

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 preaudit 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 authority of the Office of the Comptroller as provided in Chapter 5, Section 93 of the *New York City Charter*.

TABLE OF CONTENTS

1.	GEN	ERAL INFORMATION	4
	1.1	Effective Date	4
	1.2	Effective Date	4
	1.3	Comptroller's Internal Control and Accountability Directives	4
2.	DEF	INITIONS	4
3.	REC	OGNITION OF LIABILITIES	5
 3. 	MAN	NAGERIAL EMPLOYEES	6
	4.1	Current Leave Balances	6
	4.2	Vested or Banked Leave Balances	8
		Leave Earned at Different Salary Rates	
	4.4	Leave Balance Payment Limit	9
		Adjustments to Leave Balance Payments for Excess Annual Leave Charges	
	4.6	Special Rules for Employees Serving in Exempt Positions	9

1. GENERAL INFORMATION

1.1 Effective Date

This Directive is effective immediately, and supersedes the previous version, issued September 1978, and the 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.

1.2 Assistance

Questions or comments concerning this Directive should be addressed via <u>Technical and Professional Standards Unit Email</u> (Directives@comptroller.nyc.gov); by telephone at: (212) 669-3675; or by mail to: The Office of the Comptroller, Attention: Technical & Professional Standards Unit, Bureau of Accountancy, David N. Dinkins Municipal Building, One Centre Street, Room 200 South, New York, NY 10007.

1.3 Comptroller's Internal Control and Accountability Directives

Existing <u>Comptroller's Internal Control and Accountability Directives</u> are available on the Comptroller's Website.

2. **DEFINITIONS**

Key terms used in this Directive are defined below.

- "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.
- "Continuous Service" is unbroken service, except when the break in service is thirtyone 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.
- "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.

- "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.
- "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.
- "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.
- "Pay Plan" comprises the regulations under which a City employee is compensated in time and in pay while in City service. Pay Plans covered in this Directive are those for career and salary plan employees, managerial employees, and 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*, paragraph 1.
- "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.

3. 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:

- The employees' rights to receive compensation is attributable to services already rendered; and
- 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.

4. 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.

4.1 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.

4.1.1 Annual Leave

Payment Limit

Normally, the payment limit is 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.

• 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

4.1.2 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.

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.

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.

4.1.3 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.

4.2 Vested or Banked Leave Balances

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

4 2 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.

4.2.2 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 premanagerial 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.

4.3 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.

4.4 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.

4.5 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.).

4.6 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.)