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**Performance Incentive Award Payments
Exceeding \$5,000 to Executive and Excepted
Service Employees**

September 28, 2007

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EXECUTIVE SUMMARY

PURPOSE

Pursuant to section 455 of the District of Columbia Home Rule Act, as amended, Pub. L. No. 93-198,¹ D.C. Code § 1-204.55, the District of Columbia Auditor (Auditor) conducted an examination of monetary incentive awards *in excess of \$5,000* paid to District of Columbia (District) government Executive and Excepted Service employees under the authority of former Mayor Anthony A. Williams.²

CONCLUSION

The Auditor's examination found that between August 1, 2006 and February 1, 2007, 28 former Executive and Excepted Service employees received two monetary incentive award payments within an approximate two-month period totaling \$525,846.40, that circumvented applicable DPM policies and procedures governing the incentive awards program. The 28 employees were comprised of agency directors, deputy mayors, the City Administrator, and senior officials in the Office of the Mayor. The Auditor found that the total combined amount of the two awards exceeded 15 percent of some employees' annual salary.

The Auditor's examination found that the former Director of DCHR, by way of memorandum only, requested the Director of OPRS to make monetary incentive award payments totaling \$525,846.40 without first having received appropriate supporting documentation with proper authorizing signatures justifying the payments. The Auditor also found that awards payments were paid to the former Agency Heads, Deputy Mayors, and Excepted Service employees in the absence of required annual performance contracts, individual performance plans, or written performance evaluations.

¹See Section 455 of the District of Columbia Home Rule Act ("Home Rule Act"), approved December 24, 1973 (87 Stat. 803; D.C. Code § 1-204.55 (2001)). D.C. Code § 1-204.55 (b) states: "The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he may prescribe." See also D.C. Code § 1-204.55 (c) which states: "The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

²The Monetary Incentive Award Program is governed by DPM Chapter 19. Chapter 19 applies to full-time employees of the District government, except the following, and to citizens of the District of Columbia, (with respect to honorary awards): (a) The Mayor and members of the Council of the District of Columbia; (b) Members of boards and commission as specified in D.C. Official Code §1-602.2(2) and (3); (c) Chief judges, associate judges, and non-judicial personnel of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and (d) Education employees of the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia.

The Auditor further found that the former Director of DCHR used this improper practice in an effort to expedite incentive award payments to selected employees before the end of the Williams Administration.

MAJOR FINDINGS

1. \$525,846.40 in Incentive Award Payments to 28 Executive and Excepted Service Employees Were Not Submitted, Reviewed, and Processed in Accordance with DPM Regulations and DCHR Policies and Procedures.
2. In Violation of DPM Regulations, the Former Director of DCHR Circumvented the Monetary Incentive Award Process Which Resulted in Unauthorized Award Payments to Certain Employees.
3. \$525,846.40 in Incentive Award Payments Were Processed Before They Were Properly Approved by the Appropriate Personnel Authority and the CFO's Certification of the Availability of Funds.
4. Awards for Prior Year Performance Were Not Processed in Compliance with District Personnel Rules.
5. \$146,156 in Incentive Award Recommendations for Excepted Service Employees Were Not Submitted to the DC Incentive Awards Committee (DC-IAC) As Required by DPM § 1910.2(f).
6. \$379,690.40 in Monetary Incentive Awards Were Paid to Agency Heads In the Absence of Required Current Performance Contracts.
7. \$122,465.00 in Incentive Awards Were Paid to Deputy Mayors and Excepted Service Employees Who Did Not Have an Individual Performance Plan or a Current Performance Evaluation as Required by DPM Regulations.

8. Self-Evaluations Were Used to Substantiate \$89,565 in Monetary Incentive Award Payments.
9. A Monetary Incentive Award for \$15,600 Was Processed and Paid to a Former Employee after Leaving District Service.

MAJOR RECOMMENDATIONS

1. The Director of DCHR immediately cease the practice of submitting monetary performance incentive awards to OPRS for processing until all necessary documentation and approvals have been received and the availability of funds is certified by the appropriate CFO.
2. The Director of DCHR implement a system to ensure that current year incentive award payments made from an agency's future budget are resubmitted and recertified as to the availability of funding by the agency director and appropriate CFO.
3. The Director of DCHR ensure that all Excepted Service award nominations are first reviewed and approved by the DC-IAC.
4. The Director of DCHR disallow any incentive award payments to Executive Service and Excepted Service employees who do not have the requisite Performance Contract, Individual Performance Plan, and Performance Evaluation.
5. The Director of DCHR take the necessary steps to ensure that Performance Contracts and Individual Performance Plans are established annually for all Executive and Excepted Service employees.
6. The Mayor, City Administrator and Director of DCHR implement necessary and appropriate policies and procedures to ensure that former District Government employees are not paid performance incentive awards after the effective date of their resignation or termination from District service.

PURPOSE

Pursuant to section 455 of the District of Columbia Home Rule Act, as amended, Pub. L. No. 93-198,³ D.C. Code § 1-204.55, the District of Columbia Auditor (Auditor) conducted an examination of monetary incentive awards *in excess of \$5,000* paid to District of Columbia (District) government Executive and Excepted Service employees under the authority of former Mayor Anthony A. Williams.⁴

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the examination was to determine whether incentive award payments were made in accordance with relevant D.C. Code provisions, District Personnel (DPM) regulations, and the policies and procedures of the Department of Human Resources (DCHR), formerly the District of Columbia Office of Personnel.

The scope and period of the examination included monetary incentive awards and bonuses paid to executive and excepted service employees during Fiscal Years (FY) 2005 through 2007, as of March 23, 2007.

In conducting the audit, the Auditor reviewed DPM Monetary Incentive Award regulations; DCHR Monetary Incentive Award policies and procedures, the DCHR Monetary Incentive Award database, official employee payroll and personnel records, and records of award payments approved by DCHR and processed by the Office of Pay and Retirement Services (OPRS). The Auditor also interviewed appropriate DCHR and OPRS employees to document and validate processes used in the review and award of monetary incentive awards.

³See Section 455 of the District of Columbia Home Rule Act ("Home Rule Act"), approved December 24, 1973 (87 Stat. 803; D.C. Code § 1-204.55 (2001)). D.C. Code § 1-204.55 (b) states: "The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he may prescribe." See also D.C. Code § 1-204.55 (c) which states: "The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

⁴The Monetary Incentive Award Program is governed by DPM Chapter 19. Chapter 19 applies to full-time employees of the District government, except the following, and to citizens of the District of Columbia, (with respect to honorary awards): (a) The Mayor and members of the Council of the District of Columbia; (b) Members of boards and commission as specified in D.C. Official Code § 1-602.2(2) and (3); (c) Chief judges, associate judges, and non-judicial personnel of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and (d) Education employees of the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia.

The audit was conducted in accordance with generally accepted governmental audit standards and included such tests of the records as deemed necessary and appropriate under the circumstances.

BACKGROUND

The District government recognizes the performance and accomplishments of its employees through the DC Incentive Awards Program. The program, primarily administered under policies and procedures of Chapter 19 of the District Personnel Manual and D.C. Code §1-619.01 and § 1-619.02,⁵ provides a means to recognize employees who exceed expectations and thus contribute to an increasingly effective government. The Director of DCHR is responsible for the proper administration of the program.

District employees may be awarded a monetary (cash) incentive award as well as an honorary (non-cash) incentive award. A cash award may be given for sustained superior service, a special act or service, a suggestion, invention or other personal effort that contributes to or results in efficiency, economy, or other improvement in District government operations. In addition, monetary awards may be combined with non-monetary awards as long as the aggregate value of the incentive award does not exceed \$5,000, or 10%, of an employee's scheduled rate of pay.⁶ Payments of monetary incentive awards are processed and paid to District employees by OPRS. The Auditor is conducting a review of OPRS in regard to the processing of monetary incentive award payments.

Although each independent personnel authority may establish procedures for the approval of monetary incentive awards, those employees under the Mayor's authority must adhere to procedures developed by DCHR. Thus, DCHR, subject to the Mayor's written restrictions, is largely responsible for approving all monetary incentive awards for employees under the Mayor's personnel authority. Approval policies and procedures for Executive and Excepted Service employees under

⁵See DPM §§ 1900-1913 which discuss applicability, eligibility, and award categories. DPM § 1906 speaks to monetary incentive awards. DC Code § 1-619.01 and § 1-619.02 address authority for and limitation on incentive awards.

⁶See DPM §1903.1 which states: "Only one monetary award may be granted to an employee for a single contribution, including performance contributions, and such an award may be granted in combination with a tangible item award, a time off award, an honorary award, or any combination thereof. However, the total monetary value of incentive awards given to an employee for any single contribution in a fifty-two week (52-week) period, including a performance contribution, may not exceed five thousand dollars (\$5,000) or ten percent (10%) of an employee's scheduled rate of basic pay, whichever is greater."

the authority of the Mayor are governed respectively by Chapters 9 and 10 of the DPM. Incentive awards for Career Service and Management Supervisory Service employees under the authority of the Mayor are governed by Chapter 19 of the DPM.⁷

In addition to DPM regulations, two committees were established, both advisory in nature, to assist in the review and recommendation of monetary incentive awards to District employees. The DC Incentive Awards Committee (DC-IAC) was formed in FY 2003 to bring accountability and transparency to the incentive awards program.⁸ The DC-IAC advises the Director of Personnel in reviewing and recommending monetary incentive awards over \$2,000 to eligible employees (excluding agency heads). The second committee, the Mayor's Compensation Committee (MCC), advises the Mayor and assists in reviewing and recommending monetary incentive awards for subordinate agency heads in the Executive Service and awards recommended for approval by the DC-IAC.⁹

⁷The Monetary Incentive Award Program is governed by DPM Chapter 19. Chapter 19 applies to full-time employees of the District government, except the following, and to citizens of the District of Columbia, (with respect to honorary awards): (a) The Mayor and members of the Council of the District of Columbia; (b) Members of boards and commission as specified in D.C. Official Code §1-602.2 (2) and (3); (c) Chief judges, associate judges, and non-judicial personnel of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and (d) Education employees of the District of Columbia Board of Education and the Board of Trustees or the University of the District of Columbia.

⁸See DPM § 1910.2 (f) which states: "To advise the Director of Personnel in reviewing and recommending monetary awards over two thousand dollars (\$2,000) submitted for all eligible employees (excluding agency heads), the Mayor, Deputy Mayors and the City Administrator shall appoint a D.C. Incentive Awards Committee comprised of not more than ten (10) members, one of whom shall be the Director of Personnel or his or her designee. The Director of Personnel or his or her designee shall serve as the permanent chairperson. A vice-chairperson, elected by the Committee members, shall serve in the absence of the chairperson."

⁹See DPM 1910 (e) which states: "To advise the Mayor in reviewing and recommending monetary awards for agency heads, the Mayor shall appoint a committee comprised of all Deputy Mayors, the Mayor's Chief of Staff, the City Administrator and the Director of Personnel or his or her designee. The committee shall meet at least once every year to discuss yearly performance awards for agency heads. In addition, the committee shall review the awards recommended for approval by the D.C. Incentive Awards Committee established in § 1910.2(f)."

FINDINGS

\$525,846.40 IN INCENTIVE AWARD PAYMENTS TO 28 EXECUTIVE AND EXCEPTED SERVICE EMPLOYEES WERE NOT SUBMITTED, REVIEWED, AND PROCESSED IN ACCORDANCE WITH DPM REGULATIONS AND DCHR POLICIES AND PROCEDURES

DCHR policies and procedures established by the Director of DCHR govern the submission and review of monetary incentive award nominations for all employees under the authority of the Mayor. Incentive award approval procedures for Executive and Excepted Service employees under the authority of the Mayor are governed by chapters 9 and 10 of the DPM.¹⁰

The Auditor found that, between August 1, 2006 and February 1, 2007, 28 Executive and Excepted Service employees received two monetary incentive award payments exceeding \$5,000 each or 10% of their scheduled rate of pay that circumvented applicable DPM policies and procedures governing the incentive awards program.¹¹ The inappropriate payments totaled \$525,846.40. The Auditor found that the Executive Office of the Mayor's (EOM) Chief of Staff (COS), the Office of the City Administrator (OCA), Deputy Mayors, and the former Director of DCHR each were responsible for the nomination and award of the monetary incentive awards made to these 28 employees.

The 28 employees were comprised of agency directors, deputy mayors, the City Administrator, and senior officials in the Office of the Mayor. The Auditor found that, in some cases, the total combined amount of the two incentive awards exceeded 15 % of the employees'

¹⁰Executive Service includes all subordinate agency heads whom the Mayor is authorized to appoint under Title X of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139). The Executive Service is established within the District government to ensure that each subordinate agency head is of the highest quality, is responsible for the effective and efficient management of subordinate agencies, and is responsive to the needs of the citizens and the goals of the District of Columbia government. Excepted Service, which includes Deputy Mayors and the City Administrator also includes those positions that are incumbered or intended to be incumbered through noncompetitive hiring procedures under Title IX of the Act.

¹¹Documentation indicated that the two award payments were for the employees FY 2005 and FY 2006 performance.

annual salary in violation of DPM § 912.4 and DPM § 1005.3 in that monetary incentive awards are not to exceed \$5,000, or 10%, of an employee's scheduled rate of pay¹².

Table I presents the two monetary incentive award payments made to the 28 Executive and Excepted Service employees.

TABLE I
MONETARY INCENTIVE AWARDS EXCEEDING \$5,000 TO
EXECUTIVE AND EXCEPTED SERVICE EMPLOYEES

	Position Title	Award Payment I August 4, 2006	Award Payment II October 24, 2006	Total Payments	Employee's Annual Salary	% of Award Payments vs. Salary
1	City Administrator	\$15,600.00	\$15,600.00	\$31,200.00	\$195,000.00	16.00%
2	Director, Office of Cable Television and Telecommunications	\$10,000.00	\$10,650.00	\$20,650.00	\$133,125.00	15.51%
3	Director, Department of Consumer and Regulatory Affairs	\$5,481.00	\$8,551.00	\$14,032.00	\$142,510.00	9.85%
4	Director, Office of Asian Islander Affairs	\$4,171.00	\$5,213.00	\$9,384.00	\$108,436.00	8.65%
5	Director, Office of Emergency Management	\$9,783.00	\$7,631.00	\$17,414.00	\$127,177.00	13.69%
6	Chief of Staff, Executive Office of the Mayor	\$10,658.00	\$13,033.00	\$23,691.00	\$162,908.00	14.54%
7	Deputy Mayor for Children, Youth, Families and Elders	\$10,150.00	\$10,861.00	\$21,011.00	\$155,150.00	13.54%
8	Executive Director, Commission on Arts and Humanities	\$4,380.00	\$6,458.00	\$10,838.00	\$107,640.00	10.07%
9	Director, Housing and Community Development	\$5,168.00	\$9,045.40	\$14,213.40	\$134,380.00	10.58%
10	Director, Department of Public Works	\$6,851.00	\$9,976.00	\$16,827.00	\$142,510.00	11.81%

¹²See DPM § 912.4 which states in relevant part, that a performance incentive shall not exceed 10% of an employees rate of pay, and includes a calculation method. See also DPM § 1005.3 which states the same 10% limitation for Executive Service employees.

11	Director, Department of Employment Services	\$6,644.00	\$11,055.00	\$17,699.00	\$138,188.00	12.81%
12	Deputy Mayor, Planning and Economic Development	\$10,150.00	\$12,412.00	\$22,562.00	\$155,150.00	14.54%
13	Director, Office of Unified Communications	\$7,753.00	\$7,943.00	\$15,696.00	\$132,382.00	11.86%
14	Director, Office of Personnel	\$6,642.00	\$11,053.00	\$17,695.00	\$138,167.00	12.81%
15	Director, Office of Planning	\$7,753.00	\$8,063.00	\$15,816.00	\$134,380.00	11.77%
16	Director, Office of Property Management	\$10,962.00	\$11,401.00	\$22,363.00	\$142,510.00	15.69%
17	Executive Director, Office of Aging	\$9,784.00	\$10,175.00	\$19,959.00	\$127,188.00	15.69%
18	Director, Department of Health	\$7,200.00	\$9,995.00	\$17,195.00	\$180,000.00	9.55%
19	Director, District Department of Transportation	\$7,680.00	\$10,240.00	\$17,920.00	\$128,000.00	14.00%
20	Chief Technology Officer	\$7,227.00	\$15,032.00	\$22,259.00	\$150,320.00	14.81%
21	Chief Medical Examiner	\$5,296.00	\$7,944.00	\$13,240.00	\$132,395.00	10.00%
22	Chief, Metropolitan Police Department	\$14,000.00	\$10,500.00	\$24,500.00	\$175,000.00	14.00%
23	City Administrator	\$8,700.00	\$10,861.00	\$19,561.00	\$155,150.00	12.61%
24	Director, Department of Youth Rehabilitation Services	\$11,563.00	\$12,011.00	\$23,574.00	\$150,132.00	15.70%
25	Attorney General	\$11,091.00	\$11,812.00	\$22,903.00	\$147,652.00	15.51%
26	Deputy Mayor for Operations	\$10,150.00	\$10,861.00	\$21,011.00	\$155,150.00	13.54%
27	Director, Office of Latino Affairs	\$6,210.00	\$7,535.00	\$13,745.00	\$107,640.00	12.77%
28	Director, Department of Motor Vehicles	\$10,337.00	\$8,551.00	\$18,888.00	\$142,510.00	13.25%
	Total	\$241,384.00	\$284,462.40	\$525,846.40	\$4,000,750.00	13.14%

Source: Office of Pay and Retirement

In Violation of DPM Regulations, the Former Director of DCHR Circumvented the Monetary Incentive Award Process Which Resulted in Unauthorized Award Payments to Certain Employees

DPM § 1910.2 (g) states :

“Subordinate agencies shall submit all monetary awards to the D.C. Office of Personnel for processing after the agency has obtained the proper signatures. The D.C. Office of Personnel shall process each award and transmit it to the Office of Pay and Retirement Services. A subordinate agency shall not transmit monetary awards directly to the Office of Pay and Retirement Services.”

This section assigns DCHR management a processing and transmittal function only, and prohibits subordinate agencies from directly transmitting awards to the Office of Pay and Retirement Services.

The Auditor found that the former Director of DCHR, by way of memorandum only, requested the Director of OPRS to make monetary incentive award payments without first having received appropriate supporting documentation with proper authorizing signatures for 27 senior level Executive and Excepted Service employees on July 31, 2006 and for 36 senior level Executive and Excepted Service employees on October 5, 2006.¹³ The Auditor further found that the former Director of DCHR improperly determined or decided in some cases the award amounts for each of the employee's incentive award payments. In some cases, the award payment differed from award amounts later submitted by the City Administrator. Table II presents the award amounts submitted by the former Director of DCHR that were in excess of the amounts later submitted by the City Administrator.

¹³See Attachment I.

Table II
Performance Incentive Awards
Exceeding Amounts Approved by City Administrator

	Position Title	Performance Incentive Award Amount Proposed and Submitted by Former Director DCHR	City Administrator and Deputy Mayor Proposed Award Amount	Difference
10	Director, Department of Public Works	\$9,976.00	\$8,551.00	\$1,425.00
11	Director, Department of Employment Services	\$11,055.00	\$8,291.00	\$2,764.00
14	Director, Office of Personnel	\$11,053.00	\$5,527.00	\$5,526.00
24	Director, Department of Youth Rehabilitation Services	\$12,011.00	\$9,008.00	\$3,003.00
25	Attorney General	\$11,812.00	\$8,859.00	\$2,953.00
28	Director, Department of Motor Vehicles	\$11,401.00	\$8,551.00	\$2,850.00
	Total	\$67,308.00	\$48,787.00	\$18,521.00

Source: Office of Pay and Retirement and DCHR

The Auditor further found that the former Director of DCHR used this improper practice in an effort to expedite incentive award payments to selected employees before the end of the Williams Administration. This practice violated District personnel regulations and was deliberately misapplied in a manner not afforded to other District managers. In addition to violating District Personnel regulations, the Director's use of this improper practice also permitted some employees, including herself, to receive incentive payments in excess of amounts later recommended by the City Administrator.

\$525,846.40 in Incentive Award Payments Were Processed Before They Were Properly Approved by the Appropriate Personnel Authority and the CFO's Certification of the Availability of Funds

DCHR has established step- by- step instructions for submitting a nomination for a monetary performance incentive award. Table III presents the steps in the process.

TABLE III
DCHR INSTRUCTIONS FOR SUBMITTING A NOMINATION FOR A MONETARY INCENTIVE AWARD

Step	Procedure
1	Determine the category of incentive award recommended: Monetary or Honorary (Non-Monetary)
2	Confirm the employee's eligibility for the type of incentive award selected by consulting DPM Chapter 19 or DPM Chapter 9
3	Complete the appropriate NEW Incentive Awards Recommendation Forms: <i>Monetary Award Recommendation Forms</i> : Recommendation for Monetary Incentive Award (Form 27A) and Justification for Monetary Incentive Award (Form 27B). Note: All monetary awards require both form 27A and Form 27B
4	Obtain the required approvals on the hard copy and attach a current, official performance evaluation.
5	Submit completed materials to: DCHR, Performance Management Unit, 441 4 th Street, NW, Suite 310 South, Washington, DC 20001

Source: DCHR Website: Instructions for Submitting an Incentive Award

The Auditor found that the former Director of DCHR forwarded requests to the Director of OPRS to process 63 monetary incentive awards between July 2006 and October 2006, before the completion and submission of forms 27A and 27B as required by DCHR procedures cited above.¹⁴ The Form 27A requires the approval of the employee's supervisor and certification by the employee's agency Chief Financial Officer that adequate funds are available. The Form 27B provides the supervisor's written justification for an employee's performance incentive award. Examples of the Forms 27A and 27B can be found in Appendix II.

The Auditor found that the Forms 27A for the \$525,846.40 in improperly processed monetary incentive awards cited in Table I were eventually completed and submitted by OCA personnel. In some cases, the 27A Forms were completed 2 weeks after the award checks had been processed. In over 50% of the award cases, the 27A Forms were not completed until 60 days after award checks were processed. The Auditor also found that the required Form 27B, Justification for Monetary Incentive Award, were never completed for any of the incentive awards listed in Table I.

¹⁴The former DCHR Director's memorandum for Payment I was sent to the OPRS Director on July 31, 2006 and the payment award checks were processed on August 4, 2006. The memorandum for the second payment was sent to OPRS on October 4, 2006 and the payment award checks were processed on October 24, 2006.

Awards for Prior Year Performance Were Not Processed in Compliance with District Personnel Rules

DPM §1903.3 requires an agency's Chief Financial Officer (CFO) to certify that funds are available in the fiscal year for which a monetary incentive award is recommended. DPM § 1903.3 also states: "In the event that a new fiscal year begins before the monetary award is paid, the agency shall resubmit the recommendation, including recertification by the agency CFO that funds are available for the new fiscal year."

The Auditor found that the July 2006 incentive award payments cited in Table I were for the employees' FY 2005 performance, however, they were paid from the FY 2006 appropriation. The October 2006 award payments were for the employees' FY 2006 performance, however, these awards were paid from the FY 2007 appropriation. The Auditor found that, in violation of DPM § 1903.3, agency CFOs did not recertify the availability of budget authority to support any of these payments. Instead, the payments were processed improperly by the Director of OPRS at the sole direction of the former Director of DCHR. The Auditor further found that the former Director of DCHR did not require CFO recertification although she was fully aware that these transactions for prior year performance would require the expenditure of funds from current fiscal year appropriations.¹⁵

\$146,156 in Incentive Award Recommendations for Excepted Service Employees Were Not Submitted to DC Incentive Awards Committee (DC-IAC) As Required by DPM § 1910.2 (f)

According to DCHR's FY 2003 Annual Report, the DC-IAC was created in FY 2003 by DCHR to bring greater accountability and transparency to the performance incentive awards program. The Committee was to meet on a quarterly basis to review all District employee performance monetary incentive award recommendations exceeding \$2,000 and all award recommendations for Excepted Service employees.

¹⁵See October 5, 2006 memorandum from Lisa R. Marin, SPHR to Johnetta Bonds, Director of Pay and Retirement which states, "Per our conversation, please accept this memo and the attached documentation to initiate the performance incentive awards for the specified Executives appointed by the Williams' Administration. The City Administrator with final approval by the Mayor's office has approved the Executive staff to receive performance incentive awards covering FY 2006. The funds for the incentives shall be allocated from FY 2007 budget accounts from each agency."

The Auditor found that, although the DC-IAC met on a quarterly basis during the audit period, it did not review any incentive award recommendations for Excepted Service employees listed in Table I. Further, the Auditor found that incentive awards made to employees in Table I were not reviewed and approved pursuant to DPM § 1910.2 (f).

RECOMMENDATIONS

1. The Director of DCHR immediately cease the practice of submitting monetary performance incentive awards to OPRS for processing until all necessary approvals have been received and the availability of funds is certified by the appropriate CFO.
2. The Director of DCHR implement a system to ensure that current year incentive award payments made from an agency's future budget are recertified as to the availability of funding by the agency director and appropriate CFO.
3. The Director of DCHR ensure that all Excepted Service award nominations are first reviewed and approved by the DC-IAC.

\$379,690.40 in Monetary Incentive Awards Were Paid to Agency Heads In the Absence of Required Current Performance Contracts

The performance contract, a key component used in evaluating subordinate agency heads, represents an agreement between the agency head and the Mayor regarding performance goals and expectations set forth in the contract.¹⁶ Per the contract, the agency head is to be assessed on the achievement of those performance goals and expectations and rated accordingly.¹⁷ As stated in the DPM, performance contracts shall outline agency-specific operational goals, with a corresponding time line for accomplishment of each goal.

¹⁶See 1004.1 which states: The Mayor *shall* set performance expectations and goals for each subordinate agency head in a *written annual performance contract* [Auditor's Emphasis]. The performance contract shall outline agency-specific and operational goals, with a corresponding time line for accomplishment of each goal. Both the Mayor and the subordinate agency head shall sign the annual performance contract.

¹⁷See DPM § 1004.2 which states: Each subordinate agency head shall be evaluated on an annual basis on the achievement of the performance expectations and goals in the performance contract *for that year* [Auditor's Emphasis]. Per the standard contract, the ratings consist of: (1) Does not meet Expectations; (2) Needs Improvement; (3) Met Expectations; (4) Exceeded Expectations; and (5) Significantly Exceeded Expectations.

The Auditor found that Mayor Williams had not established performance expectations and goals in a written annual performance contract for any Subordinate agency heads or Executive Service employees cited in Table I as required by DPM § 1004.1. In fact, the Auditor found that, since FY 2004, these employees had been working without required annual performance contracts. Despite the absence of a written annual performance contract, the Mayor's Chief of Staff and the City Administrator,¹⁸ rated each of the employees as meeting or exceeding performance expectations thus qualifying them for monetary incentive awards ranging between 3% and 8% of their annual salary.

Without an annual written performance contract, there were no other written performance measures, goals or expectations in place which could be used to rate these employees. Therefore, under DPM § 1005.2 there was no basis to substantiate the payment of performance incentive awards to these employees.¹⁹

\$122,465.00 in Incentive Awards Were Also Paid to Deputy Mayors and Excepted Service Employees Who Did Not Have An Individual Performance Plan or a Current Performance Evaluation as Required by DPM Regulations

DPM §§ 912.2 and 912.3 establish clear written guidelines for the evaluation of Deputy Mayors and Excepted Service employees. The Auditor found that Deputy Mayors and Excepted Service employees cited in Table I did not have an annual performance contract. Thus, pursuant to DPM § 912.3, when there is no annual performance contract the employee's annual individual performance plan pursuant to Chapter 14 of the DPM is to be considered the annual performance contract for the purpose of authorizing a monetary performance incentive award.²⁰

¹⁸These ratings also included ratings by District Deputy Mayors whose agencies fell within their clusters.

¹⁹See DPM § 1005.2 which states that: A performance incentive shall be paid only once in a fiscal year, and only when the agency head is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the agency head has exceeded contractual expectations in the year for which the incentive is to be paid [Auditor's Emphasis].

²⁰ See DPM § 912.3 which states that: "[F]or Excepted Service employees in agencies under the personnel authority of the Mayor, when there is no annual performance contract as described in section 912.2 of this section, the employee's annual individual performance plan pursuant to **Chapter 14** of the DPM regulations will be considered the annual performance contract for the purpose of authorizing a performance incentive." See also DPM § 1408.1 which states that: "[E]ach Individual Performance Plan shall establish the performance requirements for the position during the rating period, and shall set forth the goals the employee is expected to accomplish during the rating period."

The Auditor found that only one of the Excepted Service employees cited in Table I had an annual individual performance plan and performance evaluation as required by the DPM. Despite the lack of a written performance plan and performance evaluation for the remaining seven employees, the Mayor's Chief of Staff and the City Administrator approved their nomination for monetary performance incentive awards.²¹

The Auditor found that, without an annual written performance contract, individual performance plan, or annual performance evaluation, the Mayor and City Administrator had no legitimate basis to justify the payment of monetary performance incentive awards to these employees.²²

Self-Evaluations Were Used to Substantiate \$89,565 in Monetary Incentive Award Payments

As stated above, Executive and Excepted Service employees are to be evaluated annually on the basis of the achievement of performance expectations and goals set forth in their performance contract or individual performance plan. Although the DPM allows for self-evaluations, these evaluations may be used as *input* into their supervisor's overall performance evaluation process.²³ Even though some supervisors used self-evaluations appropriately, others relied exclusively on self-evaluations as the basis for making performance incentive award recommendations and payments. The Auditor found 10 instances where the City Administrator submitted employee self evaluations as the sole basis to justify incentive award payments to these employees ranging between 7% and 8% of their annual salary.

²¹

DCHR policies clearly state that, "A monetary award will only be approved if the employee has a current, signed performance evaluation on record." See Step 4, Table III.

²² See DPM § 912.2 which states that: "[A]ny performance incentive awarded under this section will be paid only once in a fiscal year, and only when the employee is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is to be paid."

²³ See DPM § 1410.1 which states that: "Each employee eligible to receive a rating may, at his or her discretion, submit a self-evaluation to his or her supervisor as input into the performance evaluation process."

The Auditor found that, in the absence of an annual written contract, individual performance plan, or annual performance evaluation, the Mayor and City Administrator had no basis to justify the \$89,565 in incentive award payments given to these employees.²⁴

RECOMMENDATIONS

1. The Director of DCHR disallow any incentive award payments to Executive Service and Excepted Service employees who lack the requisite Performance Contract, Individual Performance Plan, and Performance Evaluation.
2. The Director of DCHR take the necessary steps to ensure that Performance Contracts and Individual Performance Plans are established annually for all Executive and Excepted Service employees.

A MONETARY INCENTIVE AWARD FOR \$15,600 WAS PROCESSED AND PAID TO A FORMER EMPLOYEE AFTER LEAVING DISTRICT SERVICE

As previously stated, the District's Incentive Awards Program provides a means to recognize employees who exceed performance goals and expectations and thus contribute to an increasingly effective and efficient government. Pursuant to Chapter 19 of the DPM, the Incentive Awards Program is applicable only to full-time or part time employees on the District government's payroll.²⁵ The presumption pursuant to Chapter 19 is that any person receiving a monetary incentive award is an "active" full-time or part-time employee of the District government. There are no regulations allowing retroactive performance incentive award payments to be made to former District government employees. Nevertheless, the Auditor found that a former District employee received a \$15,600 monetary performance incentive award payment 30 days after leaving District service.²⁶

²⁴See DPM § 912.2 which states: "[A]ny performance incentive awarded under this section will be paid only once in a fiscal year, and only when the employee is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is to be paid."

²⁵The Monetary Incentive Award Program is governed by DPM Chapter 19. Chapter 19 applies to full-time employees of the District government, except the following, and to citizens of the District of Columbia, (with respect to honorary awards): (a) The Mayor and members of the Council of the District of Columbia; (b) Members of boards and commission as specified in D.C. Official Code §1-602.2(2) and (3); (c) Chief judges, associate judges, and non-judicial personnel of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and (d) Education employees of the District of Columbia Board of Education and the Board of Trustees or the University of the District of Columbia.

²⁶Payment of this award was processed and paid through OPRS Supplemental Pay Unit.

The Auditor could not find any provision in District law which authorized the payment of a performance incentive award to an individual no longer employed by the District Government. If allowed to continue, this practice could have adverse financial implications for the District and poses a high risk for fraud, abuse, and misuse.

RECOMMENDATIONS

1. The Mayor, City Administrator and Director of DCHR implement the necessary policies and procedures to ensure that former District Government employees are not paid performance incentive awards after the effective date of their resignation.
2. The Chief Financial Officer and Attorney General of the District of Columbia promptly initiate the appropriate process(es) to recover the \$15,600 payment made to the former District Employee.

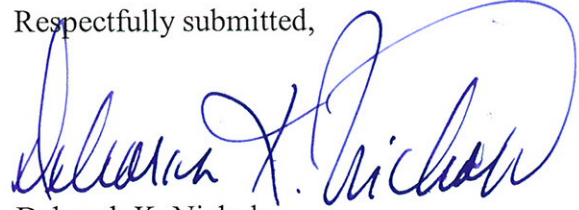
CONCLUSION

The Auditor's examination found that between August 1, 2006 and February 1, 2007, 28 former Executive and Excepted Service employees received two monetary incentive award payments within an approximate two-month period totaling \$525,846.40, that circumvented applicable DPM policies and procedures governing the incentive awards program. The 28 employees were comprised of agency directors, deputy mayors, the City Administrator, and senior officials in the Office of the Mayor. The Auditor found that the total combined amount of the two awards exceeded 15 percent of some employees' annual salary.

The Auditor's examination found that the former Director of DCHR, by way of memorandum only, requested the Director of OPRS to make monetary incentive award payments totaling \$525,846.40 without first having received appropriate supporting documentation with proper authorizing signatures justifying the payments. The Auditor also found that awards payments were paid to the former Agency Heads, Deputy Mayors, and Excepted Service employees in the absence of required annual performance contracts, individual performance plans, or written performance evaluations.

The Auditor further found that the former Director of DCHR used this improper practice in an effort to expedite incentive award payments to selected employees before the end of the Williams Administration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Deborah K. Nichols", with a large, looping flourish at the end.

Deborah K. Nichols

District of Columbia Auditor

APPENDICES

APPENDIX I

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PERSONNEL

★ ★ ★

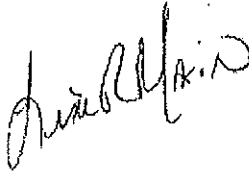
MEMORANDUM

TO:

Director, Office of Pay and Retirement

FROM:

Lisa R. Marin, SPHR
Director of Personnel



DATE:

July 31, 2006

SUBJECT: Performance Bonuses

Per our discussion, I am attached twenty seven Executive and Excepted Service performance bonuses list that are being submitted to your Office of Payroll and Retirement (OPRS) for processing.

The award amounts are listed below. The City Administrator has authorized me to submit the list below to ensure that the supplemental checks are expeditiously processed as you have generously committed to do. The second page of the Form 27A "Recommendation for Monetary Incentive Award." will be forthcoming under separate cover in a few days.

Thank you for your assistance. I will pick-up each subordinate agency director and deputy mayor's check respectively when ready. If you have any questions or need additional information, please contact me directly at (202) 442-9669.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Personnel



MEMORANDUM

TO: Director of Pay and Retirement

FROM: Lisa R. Marin, SPHR
Director of Personnel *Lisa R. Marin*

DATE: October 05, 2006

RE: Performance Incentive Awards for Executives Covering
FY2006 period

Per our conversation, please accept this memo and the attached documentation to initiate the performance incentive awards for the specified Executives appointed by the Williams' Administration. The City Administrator with final approval by the Mayor's office has approved the Executive staff to receive performance incentive awards covering FY 2006. The funds for the incentives shall be allocated from FY 2007 budget accounts from each agency.

Due to time constraints, please advise when the award checks can be picked up by She is the only person authorized besides myself to sign for the checks.

Hopefully, the awards will be available for pick up by October 20th. If you foresee any issues with this date, please let me know as soon as possible so that I can make the necessary adjustments.

I can be reached at 202-442-9669. Thank you in advance for your assistance in this matter.

cc:

APPENDIX II



RECOMMENDATION FOR MONETARY INCENTIVE AWARD (DC Form 27A)



I. Instructions for Submitting the NEW Monetary Incentive Award Form:

1. Assemble all necessary background information before you begin filling out this form.
2. Verify that the employee received a performance rating of "Excellent" or "Outstanding" under the Performance Evaluation System, or "Exceeded Expectations" (4) or "Significantly Exceeded Expectations" (5) under the Performance Management Program to be considered for a monetary award. Quality Step Increases require a rating of "Outstanding" or "Significantly Exceeds Expectations" (5).
3. Please keep your Internet browser open until you have completed entering all the required information below or your data will not be retained.
4. Print out a hard copy of the completed form using the print button inside Adobe Acrobat Reader.
5. Click "Go" at the end of this form. An electronic copy will be sent to you by email. You will then be able to save the completed form on your computer.
6. Obtain required signatures on hard copy.
7. Review Part VI to ensure the proper attachments are included.
8. Submit completed, signed, hard copy forms and supporting documentation to DCOP, Performance Management Unit. For awards over \$2,000, submit award package by quarterly deadlines.

II. Required Background Information:

1. NAME OF NOMINEE:			
Last	First	Middle Initial	Title
2. Social Security Number (no dashes or spaces)		3. Organization Code (8-digit number)	
4. PRESENT POSITION:			
Title	Grade	Salary	
	01	per	
Length of time in present position: Years Months		Is this a Term, Taper or Temporary employee? ☐ yes ☐ no	
5. Department or Agency		6. Division, Section or Unit	
7. Position Type		8. MOST RECENT MONETARY INCENTIVE AWARD:	
☐ Career ☐ Excepted ☐ Other:		Type Amount	
☐ Executive ☐ Legal		None	
☐ Management Supervisory		Date of most recent award: / /	

III. Award Category Information:

All monetary awards require DC Form 27B "Letter of Justification for Monetary Awards."	
☐ Excepted Service Performance Incentive * Excepted Service bonuses require a current, signed Performance Plan and evaluation demonstrating the employee exceeded the terms of the Performance Plan.	
☐ Executive Service Performance Incentive * Executive Service Performance Incentives require a current, signed performance contract and evaluation demonstrating the employee exceeded the terms of the contract.	
☐ Group Award	
☐ Safe Driving Award	
☐ Special Act or Service	
☐ Suggestion or Invention	
☐ Sustained Superior Performance	

Monetary Award Amount recommended:

Note: Beginning in fiscal year 2003, DCOP will forward all awards over \$2,000 to the DC Incentive Awards Committee for review and approval. The DC Awards Committee will meet on a quarterly basis. All incentive award amounts approved (both under and above \$2,000) will be reported on a quarterly basis to the DC City Council. Please check the DCOP website or contact the Performance Management Unit for submission deadlines.

IV. Required Signatures:

1. NOMINEE'S SUPERVISOR:

Name

Signature

Date

Phone

Email

2. AGENCY DIRECTOR:

Name

Signature

Date

3. AGENCY CHIEF FINANCIAL OFFICER:

By my signature below, I certify that agency funds are available for payment of an incentive award in the amount of:

Name

Signature

Date

V. Contact Information:

AWARD NOMINATION SUBMITTED BY:

☐ Check here if same as Supervisor above

Name

Phone

Email

VI. Attachments to the Monetary Incentive Award:

Required attachments for all monetary awards:

1. Completed DC Form 27B "Letter of Justification for Monetary Incentive Awards."
2. Completed, signed, current performance rating on record that corresponds with the period during which the employee is recommended for an award:
 - ☐ P.O. Form 12 for Career Service Non-Supervisory Employees.
 - OR
 - ☐ Performance Evaluation Form for employees covered under the Performance Management Program (PMP).

Additional required attachments for Excepted Service Performance Incentive:

Completed, signed Performance Plan (with corresponding Performance Evaluation) under PMP on record.
Employee must exceed goals outlined in the Performance Plan per DC Code § 1-609.3(e), and may not have received a monetary award in the previous fifty-two (52) weeks.

Additional required attachments for Quality Step Increase:

Completed DC Form B-276, "Salary Step Increase."

VII. You're Almost Done!

1. Print this form to obtain the required signatures. Use the print button inside Adobe Acrobat Reader rather than the print button in your Internet browser.
2. Hit "Go" below when you have completed entering information into the form. An e-mail of the completed form will be sent to you as an Adobe PDF document. You will then be able to save the completed form on your computer.
3. Submit completed, signed, hard copy forms with appropriate attachments to the address below.

Submit



All incentive awards should be submitted to:

DC Office of Personnel
Performance Management Unit, Incentive Awards
441 4th Street, NW, Suite 836 South
Washington DC, 20001

Phone: (202) 442-9644

Fax: (202) 727-5486

19,846

4/25/2007

VII. DCOP OFFICE USE ONLY:		Date Received by DCOP: _____
☐ Forwarded to DC Incentive Awards Committee:	Date: _____	
☐ Forwarded to Mayor's Compensation Committee:	Date: _____	
☐ Sent to Office of Payroll and Retirement:	Date: _____	



LETTER OF JUSTIFICATION FOR MONETARY INCENTIVE AWARDS (DC Form 27B)



I. Instructions for submitting the NEW Letter of Justification for Monetary Incentive Awards:

1. Fill in all required fields for Parts II and III and include a narrative justification for a monetary award as required in Part IV. When completing the Letter of Justification online, please ensure that your typed data is clearly visible in the box so that all written information can be seen when printed. Also, please do not click on "Enter" when typing your Letter of Justification, as this may cause the formatting to eliminate some of your wording.
2. For awards over \$2,000, submit award package by quarterly deadlines.
3. Submit this form (Form 27B) with written comments to DCOP, Performance Management Unit.

II. Required Background Information:

1. NAME OF NOMINEE:			
Last	First	Middle Initial	Title
2. Social Security Number (no dashes or spaces)		3. Type of Monetary Award recommended	
		Choose One	

III. Contact Information:

1. AWARD NOMINATION SUBMITTED BY:		
Name	Phone	Email

IV. Justification for Award:

For all Monetary Incentive Awards, please **type in the box on the next page** the reason(s) (at least 250 words) for recommending the employee for a monetary incentive award. Include specific examples and date(s) of accomplishments and any appropriate measures of employee performance (i.e., performance metrics, benchmark data).

- For a Special Act or Service Award, describe the employee's significant, one-time, non-recurring act or service to the District government.
- For all Quality Step Increases, Sustained Superior Performance Awards and Excepted Service Performance Bonuses, describe the employee's performance contribution(s) and how it exceeded the satisfactory performance requirements of the position.
- For a Suggestion or Invention Award, describe the monetary or operational savings to the District of Columbia government.
- For Group Awards, describe how the team effort exceeded the approved plan goals and resulted in benefits above and beyond the expected outcome.

The Letter of Justification should complement, not repeat or replace, comments from the performance evaluation attached to Form 27A.

Letter of Justification

VI. You're Almost Done!

1. Print out a hard copy of this form (Form 27B). Use the print button inside Adobe Acrobat Reader rather than the print button in your Internet browser.
2. Hit "Go" below when you have completed entering information into the form. An e-mail of the completed form will be sent to you as an Adobe PDF document. You will then be able to save the completed form on your computer.
3. If you require more space than is provided above for comments, please attach additional sheets to the hard copy of this form as necessary.
4. Send the hard copy of the form and attachment (if necessary) to:

14,606

DC Office of Personnel
Performance Management Unit, Incentive Awards
441 4th Street, NW, Suite 836 South
Washington, DC 20001

4/25/2007

Submit



AGENCY COMMENTS

AGENCY COMMENTS

On September 7, 2007, the District of Columbia Auditor (Auditor) submitted this report in draft to the Director of the District of Columbia Department of Human Resources (DCHR), for review and comment. DCHR did not request an exit conference. Written comments were received from the DCHR Director on September 14, 2007. Where appropriate, changes were made to the final report to reflect the written comments received. All comments are appended in their entirety to this final report.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Human Resources



Office of the Director

MEMORANDUM

TO: Deborah K. Nichols, District of Columbia Auditor

FROM: Brender L. Gregory, Director

Brender L. Gregory

DATE: September 14, 2007

SUBJECT: Draft Audit Report

We have reviewed the draft report entitled "Performance Incentive Award Payment Exceeding \$5,000 to Executive and Excepted Service Employees" and find that the findings are accurate to our knowledge. Upon DCHR staff review of the report, we also conclude that:

The 28 Executive/Excepted Service payouts may have been submitted without proper review, and an appropriate check and balance system from HR, legal, financial, and payroll employees was not in place;

As you know, these infractions have occurred before my leadership beginning in January 2007, and I would like your office to know that the new DCHR has started to address the report's recommendations by implementing both procedural and technical reviews in consultation with my compensation, policy, and legal staff before any additional bonuses or incentives will be processed.

Within the last six months, our office has performed the following tasks that will address some concerns of the report:

- 1) Appointed a new 6 member Incentive Awards Committee, which has met to review both the 3rd and 4th quarter incentive awards;
- 2) Implemented a requirement that all future payments of incentive and bonus payments be reviewed by necessary DCHR staff before processing by the Office of Payroll and Retirement;
- 3) Established the requirement that all agency head increases and bonuses will be based on meeting and exceeding performance expectations that can be found in public documents and agency performance measures; and

- 4) Suspended all incentive award payments starting August 31, 2007 until the revision of the District Personnel Manual Chapter 19. A contractor has started the necessary review with DCHR in September 2007.

DCHR thanks your office for letting us comment on the report and assures you that under my leadership, these infractions will not be occur again. If you would like to discuss any of the issues or any progress DCHR has been making to comply with recommendations set forth in the report, feel free to contact me at 442-9669.