for making this type of change.

We want to thank the Auditor for providing additional insight to assist in our continuing process improvement efforts.