



## ***Ethics Matter!***

### **Getting Compensation Right Ethically speaking, that is.**

In any environment, maintaining public trust when public dollars are in play is critical. As the entire globe works its way through the Great Recession, the spotlight at the local government level is clearly on public sector compensation.

Need to close the gap between essential services and available resources? Then explore cuts in the big-ticket item. For local governments that would be labor and the associated cost of compensation and benefits.

If the outcome of that review is even the appearance that decision influencers personally benefited disproportionately or inappropriately in pay and benefits, then trust is broken.

#### **The Challenges**

The lack of established practices for negotiating public sector executive compensation combined with the transparency threshold that must be met makes an otherwise difficult task almost daunting. Roles and responsibilities may be clear on paper but not in action.

The decision makers – that is, the governing body – are not always experienced with the process. The beneficiary – that is, the manager – sometimes is the one who is more knowledgeable, skilled, and, shall we say, savvy. That imbalance can create a conflict of interest. The result can be compensation packages or benefits negotiated in good faith that later appear to be inappropriate, unfair, and just too costly.

#### **The Principles**

The principles of the profession have long been the driver for personnel and compensation matters. The standard for establishing executive compensation is that it be fair, reasonable, and transparent. But what's "fair" is subjective and debatable.

Taking the principles, ICMA established formal guidelines for negotiating executive compensation that set standards for benchmarking using comparable public sector salaries on regional and national bases. The guidelines more clearly define roles and responsibilities, and they address issues that relate to all employees as well.

## **The Process**

To establish fair and reasonable compensation, the governing body should either operate as a committee of the whole or designate an evaluation and compensation subcommittee. This group should design and implement the methodology for setting the compensation of the local government manager and any other appointees of the governing body.

Compensation benchmarks should be established on the basis of compensation in comparable local government and public sector agencies. The governing body should engage experts, whether contracted or in-house, to provide the information required to establish fair and reasonable compensation levels.

All decisions on compensation and benefits must be made by the entire governing body in a public meeting.

## **The Realities**

The principles and guidelines provide advice to address those unusual or questionable practices.

***The ICMA Model Employment Agreement recommends one-year severance. The average length of severance is six months. Is negotiating a two-year severance appropriate? Is three okay? If so, under what circumstance?***

Severance provisions established in the employment agreement must be both reasonable and affordable so that the cost of the severance is not an impediment to fulfilling the governing body's right to terminate a manager's service, if desired. That said, some places are just more political and volatile than others. A history of high turnover may support larger severances.

***Having negotiated severance, is it okay to negotiate and accept more in a forced departure? If so, under what circumstance?***

A deal is a deal! The most ethical approach generally is to accept what was originally negotiated and not to leverage the departure to obtain more. But there are unique situations where it is fair and ethical to negotiate for more: long-tenured managers who are terminated close to retirement and short-tenured managers who sometimes incur the cost of relocation but are terminated before being afforded the chance to show what they can do. It is rare but the settlement of legal claims may result in additional payments made at departure.

***Is it okay to request an exception to the policy that caps the amount of leave that can be sold back in order to boost retirement?***

Managers are in a unique class and do negotiate for benefits that other employees do not receive. But changes to benefits should be considered during agreement negotiations or renegotiations so that changes can be considered in the context of the cost of the entire package. Avoid one-offs and practices that lead to pension spiking.

*In an effort to reduce payroll expenses, the manager proposes an early-retirement incentive. Can the manager participate in the program? If so, when should disclosure of intent be made?*

Professionals must recognize and effectively manage conflicts of interest inherent in compensation changes. Managers should avoid taking steps regarding pension and other benefits if they will be the sole or primary beneficiary of the change.

The manager can participate in the program but only if there was full disclosure up front that the manager was both in the universe of those affected and interested in taking the option. Not to fully disclose this fact puts the validity of the proposal in question. Is this a good deal for the organization or just good for the manager?

### **Takeaways**

The governing body has a governance role to play. Create a compensation committee of the governing body or committee of the whole to design and implement the framework for setting the manager's compensation.

Decisions on compensation and benefits must be made by the entire governing body in a public meeting. In the interests of transparency, the salary plan and salary ranges for local government positions, including for the manager, should be publicly accessible on the agency's website. Don't put your personal compensation interests before the good of the overall organization and that of the citizens.

Local government managers have an ethical responsibility to be clear about what is being requested and to avoid excessive compensation. Greed is not good.

### **Martha Perego, ICMA-CM**

ICMA Ethics Director

Washington, D.C.

202-962-3668

mperego@icma.org