

COUNTY OF SACRAMENTO

DEPARTMENT OF FINANCE - AUDITOR-CONTROLLER DIVISION – INTERNAL AUDIT UNIT

INTERNAL AUDIT REPORT
457(b) and 401(a) PLAN REPORT
DEPARTMENT OF PERSONNEL SERVICES



Audit Committee Submittal Date: 10/14/2021

SUMMARY

Background

The County of Sacramento (County) Department of Personnel Services (DPS) requested the Department of Finance Auditor-Controller Division to perform a performance audit of the County 457(b) and 401(a) Plans (Benefit Plans) for compliance with the California Government Code Section 53212 and 53215 *et seq.*, Internal Revenue Services (IRS) regulations, the Benefit Plans' Documents, and Recordkeeping and Related Services Agreement (Agreement) between the County and Fidelity Workplace Services LLC, a Delaware Limited Liability Company (Fidelity) for the period of July 1, 2019 to June 30, 2020.

Audit Objective

Verify whether the Benefit Plans are in compliance with the California Government Code Section 53212 and 53215 *et seq.*, IRS regulations, the Benefit Plans' Documents, and the Agreement managed by DPS.

Summary

The Benefit Plans are in compliance with applicable laws and regulations, the Benefit Plans' Documents, and the Agreement. However, we noted some internal control deficiencies related to employee enrollment procedure, service credit purchase rollover, revenue allowance and recordkeeping fees.

Department of Finance

Ben Lamera
Director



Auditor-Controller Division

Joyce Renison
Assistant Auditor-Controller

County of Sacramento

September 28, 2021

Dave Comerchero
Employee Benefits Manager
Department of Personnel Services
700 H Street, Ste. 4650
Sacramento, CA 95814

Dear Mr. Comerchero:

We have audited County of Sacramento (County) Department of Personnel Services (DPS) management and oversight of 457(b) and 401(a) Benefit Plans (Benefit Plans) for the period of July 1, 2019 to June 30, 2020.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Our audit was conducted to verify compliance at DPS over the California Government Code Section 53212 and 53215 *et seq.*, Internal Revenue Service (IRS) regulations, Benefit Plans' Documents, and Recordkeeping/Related Services Agreement (Agreement) between the County and Fidelity Workplace Services LLC, a Delaware Limited Liability Company (Fidelity) for the period of July 1, 2019 to June 30, 2020, and ensure DPS has adequate internal controls to manage and oversee the Benefit Plans.

Management is responsible for the design, implementation, and maintenance of effective internal controls to ensure compliance with applicable laws and regulations, the Benefit Plans' Documents, and the Agreement.

The scope of our audit included DPS management and oversight of the Benefit Plans in accordance with applicable laws and regulations, Benefit Plans' Documents, and the Agreement for the period of July 1, 2019 to June 30, 2020.

The audit methodology utilized to conduct this performance audit included:

Regulatory and Contractual Requirements

- Reviewed laws and regulations, Benefit Plans' Documents, and the Agreement related to the Benefit Plans.

Dave Comerchero, Employee Benefits Manager
Department of Personnel Services
September 28, 2021

Based on our review, we noted a deficiency related to employee enrollment procedure as described in Finding #1 of Attachment I, *Current Findings and Recommendations*.

Internal Control Review

- Interviewed key staff/management involved in the Benefit Plans to gain an understanding of the County's responsibilities as it relates to the Benefit Plans.
- Reviewed DPS's written internal control policies and procedures related to the Benefit Plans and tested key control activities.
- Reviewed DPS's procedures regarding the secure, accurate and timely transmission of relevant participant data, such as payroll data establishing eligibility, to determine whether all eligible covered employees have been properly included, whether accurate participant data was supplied to Fidelity, Record Keeper, and whether Fidelity utilized the data in a timely manner.

Based on our procedures performed, we noted deficiencies related to service credit purchase rollover, revenue allowance and recordkeeping fees as described in Findings #2 and #3 of Attachment I, *Current Findings and Recommendations*.

Testing

- Tested 65 457(b) pretax participants, 10 457(b) Roth/post tax participants, 10 457(b) Part-time, Seasonal and Temporary (PST) participants, and 15 401(a) Plan participants' contributions for the selected pay periods of October 4, 2019, December 27, 2019, and June 6, 2020 to determine:
 - a. Fund transfers from employer were timely, secure, and posted promptly by Fidelity.
 - b. Amounts received were properly recorded by Fidelity and disclosed in the participant's financial statement on record.
 - c. Any appropriate allowances have been made for uncollectable/forfeited amounts.
 - d. Employer and employees contribution payments were in accordance with plan provisions and transactions were properly recorded in the proper accounts, amounts and periods.
- Tested 25 457(b) pretax participants, 10 457(b) Roth/post tax participants, 25 457(b) PST participants and 10 401(a) Plan participants' timing of initial contributions and contribution changes to ensure initial contributions did not take

Dave Comerchero, Employee Benefits Manager
Department of Personnel Services
September 28, 2021

place in the same calendar month the participants entered into agreements to defer compensations and that the initial contributions were made on the date indicated by the participants.

- Tested 20 participants' purchases of Sacramento County Employees' Retirement System (SCERS) service credits using 457(b) and 457(b) PST Plan rollovers to determine the payments were in accordance with SCERS and 457(b) documents and to ensure timely processing.
- Reviewed participant election process (e.g., elected deferral rates) to verify that the appropriate payroll deductions occurred as elected by participant.

Based on our procedures performed, we noted deficiencies related to the service credit purchase rollover as described in Finding #2 of Attachment I, *Current Findings and Recommendations*.

Other

- Followed up on status of prior year audit findings and recommendations.

See Attachment II, *Current Status of Prior Findings and Recommendations*.

In connection with this audit, there are certain disclosures that are necessary pursuant to *Generally Accepted Government Auditing Standards*.

As required by various statutes within the California Government Code, County Auditor-Controllers or Directors of Finance are mandated to perform certain accounting, auditing, and financial reporting functions. These activities, in themselves, necessarily impair *Generally Accepted Government Auditing Standards'* independence standards. Specifically, auditors should not audit their own work or provide non-audit services in situations where the amounts or services involved are significant/material to the subject matter of the audit.

Although the Director of Finance is statutorily obligated to maintain the accounts of departments, districts or funds that are held in County Treasury, the staff that has the responsibility to perform audits within the Auditor-Controller Division has no other responsibility of the accounts and records being audited including the approval or posting of financial transactions, which would therefore enable the reader of this report to rely on the information contained herein.

Based on our audit, DPS complied with applicable laws and regulations, the Benefit Plans' Documents, and the Agreement for the period of July 1, 2019 to June 30, 2020. However, we noted deficiencies in internal controls in managing and overseeing the Benefit Plans. See Attachment I, *Current Findings and Recommendations* and Attachment II, *Current Status of Prior Findings and Recommendations*.

Dave Comerchero, Employee Benefits Manager
Department of Personnel Services
September 28, 2021

DPS's management responses to the findings identified during our engagement are described in Attachment I, *Current Findings and Recommendations*. We did not perform procedures to validate DPS's management responses to the findings and, accordingly, we do not express an opinion on the responses to the findings.

This report is intended solely for the information and use of the Sacramento County Board of Supervisors, those charged with governance, Sacramento County Executives, Sacramento County Audit Committee, and DPS's management, and should not be used for any other purpose. It is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Sincerely,

BEN LAMERA
DIRECTOR OF FINANCE


By: Ross McCarthy, CPA
Senior Audit Manager

Enclosures:

Attachment I, *Current Findings and Recommendations*

Attachment II, *Current Status of Prior Findings and Recommendations*

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

1. Outdated Employee Enrollment Procedure

Condition

During our review of DPS's current *457(b) Plan Document, Article II, 2.1 and 2.2*, the following provisions were noted:

"An eligible employee or elected official who receives compensation from the employer and who desires to become a participant in the plan shall file a written election, in a manner established by the administrator, with the employer to defer a portion of the Compensation. The election, if consented to by the employer, shall become effective no earlier than the first day of the calendar month immediately following the month in which such election is made. With such consent, a participation Agreement shall have been entered into between the employer and the eligible employee or elected official.

No portion of compensation received during a calendar month may be deferred unless a participation agreement for such deferral has been entered into and received by the employer before the first day of the month in which the Compensation to be deferred is paid or made available."

However, based on our inquiry with DPS's staff, this is not reflective of the current policy and procedures as it related to employee elections. Per further inquiry and review, eligible employees make elections directly at Fidelity website or by calling a Fidelity agent.

Criteria

The 457(b) Plan Document should reflect current policies and procedures.

Effect

Outdated employee enrollment procedure may create confusion and inconsistency in plan administration, potentially resulting in noncompliance with applicable laws and regulations.

Cause

This issue is a repeat finding from the prior period report and was overlooked during the most recent amendment of 457(b) plan document (amended and restated effective

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

January 1, 2019). We also would like to note that DPS is in the process of restating its Plan Document to remove the provision regarding written enrollment forms.

Recommendation

We recommend DPS update the provision regarding enrollment forms in the 457(b) Plan Document to reflect current policies and procedures. We also suggest assigning a personnel in charge to make sure that the Plan restatement along with the assessment of current policies and procedures will be completed during the year.

Management's Response

One of the terms of the Plan Document includes the delegation of authority provided to the Plan administrator which can include entering into agreements with participants to make salary deferrals. That Plan document section further provides that the County can delegate its administrative responsibilities to a third party administrator, vendor, service provider or another person or entity. By delegating to Fidelity the administrative function of collecting salary deferral agreements with eligible employees who want to participate in the Plan, it is understood that Fidelity is allowed to use their standard practice, which can be electronic web based or even by phone.

However, we understand that the explicit language in Article II, 2.1 requiring a written election may be confusing, and plan to revise the Plan document in 2021 for a January 01, 22 effective date.

2. Service Credit Purchase Rollover

Condition

During our testing of 20 sample participants for 457(b) fund rollover to Sacramento County Employees' Retirement System (SCERS) for purchase of service credit, we noted the following exceptions:

- a. Four *Rollover Forms* were signed but not dated by a SCERS representative.
- b. Two *Rollover Forms* were not signed by a SCERS representative.
- c. Two *Purchasable Election Forms* were not signed by a SCERS representative.

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

- d. No formal written procedure requiring DPS staff to investigate any outstanding checks issued to SCERS for purchase of service credit over normal deposit processing time. This is a repeat finding from the prior period report.

Criteria

All necessary forms to process fund rollover and distribution should be signed and dated by authorized personnel. In addition, formal written policies and procedures will document how DPS operates as well as support training new employees and improve internal communication.

Effect

Processing fund rollover and distribution without signature and date by authorized personnel may create opportunity for improper fund rollover/distribution.

Cause

It appeared that these conditions were caused by deficiency in internal controls.

Recommendation

We recommend DPS management ensure all necessary forms are properly signed and dated prior to processing of fund rollover and distribution. We also recommend DPS management establish and implement a written procedure requiring staff to investigate any outstanding checks issued to SCERS for purchase of service credit over normal deposit processing time.

Management's Response

All transactions referenced were processed during a period of time in CA/County's history where all residents/employees were in a shelter in place order, thus working from home where equipment found in the office, such as copiers/scanners, etc., may have been available.

While the EBO office is considered essential, and our employees worked hybrid schedules for 5+months, SCERS worked exclusively from home for more than 14 months. There was overlap of the shelter in place/work from home schedule modifications in all eight of the referenced transactions. The ongoing transaction processes to accommodate both our hybrid and SCERS exclusive work from home schedule were created out of necessity to continue to meet the needs of our customers without undue negative time or financial impact. Those process changes, including

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

acceptance of non “wet” signatures entries on election and/or roll over forms and absence of dates associated with the signatures continue to evolve and may not be formally documented at this time.

3. Revenue Allowances and Recordkeeping Fees

Condition

During our review of the “*Recordkeeping and Related Services Agreement*” between the County of Sacramento (County) and Fidelity (Agreement) for 457(b) and 401(a) Benefit Plans (Benefit Plans), we noted the following procedure had been followed:

“Fidelity (should) send invoice to the County quarterly to charge recordkeeping fees and credit for revenue allowances. DPS staff (should) obtain and review the quarterly invoices from Fidelity.”

However, during our review, we noted that revenue allowances and recordkeeping fees were not recorded in the Comprehensive Online Management Personnel and Accounting System for County of Sacramento general ledger system (COMPASS).

We also noted that the revenue allowances were maintained in accounts under Fidelity's custody. The balances for these accounts as at the Benefit Plan calendar year end (December 31, 2020) were \$2,159,774 for 457(b) Plan and \$140,526 for 401(a) Plan.

Criteria

According to Government Code 27000, “*The county treasurer shall receive and keep safely all money belonging to the county and all other money directed by law to be paid to him and apply and pay it out, rendering the account as required by law.*”

In addition, per Sacramento County Charter, Article VIII, Sec. 39, “*Every county or township officer, board or commission, authorized to collect fees or money must pay into the county treasury all such fees or moneys collected by him or them, as the case may be, not later than seven (7) days following receipt thereof, …… Said officer, board or commission shall also file therewith a detailed statement of same in writing, a duplicate copy of which shall at the same time be filed with the Auditor, in such form as the Auditor may require.*”

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

The revenue allowances and recordkeeping fees for the Benefit Plans should be accounted for within COMPASS for transparency and accountability.

Effect

DPS is not in compliance with Government Code 27000 and Sacramento County Charter, Article VIII, Sec. 39 by not depositing revenue allowances and fees collected from participants to Sacramento County Treasury (Treasury), as well as not recording revenue allowances and recordkeeping fees in COMPASS. This may result in a misstatement of the County's financial statement. This will also have an effect on the accuracy of DPS's cash flow projections.

Cause

This issue is a repeat finding from the prior period report. It appeared DPS has not implemented our recommendation. Further, DPS did not have adequate internal control procedures in place to properly account for revenue allowances and recordkeeping fees in COMPASS.

Recommendation

We recommend DPS deposit revenue allowances and fees collected from participants to the Treasury and pay any fees related to the Benefit Plan out of the Treasury account. We also recommend DPS establish and implement internal control procedures to properly account for revenue allowances and recordkeeping fees in COMPASS.

Management's Response

EBO believes that under the fiduciary rules governing participant funds in benefit plans that are held in trust, those funds remain for the exclusive benefit of participants. Those fees do not belong to the County, they belong to current active, terminated, and beneficiary accounts holders and should be used exclusively for the benefit of the plan participants. In addition, although the County is technically exempt from the ERISA statute, it provides an important safe harbor of best practice, and ERISA Section 403(a) requires "all assets of an employee benefit plan be held in trust by one or more trustees;" We believe the same explanation of exclusive use of the fiduciary funds applies as an explanation for why Sacramento County Charter, Article VIII, Sec. 39 would not apply.

Clarity from Counsel may be necessary to resolve these differing interpretations.

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

However, absent the determination of where the participant funds are kept, EBO is willing to record the revenue allowances and recordkeeping fees in the Comprehensive online Management personnel and Accounting System for County of Sacramento general ledger system (COMPASS), to the extent they may provide for sound financial planning, transparency and accountability, as long as then appropriate designations are made with respect to ownership of the funds (i.e. participants, not the County).

Finally, recent guidance on the requirements of GASB 84, which is specifically addressing this issue as it relates to 475 plans may require future adjustments.

4. Repeat Findings

Condition

We noted findings #1, #2d and #3 are repeat findings from the prior period report. See Attachment II, *Current Status of Prior Findings and Recommendations*.

Criteria

Proper internal controls indicate these findings should be resolved in a timely manner.

Effect

Unresolved internal control deficiencies may weaken the ability of DPS to administer the Benefit Plans properly and increases the likelihood of errors and non-compliance with laws/regulations, internal policies/procedures, and the Agreement to occur and remain undetected.

Cause

See causes for Findings #1, #2 and #3.

Recommendation

We recommend DPS implement all recommendations noted in this attachment within 3 months after this audit is completed.

Management's Response

EBO supports and understands the concerns expressed by our Internal Control partners and the recommended time frame.

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

Outdated Enrollment Procedure:

The interpretation of the requirement that a participant election be made exclusively in a written format will no longer be relevant once the Plan Document is revised with updated language by the end of 2021.

Service Purchases:

We believe we have established the necessary internal controls to ensure that Service Purchases are handles with the appropriate compliance and accuracy, and will work with SCERS to ensure greater adherence to their accountability consistency without unduly delaying the appropriate transactions.

Revenue Allowances and Recordkeeping Fees:

EBO is willing to record the revenue allowances and recordkeeping fees in the Comprehensive Online Management Personnel and Accounting System for County of Sacramento general ledger system (COMPASS), to the extent they may provide for sound financial planning, transparency and accountability, as long as the appropriate designations are made with respect to ownership of the fund (i.e. participants, not the County).

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Status of Prior Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

1. Outdated 457b Plan Document

Prior Recommendation

We recommended DPS update 457(b) Plan Document to reflect current policies and procedures.

Current Status

It appears our prior recommendation has not been implemented. See Finding #1 of Attachment I, *Current Findings and Recommendations*.

2. Service Credit Purchase Rollover

Prior Recommendation

We recommended DPS management ensure all necessary forms are properly signed and dated prior to processing of fund rollover and distribution. We further recommended DPS management establish and implement a written procedure requiring staff to investigate any outstanding checks issued to SCERS for purchase of service credit over normal deposit processing time.

Current Status

It appears our prior recommendation has not been implemented. See Finding #2 of Attachment I, *Current Findings and Recommendations*.

3. Revenue Allowances and Recordkeeping Fees

Prior Recommendation

We recommended DPS deposit revenue allowances and fees collected from participants to the Treasury and pay any fees related to the Benefit Plan out of the Treasury account. We also recommended DPS establish and implement internal control procedures to properly account for revenue allowances and recordkeeping fees in COMPASS.

Current Status

It appears our prior recommendation has not been implemented. See Finding #3 of Attachment I, *Current Findings and Recommendations*.

County of Sacramento
Department of Personnel Services (DPS)
457(b) and 401(a) Plan Performance Audit
Current Status of Prior Findings and Recommendations
For the Period July 1, 2019 through June 30, 2020

4. Repeat Findings

Prior Recommendation

We recommended DPS implement all recommendations noted in this attachment within 3 months after this audit is completed.

Current Status

It appears our prior recommendation has not been implemented.