DATE: July 31, 2019

TO: SDCERS Audit Committee

CC: Karen Porteous, San Diego Unified Port District Vice President/Chief Administrative Officer
    Michelle Corbin, San Diego Unified Port District Human Resources Director
    Robert Monson, San Diego Unified Port District Auditor
    Gregg Rademacher, SDCERS Chief Executive Officer
    Marcelle Voorhies-Rossman, SDCERS Deputy Chief Executive Officer
    Johnny Tran, SDCERS Chief Compliance Officer/General Counsel

FROM: Sarah Dickson, SDCERS Chief Internal Auditor

SUBJECT: Plan Sponsor Contribution & Reporting Audit – San Diego Unified Port District for the period July 1, 2017 through June 30, 2018

Enclosed is the Plan Sponsor Contribution & Reporting Audit for the period July 1, 2017 through June 30, 2018. Overall, the San Diego Unified Port District (District) has procedures in place for the census data and control strengths were identified during the audit. Opportunities for improvement were also identified that should be addressed to further strengthen controls.

I would like to thank the District and SDCERS staff for all of their assistance and cooperation. Everyone involved was very helpful and willing to provide the information needed. Their valuable time and efforts spent on this audit are greatly appreciated.
Plan Sponsor Contribution & Reporting Audit

San Diego Unified Port District for the Period
July 1, 2017 through June 30, 2018

Prepared by:
Sarah Dickson, Chief Internal Auditor
TABLE OF CONTENTS

EXECUTIVE SUMMARY ......................................................................................................................................................... 1
INTRODUCTION ............................................................................................................................................................................. 3
  Background ................................................................................................................................................................................. 3
  Priority Rating Process .............................................................................................................................................................. 3
AUDIT RESULTS ............................................................................................................................................................................ 4
  Finding #1: The District has six outstanding findings and eight correlating recommendations relating to the Plan Sponsor Contribution and Reporting Audit issued on June 22, 2016. ........................................... 4
  Finding #2: Pay type “Court Time – Off Duty” was appropriately excluded from PEPRA employee’s pensionable compensation, yet the associated hours were also excluded resulting in noncompliance with the Plan document. .......................................................................................................................... 8
  Finding #3: Pensionable pay types were inappropriately excluded from employee’s pensionable compensation or non-pensionable pay types were inappropriately included in employee’s pensionable compensation....................................................................................................................... 10
  Finding #4: For PEPRA Members, the District’s Salary Ordinance, and Memoranda of Understanding allow treatment of “Holiday Pay,” in certain circumstances, to overstate pensionable compensation .............................................................................................................................................................. 12
  Finding #5: Focused testing for the pay period ending October 12, 2017 found five employees out of ~500 who worked greater than 80 “Regular Time” hours had pensionable compensation and contributions overstated ........................................................................................................................... 16
  Finding #6: Certain sections of the District’s Salary Ordinance need clarification. ................................................................. 17
  Finding #7: The District is incorrectly applying the watch commander pay to the employee’s regular rate of pay instead of their base pay, thus overstating the employee’s rate of pay and ultimately their pensionable compensation .............................................................................................................................................................. 19
  Finding #8: Two rehired District retirees tested were missing certifications that unemployment payments were not received, which is out of compliance with PEPRA. .............................................................................................................................................................. 20
INHERENT LIMITATIONS ............................................................................................................................................................. 21
CONCLUSION .................................................................................................................................................................................. 21
APPENDIX A - AUDIT OBJECTIVES, SCOPE & METHODOLOGY .......................................................................................... 22
  Audit Objectives ............................................................................................................................................................................. 22
  Audit Scope & Methodology .......................................................................................................................................................... 22
APPENDIX B – ADDITIONAL DETAILS FOR FINDING 1.1 ...................................................................................................... 24
EXECUTIVE SUMMARY

The San Diego Unified Port District (District) has procedures in place for the census data reported to San Diego City Employees’ Retirement System (SDCERS). Control strengths identified during the audit period from July 1, 2017 through June 30, 2018 include:

- Accurately and completely reporting the following elements to SDCERS for all randomly tested Members:
  - date of birth,
  - date of Membership,
  - classification of employees,
  - gender,
  - plan code,
  - service period, and
  - Member entry age.
- Accurately applying the pensionable compensation cap for one tested Member.
- Correctly establishing Membership or not establishing Membership in the Amended and Restated San Diego Unified Port District Retirement Plan and Trust (Plan).
- Appropriately applying retroactive pay to the correct period.

Census data was correctly transmitted to SDCERS with 98.8% accuracy. However, the following issues were identified that should be addressed to further strengthen controls over payroll reporting.

Recurring Findings and Recommendations
The District has six outstanding findings with eight correlating recommendations relating to the Plan Sponsor Contribution and Reporting Audit issued on June 22, 2016.

Noncompliance with Plan Document
Pay type “Court Time – Off Duty” was appropriately excluded from Public Employees’ Pension Reform Act (PEPRA) employee’s pensionable compensation, yet the associated hours were also excluded resulting in noncompliance with the Plan document.

Pay Types Either Inappropriately Included or Excluded from Pensionable Compensation
Per the District’s Salary Ordinance, “Court Time – Off Duty” and “Holiday Premium” pay types are included in Classic Member’s pensionable compensation but excluded from PEPRA Member’s. We found instances where “Court Time – Off Duty” was excluded from Classic Member’s pensionable compensation. We also found instances where “Holiday Premium” was included in PEPRA Member’s pensionable compensation.

Holiday Pay and PEPRA
For PEPRA Members, the District’s treatment of “Holiday Pay” in certain circumstances overstates pensionable compensation.

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1 Percentage based on twenty-five randomly selected employee records covering the two pay periods – September 29, 2017 through October 12, 2017 and November 24, 2017 through December 7, 2017.
EXECUTIVE SUMMARY (Continued)

Regular Hours Worked > Standard 80 Hours (for Full-Time Employees)
Employees who had “Regular Pay” hours greater than 80 hours overpaid pensionable contributions. Furthermore, pensionable compensation was overstated.

Salary Ordinance Clarification
The District’s Salary Ordinance needs clarification in certain areas.

Watch Commander Differential
The District is incorrectly applying watch commander pay to employees’ regular rate of pay instead of their base pay, thus overstating rate of pay.

Rehired Retirees and PEPRA
Two rehired retirees tested were missing certifications that unemployment payments were not received, which is out of compliance with PEPRA.

*****

Based on this audit, there were 20 new recommendations. Eight recommendations remain outstanding from the Contribution & Reporting Audit issued in June of 2016 (see Finding 1), two of which were replaced with new recommendations (ultimately resulting in 26 recommendations). Twenty-five of the recommendations pertain to the District while one pertains to the District and SDCERS’ Management. The District agrees with all recommendations and their responses are attached to the report. SDCERS Management agrees with the one, joint recommendation and their response, including responses to other items requiring follow-up, is attached to the report.

The information in this report is intended solely for the use of the District and SDCERS’ Audit Committee, Board of Administration, and management and is not intended to be, and should not be, used by anyone other than these specified parties.
INTRODUCTION

BACKGROUND

SDCERS administers three separate defined benefit pension plans for the District, the City of San Diego, and the San Diego County Regional Airport Authority. SDCERS provides service retirement, disability retirement, death and survivor benefits to its participants. The District has contracted with SDCERS to administer retirement benefits for District employees and beneficiaries since 1963.

Each pay period the District provides SDCERS a transmittal file that contains information such as Member name, pensionable salary, Member contributions, class of employee, and Member date of birth. The transmittal file is used by SDCERS to update each Member’s data contained within SDCERS’ pension administration system, IRIS. Member data is used by SDCERS to determine items such as service retirement eligibility, monthly base salary for benefits, benefit formula, and death benefits. Collectively, the underlying Member data is referred to as census data. On a yearly basis SDCERS sends the census data to the Plan actuary, Cheiron, to provide an actuarial valuation. The actuarial valuation provides the financial condition of the Plan, the past and expected trends in the financial condition of the Plan, the District’s employer and Member contribution rates, and other information required by the Governmental Accounting Standards Board.

<table>
<thead>
<tr>
<th>Unified Port District – Membership Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valuation as of:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>June 30, 2017</td>
</tr>
<tr>
<td>June 30, 2016</td>
</tr>
<tr>
<td>Active Counts</td>
</tr>
<tr>
<td>367</td>
</tr>
<tr>
<td>362</td>
</tr>
<tr>
<td>Terminated Vested</td>
</tr>
<tr>
<td>274</td>
</tr>
<tr>
<td>279</td>
</tr>
<tr>
<td>Disabled</td>
</tr>
<tr>
<td>60</td>
</tr>
<tr>
<td>61</td>
</tr>
<tr>
<td>Retirees</td>
</tr>
<tr>
<td>430</td>
</tr>
<tr>
<td>415</td>
</tr>
<tr>
<td>Beneficiaries</td>
</tr>
<tr>
<td>87</td>
</tr>
<tr>
<td>82</td>
</tr>
<tr>
<td>Total District Members</td>
</tr>
<tr>
<td>1,218</td>
</tr>
<tr>
<td>1,199</td>
</tr>
<tr>
<td>Active Member Payroll</td>
</tr>
<tr>
<td>$ 34,388,005</td>
</tr>
<tr>
<td>$ 33,684,615</td>
</tr>
<tr>
<td>Average Pay Per Active Member</td>
</tr>
<tr>
<td>$ 93,700</td>
</tr>
<tr>
<td>$ 93,051</td>
</tr>
<tr>
<td>Benefits in Pay Status</td>
</tr>
<tr>
<td>$ 25,662,743</td>
</tr>
<tr>
<td>$ 24,084,860</td>
</tr>
<tr>
<td>Average Benefit</td>
</tr>
<tr>
<td>$ 44,476</td>
</tr>
<tr>
<td>$ 43,163</td>
</tr>
</tbody>
</table>

Source: SDCERS – Unified Port District Actuarial Valuation as of June 30, 2017

PRIORITY RATING PROCESS

To assist management in its evaluation, the findings have been assigned a qualitative assessment of the need for corrective action. Each item is assessed a high, medium, or low priority as follows:

- High - Represents a finding requiring immediate action by management to mitigate risks associated with the process being audited.
• Medium - Represents a finding requiring timely action by management to mitigate risks associated with the process being audited.
• Low - Represents a finding for corrective action by management to mitigate risks with the process being audited.
• Informational – Represents a finding to educate the Board or management.

**AUDIT RESULTS**

Based on detailed testing, strengths were identified as well as issues that should be addressed. Below and on the following pages are issues that were identified and should be addressed.

**Finding #1:** The District has six outstanding findings and eight correlating recommendations relating to the Plan Sponsor Contribution and Reporting Audit issued on June 22, 2016.

**Priority Rating:** High

The outstanding findings, outstanding recommendations, and their current statuses are as follows:

<table>
<thead>
<tr>
<th>Previous Finding #</th>
<th>Finding As Previously Reported</th>
<th>Recommendation As Previously Reported</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The District's payroll system calculates a Member's Base Compensation equal to the greater of Standard Hours x Standard Rate or actual Base Compensation received. The Plan however is ambiguous how to report Base Compensation to SDCERS when the hours used to calculate Base Compensation are less than the Member's Standard Hours.</td>
<td>The District should clarify how to calculate Base Compensation for a Member when the hours used to calculate Base Compensation are less than the Member's Standard Hours.</td>
<td>SDCERS’ Chief Internal Auditor found the same issue still exists in FY2018.</td>
</tr>
<tr>
<td>2</td>
<td>The District did not remit the correct amount due to SDCERS for the pay periods tested.</td>
<td>The District should remit to SDCERS the amounts required to be paid as calculated by IRIS.</td>
<td>SDCERS’ Chief Internal Auditor found the same issue still exists in FY2018. The District now has access to information in IRIS in order to remit the correct amount due; however, District reports and IRIS reports are not in agreement causing the disparity.</td>
</tr>
</tbody>
</table>

2 See Appendix B for additional details.
<table>
<thead>
<tr>
<th>Finding #</th>
<th>Finding As Previously Reported</th>
<th>Recommendation As Previously Reported</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>The District is not adhering to California Government Code Section 7522.34 for pensionable compensation of a new Member of a public retirement system.</td>
<td>The District’s Salary Ordinance and MOUs should be updated to include the terms of the California Public Employees' Pension Reform Act of 2013.</td>
<td>The District modified their Salary Ordinance to reflect terms of the California Public Employees' Pension Reform Act of 2013; however, all MOU’s have not been updated. Three MOU’s were negotiated and finalized about three months after issuance of the audit report and will not be negotiated again until 2021. One MOU was effective before issuance of the audit report and will not be negotiated again until 2019.</td>
</tr>
<tr>
<td>5</td>
<td>The District is using two &quot;regular rates of pay&quot; when calculating the employee's compensation (one rate for Overtime Pay and another for &quot;Regular Time&quot;).</td>
<td>The District should clarify in the MOUs, Salary Ordinance, and Personnel Rules and Regulations how employee compensation is calculated. The District should determine if Base Compensation for any Member has been incorrectly reported to SDCERS and communicate to SDCERS the Member accounts required to be corrected.</td>
<td>Three MOU’s were negotiated and finalized about three months after issuance of the audit report and will not be negotiated again until 2021. One MOU was effective before issuance of the audit report and will not be negotiated again until 2019. The Salary Ordinance will be modified in conjunction with modification of the MOU’s. SDCERS’ Chief Internal Auditor found the same issue still exists in FY2018.</td>
</tr>
<tr>
<td>6</td>
<td>The Plan contains a provision for the District to pay COL and Surviving Spouse or Domestic Partner Contributions on behalf of a non-PEPRA Miscellaneous Member and to credit those payments to the individual Member’s contribution account. The COL and Surviving Spouse or Domestic Partner</td>
<td>a) The District should amend the Plan to enable the funding of non-PEPRA Miscellaneous Members COL and Surviving Spouse or Domestic Partner Contribution accounts. COL and Surviving Spouse or Domestic Partner Contributions, based on the Plan’s actuarial tables, should be remitted to SDCERS for non-PEPRA Miscellaneous Members impacted.</td>
<td>Pension plan document changes have been outstanding for over two years.</td>
</tr>
</tbody>
</table>
Contributions, however, are based on a Member’s Normal Contribution rate. Because non-PEPRA Members currently do not have a Normal Contribution rate there is no COL or Surviving Spouse or Domestic Partner Contributions the District can make on behalf of a non-PEPRA Miscellaneous Member.

c) The District should remove the phrase in the Plan regarding the COL Contributions that states, “which are used to fund the Member’s or Miscellaneous Member’s share of the COLA Program.”

d) The District should either incorporate into the Plan or annually define in the Salary Ordinance COL Contribution amounts. If the District defines COL Contribution amounts in the Salary Ordinance, the District should provide SDCERS with an annual copy of the Salary Ordinance enacted.

The District incorrectly calculated compensation paid to one employee when the employee received a raise in the middle of the pay period.

The District should ensure compensation is correctly calculated for all employees that receive a pay raise in the middle of a pay period. District management should also determine if the overpayment was incorrectly included in Base Compensation and communicate this to SDCERS.

The District indicated system modifications are more complex than anticipated and therefore, remediation is still outstanding. SDCERS’ Chief Internal Auditor selected the pay period ending 10/12/2017, which included a pay-raise as of 10/1/2017, and the same issue still exists in FY2018.

**Recommendation 1a:** District Management should remediate all findings as documented above (with the exception of the recommendation for Items 1 and 2 above; see below for revisions), and provide feasible deadlines for implementation.

**Recommendation 1b:** To address previous Finding #1 above, District Management should modify the payroll system to ensure compliance with the Plan (e.g. full contributions or no contributions), determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

**Recommendation 1c:** To address previous Finding #2 above, District Management should investigate and resolve differences between the amount remitted to SDCERS and the amount calculated per IRIS so that going forward the correct amount is remitted to SDCERS. If more
detailed information is required from SDCERS, including potential IRIS modifications, the District should request the information from SDCERS.
Finding #2: Pay type “Court Time – Off Duty” was appropriately excluded from PEPRA employee’s pensionable compensation, yet the associated hours were also excluded resulting in noncompliance with the Plan document.

Priority Rating: High

Plan Amendment Number 5 was drafted, in part, to address service credit for Members that worked less than 80 hours in a pay period. Amendment Number 5, states, “Service credit is earned by a Member or Miscellaneous Member by service rendered for compensation as an employee or officer of the UPD and shall include all periods for which compensation is paid and the Member or Miscellaneous Member makes contributions to the Plan. For those Members or Miscellaneous Members who make contributions to the Plan, pay periods during which some service was rendered for compensation as an employee or officer may be included in computing Service Credit if sufficient compensation is received to allow full contributions for that pay period to have been deducted from the payroll check for that pay period and transferred to the Retirement System for crediting to the individual Member or Miscellaneous Member’s account.”

The term “full contribution” is not defined in the Plan. Full contributions however, has been interpreted as contributions that would have been made to SDCERS had the employee worked 80 hours (Standard Hours) multiplied by the employee’s rate of pay (Standard Rate).

Per Salary Ordinances 2868 (effective 10/1/2016 through 9/30/2017) and 2903 (effective 10/1/2017 through 9/30/2018) “Court Time – Off Duty” is not pensionable for PEPRA Members.

We found one PEPRA employee who had “Court Time – Off Duty” appropriately excluded from pensionable compensation, yet the associated hours were also excluded. Focused testing on employees paid “Court Time – Off Duty” for the pay period ended October 12, 2017 found the same circumstances for the PEPRA employees selected. The end-result is noncompliance with the Plan document and ultimately an understatement of pensionable compensation, pensionable contributions and potentially the Member’s high one-year or three-year salary calculation. The table below illustrates the scenario:

<table>
<thead>
<tr>
<th>Wage Type Per Payroll Reports</th>
<th>Hours Worked Per Payroll Reports</th>
<th>Extended Pay Per Payroll Reports</th>
<th>Amount Reported to SDCERS as Pensionable Compensation</th>
<th>Standard Hours (80) x Standard Rate ($38.44)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Time</td>
<td>27</td>
<td>$1,038</td>
<td>$1,038</td>
<td></td>
</tr>
<tr>
<td>Vacation Pay</td>
<td>50</td>
<td>1,922</td>
<td>1,922</td>
<td></td>
</tr>
<tr>
<td>Court Time – Off Duty</td>
<td>3</td>
<td>169</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>80</strong></td>
<td><strong>$3,129</strong></td>
<td><strong>$2,960</strong></td>
<td><strong>$3,075</strong></td>
</tr>
</tbody>
</table>

**Difference: Over/(Under)**: $115

Recommendation 2a: District Management should modify the payroll system to ensure compliance with the Plan (e.g. full contributions or no contributions). In other words, pensionable
compensation and contributions should be based on Standard Hours times Standard Rate plus pensionable add-on pay when standard hours are less than 80.

**Recommendation 2b**: District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.
Finding #3: Pensionable pay types were inappropriately excluded from employee’s pensionable compensation or non-pensionable pay types were inappropriately included in employee’s pensionable compensation.

Priority Rating: High

On January 1, 2013 PEPRA became effective which impacts all District Members. PEPRA also created a new tier of membership. Members of this new tier are commonly called PEPRA Members. In general, a PEPRA Member is a Member who first became a Member of SDCERS or a reciprocal system after January 1, 2013. PEPRA limits what wage types can be considered when calculating a PEPRA Member’s pensionable compensation. All other Members are commonly referred to as Classic Members.

Salary Ordinances 2868 (effective 10/1/2016 through 9/30/2017) and 2903 (effective 10/1/2017 through 9/30/2018) indicate the following:

<table>
<thead>
<tr>
<th>Pay Type</th>
<th>Pensionable for Classic Members as defined by PEPRA</th>
<th>Pensionable for New Members as defined by PEPRA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Time – Off Duty</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Holiday Premium</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Focused testing on employees paid “Court Time – Off Duty” for the pay period ended October 12, 2017 found three Classic employees who had “Court Time – Off Duty” excluded from his/her pensionable compensation when the Salary Ordinances indicate the pay type is pensionable. The end-result is an understatement of pensionable compensation, pensionable contributions and potentially the Member’s high one-year or three-year salary calculations.

We found two PEPRA employees out of 25 total employees tested who had “Holiday Premium” included in his/her pensionable compensation when the Salary Ordinances indicate the pay type is not pensionable. Focused testing on employees paid “Holiday Premium” for the pay period ended December 7, 2017 found the same circumstances for the PEPRA employee selected. The end-result is an overstatement of pensionable compensation, pensionable contributions, and potentially the Member’s high one-year or three-year salary calculation.

District Management asserted the payroll system was changed in 2018 (after our testing period) to exclude “Holiday Premium” from pensionable compensation for PEPRA Members. The table below reflects the instance we reviewed after the system was reconfigured:
<table>
<thead>
<tr>
<th>Wage Type Per Payroll Reports</th>
<th>Hours Worked Per Payroll Reports</th>
<th>Extended Pay Per Payroll Reports</th>
<th>Dollar Amount Reported to SDCERS as Pensionable Compensation</th>
<th>Standard Hours (80) x Standard Rate ($41.04)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Time</td>
<td>60</td>
<td>$2,462</td>
<td>$2,462</td>
<td></td>
</tr>
<tr>
<td>Overtime</td>
<td>24.5</td>
<td>1,575</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Holiday Premium</td>
<td>10</td>
<td>616</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Holiday Pay</td>
<td></td>
<td>328</td>
<td>328</td>
<td></td>
</tr>
<tr>
<td>Sick Pay</td>
<td>10</td>
<td>410</td>
<td>410</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>104.50</td>
<td>$5,391</td>
<td>$3,200</td>
<td>$3,283</td>
</tr>
</tbody>
</table>

| Difference: Over/(Under)      | ($83)                           |

As you can see, the respective PEPRA employee’s pensionable compensation was associated with 60 hours of Regular Time and 10 hours of Sick Pay, or under 80 hours, and therefore the employee’s pensionable compensation, pensionable contributions and potentially the high one-year or three-year salary calculation were understated. See Finding 2 herein, which addressed this and includes associated recommendations.

**Recommendation 3a:** District Management should review the Salary Ordinance for pensionable versus non-pensionable pay-codes and trace the information into the payroll system to ensure the pay types are correctly coded as pensionable or non-pensionable.

**Recommendation 3b:** District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.
**Finding #4:** For PEPRA Members, the District’s Salary Ordinance, and Memoranda of Understanding allow treatment of “Holiday Pay,” in certain circumstances, to overstate pensionable compensation.

**Priority Rating:** High

The District’s Salary Ordinance and Memoranda of Understanding (MOU’s) as documented allow PEPRA Members to include “Holiday Pay” in cash as pensionable compensation. PEPRA defines “pensionable compensation” to mean 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.

PEPRA specifically excludes 13 wage types that cannot be counted towards pensionable compensation, such as:

- Any one-time or ad hoc payments,
- Payments for unused vacation,
- Overtime,
- Bonuses,
- Any other form of compensation a public retirement board determines is inconsistent with PEPRA requirements, or
- Any other form of compensation a public retirement board determines should not be pensionable. (emphasis added)

SDCERS’ Management confirmed CalPERS currently treats “Holiday Pay” as pensionable versus non-pensionable for job-classes that require work regardless of when holidays occur (e.g. Police Officers) per the conclusions in the tables below, but SDCERS’ Chief Internal Auditor recognizes that CalPERS’ interpretation is not the law.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Holiday is on a Regularly Scheduled Day To Work</th>
<th>Holiday is on Regularly Scheduled Day Off</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Member Works</td>
<td>Member Does Not Work</td>
</tr>
<tr>
<td>Must be normal monthly rate of pay or base pay for normally required duties</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Paid in cash to similarly situated members in the same group or class of employment</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>For services rendered on a full-time basis during normal working hours**</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Paid pursuant to publicly available pay schedule (and meets additional)</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Criteria | Holiday is on a Regularly Scheduled Day To Work | Holiday is on Regularly Scheduled Day Off
--- | --- | ---
Member Works | Member Does Not Work | Member Works | Member Does Not Work

criteria as to the type of pay)
Pensionable? Must meet all 4 criteria | Yes | Yes | No | No

**If normally required to work on an approved holiday because the employees work in positions that require scheduled staffing without regard to holidays. In other words, if the job-class requires work regardless of when holidays occur, working on the holiday is considered “normal working hours.”

PEPRA “pensionable compensation” represented in a table format for job-classes that do NOT require work regardless of when holidays occur (e.g. Payroll Specialist or Internal Auditors) is as follows:

Criteria | Holiday is on a Regularly Scheduled Day To Work | Holiday is on Regularly Scheduled Day Off
--- | --- | ---
Member Works | Member Does Not Work | Member Works | Member Does Not Work

Must be normal monthly rate of pay or base pay for normally required duties | Yes | Yes | No | No

Paid in cash to similarly situated members in the same group or class of employment | Yes | Yes | Yes | Yes

For services rendered on a full-time basis during normal working hours | No | Yes | No | No

Paid pursuant to publicly available pay schedule (and meets additional criteria as to the type of pay) | Yes | Yes | Yes | Yes

Pensionable? Must meet all 4 criteria | No | Yes | No | No

Per District Management, employees can receive their “Holiday Pay” in the following ways:

1. **Holiday Off:** If the employee’s regularly scheduled day off is on a District holiday then the employee can receive
   a. 8 hours “Holiday Pay” in cash at the normal pay rate (1x) OR
   b. 8 hours of accrued annual leave

2. **Holiday Worked:** If an employee is required by his/her supervisor to work on a District holiday and does work then the employee can receive
   a. Time and one-half (1½ x) the normal pay rate for all hours worked on the holiday (“Premium Pay”) plus “Holiday Pay” in cash at the normal pay rate (1x) OR
   b. Time and one half (1½ x) the normal pay rate for all hours worked on the holiday (“Premium Pay”) plus accrued annual leave.
3. **Illness on a Holiday**: If an employee is required by his/her supervisor to work on a District holiday and does not work due to illness, then the employee can receive
   a. Compensation only for the “Holiday Pay” and any hours actually worked on the holiday.

This information is generally reflected in the District’s Salary Ordinance and more specifically in each of the different bargaining unit’s MOU’s.

Although CalPERS treatment above is their interpretation of PEPRA, SDCERS’ Legal Counsel believes CalPERS treatment is defensible. That said:

- When comparing the District’s current Salary Ordinance/MOU’s to the tables above, the District does not differentiate between job-classes that require work regardless of when holidays occur when categorizing “Holiday Pay” in cash as pensionable compensation. The answer to the first question in row three (shaded orange) changes depending on job-classes (e.g. a Police Officer versus an Internal Auditor). If the job does NOT require work regardless of when the holidays occur, then the answer to the first question in row three is “No” and therefore the “Holiday Pay” is not pensionable.

- When comparing the District’s current Salary Ordinance/MOU’s to the tables above (particularly the scenarios shaded in blue), the District allows PEPRA Members to include “Holiday Pay” in cash as pensionable compensation even if the holiday falls on a day the employee is not regularly scheduled to work, regardless of whether they work on the holiday or not. Per the tables above, in no cases is “Holiday Pay” pensionable when the holiday falls on a regularly scheduled day off.

Note that PEPRA does not restrict what the District may pay its employees, only what can be reported to SDCERS as pensionable.

**Recommendation 4a**: District Management and SDCERS Management should work together to determine, for each scenario in the tables above, whether the pay type is pensionable or non-pensionable. SDCERS Management should then bring an updated Board Rule to the SDCERS’ Board to ensure compliance with PEPRA.

**Recommendation 4b**: District Management should modify the Salary Ordinance and the MOU’s to reflect how “Holiday Pay” should be treated for PEPRA Members. In particular, if the District wishes to follow CalPERS practices these documents should differentiate between different classes of employees (e.g. those such as Police Officers who are required to work regardless of when holidays occur) and whether the associated “Holiday Pay” is pensionable or not. In addition, they should differentiate between holidays that fall on a “regularly scheduled work day” versus those that “do not fall on a regularly scheduled work day” and whether they are pensionable or not.

**Recommendation 4c**: The District should modify the payroll system to ensure compliance with the revised Salary Ordinance/MOU’s and PEPRA. This includes determining which scenarios require
a new pay code for ease of calculating and tracking pensionable compensation. We recommend pay codes either be pensionable or non-pensionable in all circumstances.

**Recommendation 4d:** District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.
Finding #5: Focused testing for the pay period ending October 12, 2017 found five employees out of ~500 who worked greater than 80 “Regular Time” hours had pensionable compensation and contributions overstated.

Priority Rating: High

“Base Compensation” as defined in the Plan includes pay, plus certain premium pay items and differentials. Amendment Number 5 of the Plan grants 80 hours of Service Credit if full contributions are made to SDCERS. The term “full contribution” is not defined in the Plan; however, full contributions has been interpreted as contributions that would have been made to SDCERS had the employee worked the standard 80 hours (for a full-time employee) multiplied by the employee’s rate of pay. In other words, full contributions are calculated as Standard Hours (80 hours) multiplied by Standard Rate.

Focused testing for the pay period ending October 12, 2017 found five employees out of about 500 who worked greater than 80 “Regular Time” hours. In all cases, these Members had pensionable compensation and contributions overstated by the amount of pay associated with the hours worked greater than 80 hours. This also potentially impacts the Member’s high one-year or three-year salary calculation. The employees were only granted 80 hours of Service Credit in all cases. The table below illustrates the circumstances:

<table>
<thead>
<tr>
<th>Wage Type Per Payroll</th>
<th>Hours Per Payroll</th>
<th>Extended Pay Per Payroll</th>
<th>Hours Reported to SDCERS</th>
<th>Amount Reported to SDCERS</th>
<th>Standard Hours (80) X Standard Rate ($43.50)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Time</td>
<td>86</td>
<td>$3,741</td>
<td>80</td>
<td>$3,741</td>
<td>$3,480</td>
</tr>
</tbody>
</table>

Difference: Over/(Under) $261

District Management asserted that during the subsequent pay period, the hours over 80 (so 6 hours in the example above) were deducted from 80 hours (so 74 hours). Therefore, the pensionable salary during the subsequent period was understated by six hours. The cause of these variances, per the District, are alternative work schedules that do not coincide exactly with pay period schedules (e.g. Wednesday through Wednesday versus Friday through Thursday, respectively).

Recommendation 5a: District Management should determine the root cause of the configuration allowing more than 80 hours “regular time” pay and should rectify.

Recommendation 5b: District Management should determine which Members were incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.
Finding #6: Certain sections of the District’s Salary Ordinance need clarification.
Priority Rating: Medium

The District’s Salary Ordinance needs clarification on the following:
A. What offset percentage a rehired District General Member is entitled to
B. What “Night Special Project” and “Shift Premium (Intermittent)” represent
C. The amount of dive operations pay District employees are entitled to
D. Whether bilingual pay should be applied to the employee’s base rate or regular rate of pay

A. Offset Percentages:
The District’s Salary Ordinance 2903 states, “For general member employees hired before October 1, 2006, the District offset shall be seven percent (7%)…” The Salary Ordinance also states, “For employees hired on or after October 1, 2006, the District offset for general member employees shall be five percent (5%)…” Lastly, the Salary Ordinance states, “…the District offset for general member employees hired on or after October 1, 2006 (but prior to January 1, 2009) (referenced in subparagraph 2, above) shall be six percent (6%)…”

One Member was originally hired in May 2001 by the District. He ended employment with the District January 10, 2002. On February 15, 2007 he returned to the District on February 16, 2007. The District is offsetting six percent of this Member’s pensionable compensation. The Salary Ordinance uses the term “hired” to determine the offset percentage for a General Member (the same term is used for a Safety Member). Because this Member has an original hire date in 2001 and a rehire date in 2007, it is unclear what offset percentage this Member is entitled to according to the Salary Ordinance.

B. Pensionable Compensation Pay Types Under PEPRA
The District’s Salary Ordinance includes a table within Section 26 E) differentiating between pensionable and non-pensionable pay types for PEPRA and non-PEPRA Members. The pay types below are included in the table, yet exclude a detailed description of the pay type within the Salary Ordinance or within the specific bargaining unit’s MOUs:

<table>
<thead>
<tr>
<th>Pay Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Night Special Project</td>
</tr>
<tr>
<td>Shift Premium (Intermittent)</td>
</tr>
</tbody>
</table>

C. Dive Operations:
The District’s Salary Ordinance 2903, Section 16a states, “Except for Group E – Peace Officer, any employee in the Classified Service shall be paid ten dollars ($10.00) per hour, in addition to the salary prescribed for his/her class by Exhibits A and C, during such time the employee is engaged in diving operations for the purpose of performing engineering and maintenance operations, surveys, and/or inspections. In actuality, employees receive $11.00 per hour.

D. Bilingual Pay:
The District’s Salary Ordinance 2903 states:
<table>
<thead>
<tr>
<th>Section</th>
<th>Verbiage</th>
</tr>
</thead>
<tbody>
<tr>
<td>21a</td>
<td>Any full-time employee in Harbor Police classes E515-CNR14 (Harbor Police Officer), E505-CNR03 (Harbor Police Corporal), E510-CNR03 (Harbor Police Sergeant), and E520-CNR03 (Harbor Police Lieutenant) whose qualifications for bilingual ability have been determined by the Executive Director, shall receive compensation at the rate of two and one-half percent (2 ½%) higher than the regular rate while assigned to perform bilingual services in any language where need has been demonstrated and such additional language is recommended by the Chief of the Harbor Police and approved by the Executive Director.</td>
</tr>
<tr>
<td>21b</td>
<td>In addition to the sworn officer classifications listed above, and subject to the limitations and prerequisites for eligibility as set forth in a District Administrative Procedure, any full-time qualifying employee shall receive two and one-half percent (2 ½%) above the employee’s base rate of pay.</td>
</tr>
</tbody>
</table>

District Management asserted operationally, bilingual pay is applied to base rate (e.g. the employee’s “step rate”), not regular rate (e.g. anything paid on an hourly basis). We observed this was the case for one employee selected for testing.

Unclear or inconsistent documentation increases the risk that pensionable compensation, pensionable contributions and high one-year or three-year salary calculations will be misstated.

**Recommendation 6a:** District Management should clarify within the Salary Ordinance what offset percentage a rehired Member is entitled to.

**Recommendation 6b:** District Management should provide details within the Salary Ordinance or the respective bargaining unit’s MOU on the two pay types listed above.

**Recommendation 6c:** District Management should modify the Salary Ordinance to reflect the Dive Operations pay actually owed to employees.

**Recommendation 6d:** District Management should clarify within the Salary Ordinance to which rate bilingual pay applies (regular or base).
Finding #7: The District is incorrectly applying the watch commander pay to the employee’s regular rate of pay instead of their base pay, thus overstating the employee’s rate of pay and ultimately their pensionable compensation.

Priority Rating: Low

The District’s Salary Ordinance states that when a Harbor Police employee is assigned the Harbor Police Watch Commander he or she, "shall be paid at a rate approximately five percent (5%) higher than the employee’s current rate of pay for said classes."

Neither the MOU nor the Salary Ordinance contains a definition of current rate of pay; however, the Salary Ordinance in Section 1 Schedules of Compensation Ranges says, “The Salary Schedule by Range and Step for all Step Peace Officers, attached hereto as Exhibit D, is hereby approved.” The Salary Schedule by Range and Step for Peace Officers in Exhibit D indicates Group E – Peace Officers receive a Pay Range of 90.0 - 93.0. Pay Range 90.0 - 93.0 corresponds to an hourly rate. That hourly rate listed does not include any adjustment for watch command.

The District was calculating employee compensation equal to: (current rate of pay + shift premium + dive team) x watch commander differential. The shift premium and dive team is in addition to the current rate of pay and is not eligible for the watch commander differential. This resulted in an overpayment to the employee equal to $4.40 for the pay period tested. The overpayment of $4.40 was reported to SDCERS as pensionable compensation. The employee was paid at 5.4% instead of 5%.

Recommendation 7a: The amount in question is very small, however, District Management should modify the payroll system to correctly calculate watch commander differential pay in accordance with the Salary Ordinance.

Recommendation 7b: District Management should determine which Members were incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.
Finding #8: Two rehired District retirees tested were missing certifications that unemployment payments were not received, which is out of compliance with PEPRA.

Priority Rating: Low

California Government Code 7522.56 – Provisions applicable to person receiving pension benefit from public retirement system – indicates in section (e) 1):

Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.

Two rehired retirees selected for testing out of two did not have the required certification in writing.

Recommendation 8: District Management should modify the retiree rehire process to ensure appropriate documentation is obtained in compliance with PEPRA.
INHERENT LIMITATIONS

Because of the inherent limitations of internal controls and because samples were selected, errors or irregularities may occur and may not be detected. Also, projections of any evaluation of the internal control structure to future periods are subject to the risk that procedures may become inadequate due to changes in conditions, or that the degree of compliance with the procedures may deteriorate.

CONCLUSION

I have concluded work on the audit objectives of the Plan Sponsor Contribution & Reporting Audit. Based on the audit work performed, I have determined the following:

The District is meeting objectives in the following areas:
- Census data
- Membership status
- Retroactive pay

The District is not meeting objectives in the following areas:
- Remediating outstanding findings
- Appropriately including or excluding certain pay types from pensionable compensation
- Calculating pensionable compensation in the event a Member works greater than or less than his/her standard hours
- Supporting pay types and other factors in the Salary Ordinance
- Obtaining appropriate documentation in the event a retiree returns to work

Implementation of the recommendations contained in this Audit Report should assist the District in improving retirement information sent to SDCERS.
APPENDIX A - AUDIT OBJECTIVES, SCOPE & METHODOLOGY

AUDIT OBJECTIVES

The objective of the audit was to evaluate accuracy and completeness controls over Member records and payroll data submitted by the San Diego Unified Port District and to verify the accuracy and adequacy of that information.

AUDIT SCOPE & METHODOLOGY

This audit was performed for the period from July 1, 2017 through June 30, 2018 by using the following methods:

- Reviewed the Plan, Memoranda of Understandings (MOUs) between the District and the employee Unions, and the Salary Ordinance.
- Reviewed policies and procedures utilized by staff to process the District’s retirement transmittal file to SDCERS.
- Interviewed staff responsible for processing payroll, Member enrollment, and transmitting the retirement file to SDCERS to determine if there is appropriate segregation of duties.
- Randomly selected twenty-five employee records, covering the pay periods including dates October 11, 2017 and December 4, 2017:
  - Traced pensionable compensation from the transmittal file to the payroll register.
  - Traced pay rates from the payroll register to employee personnel files.
  - Reviewed various documents as necessary to determine if the following elements were reported correctly: Member date of birth, date of hire, eligible date of Membership, class of employee, gender, date of termination, employment status, plan code, service period, Member entry age, Member contributions, employer offset contributions, code section 401(a)(17) limits, and publically available pay rates and pensionable compensation limits for PEPRA Members.
- Haphazardly selected 25 employees being paid on 10/20/2017 and 12/15/2017 (these contain the random dates October 11, 2017 and December 4, 2017) and determine if the employees are correctly classified as a Member or not.
- For the pay periods containing the selected dates, October 11, 2017 and December 4, 2017 (PPE 9/29/17 through 10/12/17 and 11/24/17 through 12/7/17), determined if Retro or leave work codes had been utilized and if reporting to SDCERS was consistent with the Plan.
- For the pay periods containing the selected dates of October 11, 2017 and December 4, 2017, judgmentally selected Members from each pay period that have partial hours reported that were
not hired or terminated during the pay period and determined if the Member’s pensionable compensation was being reported consistent with the Plan. Similarly, judgmentally selected Members from each pay period that have more than 80 hours reported and determined if the Member’s pensionable compensation was being reported consistent with the Plan.

➢ For the fiscal year under audit, obtained a list of active Port employees and contracted Port employees (if available). Matched data per the list of active and contracted employees to retired Members per SDCERS. Ensured IRS compliance for retirees hired provisionally, where applicable.

➢ Reviewed controls and safeguards related to plan sponsor communication of felony forfeitures of Pension Benefits to SDCERS.

➢ For the pay periods containing the selected dates, October 11, 2017 and December 4, 2017 (PPE 9/29/17 through 10/12/17 and 11/24/17 through 12/7/17), determined how much was owed by the District versus how much was paid by the District and determined if there were any differences.

➢ Reviewed the MOU's and Salary Ordinance to determine authorized wage-types and rates.

This audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*. Those standards require that Internal Audit plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. Internal Audit believes the evidence obtained provides a reasonable basis for the findings and recommendations.

Internal Audit would like to thank the San Diego Unified Port District and SDCERS management and staff for their assistance and numerous courtesies extended during the completion of this audit.
APPENDIX B – ADDITIONAL DETAILS FOR FINDING 1.1

In the example below, the General Member’s Base Compensation was in excess of Standard Hours x Standard Rate due to pensionable add-ons; however, pensionable compensation was understated by three hours at the Member’s Standard Rate.

<table>
<thead>
<tr>
<th>Wage Type Per Payroll Reports</th>
<th>Hours Per Payroll Reports</th>
<th>Extended Pay Per Payroll Reports</th>
<th>Dollar Amount Reported to SDCERS as Base Compensation</th>
<th>Standard Hours x Standard Rate ($49.80) + Pensionable Add-Ons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Time</td>
<td>67</td>
<td>$3,337</td>
<td>$3,337</td>
<td>$49.80*70=$3,486</td>
</tr>
<tr>
<td>Overtime paid at 1.5</td>
<td>13</td>
<td>1,104</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Call Back</td>
<td>3</td>
<td>224</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Holiday Premium</td>
<td>10</td>
<td>747</td>
<td>747</td>
<td>747</td>
</tr>
<tr>
<td>Educational Incentive</td>
<td></td>
<td>181</td>
<td>181</td>
<td>181</td>
</tr>
<tr>
<td>Special Assign Pos (HP)</td>
<td></td>
<td>132</td>
<td>132</td>
<td>132</td>
</tr>
<tr>
<td>Total</td>
<td>93</td>
<td>$5,725</td>
<td>$4,397</td>
<td>$4,546</td>
</tr>
</tbody>
</table>

Difference: Over/(Under)       ($149)

As you can see, the respective General Member’s pensionable compensation was associated with 77 hours (67 associated with Regular Time plus 10 associated with “Holiday Premium”), or under 80 hours and therefore the employee’s pensionable compensation, pensionable contributions and potentially the high one-year or three-year salary calculation were understated.

Although these audit results are limited to sampling risk, it appears the understatements are the result of pay types that are not pensionable for Classic Members, even if they were part of the employee’s Standard Hours (e.g. “Call Back” or “WC Appt – Off Duty”).
July 10, 2019

Sarah Dickson
San Diego City Employees’ Retirement System
401 West A Street, Suite 400
San Diego, CA 92101

Dear Ms. Dickson,

The San Diego Unified Port District (District) values its collaborative long-term relationship with the San Diego City Employees’ Retirement System (SDCERS) and appreciates the audit process raising issues of concern as well as identifying improvements that can be made to systems and processes. The District offers the following response to SDCERS’ Plan Sponsor Contribution & Reporting Audit (Audit).

We would like to begin by providing some context regarding certain factors that contributed to the Audit results.

The District continues to address the outstanding items from the prior audit and is aware that these items have ongoing impacts on affected District employees. The District’s current payroll system is an older system that requires a significant amount of expertise to re-configure and update. In addition to the findings from the SDCERS Auditor, there have been other internal and external audits conducted on the District’s systems which have identified numerous and substantive additional changes and adjustments to be made. The volume of these changes in addition to ongoing projects and tasks, the knowledge required to complete them, and their budgetary impact, limits the District’s ability to address all the items at once and mandates careful prioritization.

In order to address the issues raised in the Audit, the District recently created and filled a new position specific to retirement programs to devote the time needed to complete the outstanding items and to ensure that updates and changes are moved forward to completion. Additionally, the District is working to improve its systems, which were significantly impacted by a cybersecurity event in September 2018. Upgrades are currently being made and the District will continue to work to develop and improve its systems in the future.

**Finding #1**

#1: This prior finding noted that in some cases pensionable compensation and hours were reported as less than a standard 80 hour pay period. This stems from the nature of how the District’s payroll system evaluates overtime hours and pay rates that are different from the normal hourly rate. Further detail is outlined in the response to Finding #2. The District agrees with the finding and is researching how to update system configuration to address this issue while still correctly calculating pay amounts as
negotiated in the District’s Memorandums of Understanding (MOUs) with its bargaining units and specified in the Salary Ordinance. The District expects this change may take up to six months, as it will be a more involved configuration change and needs to be handled alongside other existing and upcoming Information Technology (IT) projects. Once an update to the system has been completed, the District will produce a report of pay periods impacted prior to the update and provide that information to SDCERS to allow for correction of Member accounts.

#2: This finding noted that the District paid a different amount of total offset contributions than was calculated by IRIS. At the time of the prior audit, IRIS was not available to District staff and the District had no way to identify why a different amount existed. IRIS became available to District staff in 2018. As the current Audit has progressed, District and SDCERS staff have worked to clarify the process of reporting offset amounts in IRIS and improve how the information is displayed in the system. District staff recently identified a couple instances of offsets differing between the District’s reporting and IRIS and worked to update those. District and SDCERS staff are currently looking into adding the offset amount to the transmittal file for each employee, which may enable IRIS to automatically identify any offset discrepancies when the file is submitted. The District is now able to review offsets on an individual employee basis, though it is not yet practical to review the entire population reported on the transmittal file until it is updated to include offsets, which is expected in two to three months.

#3: This finding noted that Holiday Premium and Court-Time Off-Duty are not pensionable under PEPRA. The District agreed and responded by making configuration updates to define these pay types as non-pensionable in the District’s payroll system. The District’s Salary Ordinance was updated to reflect the changes. However, the District currently has long-term MOUs in place with its bargaining units, which have been in place since before the prior audit. As new MOUs are negotiated the District will clarify the language in the new contracts. One MOU is scheduled to be renegotiated by October 2019, the others are scheduled for 2021.

#5: The District agrees that the noted language and terminology used in the Salary Ordinance needed clarification and has made changes to the Salary Ordinance since the prior audit. The District continues to review and make updates as needed with each revision of the Salary Ordinance, which occurs at least twice each year. The District currently has long-term MOUs in place with its bargaining units, which have been in place since before the prior audit. As new MOUs are negotiated the District will clarify the language in the new contracts. One MOU is scheduled to be renegotiated by October 2019, the others are scheduled for 2021.

#6: The District is continuing to work on its plan document. Staffing and workload considerations have led to delays in completing this project. The District recently created and filled a Retirement Programs Administrator position to focus on retirement plan tasks and projects. A new draft version of the plan document is planned for July 2019, after which further review will be conducted by SDCERS and outside counsel. The District’s goal is to finalize the new plan document in six months, with this timeline
being reviewed again in September 2019 to determine if it remains feasible.

#7: The District agrees with this finding, which noted that when certain employees received a pay increase in the middle of a pay period the newer rate was applied to all hours worked in the pay period. To be more specific, the new rate was being applied for the work period used to evaluate overtime compensation. For police officers, this work period is a full pay period, but for most non-sworn employees this work period was a single work week. This is a related issue to Finding #5. As also noted there, District staff has recently identified a potential update to SAP time evaluation that may be able to resolve this issue. Testing is currently taking place. Assuming testing is successful, the District expects the change to be in place within two to three months. Once an update to the system has been completed, the District will produce a report of pay periods impacted prior to the update and provide that information to SDCERS to allow for correction of Member accounts.

Finding #2

The District agrees with the finding that compensation and associated hours are underreported when “Court Time-Off Duty” occurs during a pay period. The cause of this relates to how the District’s SAP system evaluates overtime hours and applies pay rates that differ from the normal hourly rate. Overtime is evaluated as any paid time in excess of 80 hours in a pay period. It is calculated on the total only. No specific hours are identified as the overtime hours, and a pay type such as “Court Time-Off Duty” is not overtime in and of itself.

For an example, consider an officer who worked her regularly scheduled 80 hours, and recorded three hours of Court Time-Off Duty. When payroll runs, SAP will calculate a total of 83 hours worked, and identify that 3 hours of overtime are due to be paid. It will then process three hours at the overtime rate (1.5x FLSA regular rate of pay). Next, the system will look at other pay rates to be applied. The timecard includes 3 hours of Court Time-Off Duty which gets paid at 1.5x hourly rate. That leaves 77 remaining worked hours (83 total hours minus three Overtime hours minus three Court Time-Off Duty hours), which are paid at the straight hourly rate. Because Overtime and Court Time-Off are defined as non-pensionable, only the 77 regular hours are captured on the transmittal file. There is some overlap between the pay rates owed as wages to the officer and how those same amounts qualify toward pensionable salary. The District will research system configuration to appropriately address such cases. The District expects this change may take up to six months, as it will be a more involved configuration change and will need to be handled alongside other existing and upcoming IT projects. Once an update to the system has been completed, the District will produce a report of pay periods impacted prior to the update and provide that information to SDCERS to allow for correction of Member accounts.

Finding #3

The District agrees that Court Time-Off Duty and Holiday Premium are leading to
underreporting of pensionable salary. The cause of this is the same as that outlined in
the response to Finding #2.

Holiday Premium is paid as 1.5x the employee’s hourly rate for any hours worked on a
holiday. The prior audit identified that the District needed to define Holiday Premium as
non-pensionable for PEPRA members. That update was made, but now that Holiday
Pay is excluded there is an underreporting of salary. This relates to the same pay rate
evaluation noted in Finding #2. For example, an employee with a regular 80 hour pay
period worked, with one 10-hour shift occurring on a holiday, will be entitled to 70 hours
at the hourly rate and 10 hours at the 1.5x Holiday Premium rate. But because Holiday
Premium is defined as non-pensionable, only the 70 regular hours are included on the
transmittal file. However, the 10 Holiday Premium hours are part of the employee’s
usual 80 hour pay period, and a portion of that pay should be reported as pensionable.
The District will review how to update system configuration to account for a wage type
that has both pensionable and non-pensionable components under some
circumstances. The District expects this change may take up to six months, as it will be
a more involved configuration change and will need to be handled alongside other
existing and upcoming IT projects. Once an update to the system has been completed,
the District will produce a report of pay periods impacted prior to the update and provide
that information to SDCERS to allow for correction of Member accounts. Regarding
Recommendation 3a, the District will evaluate other pay codes listed in the Salary
Ordinance to ensure that they are appropriately included as pensionable or non-
pensionable.

Finding #4

The District’s response to Finding #4 regarding Holiday Pay under PEPRA will
separately address two sets of employees:

- Employees who are scheduled to work without regard to holidays (sworn
  police officers, public safety dispatchers, and certain General Services
  positions).
- Employees who are not scheduled to work without regard to holiday (includes
  the other positions at the District in which employees do not work on
  holidays).

Positions Scheduled Without Regard to Holidays

While early discussions during the process and text in the audit report refer to the
specific scheduling of employees in such positions, subsequent conversations with
SDCERS staff have identified that the primary issue regarding the District’s Holiday Pay
is that it does not meet the PEPRA requirement of being “paid in cash.” This is because
for many years, and prior to PEPRA being enacted, employees have the option to
accrue the holiday hours to their Annual Leave balances rather than receive payment
for the holiday. If the accrual option was not available, and all employees in this group
received Holiday Pay only in cash, then the wage type could be considered
pensionable. The District will consider defining an updated Holiday Pay as a separate wage type to differentiate it from the Holiday Pay of employees who are not required to work on holidays. Such a change is subject to approval by the District’s President/CEO and to meeting and conferring with the District’s employee bargaining units regarding the proposed change. District management will meet with its bargaining units to discuss potential changes, with further updates expected to be available by October 2019.

Positions Not Scheduled Without Regard to Holidays (Not required to work on holidays)

The Holiday Pay discussions between the District and SDCERS staff noted above also addressed those positions that are not scheduled to work without regard to holidays. When a holiday falls on a regularly scheduled work day, employees do not work and receive 8 hours of Holiday Pay. These hours make up a portion of their scheduled 80 hour pay period, and the employee’s usual 80 hours of salary are considered pensionable. However, should the employee work on the holiday, or should the holiday fall on a day the employee is not scheduled to work, the employee would receive more than 80 hours of pay in the pay period, but only 80 hours are pensionable. In such cases the excess Holiday Pay would not be included in pensionable salary. The District will review its payroll system to ensure that reported pensionable salary does not exceed 80 hours based on Holiday Pay. The District will produce a report of pay periods impacted prior to the update and provide that information to SDCERS to allow for correction of Member accounts. As with the prior group, this topic is subject to meet and confer and approval by the District’s President/CEO. District management will meet with its bargaining units to discuss potential changes, with further updates expected to be available by October 2019.

For a detailed discussion of the topic, please refer the letter from the District’s outside counsel, Frances Rogers of Liebert Cassidy Whitmore. A copy of her letter is attached hereto.

Finding #5

The District agrees that the pay periods identified in this finding did not report a standard 80 hours, which relates to an interaction between time evaluation, overtime evaluation, and alternate work schedules in the system. More specifically, it involves alternate work schedule periods (such as Wednesday through Wednesday or Friday through Friday) that are different from and overlap with the District’s pay periods (two week Friday through Thursday period). When an employee’s schedule changes, or when an employee works overtime on these schedules, overtime evaluation can cause one pay period to be overreported and the following pay period to be underreported by the same amount (or vice versa). District staff believes it has identified a potential update to SAP time evaluation that may be able to resolve this issue. Testing is currently taking place. Assuming testing is successful, the District expects the change to be in place within two to three months. Once an update to the system has been completed, the District will produce a report of pay periods impacted prior to the update and provide that information to SDCERS to allow for correction of Member accounts.
Finding #6

The District agrees that clarification is needed on the identified items. The following items have been updated in the latest revision of the Salary Ordinance, effective July 1, 2019:

- Offset percentage a District General Member is entitled to;
- Amount of dive operations pay District employees are entitled to; and,
- That bilingual pay should be applied to the employee’s base rate.

“Night Special Project” and “Shift Premium (Intermittent)” require further research and will be addressed in the October 2019 Salary Ordinance.

Finding #7

The District agrees that Watch Command pay should be calculated only on base rate, not hourly rate. District staff is working on updating system configuration, which is expected to be completed within one to two months. Once an update to the system has been completed, the District will produce a report of pay periods impacted prior to the update and provide that information to SDCERS to allow for correction of Member accounts.

Finding #8

The District agrees that PEPRA requires that retirees performing work for the District provide written certifications that they have not received unemployment insurance compensation during the previous 12 months. The District completed this with rehired retirees initially after PEPRA was first passed, but has not maintained the process in more recent cases. The District will review its rehire process and promptly obtain certifications from any current retirees working without them and ensure the certifications are obtained from future rehired retirees.

Thank you for your time and effort. The District looks forward to addressing these items with SDCERS and continuing to work together to serve District employees and retirees.

Sincerely,

Michelle Corbin
Director, Human Resources
June 20, 2019

Sarah Dickson  
Chief Internal Auditor  
San Diego City Employees' Retirement System  
401 West A Street, Suite 400  
San Diego, CA 92101

Re: Draft Audit Finding Regarding Holiday Pay As Pensionable Compensation  
Client-Matter: SA420/014

Dear Ms. Dickson:

My office represents the San Diego Unified Port District in regards to the Port’s retirement pension plan. This letter is in response to the proposed audit Finding #4 drafted by the San Diego City Employees’ Retirement System regarding the pensionable nature of Holiday Pay for “new members” as defined by the Public Employees Pension Reform Act of 2013 (“PEPRA members”). For the reasons discussed below, while we agree that Holiday Pay over and above the full-time base is not pensionable for PEPRA members who do not work in 24/7 operations, we believe that Holiday Pay is pensionable for all similarly situated members in a group or class of employment that is scheduled to work without regard to Port holidays.

The Port’s Policy on Holiday Pay

Presently, the Port designates thirteen paid holidays throughout the year. Holidays that may fall on days the Port’s administrative offices are closed are observed on the immediately preceding or following business day. Employees who are scheduled to work on the day the holiday is observed, and do not work, are compensated as if the employee performed 8 hours of work. Employees that perform work in operations performed 24-hours a day, 7 days a week, (e.g., Harbor Police Officers, Dispatchers, etc.) will be expected to work on observed holidays if it falls on their scheduled work day (i.e., a job class that works without regard to holidays). Every employee in a 24/7 job class receives eight hours of Holiday Pay for all thirteen holidays of the year.

Services Rendered on a Full-Time Basis

The PEPRA defines pensionable compensation to mean 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.

"Group or class" of employment is generally understood to refer to a job classification. For example, all employees in the job classification of Maintenance Worker are in the same group or class of employment. The California Public Employees’ Retirement Law, for example, defines group or class of employment as “a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. A single employee is not a group or class.” (Gov. Code § 20636(e)) A group or class of employment most likely does not include a grouping based on work schedule alone within a single job classification. Accordingly, Maintenance Worker is the group or class of employment, not Maintenance Workers who work 12pm to 8pm.

An employer’s grant, and an employee’s use, of paid time off in the form of vacation, sick leave, holiday pay and the like becomes important when defining the PEPRA’s meaning of “services rendered on a full-time basis.” I believe that “services rendered on a full-time basis” truly means the number of hours the employer intends to compensate for full-time employment by all members in the same group or class of employment to equal the established base salary, not the number of hours the employer expects the full-time members to actually perform work.

If the employer establishes a defined annual salary of $60,000, and the employer intends that it will compensate for 2,080 hours to achieve the base salary of $60,000, we assume an hourly rate of pay of $28.85. If the employer grants paid vacation or paid sick leave which may be used toward meeting the 2,080 hours necessary to achieve the base salary, the employer’s intended compensation for all full-time employees in the same group or class of employment does not change where the employer is still paying $28.85 per hour up to 2,080 hours. Therefore, “services rendered on a full-time basis” likely means the number of hours the employer intends to compensate all similarly situated members of the same group or class of employment to equal the established “normal monthly rate of pay or base pay” established by the employer, not necessarily the number of hours the employer expects the members to actually perform work.

“Normal monthly rate of pay or base pay” is not entirely clear, but most likely means the normal compensation for services rendered on a full-time basis based on an employee’s group or class of employment. This is not always the base salary, but can include special compensation for the employee’s service during their normal full-time work. For example, an employee who receives a night shift premium of $0.50 per hour while working his normal work schedule, provided the premium is paid to all similarly situated employees who work the night shift. The shift premium is paid by the employer as part of the expected compensation for performing the employee’s normal full-time work and is likely pensionable compensation.
Employees in Job Classes That Observe Holidays

As an initial matter, for job classes that do not perform work without regard to holidays, employees are not paid the same proportionate amount of Holiday Pay. This is most often due to alternative work schedules.¹ Many employees work eight hours a day for ten days in a two-week pay period (e.g., Monday through Friday). However, the regular schedule for other employees may be a “9/80 work schedule” where the employee works nine hours a day for eight days, and eight hours for one day, in a two-week pay period. The employee is therefore unscheduled to work every other Friday. There are other alternative work schedules, including ten-hours a day, four days a week. As a result, if the Port holiday is observed on a day that an employee with an alternative work schedule is not scheduled to work, the employee does not receive a day off with pay as is received by employees with traditional work schedules. Accordingly, the memoranda of understanding with labor associations and the Port’s Salary Ordinance provide that when a designated holiday falls on a regularly scheduled day off, the employee will receive Holiday Pay in the amount of eight hours of pay. While all similarly situated members in a group or class of employment receive pay for 40 hours in a pay period, some will receive an additional 8 hours of pay.

If we were to extrapolate this on an annual basis, assume all employees in the same group or class of employment earn an annual salary of $100,000 for full-time employment of 2,080 hours in the year (i.e., “services rendered on a full-time basis during normal working hours”). The Port presumes that because it observes each of the thirteen holidays on a normal business day, the 2080 is inclusive of the 104 hours an employee may be relieved of work with pay due to the holiday. The Port intends to compensate for 2,080 hours to equal $100,000, whether by actual work performed or an employee’s use of paid leave in lieu of performing actual work.

Further assume that employees with traditional work schedules received a day off with pay on each of the thirteen observed holidays. In addition, each holiday fell on a day an employee with an alternative work schedule was not regularly scheduled to work. In that year, all employees regardless of work schedule earned $100,000 for services rendered on a full-time basis during normal working hours equal to 2,080 hours, inclusive of any days off with pay (e.g., use of annual leave or paid holidays). Employees with alternative work schedules, however, received an additional cash amount equal to 104 hours of pay ($5,000).

The Port intends to compensate all similarly situated members of the same group or class of employment for 2,080 hours to equal the normal salary of $100,000, whether by actual work performed by the employee or the employee’s use of paid leave in lieu thereof. Where only some members of the same group or class receive additional Holiday Pay in cash because of an alternative work schedule, that amount is not intended to compensate for the 2,080 hours to equal the normal salary of $100,000.

¹ Other circumstances may include an employee who is normally relieved of duty on an observed holiday but actually works on the holiday for unusual reasons (e.g., call-back for emergencies). This employee will be paid for all hours worked at 1½ times their regular rate of pay and eight hours of Holiday Pay.
Under this scenario, we agree that the Holiday Pay will not be pensionable compensation because it is not 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. Services rendered on a full-time basis is 2,080 in a year, but some in the same group or class of employment are paid a cash sum over and above their normal base pay for the full-time base.

Proposed audit Finding #4 states that the Port does not differentiate between job-classes that require work regardless of when holidays occur when categorizing Holiday Pay in cash as pensionable compensation. If the job class does not perform work regardless of Port holidays, the Holiday Pay is not pensionable. We agree with SDCERS that Holiday Pay is not pensionable for PEPRA members that do not perform work without regard to holidays.

**Employees In Job Classes That Work Without Regard to Holidays**

With regard to all employees that perform work as part of 24/7 operations, such as police officers and public safety dispatchers, they all receive thirteen days of Holiday Pay in cash. If an employee works on an observed holiday because it is his/her regularly scheduled day, the employee receives Holiday Pay equal to eight hours of pay in cash. If the employee in the same job class does not work on the observed holiday, that employee also receives Holiday Pay equal to eight hours of pay in cash. The result is that all are paid the same base pay for services rendered on a full-time basis, unlike those employees above who do not work without regard to holidays.

For example, all police officers are paid at Range 90. Using hypothetically a Step in Range 90 of $100,000 per year for a full-time base of 2,080 hours (hourly rate of $48.08). The Port does not presume that the 2,080 is inclusive of thirteen days off with pay for an observed holiday because these employees do not work without regard to holidays. Unlike the example described above, the Port pays all officers Holiday Pay equal to 104 hours and therefore, all police officers receive the same normal rate of pay of $105,000.

What this means is that the actual normal rate of pay for all police officers is $105,000 for a full-time compensated base of 2,184 hours. The employees above who do not work without regard to holidays all have a full-time basis of 2,080 which is inclusive of holidays off with pay. For employees in non-24/7 job classes, the Port cannot adjust the full-time basis for some, but not all, in the same group or class of employment simply because of alternative work schedules that cause inequitable treatment in Holiday Pay. To do otherwise would be to adjust the full-time compensated hourly basis depending on the number of hours compensated for each individual employee. An individual employee is not a group or class of employment.

Conversely, the full-time compensated base for police officers is 2,184. That is the number of hours the Port intends to compensate for the normal annual rate of pay that is paid in cash to all police officers for services rendered on a full-time basis during normal working hours (i.e., $105,000).
CalPERS, for example, will include as pensionable compensation cash payments made to employees "in lieu of" receiving a paid day off for a holiday where all members in the same group or class of employment work without regard to holidays, provided the holiday-in-lieu is paid in the same percentage of pay for the same number of hours. I agree that CalPERS' interpretation is not binding on SDCERS, but is used as an exemplar. In my experience, if the employer pays all police officers a lump sum payment equal to 104 hours of pay in lieu of receiving a day off with pay (because they are not able to do so), that "holiday-in-lieu" compensation will be pensionable for both classic and PEPRA members.

Therefore, we ask SDCERS to reconsider the proposed audit Finding #4 as it pertains to the 104 hours of Holiday Pay provided to all employees in the same group or class of employment who work without regard to holidays. If you have any questions or would like to discuss further, do not hesitate to contact me.

Sincerely,

LIEBERT CASSIDY WHITMORE

Frances E. Rogers

FER:pt

cc: Eric Lawrence
    Ellen Gross
    Michelle Corbin
SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM
MEMORANDUM

DATE: July 25, 2019

TO: Sarah Dickson, SDCERS Internal Auditor

FROM: Marcelle Voorhies Rossman, SDCERS Deputy Chief Executive Officer

SUBJECT: Management’s Responses to the Findings and Recommendations in the SDCERS Internal Audit Report – Plan Sponsor Contribution and Reporting Audit, San Diego Unified Port District for the Period July 1, 2017 – June 30, 2018

SDCERS has grouped findings and recommendations in this audit that have the same response and subsequent action needed.

Findings and recommendations that may require plan sponsor contributions and adjustments to Member accounts:

Previous Finding #1: The District's payroll system calculates a Member’s Base Compensation equal to the greater of Standard Hours x Standard Rate or actual Base Compensation received. The Plan however is ambiguous how to report Base Compensation to SDCERS when the hours used to calculate Base Compensation are less than the Member’s Standard Hours.

Recommendation #1b: To address previous Finding #1 above, District Management should modify the payroll system to ensure compliance with the Plan (e.g. full contributions or no contributions), determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

Previous Finding #5: The District is using two "regular rates of pay" when calculating the employee's compensation (one rate for Overtime Pay and another for "Regular Time").

Previous Recommendation #5: The District should clarify in the MOUs, Salary Ordinance, and Personnel Rules and Regulations how employee compensation is calculated. The District should determine if Base Compensation for any Member has been incorrectly reported to SDCERS and communicate to SDCERS the Member accounts required to be corrected.

Previous Finding #7: The District incorrectly calculated compensation paid to one employee when the employee received a raise in the middle of the pay period.
**Previous Recommendation #7:** The District should ensure compensation is correctly calculated for all employees that receive a pay raise in the middle of a pay period. District management should also determine if the overpayment was incorrectly included in Base Compensation and communicate this to SDCERS.

**Finding #2:** Pay type “Court Time – Off Duty” was appropriately excluded from PEPRA employee’s pensionable compensation, yet the associated hours were also excluded resulting in noncompliance with the Plan document.

**Recommendation #2b:** District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

**Finding #3:** Pensionable pay types were inappropriately excluded from employee’s pensionable compensation or non-pensionable pay types were inappropriately included in employee’s pensionable compensation.

**Recommendation #3b:** District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

**Finding #5:** Focused testing for the pay period ending October 12, 2017 found five employees out of ~500 who worked greater than 80 “Regular Time” hours had pensionable compensation and contributions overstated.

**Recommendation #5b:** District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

**Finding #7:** The District is incorrectly applying the watch commander pay to the employee’s regular rate of pay instead of their base pay, thus overstating the employee’s rate of pay and ultimately their pensionable compensation.

**Recommendation #7b:** District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

**SDCERS’ Management Response:** The District’s response to these findings includes communicating to SDCERS any Member accounts requiring correction. Based on discussions with the District, there is a preference to notify Members of any and all corrections to their benefits in one communication. SDCERS will work with the District to develop a communication plan to notify Members of corrections to their accounts.

**Targeted Implementation Date:** Once SDCERS has received the information needed to update Member accounts a project plan and communication plan will be developed.
Finding and recommendations that require clarification in the plan document, updates to plan sponsor contributions, and may result in adjustments to Member accounts:

Previous Finding #6: The Plan contains a provision for the District to pay COL and Surviving Spouse or Domestic Partner Contributions on behalf of a non-PEPRA Miscellaneous Member and to credit those payments to the individual Member’s contribution account. The COL and Surviving Spouse or Domestic Partner Contributions, however, are based on a Member’s Normal Contribution rate. Because non-PEPRA Members currently do not have a Normal Contribution rate there is no COL or Surviving Spouse or Domestic Partner Contributions the District can make on behalf of a non-PEPRA Miscellaneous Member.

Previous Recommendation #6a: The District should amend the Plan to enable the funding of non-PEPRA Miscellaneous Members COL and Surviving Spouse or Domestic Partner Contribution accounts. COL and Surviving Spouse or Domestic Partner Contributions, based on the Plan’s actuarial tables, should be remitted to SDCERS for non-PEPRA Miscellaneous Members impacted.

Previous Recommendation #6b: SDCERS should make programming changes to IRIS relating to District funded non-PEPRA Miscellaneous Member COL and Surviving Spouse or Domestic Partner Contributions.

SDCERS’ Management Response: The District has proposed providing an amendment to the plan so that SDCERS may implement this provision. This will require system updates to both the District and SDCERS’ systems.

Targeted Implementation Date: Once SDCERS has received the plan amendment a project plan for system implementation will be developed.

Finding and recommendation relating to plan sponsor contributions:

Previous Finding #2: The District did not remit the correct amount due to SDCERS for the pay periods tested.

Recommendation #1c: The District should remit to SDCERS the amounts required to be paid as calculated by IRIS.

SDCERS’ Management Response: The District’s response to this finding proposes changes to the transmittal file provided to SDCERS through the Employer Self-Service (ESS) portal. After additional discussions with District management it was agreed the process would remain status-quo. There is a very small population that is affected by this issue and it is possible for the District to identify them with information already available in SDCERS’ pension software, IRIS. The proposed changes would have required significant programming changes to IRIS, and SDCERS’ two other plan sponsors would have had to modify their transmittal files as well.

Targeted Implementation Date: N/A
Finding and recommendations relating to plan sponsor contributions, pensionable pay codes, and may result in adjustments to Member accounts:

Finding #4: For PEPRA Members, the District’s Salary Ordinance, and Memoranda of Understanding allow treatment of “Holiday Pay,” in certain circumstances, to overstate pensionable compensation.

Recommendation #4a: District Management and SDCERS Management should work together to determine, for each scenario in the tables above, whether the pay type is pensionable or non-pensionable. SDCERS Management should then bring an updated Board Rule to the SDCERS’ Board to ensure compliance with PEPRA.

Recommendation #4d: District Management should determine which Member data was incorrectly reported to SDCERS and communicate to SDCERS the Member accounts requiring correction.

SDCERS’ Management Response: SDCERS will work with the District to determine whether the pay types referenced should be pensionable or non-pensionable for Classic and PEPRA members. Based on those determinations, SDCERS will update SDCERS Board Rule 2.130 Non-Pensionable Compensation for PEPRA Members of the Port and Airport. The District’s response to this findings includes communicating to SDCERS any Member accounts requiring correction. Based on discussions with the District, there is a preference to notify Members of any and all corrections to their benefits in one communication. SDCERS will work with the District to develop a communication plan to notify Members of corrections to their accounts.

Targeted Implementation Date: Once SDCERS has received the information needed to update Board Rule 2.130 Non-Pensionable Compensation for PEPRA Members of the Port and Airport and the information needed to update Member accounts a project plan and communication plan will be developed.

Sincerely,

[Signature]

Marcelle Voorhies Rossman
Deputy Chief Executive Officer