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March 9, 2012

Employer Code: 0763  
Job Number: P09-066

City and County of San Francisco  
James Smothers, Finance Director  
Office of the Controller, Payroll Personnel Services Division  
One S. Van Ness Ave  
San Francisco, CA 94103

Dear Mr. Smothers:

Enclosed is our final report on the results of the public agency review completed for the City and County of San Francisco. Your agency's written response, included as an appendix to the report, indicates agreement with the issues noted in the report. In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your agency and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

MARGARET JUNKER, Chief  
Office of Audit Services

Enclosure

cc: Risk and Audit Committee Members, CalPERS  
Peter Mixon, General Counsel, CalPERS  
Karen DeFrank, Chief, CASD, CalPERS  
Mary Lynn Fisher, Chief, BNSD, CalPERS  
Honorable Board Members, City and County of San Francisco

# **Office of Audit Services**



## **Public Agency Review**

### **City and County Of San Francisco**

**Employer Code: 0763  
Job Number: P09-066**

**March 2012**

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# CITY AND COUNTY OF SAN FRANCISCO

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## RESULTS IN BRIEF

The Office of Audit Services (OAS) reviewed the City and County of San Francisco's (City and County) enrolled individuals, member compensation, required health and retirement documentation and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- Non-reportable on-call pay was incorrectly reported as special compensation.
- Additional compensation for working on an unscheduled holiday was incorrectly reported.
- Shift differential was not calculated in accordance with the MOU.
- Uniform allowance was not reported.
- Holiday pay was incorrectly reported for employees not required to work on holidays.
- Shift differential pay was incorrectly reported as regular earnings.
- Eligible temporary/part-time employees were not enrolled in CalPERS membership.
- Retired annuitant was not reinstated.
- Unused sick leave was incorrectly reported.

The pertinent sections of the Government Code and California Code of Regulations for each finding are listed in Appendix C.

A confidential appendix identifying the individuals mentioned in this report has been sent to the City and County and CalPERS Customer Account Services Division (CASD) and Benefit Services Division (BNSD).

## CITY BACKGROUND

San Francisco is a City and County chartered by the State of California and as such can exercise the powers of both a City and County under state law. Memoranda of Understanding (MOU) outline all City and County employees' salaries and benefits and state the terms of employment agreed upon between the City and County and its employees.

The City and County contracted with CalPERS effective February 7, 1969, to provide retirement benefits for local police employees, and subsequently added sheriffs, county peace officers and miscellaneous employees. The City and

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# CITY AND COUNTY OF SAN FRANCISCO

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County's current contract amendment identifies the length of the final compensation period as twelve months for all coverage groups. The City and County contracted with CalPERS effective April 1, 1969, to provide health benefits to all eligible employees.

## SCOPE

As part of the Board approved plan for fiscal year 2009/2010, the OAS reviewed the City and County's payroll reporting and member enrollment processes as these processes relate to the City and County's retirement and health contracts with CalPERS. The review period was limited to the examination of sampled records and processes from January 1, 2007, through December 31, 2009. The on-site fieldwork for this review was conducted on June 21, 2010, through June 25, 2010, July 12, 2010, through July 15, 2010, and August 3, 2010, through August 6, 2010. The review objectives and a summary of the procedures performed, sample sizes, sample periods and findings are listed in Appendix B.

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# CITY AND COUNTY OF SAN FRANCISCO

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

**Finding 1:** The City and County erroneously reported on-call pay as compensation.

***Recommendation:***

The City and County should discontinue reporting overtime pay to CalPERS.

The City and County should work with CalPERS CASD to assess the impact of reporting non-reportable compensation and determine what adjustments are needed.

***Condition:***

OAS found that the City and County incorrectly reported compensation in the form of on-call pay for institutional police officers at the San Francisco Community College District. Specifically, the City and County paid and incorrectly reported on-call pay for two sampled employees in the 6/09-3 service period. On-call pay does not meet the definition of special compensation and should not have been reported to CalPERS.

***Criteria:***

Government Code § 20635, § 20636(a), § 20636(b)(1), § 20636(c)(6)

California Code of Regulations § 571(a), § 571(b), § 571(c)

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**Finding 2:** The City and County erroneously reported holiday pay as additional compensation.

***Recommendation:***

The City and County should immediately discontinue reporting additional compensation in the form of holiday pay for employees not normally required to work on holidays.

The City and County should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

***Condition:***

OAS found that the City and County properly paid and reported holiday pay for employees who were required to work on approved holidays except in one instance. The City and County paid and incorrectly reported holiday pay as additional compensation for one sampled employee who worked an additional shift on a holiday, which was beyond the employee's normal work schedule. Additional compensation for working on holidays, above the normal work schedule for employees not normally required to work during holidays, is non-reportable compensation as it does not meet the definition of reportable holiday pay.

***Criteria:***

Government Code § 20630, § 20636(a), § 20636(b)(1), § 20636(c)(1), § 20636(c)(6)

California Code of Regulations § 571(a)

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**Finding 3:** The City and County reported special compensation that was not calculated in accordance with the City and County's MOUs.

***Recommendation:***

The City and County should immediately stop reporting special compensation that is based on the compound method.

The City and County should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are necessary.

***Condition:***

OAS found the City and County incorrectly utilized a method for calculating shift differential pay, which allowed shift differential premium pay to be calculated on other items of special compensation. MOUs between the City and County of San Francisco Deputy Sheriff's Association as well as the Manager and Supervisor's Association state that special compensation is calculated using base pay rather than the compounding method that was used by the City and County. The method used by the City and County resulted in the special compensation reported to CalPERS being overstated.

***Criteria:***

Government Code § 20636(a), § 20636(c)(1), § 20636(c)(6)

California Code of Regulations § 571(a)



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**Finding 4:** The City and County did not report uniform allowance to CalPERS as compensation earnable.

***Recommendations:***

The City and County should ensure that uniform allowance is reported for all employees required to wear a uniform.

The City and County should work with CalPERS CASD to assess the impact of and to correct this non-reporting issue.

***Conditions:***

OAS found the City and County correctly paid and reported uniform allowance for sampled employees in the sheriff and institutional police departments who received an \$850 annual uniform allowance; however, the City and County did not report the monetary value of uniforms, including maintenance, for institutional police at the San Francisco Community College District and the district attorney investigators who were provided battle dress uniforms. In addition, the value of the uniforms provided – a statutory item of compensation – must be contained in a written labor policy or agreement.

***Criteria:***

Government Code § 20636(a), § 20636(c)(1), § 20636(c)(6)

California Code of Regulations § 571(a)(5)

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**Finding 5:** The City and County incorrectly reported special compensation in base payrate and regular earnings.

***Recommendation:***

The City and County should report items of special compensation separately from base payrate and regular earnings.

The City and County should work with CalPERS CASD to assess the impact of this incorrect reporting and determine what adjustments, if any, are needed.

***Condition:***

OAS found that all sampled employees' base payrates were within the City and County's salary schedule ranges. However, the City and County incorrectly included items of special compensation, such as shift differential and bilingual pay, in the employees' reported base payrate and regular earnings. Special compensation is required to be reported to CalPERS as a separate line item.

***Criteria:***

Government Code § 20636(a), § 20636(c)(1), § 20636(c)(6)

CalPERS Procedures Manual Page 71

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**Finding 6:** The City and County did not comply with CalPERS membership eligibility and enrollment requirements for temporary/part-time employees.

***Recommendation:***

The City and County should monitor the hours worked in a fiscal year for temporary/part-time employees to determine when membership eligibility is met in order to immediately enroll employees who meet membership eligibility requirements.

The City and County should work with CalPERS CASD to assess the impact of this membership eligibility issue and determine what adjustments are needed.

***Condition:***

OAS found that although one temporary/part-time employee met CalPERS membership eligibility requirements by working more than 1,000 hours in a fiscal year, the City and County did not enroll the employee into CalPERS membership. Specifically, one employee worked 1,393.57 hours in fiscal year 2007/2008, exceeding 1,000 hours by the end of the February 29, 2008 pay period.

***Criteria:***

Government Code § 20305(a)

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# CITY AND COUNTY OF SAN FRANCISCO

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**Finding 7:** The City and County did not reinstate a retired annuitant who exceeded the 960-hour fiscal year threshold.

***Recommendation:***

The City and County should monitor the hours worked by retired annuitants to ensure that the 960-hour threshold is not exceeded in a fiscal year without reinstating the retired annuitants into membership.

The City and County should work with CalPERS BNSD to assess the impact of and to correct this reinstatement issue.

***Condition:***

OAS found that on October 3, 2008, a retired annuitant was hired as a district attorney investigator by the City and County. The retired annuitant subsequently exceeded the 960-hour threshold by the end of the June 5, 2009 pay period, but was not reinstated into CalPERS membership. The retired annuitant worked a total of 974 hours in fiscal year 2008/2009.

***Criteria:***

Government Code § 21224(a)

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# CITY AND COUNTY OF SAN FRANCISCO

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**Finding 8:** The City and County incorrectly certified and reported the unused sick leave balance for a retiring CalPERS member.

***Recommendation:***

The City and County should ensure that the unused sick leave balances for retiring members are correctly certified and reported to CalPERS.

The City and County should work with CalPERS BNSD to determine the impact of this incorrect reporting and determine what adjustments are needed.

***Condition:***

Effective July 1, 2005, the City and County must convert retiring miscellaneous employees' unused sick leave to additional service credit. OAS found one employee had 415 hours of unused sick leave prior to retirement which should have been reported to CalPERS as 51.875 days (converted by dividing 415 unused sick leave hours by eight hours per work day). However, the City and County incorrectly certified to CalPERS that the employee had 415 days of unused sick leave at retirement. The City and County over reported the employee's unused sick leave balance to CalPERS by 363.125 days.

***Criteria:***

Government Code § 20965

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# CITY AND COUNTY OF SAN FRANCISCO

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix B. OAS limited the test of transactions to employee samples selected from the City and County's payroll and health records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared.

Respectfully submitted,

Original Signed by Margaret Junker  
MARGARET JUNKER, CPA, CIA, CIDA  
Chief, Office of Audit Services

Date: March 2012

Staff: Michael Dutil, CIA, Senior Manager

Diana Thomas, CIDA, Manager

Kelly Dotters-Rodriguez

Chris Wall

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**CITY AND COUNTY OF SAN FRANCISCO**

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# **APPENDIX A**

## **BACKGROUND**

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# CITY AND COUNTY OF SAN FRANCISCO

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## BACKGROUND

### California Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CalPERS Customer Account Services Division (CASD) manages contract coverage for public agencies and receives, processes, and posts payroll information. CASD also provides services for eligible members who apply for service or disability retirement. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employers' knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.



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**CITY AND COUNTY OF SAN FRANCISCO**

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# **APPENDIX B**

## **OBJECTIVES**

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# CITY AND COUNTY OF SAN FRANCISCO

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## OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the City and County complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the City and County's retirement and health benefits contracts with CalPERS were followed.

This review covers the period of January 1, 2007, through December 31, 2009. OAS completed a prior review covering the period of July 1, 1991, to June 30, 1994.

## SUMMARY

### **Procedures, Sample Sizes, Sample Periods, and Findings**

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the City and County's personnel and payroll procedures, reviewed documents and performed the following procedures. Related sample sizes, sample periods and findings are listed.

- ✓ Reviewed:
  - Provisions of the Contract and contract amendments between the City and County and CalPERS
  - Correspondence files maintained at CalPERS
  - City and County Council minutes and resolutions
  - City and County written labor policies and agreements
  - City and County salary, wage and benefit agreements including applicable resolutions
  - City and County personnel records and employee hours worked records
  - City and County payroll information including Summary Reports and PERS listings
  - Other documents used to specify payrate, special compensation and benefits for all employees
  - Health Benefits Program enrollment records and supporting documentation
  - City and County ordinances as necessary
  - Various other documents as necessary

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# CITY AND COUNTY OF SAN FRANCISCO

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Reviewed City and County payroll records and compared the records to data reported to CalPERS to determine whether the City and County reported non-reportable compensation.

Sample Size and Period: Reviewed 25 employees covering two sampled service periods - the first service period in June 2009 (6/09-3) and the second service period in November 2009 (11/09-4).

**See Finding 1:** Non-reportable compensation was incorrectly reported.

**See Finding 2:** Holiday Pay was incorrectly reported for ineligible employees.

**See Finding 3:** Special compensation was incorrectly computed.

- ✓ Reviewed City and County payroll records and compared the records to data reported to CalPERS to determine whether the City and County reported compensation earnable.

**See Finding 4:** Uniform allowance was not reported.

- ✓ Reviewed City and County payroll records and compared the records to data reported to CalPERS to determine whether the City and County correctly reported compensations earnable.

**See Finding 5:** Special compensation was incorrectly reported as regular earnings.

Reviewed payrates reported to CalPERS and reconciled the payrates to City and County public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the City and County's governing body in accordance with requirements of applicable public meeting laws.

Sample Size and Period: Reviewed 25 employees in the second service period in November 2009 (11/09-4).

**No Finding**

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# CITY AND COUNTY OF SAN FRANCISCO

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Reviewed PERS listing reports to determine whether the following payroll reporting elements were reported correctly: contribution code, pay code, work schedule code, service period and member contributions.

Sample Size and Period: Reviewed 25 employees in the second service period in November 2009 (11/09-4).

## **No Finding**

- ✓ Reviewed PERS listing to determine whether contribution codes were reported correctly.

## **No Finding**

- ✓ Reviewed PERS listing to determine whether pay codes were reported correctly.

## **No Finding**

- ✓ Reviewed the City and County's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.

Sample Size and Period: Reviewed six temporary/part-time employees in fiscal years 2007/2008 and 2008/2009.

**See Finding 6:** Membership eligibility enrollment requirements were not met.

- ✓ Reviewed the City and County's enrollment practices for retired annuitants to determine if retirees were reinstated when 960 hours were worked in a fiscal year.

Sample Size and Period: Reviewed eight retired annuitants in review period.

**See Finding 7:** A retired annuitant was not reinstated.

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# CITY AND COUNTY OF SAN FRANCISCO

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- ✓ Reviewed individuals hired as independent contractors to determine whether they were correctly classified.

Sample Size and Period: Reviewed 30 independent contractors in review period.

## **No Finding**

Reviewed the City and County's calculation and reporting of unused sick leave balances.

Sample Size and Period: Reviewed four retiring members covering the review period.

**See Finding 8:** Unused sick leave balance was incorrectly certified and reported

- ✓ Reviewed health records to determine whether the City and County properly enrolled eligible individuals into CalPERS Health Benefits Program.

Sample Size and Period: Reviewed four employees and their dependents in the review period.

## **No Finding**

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**CITY AND COUNTY OF SAN FRANCISCO**

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# APPENDIX C

## CRITERIA

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# CITY AND COUNTY OF SAN FRANCISCO

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## CRITERIA

Government Code § 20305, subdivision (a), states:

An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless:

(1) He or she is a member at the time he or she renders that services and is not otherwise excluded pursuant to this article or by a provision of a contract....

(3)(B) The person...complete 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which...1,000 hours of service were completed....

Government Code § 20630, subdivision (b), states:

Compensation shall be reported in accordance with Section 20636 and shall not exceed compensation earnable, as defined in Section 20636.

Government Code § 20635, states:

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime put in by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

Government Code § 20636, subdivision (a), defines compensation earnable by a member as, "The payrate and special compensation of the member."

Government Code § 20636, subdivision (b)(1), defines payrate, in part, as follows:

"Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Government Code § 20636, subdivision (c)(1), defines special compensation as:

Payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

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Government Code § 20636, subdivision (c)(6), states:

The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section.

Government Code § 20965, states:

A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his or her retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his or her employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit. Reports of unused days of sick leave shall be subject to audit and retirement benefits may be adjusted where improper reporting is found.

Government Code § 21224, subdivision (a), states:

A retired person may serve without reinstatement from retirement or loss or interruption of benefits...during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any fiscal year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

California Code of Regulation § 571, provides:

A list that exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a labor policy or agreement.

California Code of Regulations § 571, subdivision (a)(5) defines Uniform Allowance as:

Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes.

California Code of Regulations § 571, subdivision (b), states, in part:

The Board has determined that all items of special compensation listed in subsection (a) are:



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# CITY AND COUNTY OF SAN FRANCISCO

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- (1) Contained in a written labor policy or agreement;
- (2) Available to all members in the group or class;
- (3) Part of normally required duties;
- (4) Performed during normal hours of employment...

California Code of Regulations § 571, subdivision (c), states,  
Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).

CalPERS Procedures Manual, Page 71, states, "All special compensation is required to be reported separately as special compensation, as it is earned."

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**CITY AND COUNTY OF SAN FRANCISCO**

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# APPENDIX D

## STATUS OF PRIOR REVIEW

**FOLLOW UP ON PRIOR REVIEW FINDINGS  
CITY AND COUNTY OF SAN FRANCISCO  
EMPLOYER CODE 0763, PRIOR REVIEW 94/95-055S**

Prior Review Finding	Prior Review Recommendation	Status of Recommendation
1. Non-reporting of reportable compensation.	The agency should immediately begin reporting uniform purchases and replacement costs as compensation for airport and institutional police officers.	A similar issue was noted in the current review.
<p>Conclusion:</p> <p>The City and County did not fully implement the recommendation of the prior report dated March 1996. The City and County did not report the value of uniforms, including maintenance, for institutional police officers.</p>		

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**CITY AND COUNTY OF SAN FRANCISCO**

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# **APPENDIX E**

## **AGENCY'S RESPONSE**



January 18, 2012

California Public Employees' Retirement System  
Office of Audit Services  
Margaret Junker, Chief Office of Audit Services  
P. O. Box 942701  
Sacramento, CA 94229-2701

RE: Employer Code: 0763  
Job Number: P09-066

Dear Ms. Junker:

The City and County of San Francisco and the City College of San Francisco has completed its review of the draft report provided by your agency of the City and County of San Francisco. We are, jointly, providing this written response that we are in agreement with your recommendations and will work with CalPERS Customer Account Services Division (CASD) and CalPERS Benefit Services Division (BNSD) to assess the impact of any findings and determine what adjustments, if any, are necessary.

We appreciate and thank you for your guidance to help us continue to be in compliance with our contract with your agency. If you have any questions, please call Loretta Lum (415)701-3464.

Sincerely,

James Smothers, Jr  
CCSF - Acting Payroll Director

Donald Lind  
City College of SF – Director of Payroll

cc: Monique Zmuda, CCSF - Deputy Controller  
Shelley Thompson, CCSF – Project Director  
John Bilmont, City College of SF - CFO