

Re: Confidential

Paz Dominguez, Karen <KPazDominguez@co.humboldt.ca.us>

Thu 10/3/2019 11:10 AM

To: Bohn, Rex <RBohn@co.humboldt.ca.us>; Bass, Virginia <VBass@co.humboldt.ca.us>; Fennell, Estelle <EFennell@co.humboldt.ca.us>; Wilson, Mike <Mike.Wilson@co.humboldt.ca.us>; Madrone, Steve <smadrone@co.humboldt.ca.us>  
Cc: Miles, Scott <SMiles@co.humboldt.ca.us>; Loftis, Amanda <ALoftis@co.humboldt.ca.us>

Hello again,

I'm sorry for the multiple emails. I have reviewed and re-reviewed the sources of information I used in writing my email to you and I need to correct one of my calculations sooner rather than later. In regard to the fee that PARS deducts from the outside trust, they are currently charging a rate of 0.25% per year, not a full 25% per year. That rate changes based upon the value of the assets in the trust. I was reading several documents and referenced an outdated communication that referenced 25%. This error is favorable because the fee we actually paid is significantly less than the originally calculated amount by about \$900k a year. I am terribly sorry for the oversight. I crosschecked each reference and that is the only one that needed correction.

Karen

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**From:** Paz Dominguez, Karen

**Sent:** Thursday, October 3, 2019 7:04:49 AM

**To:** Bohn, Rex <RBohn@co.humboldt.ca.us>; Bass, Virginia <VBass@co.humboldt.ca.us>; Fennell, Estelle <EFennell@co.humboldt.ca.us>; Wilson, Mike <Mike.Wilson@co.humboldt.ca.us>; Madrone, Steve <smadrone@co.humboldt.ca.us>

**Cc:** Miles, Scott <SMiles@co.humboldt.ca.us>; Loftis, Amanda <ALoftis@co.humboldt.ca.us>

**Subject:** Re: Confidential

It occurred to me that I may have inadvertently recommended a communication method that is not allowed. I apologize for emailing you all together; I don't know how to best follow the Brown Act when dealing with emails and internal conversations. I will educate myself on the Brown Act more. - Karen

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**From:** Paz Dominguez, Karen

**Sent:** Thursday, October 3, 2019 1:51:06 AM

**To:** Bohn, Rex <RBohn@co.humboldt.ca.us>; Bass, Virginia <VBass@co.humboldt.ca.us>; Fennell, Estelle <EFennell@co.humboldt.ca.us>; Wilson, Mike <Mike.Wilson@co.humboldt.ca.us>; Madrone, Steve <smadrone@co.humboldt.ca.us>

**Cc:** Miles, Scott <SMiles@co.humboldt.ca.us>; Loftis, Amanda <ALoftis@co.humboldt.ca.us>

**Subject:** Confidential

Good morning, Supervisors,

Point of caution: Please do not forward this on to anyone just yet. This is a delicate situation and I encourage you to discuss this with me prior to taking action or forwarding on. I have cc'd my County Counsel liaison, Scott Miles, and the Assistant Auditor-Controller, Amanda Loftis.

I am e-mailing you to notify you of a situation that I believe warrants immediate (or as immediate as reasonably possible) attention. Based upon my experience in taxation, knowledge of the County's Cost Allocation Plan, and my reconciliation of the County's books to close out last fiscal year, I believe the County is in danger of losing significant Federal and State funding as a result of poor planning and administration of the engagement with Public Agencies Retirement Services, also referred to as "PARS" as well as the County's Cost Allocation Plan. I am notifying you now because I believe the likelihood of

Federal/State reprimand is high following the State Controller's Office's field review of the County's cost plan during the last week of August. The State Controller's Office has not yet issued their final field review report from their August visit but I suspect it will not be favorable to Humboldt County.

For context:

1. The Board approved a resolution and professional services agreement with PARS on 9/15/15 (see attached: Adoption of Post-Employment Benefits Trust). The Board was told that by engaging with PARS to set up a Section 115 Trust, the County would be exempt from taxation on its income. The justification provided to the Board was that this trust would be used "broadly for post-employment benefits" and "could be used to smooth [unfunded liability] rate increases in future years".
2. Since the Board's adoption of the engagement with PARS, the County has spread out the cost of PARS at increasing rates every year to all departments via their numerous budget units based upon payroll costs.
3. Currently, departments are paying a contribution to a "PARS" fund (Fund 3249) at a rate of 2% of payroll costs every 2 weeks when payroll runs.
4. Periodically, the CAO's office withdraws funds from the "PARS" fund and wires it to an outside bank account that is not being recorded on the County's books and is kept separate from the bank accounts under the Treasurer's authority.
5. Up until the beginning of this fiscal year, the administration of the County's Cost Allocation Plan has been under the control of the County Administrative Officer.

The issues:

1. PARS is not a licensed investment firm. PARS is not an agency of the state nor is it a partner of the state. PARS is just a corporation comprised of a group of consultants. The professional services agreement that the Board signed says explicitly, "PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice." (see page 5 of Exhibit 1A in attached document: Adoption of Post-Employment Benefits Trust)
2. The County's income is already exempt from taxation by Internal Revenue Code Section 115 without the additional set up of a Section 115 Trust.
3. The rate of return from the PARS investment given the cumulative \$4,175,000 already invested cannot realistically cover the cost of the County's current unfunded liability of approximately \$289 million. It's not even .015 percent of the total and I did not deduct the amounts taken by PARS for their fee. The total amount of the unfunded pension liability is very likely to be much higher per the updated actuarial report currently pending.
  - a. Regarding the fee for PARS, based upon our balance of \$4,175,000, they will assess an admin fee of 25% for the year. An annual fee of 25% for \$4,175,000 of invested assets equals \$1,043,750.
  - b. For Safety- the Unfunded Liability in the most recent actuarial report (As of June 30, 2017) is \$61,839,085. The discounted rate for this liability as of 6/30/18 is 7% (see pages 14 and A-4 in attached: Annual Valuation Report – Safety 2019-20).
  - c. For Miscellaneous – the Unfunded Liability in the most recent actuarial report (As of June 30, 2017) is \$227,153,808. The discounted rate for this liability as of 6/30/18 is 7% (see pages 14 and A-4 in attached: Annual Valuation Report – Miscellaneous 2019-20).
4. The charges to departments who receive Federal and/or State funding are not currently justified by the State Controller's Office and will potentially be disallowed via the Cost Plan. If the SCO disallows it, the County will need to refund these charges to the Federal and State grant programs it charged. It would be a significant burden to the General Fund.
  - a. During the SCO's field review of the cost plan in August, they questioned why departments that receive Federal and State funding were being charged for PARS in amounts in excess of what was justified by CalPERS actuarial reports. They were told by CAO staff during an interview that the charges were in fact justified. The SCO formally requested an actuarial report to justify the charges for PARS in their exit point sheet (see "Point #13" in attachment in the e-mail attached: RE: Exit Point Sheet)
    - i. Note: The administration of the County's cost plan is another topic/issue that I need to bring to your attention. I am waiting for the SCO to publish their final field review report to request meetings with you to discuss before I present it publicly.
  - b. Without allowing for Auditor-Controller review prior to submitting the "actuarial report", CAO staff e-mailed it to the State Controller's Office. This was done after already being asked once to not circumvent the process of submittal established by the SCO auditors. Had I been able to review what the CAO's office was going to send, I would have warned them to not send that report and instead admit that the charges were not yet justified.
    - i. I do not endorse the report submitted by CAO staff because it is obviously a last-minute attempt to forge a report using a purchased software program. It also made a false claim that it was actuarially-based (see attached: Humboldt County 2019 Funding Policy-09-18-2019). Please read and compare this report to the actual actuarial reports provided by CalPERS.

- ii. Aside from the unpolished appearance of the report that lacks any actuarial certification, another reason I believe this report was forged is because when it was not submitted timely to my office, I received a response that CAO staff were still working on some calculations and would have it ready soon.
- iii. The software used to generate this report was purchased by GovInvest. A quick Google search of this company and the software it sells proved to me that this was a forged report. I encourage you to review the website yourselves: <https://govinvest.com/>
  - 1. The website encourages users to “Simply adjust assumptions” to generate a report that fits their needs. This was done to “assume” a 5% rate of return for PARS.
  - 2. One of the 2 co-founders of GovInvest is an astrophysicist with an MBA who ran cross country in college and is now also a commercial pilot and flight instructor. The other co-founder is a former finalist at Miss California who was a torchbearer during the 2008 Olympics who has a BA in economics. Neither is or has ever been a licensed actuary.
  - 3. They have 3 “Trusted Advisors” – an engineer, a school dean, and a “previous treasurer of New Jersey”. None of these trusted advisors are or have been licensed actuaries.
  - 4. Nowhere on the website do they identify or reference an actual licensed actuary though they market their product as providing “actuarial analysis”.
  - 5. GovInvest has subcontracted with actuaries to provide our County actual actuarial reports in the past. I’m including an example of an actuarial report we received via GovInvest’s subcontractor, Precision Actuarial, Inc. Please compare it to the one generated by the software (see attached: Humboldt County GASB 75 Report 2018v180830\_DRAFT)

By submitting a report such as the one referenced above, whether they meant to cause harm or not, they have placed the County at risk of having PARS disallowed from the cost plan. By submitting that report, whether they meant to cause harm or not, they have placed me, the Auditor-Controller of the County and negotiating agent for the Cost Plan, in a precarious situation with the state. I received a follow-up e-mail from one of the SCO auditors regarding outstanding responses. I immediately called the SCO auditor to check in on the items requested and inquire about their determination regarding PARS. You should know that I have a great relationship with the SCO auditors and would not have expected the response I got. The SCO auditor said that the report submitted to justify PARS was forwarded to the SCO’s Federal counterpart for review. The SCO auditor further said that the SCO’s Federal counterpart issued a response, and that “in order to prevent miscommunication”, the SCO would include it in the field review report and let it “speak for itself”. I tried to get more information about what that would say and was told that I would get to read it in the published report.

I need to express to you the seriousness of this and the burden this can potentially cause for the County. If PARS is disallowed and the County is ordered to refund the money, the General Fund will have to pay back all departments that paid into PARS and received Federal and State funding. Those departments would need to file amended or adjusted claims with each Federal and State grantor and remit those refunds back to those agencies. In 2018-19, the total amount charged to all departments was 1,202,295. Of that amount, \$965,779.96 was charged to 49 different budget units that receive Federal and/or State funding and would need to be refunded. It also doesn’t help the County attract future grantors to have audit report after audit report issuing findings of non-compliance.

I genuinely and sincerely hope that the SCO is generous and forgiving in their report and I will be the first one to thank them for it if they are. Regardless of which direction this goes, I need to express to you that the actions taken to circumvent the authority and oversight of the Auditor-Controller department are unacceptable and will not be tolerated.

Given that this report was submitted in a manner circumventing Auditor-Controller review, given the multiple failed attempts to correct cost plan missteps by the CAO department as evidenced in the attached e-mail “RE: Cost Allocation Plan and Risk Direct Charges”, and given the secret training being hosted by CAO staff on October 9<sup>th</sup> to which the Auditor-Controller department is not invited to attend, I am requesting responses from each of you individually and separately regarding these matters. I need to know your take on this situation prior to a potential scenario where I have to respond for this publicly. For this year’s cost plan, I will be taking control of the administration of the cost plan as the negotiating agent for the County with the state. I will also continue to convene the Cost Plan Working Group formed on August 29<sup>th</sup> under the facilitation of the Auditor-Controller department.

In addition to requesting responses regarding the Cost Plan situation, I would like to request that you revisit the engagement with PARS. Based upon my review of the agenda item, resolution, and professional services agreement, I don’t see that a CPA or Enrolled Agent or taxation expert or accountant was consulted. I’ve seen and interacted with PARS at vendor booths at conferences I’ve attended and I can assure you that they have great sales pitches but their representatives are not experts in the

field of taxation and investment. Only a few of their "Key Contacts" are Certified Employee Benefits Specialists and their formal titles are different flavors of "Consultant" and management. PARS is a middle-man agency that connects public agencies with investment banks. We could have just as easily walked across the street to US Bank and asked to open a Section 115 Trust. A review of the services they provide the County left me unimpressed as they don't actually do anything we couldn't do or the bank couldn't do for us.

EXHIBIT 1A  
SERVICES

PARS will provide the following services for the [Agency Name] Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss Plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and contribution/reimbursement submission requirements;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust ("Trustee"), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with GASB 45, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

I apologize if this comes as a surprise to you. I know how busy your schedules are and I know you could have gone without adding one more thing to your plate. I appreciate your time, attention, and commitment to fulfilling the duties we as elected officials swore to fulfill, even when we are forced to lose sleep over it.

I will be out of the office "tomorrow" (today by the time you read this) as I will need to drive my husband home from a surgery appointment in Santa Rosa. Please feel free to reply to this e-mail by removing your fellow Supervisors from the To: line and leaving those already in the Cc: line. You are also welcome to call me at my cell phone while I am out - (707) 616-0273. I will be checking my e-mail periodically throughout the day and I will be back in the office on Friday.

Thank you very much,



[humboldtgov.org]

Karen Paz Domínguez  
Auditor-Controller

Office of the Auditor-Controller  
Main Phone: 707.476.2452  
Main Fax: 707.476.7449  
Accounts Payable: 707.476.2461