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CITY OF OAKLAND
CITY COUNCIL

LEGISLATIVE ANALYST MEMORANDUM

To: Finance and Management Committee
From: Sabrina Landreth, Legislative Analyst
Date: February 26, 2008
Re: **PAYROLL & COMPENSATION AUDIT FOLLOW-UP**

SUMMARY

This memorandum provides a follow-up to the Audit of the City's Payroll and Compensation Practices that was conducted by the Office of the City Auditor in 2007. Specifically, it provides additional information on the following provisions:

- **Management Leave.** A summary of the amount of Management Leave bought back by employees.
- **Vacation Leave.** A summary of vacation leave bought back by employees.
- **Salary Advances.** An update on outstanding salary advance balances.

BACKGROUND

The City Auditor released the Performance Audit of the City's Payroll and Compensation on November 29, 2007. The report was presented in the December 11, 2007 Finance and Management Committee. The Committee directed staff to return during the Mid-cycle Budget meetings with the following: 1) whether a Payroll Manual has been created; 2) a status report on a written set of formal procedures for activation and deactivation of seasonal, part-time, and other intermittent employees; 3) an employee bonus program proposal; 4) centralization of payroll processes; 5) the executive package polices; 6) the payroll advance polices; and 7) whether the City Auditor and the City Attorney should receive management leave and vacation.

The Committee recommended that the following information be discussed during closed session: 1) a third week of Management Leave; 2) whether Management Leave should be "use it or lose it"; 3) sworn employees eligibility to buyback leave; and 4) the buyback of other leave including floating holidays.

The Committee Chair requested that the following information, among others, be further researched and return to the Committee with follow-up if necessary: 1) detailed summary of Management Leave awarded and bought back in excess of the MOU provisions; 2) detailed summary of vacation leave bought back in excess of the MOU provisions; and 3) summary of the outstanding balances from salary advances.

This memo addresses these three outstanding issues. Specifically, whether Management Leave awards exceeded MOUs by \$341,000; whether an excess of \$500,000 in Management Leave was bought back; whether an excess of \$2.5 million of vacation leave was bought back; and whether the 42 outstanding salary advance balances have been collected. These provisions represent the majority of the dollars in question – over \$3 million as identified in the City Auditor's report.

CURRENT LAW & POLICY

Management Leave

According to the Local 21 MOU, represented employees in Units UM1 and UM2 shall be awarded 5 days of Management Leave July 1st of each year. Additionally, represented employees who work irregular hours or who demonstrate superior performance may also be awarded an additional zero to 5 days leave. These 5 days are at the discretion of the City Administrator. Management Leave may be cashed out at the employee's discretion; however, such leave is not cumulative from year to year – it is “use it or lose it”.

According to Administrative Instruction (AI) 516, employees in Units UK1, UN1, UR1, UU1, TM1, U31, U41 and U51 are eligible from zero to 10 days of Management Leave in lieu of overtime based upon the prior year's performance upon the recommendation of the Department/Agency Head and with final approval from the City Administrator. Employees in Units UM1 and UM2 will be awarded 5 days of Management Leave. UM1 and UM2 employees may also be granted an additional 5 days based upon the recommendation of the Department/Agency Head and with final approval from the City Administrator. For all management employees, if performance has been sustained at a superior level the prior fiscal year, an additional zero to 5 days may be granted with approval of the City Administrator. AI 516 also notes that employees are allowed to cash out up to 15 days of Management Leave per year. In addition, they are allowed to carry over any unused leave to next fiscal year.

Vacation Leave Buyback

According to the Local 21 MOU, an employee may accrue vacation leave up to a maximum of two times their annual vacation. Additionally, employees in Units TA1, TF1, TM2, and TW1 may buyback up to 15 days as long as they took at least 10 days vacation in the preceding calendar year. Employees in Units UM1, UM2, and UH1 may buyback up to 15 days. The Local 790 MOU also specifies that employees may accrue up to a maximum of two times their annual vacation. These employees may buyback up to 10 days of vacation leave if they took at least 10 days of vacation in preceding calendar year.

According to AI 545, an eligible employee for vacation leave buyback is a non-sworn employee who has taken at least 10 days of vacation leave in the preceding year (except for UM1, UM2, UH1, TM1 who may buyback vacation regardless of whether they have taken time off or not). AI 545 specifies that Local 790 employees can buyback a maximum of 10 days; Local 21 employees can buyback a maximum of 15 days. Of note, unrepresented and executive management employees do not have explicit limits in AI 545.

Salary Advances

According to AI 556, an employee's paycheck may be released in advance for the following reasons: 1) Employee will be absent on payday due to Management Leave, Compensatory Leave, or vacation for at least 5 consecutive working days; 2) Employee will not be in the office on the normal payday due to an offsite work assignment or City related business travel; or 3) Emergency advance (subject to approval). Employees paid via direct deposit are not eligible for Early Release, Vacation Advance or Emergency Leave payments. Currently, all requests for Early Release of Paychecks, Vacation Advances and Emergency Advances are approved personally by the Treasury Manager.

FISCAL/POLICY DISCUSSION

Management Leave

The City Auditor's report identified an average of \$1.5 million in Management Leave awarded annually. The report notes that in 2006 \$341,000 was awarded in excess of MOU provisions or other City rules. The audit also identifies \$1.8 million in Management Leave that was bought back from FY 03-04 through FY 06-07, of which \$500,300 is noted to have been bought back in excess of the allowable amounts.

Using the MOU provisions as the guidelines, there is no limit on the amount of Management Leave that can be cashed out; however, it is a "use it or lose it" benefit (i.e. no rollover to the next fiscal year). In addition, the MOU states that employees may not receive more than 10 days each year. Using AI 516 restrictions, employees can cash out up to 10 days before May 2007, and 15 days thereafter. Any amount can be rolled over. According to the City Administrator's Office, employees were eligible to receive up to 15 days for FYs 2005-06 and 2006-07. This amount has been rolled back to 10 days since December 2007, and the City Administrator will be bringing this issue back to Council later this spring.

The Auditor's report looked to both the MOU provisions and the AIs in its analysis. It employed the MOU guidelines to determine the amount of Management Leave that may be awarded (maximum 10 days), and it used the AIs to determine the amount that may be cashed out.

Summary of Management Leave Awards and Buybacks

	Amount Allowed to be Awarded	Amount Allowed to Cash Out	Amount Over Allowed to Cash Out
MOU Provisions	10 days max	Unlimited	\$0
Auditor Analysis	10 days for units mentioned in MOUs, zero for those not explicitly included	5 days (pre-2006); 10 days (after 2005)	\$500,000
Administrative Instructions	10 days, then 15 days (beginning 2005-06); units not included in MOUs and Unrepresented treated the same as Local 21.	10 days, then 15 days for 2005-06 and 2006-07.	\$16,000

Vacation Leave

The City Auditor's report identified \$2.5 million in vacation leave bought back in excess of the allowable amounts. Based on information provided by the Treasury Manager, this number can be broken down as follows:

	Amount Cashed Out	Amount Allowed to Cash Out	Amount Over Allowed to Cash Out
Auditor Analysis	\$6,038,566	\$3,579,070	\$2,459,496
Finance Staff Analysis	\$6,038,566	\$5,343,259	\$695,307

Auditor's Calculation	\$2,459,496
Fire ¹	(\$1,134,700)
Unrepresented ²	(\$269,614)
Based on Check Date ³	(\$143,958)
Police ⁴	(\$91,612)
Cash in Lieu ⁵	(\$84,347)
Adjustments to Hours in Workweek ⁶	(\$21,848)
Calculation Discrepancies ⁷	(\$15,953)
Jail Closure ⁸	(\$2,157)
Total Staff Estimate	\$695,307

Salary Advances

According to the Treasury Manager, the City has collected all outstanding salary advances from the past three years (there is a three-year statute of limitations) with the exception of four former employees (two are in collection and two are on payment plans). Currently, all salary advances are reviewed personally by the Treasury Manager.

CONCLUSIONS

According to staff's assumptions, \$16,000 in Management Leave was bought back in excess of the allowable limit and \$695,307 in vacation leave was bought back above the limit during the time period in question. This is in comparison to the City Auditor's totals of \$500,000 and \$2.5 million, respectively. In addition, all but four of the outstanding salary advances within the

¹ Amount allowed for Fire employees = \$1,134,700 in 135 transactions. This is an amount allowed either by the Fire MOU or by the Fire side-letter.

² Amount allowed if unrepresented employees allowed to buyback 15 days (Local 21 MOU), not 5 days (according to the Executive Handbook limit that the Auditor used in her analysis) = \$269,614 in 76 transactions.

³ Amount allowed "based on check date" = \$143,958 in 86 transactions. Some of the transactions showed up in the year after the transaction as the pay period overlapped from late December into early January.

⁴ Amount allowed by Police side-letter = \$91,612 in 35 transactions

⁵ Amount allowed as "cash in lieu" = \$84,347 in 11 transactions. These are employees that were terminating their employment with the City.

⁶ Amount allowed as employee is on 40 hour weeks, not 37.5 = \$21,848 in 39 transactions. Some employees are on the 40-hour workweek schedule instead of the 37.5-hour workweek schedule assumed in the Auditor's calculations.

⁷ Amount allowed due to technical error in Auditor's calculations = \$15,953 in 6 transactions.

⁸ Amount allowed by Jail closure = \$2,157 in one transaction.

three-year statute of limitations have been collected – two are in collection and two are on payment plans. Of note, the numbers provided by staff have not been reexamined and/or verified by the City Auditor. It is recommended that technical discrepancies related to the vacation leave buyback be revisited, especially the adjustments based on the check date, cash-in-lieu, workweek hours and calculation errors.

The other outstanding issues related to the audit, such as the employee bonuses, will be coming to Council in April or May 2008.