

Alaska Division of Retirement and Benefits



## AUDIT REPORT

### **City of Seward**

*Compliance Audit for Calendar Year 2020*

*Issued: August 2020*

*PERS No. 182*



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### ***State of Alaska***

Division of Retirement and Benefits

Audit Section

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THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

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August 25, 2020

Samuel M. Hickok  
Finance Director  
City of Seward  
PO Box 167  
Seward, Alaska 99664-0167

Dear Mr. Hickok,

In accordance with Alaska Statute (AS) 39.35.004, the Division of Retirement and Benefits (Division) auditors conducted a Public Employees' Retirement System (PERS) audit of the City of Seward (City) to determine compliance with the retirement system. We would like to thank the City for the time and effort assisting the Division with the audit.

We conducted this compliance audit using guidance from the International Standards for the Professional Practice of Internal Auditing and in accordance with Generally Accepted Government Auditing Standards (Division audits are not peer-reviewed, though they are reviewed yearly for reliance by pension system external auditors). 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.

In our capacities as Division auditors, we reviewed the information, on a test basis, required by applicable Alaska statutes from a participating employer. Responsibility for both the accuracy of the data and completeness of the information reviewed rests with the the management.

We did not identify any issues of noncompliance. We thank the City staff for their commitment to PERS compliance. If you have any questions, please contact the Division by phone at (907) 465-4469, toll-free (800) 821-2251, or via e-mail at [Nimeri.Denis@alaska.gov](mailto:Nimeri.Denis@alaska.gov). We look forward to working with you in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nimeri M. Denis".

Nimeri M. Denis  
Division Auditor

City of Seward  
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City of Seward  
Objective, Scope, and Methodology

**Objectives**

In accordance with Alaska Statute (AS) 39.35.004, Division of Retirement and Benefits (Division) auditors have reviewed the activities of the City of Seward (City) to determine compliance with the Public Employees' Retirement System (PERS).

**Scope**

Auditors reviewed and analyzed the following:

- 2019 Federal Forms (W-2, W-3, and 1099-MISC.)
- 2019 payroll records
- PERS participation agreement and amendments
- Human resource files
- Internal controls related to PERS eligibility determination, payroll processing, and payroll reporting
- Employees reviewed:
  - PERS – 103
  - Total employees – 169

**Methodology**

We verified the City's PERS compliance by initially requesting 2019 personnel and payroll information from the City. We compared this data to Division records and used analytical techniques to select apparent errors for testing. We used Circular A-133 guidance when determining sample size and performed additional testing, when necessary. We conducted this audit via email and phone and worked with the City staff to complete the report.

City of Seward  
Organization and Background

The City of Seward is situated on Resurrection Bay on the East Coast of the Kenai Peninsula. The City is approximately 125 miles south of Anchorage. According to the State of Alaska Department of Commerce, Community, and Economic Development website, the 2018 population of the Seward was 2,584.

The City's PERS participation agreement was approved by the State of Alaska on January 1, 1979, with contributions commencing the first full pay period beginning January 1, 1979. The original PERS participation agreement of the City included full-time employees, whose position normally requires 30 or more hours of work each week, and permanent part-time employees, whose position normally requires 15 or more, but less than 30 hours of work each week. The agreement also recognized all current active employees' past service with the City.

The City's PERS participation agreement has been amended ten times since its inception:

Amendment No. 1

- Recognized Seward General Hospital Employees as participants participating in PERS
- All eligible employees as defined in PERS shall be included
- All eligible past service shall be credited for current employees and those rehired after January 1, 1986
- Effective January 1, 1986

Amendment No. 2

- Recognized Seward Community Library employees as participants participating in PERS
- All eligible employees as defined in PERS shall be included
- All eligible past service shall be credited for current employees and those rehired after July 1, 1988
- Effective July 1, 1988

Amendment No. 3

- Excluded Electric Department IBEW Union Members from participating in PERS
- Effective January 1, 1979

Amendment No. 4

- Excluded Seward General Hospital Employees from participating in PERS
- Effective July 1, 1992

Amendment No. 5

- Excluded the City Manager Position from participating in PERS
- Effective May 1, 1998

City of Seward  
Organization and Background

Amendment No. 6

- Allowed elected officials to participate in PERS
- Retroactively effective August 20, 2000

Amendment No. 7

- Excluded elected officials from participating in PERS
- Effective for all elected to office after March 22, 2004.

Amendment No. 8

- Allowed the City Manager position to participate in PERS
- Effective July 1, 2005

Amendment No. 9

- Excluded the Chief of Police and all Seasonal Employees from participating in PERS
- Effective July 1, 2006.

Amendment No. 10

- Excluded Employees of the Seward Community Health Center from participating in PERS
- Effective February 1, 2014

City of Seward  
Audit Findings

We did not identify any issues of PERS noncompliance.



City of Seward  
Comments

**Comment No. 1**

Internal Controls Related to PERS Eligibility and Payroll Reporting

The scope for internal control testing of the City was limited to PERS eligibility and payroll reporting. We conclude that these internal controls are operating effectively.

**Comment No. 2**

Federal Form SSA-1945

Section 419(c) of Public Law 108-203, the Social Security Protection Act of 2004 requires the State and local government employers to disclose the effect of the Windfall Elimination Provision and the Government Pension Offset to employees hired on or after January 1, 2005, in jobs not covered by social security. The law requires newly hired public employees to sign a statement that they are aware of a possible reduction in their future social security benefit entitlement.

Employers must give the statement to the employee prior to the start of employment, obtain employee's signature on the form, and submit a copy of the signed form to the pension paying agency (for Alaska, please submit this form directly to the Division of Retirement and Benefit's Audit Unit). Current editions of this form can be found at SSA.gov or at <https://www.ssa.gov/forms/ssa-1945.pdf>. Please see Appendix A on page 9 for an example of this form.

**Comment No. 3**

Retiree Return to Work Policy / Bona Fide Separation of Employment

The PERS and TRS plan statutes require complete separation of employment prior to an employee accessing retirement benefits. The statutes also require cessation of benefits if a retiree returns to a position that participates in the pension plans. Now, federal laws that govern the plans' eligibility for preferred tax treatment restricts re-employment into **positions that are not covered by the retirement systems**, such as temporary, nonpermanent positions, project or independent contractor work, and substitute teaching, with the same employer.

Federal Treasury regulations require employers and employees to be able to prove the retiree terminated employment before returning to work for the same employer in any capacity. Employers and retirees must show there was no pre-arrangement to return to work prior to the employee's retirement and that a period of separation from employment in any capacity was observed by the retiree. Employees can no longer separate from a position in one retirement system, draw benefits, but move into another retirement system provided by the employer without separating employment with the employer.

For example, a teacher for a school district will not be able to stop teaching and move into a PERS-covered position with the district and still draw their TRS benefit. Even if the teacher meets TRS eligibility requirements, this action is prohibited because there is no severance of employment with the same employer.



City of Seward  
Comments

Failure to follow the requirements under Code Section 401(a)(36) and proposed Treasury regulations regarding in-service distributions raises qualification issues for the plans and **potential early distribution tax penalties for the individual**. In addition, if a pre-arrangement for employment exists, the individual may be deemed not to have a bona fide separation of employment, making them ineligible for retirement benefits.

The Commissioner of Administration, who is the Plan Administrator, has adopted a policy outlining the requirement for a Bona Fide Separation of Employment. The policy is posted on the Employer Services website, along with a series of frequently asked questions (FAQs). If you have additional questions, contact Jim Puckett, Chief Pension Officer, at the Division's Juneau office, (907) 465-4460 or Toll-Free (800) 821-2251. The FAQs will be updated as additional questions arise.

The Division has adopted regulations to administer these provisions. The regulations effects retirees who retire as of January 1, 2018.

**Comment No. 4**

Temporary Employees

The Division's policy memo regarding temporary service is adopted from the Internal Revenue Code definition of temporary employment. The Department of Administration, Division of Retirement and Benefits provided additional temporary employment guidance per the policy memo described below. The policy was created to assist Division employees in reviewing positions for inclusion in PERS.

Department of Administration, Division Policy Memo Regarding Temporary Service

Effective April 10, 2013.

**TEMPORARY, NONPERMANENT EMPLOYMENT**

- (a) A temporary employee is an employee specifically hired to perform services on either a full- or part-time-time basis:
  - i. supporting or supplementing an employer's workforce during employee absences, temporary skill shortages or temporary increased workload; or
  - ii. implementing special assignments, projects, and other similar work situations;
  - iii. for a limited duration.
  
- (b) The administrator will make a determination regarding whether an employee is temporary by evaluating all of the facts and circumstances of the employment including:
  - i. the extent to which the employment supports or supplements an employer's workforce;
  - ii. the extent to which the employment implements special assignments, projects or work situation; and
  - iii. the extent to which the term of employment exceeds two years.

City of Seward

Comments

(c) An employment segment which has been designated as a temporary or nonpermanent appointment, or an employment segment for which a person has been designated as a temporary or nonpermanent employee by the employer is not creditable under this system except for temporary employment claimed under AS 39.35.345, and temporary legislative employment claimed under AS 39.35.385(f) and 39.35.680(35). For the purpose of AS 39.35, Comprehensive Employment and Training Act (CETA) employees are designated temporary employees.



City of Seward  
Prior Audit Findings

The prior PERS audit report of the City issued in 2015 identified no issues of noncompliance.



City of Seward  
Appendix A  
Federal Form SSA-1945

Social Security Administration

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**Statement Concerning Your Employment in a Job  
Not Covered by Social Security**

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**Employee Name** Please write legibly                      **Employee ID#** Employee's SSN  
**Employer Name** Please write legibly                      **Employer ID#** Indicate PERS, TRS or SBS

Your earnings from this job are not covered under Social Security. When you retire, or if you become disabled, you may receive a pension based on earnings from this job. If you do, and you are also entitled to a benefit from Social Security based on either your own work or the work of your husband or wife, or former husband or wife, your pension may affect the amount of the Social Security benefit you receive. Your Medicare benefits, however, will not be affected. Under the Social Security law, there are two ways your Social Security benefit amount may be affected.

**Windfall Elimination Provision**

Under the Windfall Elimination Provision, your Social Security retirement or disability benefit is figured using a modified formula when you are also entitled to a pension from a job where you did not pay Social Security tax. As a result, you will receive a lower Social Security benefit than if you were not entitled to a pension from this job. For example, if you are age 62 in 2013, the maximum monthly reduction in your Social Security benefit as a result of this provision is \$395.50. This amount is updated annually. This provision reduces, but does not totally eliminate, your Social Security benefit. For additional information, please refer to Social Security Publication, "Windfall Elimination Provision."

**Government Pension Offset Provision**

Under the Government Pension Offset Provision, any Social Security spouse or widow(er) benefit to which you become entitled will be offset if you also receive a Federal, State or local government pension based on work where you did not pay Social Security tax. The offset reduces the amount of your Social Security spouse or widow(er) benefit by two-thirds of the amount of your pension.

For example, if you get a monthly pension of \$600 based on earnings that are not covered under Social Security, two-thirds of that amount, \$400, is used to offset your Social Security spouse or widow(er) benefit. If you are eligible for a \$500 widow(er) benefit, you will receive \$100 per month from Social Security (\$500 - \$400=\$100). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65. For additional information, please refer to Social Security Publication, "Government Pension Offset."

**For More Information**

Social Security publications and additional information, including information about exceptions to each provision, are available at [www.socialsecurity.gov](http://www.socialsecurity.gov). You may also call toll free 1-800-772-1213, or for the deaf or hard of hearing call the TTY number 1-800-325-0778, or contact your local Social Security office.

**I certify that I have received Form SSA-1945 that contains information about the possible effects of the Windfall Elimination Provision and the Government Pension Offset Provision on my potential future Social Security Benefits.**

**Signature of Employee** \_\_\_\_\_ **Date** \_\_\_\_\_

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Form SSA-1945 (01-2013)  
Destroy Prior Editions

