



128-0042020-002

Agenda Item **No.5(g)**
Meeting of July 21, 2020

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Executive Director

SUBJECT: Delegating authority to the Executive Director to adopt Successor Agency Policies during the Public Health Emergency consistent with the Compensation Plan for COVID-19 of the City and County of San Francisco

EXECUTIVE SUMMARY

During the COVID-19 public health emergency, OCII is committed to maintaining agency employee income security to the fullest extent possible. To that end, OCII intends to follow, to the extent consistent with OCII policies and applicable Federal and State laws, the emergency leave and benefit policy changes that the City and County of San Francisco ("City") has implemented to maintain employee income security during the COVID-19 public health emergency.

Under existing OCII policies, the Executive Director has the authority to provide, on an interim basis, certain employee leave that is in the best interests of OCII and that is consistent with responsible management of the day-to-day affairs and activities of OCII. To the extent that the Executive Director's authority needs to be supplemented or affirmed, OCII management requests that the Successor Agency Commission ("Commission") authorize, the policy changes that would allow OCII to replicate the emergency City policies.

Staff recommends approval of a resolution Delegating Authority to the Executive Director to Adopt Successor Agency Policies During The Public Health Emergency Consistent With The Compensation Plan for COVID-19 of the City and County of San Francisco.

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DISCUSSION

During this public health emergency, OCII implemented, several paid leave and benefit policy changes that are consistent with federal law and substantially similar to those of the City, as described in the City's "Compensation Plan for COVID-19," available at <https://sfdhr.org/covid-19#Sick>. Under the federal Families First Coronavirus Response Act, Public Law 116–127, ("FFCRA"), OCII and other employers are required to provide certain employees adversely affected by the COVID-19 pandemic up to 80 hours of paid sick leave and to expand leave under the Family and Medical Leave Act ("FMLA"). In addition, the City's Compensation Plan for COVID-19 established Additional Sick Leave and Leave Advancement for City employees to supplement the FFCRA and provide City employees with an additional 80 hours of paid sick leave.

Under OCII's Personnel Policy, the Executive Director may grant paid Administrative Leave to employees if she determines that the leave is in the best interests of the Agency. Using this authority, the Executive Director established paid leave under the same terms and conditions as the City's Additional Sick Leave and Leave Advancement. The Executive Director now seeks Commission authorization: to ratify actions that the OCII Executive Director has previously taken in interpreting OCII Personnel Policy to conform to the Compensation Plan for COVID-19; to adopt, to the extent consistent with applicable law, leave policies that are consistent with the City's Compensation Plan for COVID-19, as amended from time to time; and to take other steps during the public health emergency that are necessary to implement leave policies consistent with policies applicable to City employees.

The policies of OCII and the City are subject to continuing review and updates for the duration of the public health emergency. The following are summary provisions of OCII's actions:

1. **Federal Emergency Paid Sick Leave.** OCII will implement the Emergency Paid Sick Leave provisions under the federal Families First Coronavirus Response Act ("FFCRA") for all employees. Full-time employees are eligible for up to 80 hours of paid sick leave for specified COVID-19 related purposes, including school closures. Part-time employees are eligible for a prorated number of hours. These paid sick leave hours are subject to the daily and aggregate caps set in the FFCRA. Under the FFCRA, eligible employees may also request Family and Medical Leave Act (FMLA) leave for COVID-19 related school closures.
2. **Integration.** Employees eligible for compensation through workers compensation and other third-party benefits like SDI and unemployment insurance must use those benefits and integrate them into the OCII-provided compensation. Employees using paid compensation under the FFCRA may affirmatively opt out of integration with other benefits.
3. **Additional OCII Paid Sick Leave Allocation.** OCII shall provide all regularly scheduled employees an additional 80 hours of new paid sick leave that employees can use for any sick leave related purpose (i.e., not limited to COVID19 related reasons) and for school closures. Part-time employees receive a prorated number of hours. This additional sick leave expires on December 31, 2020.

4. **Leave Advancement.** If employees exhaust their FFCRA Emergency Paid Sick Leave, the additional 80 hours of sick leave, and their own leave balances, then regularly scheduled employees may still request to advance up to an additional 80 hours of leave. Employees may credit the additional leave under (3) above toward any already advanced sick pay in lieu of foregoing sick pay accruals until OCII has recovered the hours advanced.
5. **Paid Leave Caps.** For regularly scheduled employees who are near the maximum accruals for vacation and floating holiday but who cannot take time off during the public health emergency, OCII waive the vacation leave and floating holiday caps through the duration of the declared emergency. In addition, OCII management requests that the Commission allow employees to accrue up to an additional 80 hours over the vacation maximum accrual limit over the duration of the emergency. Part-time employees can accrue a prorated number of hours. Consistent with the City's Compensation Plan for COVID-19, OCII will establish: a) a requirement that, when the emergency ends, employees would need to take vacation and reduce their balance below the maximum accrual by December 31, 2021; b) a provision for the roll-over of hours of floating holidays above the normal roll over limit for FY20-21 and FY21-22; and c) a provision allowing in-lieu legal holidays earned in the current fiscal year to be carried over to the following fiscal year.
6. **Compensatory Time for Salaried ("Z" Symbol) Employees.**
 - a. **Employees Eligible for Compensatory Time.** OCII will waive compensatory time caps for salaried employees so that those employees can earn up to an additional 80 hours above any compensatory caps for the extra work they perform during the public health emergency. Part-time employees are eligible for a prorated number of hours. Compensatory time is not subject to cash out for salaried employees. Any compensatory time earned above the compensatory time caps would have to be used by December 31, 2021.
 - b. **Employees Not Eligible for Compensatory Time.** For employees who are not eligible to earn compensatory time, OCII management will allow those employees to earn up to 80 hours of compensatory time on an hour for hour basis for work during this emergency for hours worked in excess of their regular work week. Part-time employees are eligible for a prorated number of hours. Compensatory time is not subject to cash out for salaried employees. Any compensatory time earned would have to be used by December 31, 2021.
7. **Employees Furloughed for Worksite Closures.** OCII will provide paid furlough for employees who are available to work but who cannot perform their work remotely.

California Environmental Quality Act

Approval of this Memorandum of Understanding is not a "Project" subject to environmental review pursuant to the California Environmental Quality Act ("CEQA") because it is an administrative activity of government that will not result in direct or indirect physical changes in the environment, per CEQA Guidelines § 15378 (b)(5).

Requested Action

Staff recommends approval of the resolution accompanying this memorandum: "Delegating Authority to the Executive Director to Adopt Successor Agency Policies During The Public Health Emergency Consistent With The Compensation Plan for COVID-19 of the City and County of San Francisco."

(Originated by Monica Davis Stean, Human Resources and Administrative Services Manager)

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Nadia Sesay
Executive Director