

**THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**INTERNAL CONTROL AND
ACCOUNTABILITY DIRECTIVES**

DIRECTIVE 14 -- LEAVE BALANCE PAYMENTS

INTRODUCTION

Time and leave regulations established by the Mayor entitle management employees to payment for unused accrued leave when they separate from City service, or when they transfer to a non-Mayoral City agency that does not accept any or all of their total leave balances. Accrued leave may consist of annual, sick, vested, banked, and/or terminal leave and compensatory time. Payments are calculated based on many factors including pay plan (career and salary plan employees, managerial employees, uniformed force managers, or employees serving in Executive Positions), type of leave and length of service. The Directive addresses payments made to all employees who separate from City service or on transfer to another City agency, although the Directive focuses on managerial Leave Balance Payments. Pre-audits by the Office of the Comptroller have disclosed substantial City agency errors in managerial Leave Balance Payment calculations. Therefore, the Office of the Comptroller continues to pre-audit the calculations.

This Directive provides guidance for calculating the payments and sets forth procedures City agencies must follow when making these payments. It takes into consideration special rules for employees who serve in Executive Positions, and for uniformed force managers. Compliance with the Directive's guidelines will facilitate the Office of the Comptroller's pre-audit of these payments.

The amounts that will be due to City employees resulting from these unused accrued leave balances are a liability to the City, and when certain conditions are met, must be recognized in the City's financial statements. This Directive also provides guidance on the timing of recognition of leave balance liabilities in the General Fund and in the government-wide financial statements.

This Directive is issued pursuant to the Comptroller's audit powers as provided in Chapter 5, Section 93 of the New York City Charter.

1.0 GENERAL INFORMATION

1.1 Directive Organization

- 1.0 General Information
 - 2.0 Recognition of Liabilities
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 - 5.0 Uniformed Force Managers
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1.2 Effective date

This Directive is effective immediately. It supersedes the previous version, issued September 1978, and Comptroller's Memorandum 85-2, *Restatement of Policy Regarding Calculations of Accrued Annual Leave and Accrued Compensatory Time Upon Death of Employee in Accordance with Mayor's Executive Order No. 34 (3/26/71) and the Processing of Accidental Death Payments Pursuant to Article V, Section 14 of the City-Wide Labor Agreement.*

1.3 Assistance

Questions or comments concerning this Directive should be addressed to: The Office of the Comptroller, attention:, Directives/Policy Unit, Bureau of Accountancy, Municipal Building, One Centre Street, Room 200 South, New York, NY 10007, (212) 669-3675, e mail directives@comptroller.nyc.gov

1.4 Internet Availability

An inventory of existing Office of the Comptroller Internal Control and Accountability Directives, most with download and print capability, are available on the Comptroller's website at <http://www.comptroller.nyc.gov>.

1.5 Regulations Governing Managerial Leave Balance Payments

The regulations governing Managerial Leave Balance Payments are established primarily in Mayoral Personnel Orders (POs) 88/5 and 88/6, and Personnel Services Bulletins (PSBs) issued by the Department of Citywide Administrative Services (DCAS.) See Appendix A for the list of regulations applicable to Managerial Leave Balance Payments.

1.6 Definitions

Key terms used in this Directive are defined below.

a. Banked Leave Balances

Banked Leave Balances consist of unused annual leave, sick leave, and compensatory time that an employee accrued before becoming a manager but did not use. These balances are banked for payment on separation from City service or on transfer to another City agency that does not accept all or part of such time.

b. Continuous Service

Continuous Service is unbroken service, except when the break in service is thirty-one calendar days or less; or when a former employee is reinstated to permanent service in a competitive class position within one year; or when a former employee is appointed from an open competitive list within one year to permanent service in a competitive class position.

c. Executive Positions

Executive Positions, as defined in PO 97/2, an amendment of PO 88/5, *Leave Regulations for Management Employees*, are positions subject to Mayoral appointment, including directors of offices of the Mayor, most agency heads, and certain employees of the Office of the Mayor.

d. Exempt Positions

An Exempt Position is a discretionary position that is requested by the Mayor or an agency head, and created by DCAS. If an Exempt Position is occupied by an employee who holds a permanent competitive class position, he/she retains the rights, privileges, and status of his or her competitive class title while serving in the Exempt Position.

e. Longevity Differential

A Longevity Differential is a wage payment, above the basic rate of pay, based on years of service in a title, occupational group or in continuous City service. This payment does not become part of the base pay.

f. Managerial Leave Balance Payment

A Managerial Leave Balance Payment is the payment a manager receives for unused accrued leave upon final separation from City service or on transfer to another City agency that does not accept all or part of such time, and is paid at different rates.

g. Pay Plan

The regulations under which a City employee is compensated in time and in pay while in City service is a Pay Plan. Pay Plans covered in this Directive are those for career and salary plan employees, managerial employees, and uniformed force managers.

h. Uniformed Force Managers

Uniformed Force Managers are in the civil service titles, ranks, details and assignments listed in PO 88/6, *Lump Sum Payment on Final Separation of Uniformed Force Managers*, par.1.0.

i. Vested Leave Balances

Vested Leave Balances consist of unused annual leave, sick leave, and compensatory time that an employee who was a manager on 12/31/77 accrued as of 12/31/77 but did not use. These balances are vested for payment on separation from City service or on transfer to another City agency that does not accept all or part of such time.

2.0 RECOGNITION OF LIABILITIES

The Governmental Accounting Standards Board (GASB), the organization responsible for promulgating generally accepted accounting principles (GAAP) for governments, has issued Interpretation No. 6 (GASBI 6), *Recognition and Measurement of Certain Liabilities and Expenditures in Governmental Fund Financial Statements*, which provides recognition standards for special termination benefits. GASBI 6 requires that special termination benefits be recognized, in the governmental fund financial statements (which would include the City's General Fund), to the extent that the liabilities are normally expected to be liquidated with expendable available financial resources for each period. Governments are normally expected to liquidate liabilities with expendable available financial resources to the extent that the liabilities mature each period. Therefore, managerial Leave Balance Payments should be recognized as liabilities as the payments become due. For example, if an employee retires on June 30, 2004 and is entitled to receive a Leave Balance Payment in the year of retirement, the total liability must be recognized in fiscal year 2004 even if the leave payment is not made until fiscal year 2005. If the same employee retires under an early retirement incentive that requires the leave balance to be paid in three equal installments over the next three fiscal years, then one-third of the liability should be recognized in 2004, one-third in 2005, and the balance in 2006, as those will be the amounts that become due each year.

The GASB also requires, for the government-wide financial statements, that termination benefits be accrued as a liability as earned if both of the following conditions are met: 1) the employees' rights to receive compensation is attributable to services

already rendered, and 2) it is probable that the City will compensate the employees for the benefits through paid time-off, or some other means such as cash payments at termination or retirement. Therefore, Leave Balance Payments are accrued as earned in the government-wide financial statements in amounts that are estimated to require either future payments (managers) or future paid time off (non-managerial employees). These liabilities are calculated by the agencies and are audited by the Office of the Comptroller using, among other sources, leave information contained in the Payroll Management Systems.

3.0 MANAGERIAL EMPLOYEES

Managerial Leave Balance Payments consist of compensation for unused current annual leave and sick leave, and vested or banked unused annual, sick, and compensatory time that a manager earned but did not use before leaving City service or transferring to another City agency that would not accept part or all of the manager's balances. Payments are calculated based upon the conversion of work days to calendar days. Managers receive payment for his or her leave balances as outlined below. Note that managerial authorized leave days and blood donation compensatory time may never be paid out.

3.1 Current Leave Balances

Current leave is leave that an employee has earned but has not used since he or she became a manager, or leave accrued on or after January 1, 1978 by employees who were managers before that date.

3.1.1 Annual Leave

a. Payment Limits

- Normally, two years of accruals.

However, with the authorization of the agency head for carryover of excess annual leave, the payment limits for current unused accrued annual leave are:

- Three years of accruals for managers with up to five years of Continuous Service;
- Four years of accruals for managers with more than five years, but less than ten years of Continuous Service, and
- Five years of accruals for managers with more than ten years of Continuous Service.

If authorization for excess annual leave is not obtained, excess annual leave will be transferred to the employee's sick leave balance and paid according to sick leave regulations.

b. Rates of Pay

Current unused annual leave earned during the six-year period immediately before the date of final separation must be paid at the rate at which it was earned. Current unused annual leave earned more than six years before the date of final separation is paid at the average weighted salary rate received or receivable during the sixth year before separation. If the manager received a salary increase during that year, the period covered by the raise must be weighted when calculating the average salary rate.

3.1.2 Sick Leave

Current unused sick leave is sick leave that an employee has earned since becoming a manager, but has not used, or, for employees who were managers on December 31, 1977, sick leave earned on or after January 1, 1978, but not used.

(a) Payment Limit

Managers with more than ten years of Continuous Service and a final balance of at least 60 current sick leave days receive payment for one-third of this balance. In addition, if a manager has a balance of vested or banked sick leave, he or she may receive a payment limit of one-half of this balance, up to 120

days for all sick leave, including current, vested, or banked balances.

(b) Rates of Pay

Current unused sick leave earned during the six-year period immediately before the date of final separation is paid at the rate at which it was earned.

Current unused sick leave earned more than six years before the date of final separation is paid at the average weighted salary rate received or receivable during the sixth year before the separation date.

3.1.3 Compensatory Time

Managers can not earn compensatory time while serving as managers, and therefore receive payment only for vested or banked compensatory time earned while holding non-managerial positions (see §3.2.) Employees who were managers before January 1, 1978 do, however, receive payment for compensatory time earned before that date.

3.2 Vested or Banked Leave Balances

Generally, a manager is compensated for his or her unused vested or banked leave under the conditions noted below.

(1) Vested Leave

Managers are paid for annual leave, sick leave, and compensatory time balances on or before December 31, 1977, on separation, at the greatest of the following rates (see P.O. No. 88/5 §12, *Leave Regulations for Management Employees*):

- The salary the employee was earning on December 31, 1977;

- The current minimum salary for the managerial level held on December 31, 1977; or
- The current salary the employee would have been earning in the permanent title held before becoming a manager. The employee's pre-managerial salary must be used as the starting point, adding collective bargaining salary increases, including longevity and/or differentials, that would have been received had the employee remained in that title up to his or her last day of service.

(2) Banked Leave

Managers are paid for annual leave, sick leave, and compensatory time balances credited after December 31, 1977, on separation, at the greater of the following rates (see P.O. 88/5 §12, *Leave Regulations for Management Employees*):

- The salary the employee was earning immediately before he or she became a manager, or
- The current salary the employee would have been earning in the career and salary title held before he or she became a manager. The employee's pre-managerial salary must be used as the starting point, adding collective bargaining salary increases, including longevity and/or differentials, that would have been received had the employee remained in that title up to his or her last day of service.

3.3 Leave Earned at Different Salary Rates

Leave is earned throughout the course of a manager's career at presumably different salary levels. As leave is taken, the leave that is earned first is considered to have been used first. Therefore, the Managerial Leave Balance Payment is based on his or her most recently earned leave balances using the first-in, first-out (FIFO) method. See P.O. No. 99/6.

3.4 Leave Balance Payment Limit

The total Leave Balance Payment must not exceed the salary earned or earnable during the manager's last 12 months of service (see P.O. No. 88/5, §15.) Prior Leave Balance Payments must be taken into account when calculating maximum amounts of leave balance payments.

3.5 Adjustments to Leave Balance Payments for Excess Annual Leave Charges

If a manager charged more annual leave than he or she earned during the 12 months preceding separation, the Leave Balance Payment may be reduced unless the manager has appropriate carryover letters. The reduction must reflect the difference between the salary at which he or she was paid for the excess leave and the salary at which the leave was earned (see PSB No. 420-4.)

3.6 Special Rules for Employees Serving in Exempt Positions

Pursuant to P.O. 88/5, §7.6, as amended by P.O. 97/2, for employees serving in Exempt Positions, with an underlying non-managerial permanent competitive class civil service title, the City agency must calculate the Leave Balance Payment as though the employee had remained in the civil service title, using the final (current) salary as the basis for calculation. The exempt employee retains the rights, privileges and status of his or her competitive class position, including salary increases receivable as a result of collective bargaining (see Chapter 35, §821 of the New York City Charter.)

4.0 EMPLOYEES SERVING IN EXECUTIVE POSITIONS

An employee serving in an Executive Position receives Leave Balance Payments in accordance with the same regulations as that for managers, except as provided here (see P.O. No. 97/2.)

4.1 Categories of Leave Allowances

a. Sick Leave

An employee serving in an Executive Position is entitled to payment only for sick leave accrued before April 1, 1997, or before the date of appointment to an Executive Position.

b. Compensatory Leave

If an employee appointed to an Executive Position on or after April 1, 1997 has a managerial or non-managerial compensatory leave balance, he or she must be paid for the compensatory leave at the time of appointment to the Executive Position. Therefore, compensatory leave should not be part of the leave balance payment for such employees. Employees who were appointed to Executive Positions before April 1, 1997 may have compensatory time balances to their credit, and are entitled to receive payment.

4.2 Total Payment Limitation

If an employee has ten years or more of Continuous Service and is serving in an Executive Position, the Leave Balance Payment cannot exceed the salary earned or earnable during his or her last 12 months of service.

If an employee has less than ten years of Continuous Service and is serving in an Executive Position, the Leave Balance Payment cannot exceed one-half the salary earned or earnable during his or her last 12 months of service. However, City agencies must ensure that the Leave Balance Payment is not less than the amount that would have been payable if the employee had separated from service as of March 31, 1997. Therefore, the agency must calculate the salary that the employee would have earned on March 31, 1997, including all applicable differentials and salary increases, based on the salary earned before he or she began serving in an Executive Position. The agency must pay the lump sum at the higher of the two rates. This calculation is applicable until March 31, 2007.

5.0 UNIFORMED FORCE MANAGERS

Generally, the regulations governing Leave Balance Payments to uniformed force managers are the same as for civilian managers (see §3.0), with the exceptions noted below. See P.O. No. 88/6, *Lump Sum Payment on Final Separation of Uniformed Force Managers*, and P.O. No. 2000/2, Amendment to Personnel Order No.88/6.

5.1 Current Sick Leave Balances

Uniformed force managers do not accrue sick leave. Therefore, sick leave is not part of the Leave Balance Payment unless there is entitlement from at least ten years of Continuous Service in a previously held civilian position.

5.2 Vested Leave Balances

5.2.1 Annual Leave and Compensatory Time for Employees Who Became Managers on or Before June 30, 1982

Uniformed force managers receive payment for vested annual leave and compensatory time balances at the greatest of the following rates:

- a.** The rate of pay the manager was earning on June 30, 1982;
- b.** The current minimum rate of pay for the managerial level held on June 30, 1982, or
- c.** The current rate of pay of the permanent title, last assignment, or detail (including the last applicable Longevity Differential, if any) held before the employee became a manager. The employee's pre-managerial salary must be used as the starting point, adding collective bargaining salary increases, including longevity and/or differentials, that would have been received had the employee remained in that title up to his or her last day of service.

5.2.2 Annual Leave and Compensatory Time for Employees Who Became Managers after June 30, 1982

Employees who became uniformed force managers after June 30, 1982 receive payment for vested annual leave and compensatory time balances at the greatest of the following rates:

- a. The rate of pay the employee was earning before he or she became a uniformed force manager;
- b. The current rate of pay for the title the employee held before he or she became a uniformed force manager; or
- c. The current rate of pay of the last assignment or detail (including the last applicable longevity differential) held before the employee became a manager. The employee's pre-managerial salary must be used as the starting point, adding collective bargaining salary increases, including longevity and/or differentials, that would have been received had the employee remained in that title up to his or her last day of service.

5.2.3 Accrual of Terminal Leave

Uniformed managerial employees earn 30 calendar days for each 10 years of uniformed service. Any portion within the 10-year intervals would be prorated (e.g., 15 years of uniformed service earns 45 days of terminal leave.)

5.2.3a Terminal Leave for Employees Who Became Managers on or Before June 30, 1982

A uniformed force manager may be compensated for terminal leave balances for service through June 30, 1982, or through the day before becoming a uniformed force manager, whichever is later (the "vesting date.") Time served after the vesting date is not included in the Leave Balance Payment. Terminal Leave earned on or

before June 30, 1982 is compensated at the greatest of the following rates:

- The rate of pay the employee was earning on June 30, 1982;
- The current minimum rate of pay for the managerial level held on June 30, 1982;
- The current rate of pay of the employee would have been earning in the permanent title held on June 30, 1982; or
- The rate of pay of the last assignment or detail (including the last applicable longevity differential) held before the employee became a manager.

5.2.3b Terminal Leave for Employees Who Became Managers after June 30, 1982

Employees who became uniformed force managers after June 30, 1982 receive payment for terminal leave balances at the greatest of the following rates:

- The rate of pay the employee was earning before he or she became a uniformed force manager;
- The current rate of pay for the title the employee held before he or she became a uniformed force manager; or
- The current rate of pay of the last assignment or detail held before the employee became a manager. The employee's pre-managerial salary must be used as the starting point, adding collective bargaining salary increases, including longevity and/or differentials, that would have been received had the employee remained in that title up to his or her last day of service.

6.0 **REQUIRED** **DOCUMENTATION** **AND**
AGENCY **SUBMISSION** **PROCEDURES**

6.1 Required Documentation

Agencies are required to submit the following information on required forms to the Office of the Comptroller for the audit. Samples of the required forms are in Appendix B.

6.1.1 Managerial Pay Plan Summary Sheet

The agency should submit the original and a copy of the Managerial Pay Plan Summary Sheet. The Managerial Pay Plan Summary Sheet must summarize the unused leave balances of the manager or employee serving in an Executive Position, and the lump sum value calculated for each leave balance listed. A final lump sum value is derived and authorized by a high-level agency official (usually the agency head or designee.)

6.1.2 Record of Prior 12 Months' Usage

The Record of Prior 12 Months' Usage must provide complete information about the annual leave and sick time that the manager or employee serving in an Executive Position used during his or her last 12 months of service. Excess leave taken, without approval, during the 12 months before separation must be subtracted from the Leave Balance Payment, unless the manager has carryover letters permitting him/her to carry over the excess time he/she used. See §3.6 for information on excess leave and carryovers.

6.1.3 Current Annual Leave Worksheet

The Current Annual Leave Worksheet lists the annual leave balances of the manager or employee serving in an Executive Position by salary categories based upon accrual dates. The sheet also lists the conversion of workdays to calendar days and the lump sum amounts.

6.1.4 Current Sick Leave Worksheet

The current Sick Leave Worksheet lists the leave balances of a manager or employee serving in an Executive Position by salary categories based on accrual dates. It also lists the conversion of workdays to calendar days and the lump sum amounts.

6.1.5 Other Required Documents

Agencies are required to include the following additional documentation with their Leave Balance Payment requests:

- Letter of resignation, termination, or retirement forms.
- Last timesheet for which the manager physically worked.
- Last payroll for which the manager was paid.
- Any DP 2001 (*Personnel Data on Transferred Employee*) forms that list the leave accruals of a manager or employee serving in an Executive Position transferred from another City agency.
- Death certificate and beneficiary forms, if applicable.
- A carryover letter for each year excess annual leave was carried over.
- Worksheet detailing salary buildup for the last non-managerial title (if vested or banked leave is to be paid.)
- Relevant PMS reports.
- Information about any overpaid monies.

6.2 Agency Certification

The agency head or designee must certify that the balances on the submitted forms are correct, sign them, and submit them to the Comptroller's Bureau of Audit for pre-audit and approval of the calculations.

6.3 Submission Address

Agencies must submit all documentation to:

Office of the Comptroller
Bureau of Financial Audit
Managerial Lump Sum Division
One Centre Street, 11th Floor, Room 1117
New York, NY 10007

7.0 SPECIAL PROCEDURES FOR PAYMENTS ON THE DEATH OF CITY EMPLOYEES

Generally, pursuant to Section 14 of the *Leave Regulations for Management Employees*, and Section 3 of the regulations governing *Lump Sum Payment on Final Separation of Uniformed Force Managers*, survivors or estates of managerial City employees are entitled to leave balances that remain at the employee's death according to the same limits and procedures that apply to employees who separate from City service. Non-managerial employees are subject to the limits set forth in Executive Order 34, dated March 26, 1971. Specifically, the *Agency Guide for Survivors of City Employees* details the various benefits that are payable to survivors, and must be consulted in these instances.

8.0 PRE-AUDIT PROCEDURES OF THE OFFICE OF THE COMPTROLLER

8.1 Correct Payment Requests

If the Bureau of Financial Audit, Managerial Lump Sum Division, determines that a request for payment is correct, the Bureau will return the Managerial Pay Plan Summary Sheet ("B" copy), with a case tracking number, to the agency for issuance of a supplementary payroll. See Appendix B for required documents.

8.2 Incorrect Payment Requests

If the agency's lump sum calculations are incorrect, the Bureau of Financial Audit, Managerial Lump Sum Division, will either make the necessary corrections or return the forms package to the agency with an explanation of the error(s) that need to be corrected. The agency should then resubmit the corrected amounts.

8.3 Payment Verification Procedure

The supplementary payroll must be submitted to the Bureau of Financial Audit, Managerial Lump Sum Division, for authorization before checks are released by the Office of Payroll Management. Along with the supplementary payroll, a copy of each page of the PMS PEIAP700 report, which contains the name of each employee receiving a managerial lump sum payment, must be submitted. The Audit Bureau will verify the corrected check amount against the agency's payroll or check register to ensure that the check amount is correct before approving the payment.

9.0 ANNUAL LEAVE ACCRUALS AND TERMINAL LEAVE FOR NON-MANAGERIAL EMPLOYEES

Non-managerial employees are eligible to receive payment upon separation from City service, for annual leave, sick leave, and compensatory time balances.

An employee who plans to separate from City service should arrange with the agency, in advance, for the use of any outstanding annual leave balance. Each agency may determine when it is convenient to permit the use of annual leave credits.

Payment for sick leave is granted to employees who have completed at least 10 years of continuous City service on the basis of one day sick leave for each 2 days of accumulated sick leave up to a maximum of 120 days of sick leave. Leave is computed on the basis of workdays rather than calendar days. The employee would remain on payroll until their leave balances are exhausted. Employees are considered active while on separation leave, but do not earn additional sick or annual leave.

Employees who have retired but are still on the payroll should receive credit for holidays that occur during that period. Floating holidays are never paid out.

This Directive is subject to changes based on citywide labor agreements. Agencies must keep current on the provisions of its employees' contracts.

9.1 Uniformed Force Non-Managers

Uniformed force non-managers may be entitled to terminal leave which is generally based on years of service. Uniformed agencies should establish appropriate procedures to ensure that payments are calculated in accordance with the specific contractual requirements for these positions.

APPENDIX A

This Appendix identifies the authoritative guidance with which agencies must be familiar when making requests for lump sum and related payments.

- City of New York Mayoral Personnel Order No. 88/5, *Leave Regulations for Management Employees*, April 28, 1988, as amended.
- City of New York Mayoral Personnel Order No. 88/6, *Lump Sum Payment on Final Separation of Uniformed Force Managers*, April 28, 1988, as amended.
- City of New York Mayoral Personnel Order No. 97/2, Amendment to Personnel Order No. 88/5, April 1, 1997.
- City of New York Mayoral Personnel Order No. 99/6, Amendment to Personnel Order 88/5, December 30, 1999.
- City of New York Mayoral Personnel Order No. 2000/2, Amendment to Mayoral Personnel Order No. 88/6, August 16, 2000.
- City of New York Department of Citywide Administrative Services *Agency Guide for Survivors of City Employees*.
- City of New York Department of Personnel Memorandum, June 19, 1990.
- City of New York Department of Personnel Memorandum, September 15, 1993.
- City of New York Department of Personnel Memorandum, December 2, 1993.
- City of New York Office of the Comptroller Memorandum 97-04, *1099-Misc. Reporting Requirements for Payments Made to Beneficiaries or Estates of Deceased Employees*, July 24, 1997.
- City of New York Department of Citywide Administrative Services Personnel Services Bulletin No. 420-3, June 30, 1997.
- City of New York Department of Citywide Administrative Services Personnel Services Bulletin No. 420-4, June 30, 1997.

REQUIRED FORMS FOR LEAVE BALANCE PAYMENT SUBMISSION

- Managerial Pay Plan Summary
- Managerial Lump Sum Current Annual Leave Worksheet
- Managerial Lump Sum Current Sick Leave Worksheet
- Managerial Lump Sum Summary of Annual Leave Used During 12 Months Preceding Date of Separation