County of Orange **MEMO**

RECEIVED

03 OCT 21 AM 9:28

CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

Date: October 21, 2003

TO: Clerk of the Board

FROM: Frank Kim, County Budget Office FK

SUBJECT: Request to Revise Attachment to Agenda Item 38, Response to Grand Jury Report

---

Attached is a revised attachment to the October 28, 2003 agenda item, "Approve proposed response to findings 1-5 and recommendations 1-4 to FY 2002-03 Grand Jury Report 'Who Represents the Orange County Taxpayers?'"

Please contact me if there are any questions at 834-3028. Thank you for your assistance in this request.

RESPONSE TO THE ORANGE COUNTY GRAND JURY REPORT ON WHO REPRESENTS THE ORANGE COUNTY TAXPAYERS

Introduction

Salaries and benefits are a significant part of any employer's budget. As we become a more automated and knowledge-driven society, the portion of an employer's costs associated with the people it employs continues to increase. Public agencies vie for some of the most difficult to fill occupations: nurses, law enforcement officers, librarians, and engineers, to name a few. It is imperative that County government remains competitive in order to attract and retain a talented, committed workforce to provide critical public services to citizens and competently serve the interests of Orange County taxpayers.

Employee salaries and benefits are set, pursuant to state law, through a collective bargaining process. The Board of Supervisors, not individual department heads, has the responsibility for setting the terms and conditions of employment for all County employees. The County cannot legally, or from a sound business perspective, operate efficiently with 24 departments negotiating differing salary and benefit packages. In order for the County to function effectively and comply with the law, salaries, benefits, and other terms and conditions of employment must be centrally negotiated and applied consistently throughout county departments. When the County enters into collective bargaining agreements, those Memorandum of Understanding pertain to all employees in a bargaining unit, not on a department-by-department basis.

The negotiated benefits and programs criticized by the Grand Jury are representative of the steps the County has taken to employ sound business strategies to remain competitive, meet the needs of County agencies/departments, and improve and modernize workforce programs in order to meet County business objectives. The following summarizes some of the key workforce programs questioned by the Grand Jury, and provides accurate, factual information and the rationale and business perspective behind the negotiation and/or implementation of the benefits or programs.

Safety Retirement

Improvements to safety member retirement formulas were driven by the need to remain competitive with other law enforcement employers. Following State law changes that made new formulas available, police and sheriff agencies throughout the State quickly began converting to the improved formulas. Orange County leadership had at the time, and continues to have, a strong interest in attracting and retaining the best and brightest into its law enforcement departments in order to ensure public safety. In making the decision to move toward an improved retirement formula for law enforcement, it was determined to be undesirable and costly to return to a time when the County of Orange served as a training ground for employees who moved on to other municipalities for better salary and benefits after the County had made a significant investment in their training and development. The cost implications of moving to the new safety formula were thoroughly identified and communicated to the Board of Supervisors. The Board of Supervisors ensured that the Sheriff and the County Executive Office, through the Chief Financial Officer, identified how the additional costs would be covered through the period of time included in the Strategic Financial Planning process, which included cost sharing by employees during the first sixteen months of the benefit.

Educational and Professional Reimbursement

The Educational and Professional Reimbursement Program is another example of a program designed to attract, develop, and retain talented individuals in County employment. This program allows departments to budget for and reimburse employees for educational and professional expenses that contribute to their department's business objectives. The program was expanded from a traditional "tuition reimbursement program" at the request of department heads who expressed a need for greater program flexibility. The revamped program was designed to better reflect common practice in both the private and public sector, as well as better meet the specific needs of county agencies/departments. The authority for budgeting and approving or denying reimbursement requests resides with the department heads of each of the 24 County agencies/departments.

Analysis conducted of Educational and Professional Reimbursement data submitted by the department heads for 2002 shows the following:

Total # of Employees Reimbursed	Average Cost Per Program Participant	Average Cost Per Employee in Workforce
2369	**$545.09**	**$84**

Performance Incentive Program (PIP)

The Performance Incentive Program (PIP) was designed to align a large workforce with Orange County's emphasis on business planning and measurable outcomes. The program, which is intended to connect employee performance to business results, requires each employee to achieve goals tied to their agency/department business plan. Employees meet with their supervisors and/or managers to fully understand the core business of their department, to understand the role they play in achieving outcomes, and collaboratively set goals linked to the department's goals. In order to receive the non-base building compensation, which is reconsidered annually at the department level, employees must satisfy core and assignment specific job requirements and achieve the agreed-upon goals. The authority for evaluating performance and granting or denying the PIP incentive resides at the department level. The PIP program is currently under review. Any potential options and/or modifications to the program will be considered in conjunction with the meet and confer process with the County's various employee groups who currently participate in the program.

Early Retirement Incentive

Many private and public sector employers use early retirement incentives when faced with the need to downsize or reorganize. The incentives are used as a tool to assist organizations faced with financial challenges in reducing their workforce through a voluntary program. They help organizations reduce staffing size and reorganize to be more efficient. Early retirement incentives are most often used in the County today when a department is facing layoffs. Offering an additional two-year service credit to employees who are eligible for retirement helps to mitigate the impact of layoffs. The cost of an early retirement incentive is generally offset by the elimination of positions that become vacant, or by maintaining positions as vacant for a specified period of time so that cost savings are realized. In authorizing recent early retirement incentives, the Board of Supervisors requires that for every position vacated by early retirement the department eliminate a position or implement another savings strategy that has been approved by the County Executive Officer. When positions are vacated by Early Retirement, the cost of the Early Retirement Incentive is recouped within the first five months from date the position is vacated, and from that point forward the vacancy or deleted position represents a savings of full salary and benefit related costs. The current Interim CEO has implemented a plan to eliminate approximately 200 positions from the budget in accordance with the Early Retirement Incentive Plan.

Annual Leave

The Annual Leave Program is another program commonly found in private and public sector employment. The program recognizes the importance of balancing work and home life priorities for today's workforce. It combines sick leave and vacation into one balance with the goal of reducing unplanned absences. The use of time off from Annual Leave balances is subject to the same request and approval requirements as was established per labor agreements for sick leave and vacation provisions. Further, the authority for approving or denying requests for time off continues to reside at the department level, as governed by MOU provisions. The partial payoff provision applies only to those employees with ten or more years service who terminate County employment. Annual leave type plans are a prevailing and best practice in both the private and public sectors. The estimated annual cost of annual leave is approximately 2.8 million per year, with an accrued long-term liability of approximately 29.5 million.

Findings:

1. **Two Orange County Supervisors recommended in February 2003 that a Human Resources Steering and Oversight Committee be formed to provide oversight and direction.**

   Response: Agree with finding - Two Board offices did submit a letter making the above referenced recommendation in February 2003. The Board of Supervisors took no action to implement this recommendation.

2. **Operational capabilities of some departments are being adversely affected and they are forced to eliminate some existing programs due to cost increases in wages and benefits.**

   Response: Disagree partially with finding.
   There are many factors that have impacted the funding available to County departments to operate and provide services. Declines in State and Federal revenue and a variety of other factors such as rising energy costs, reduced

interest rates which reduce interest revenues and sales tax revenue declines have resulted in many county services no longer receiving adequate funding from the State. Additional factors that affect overall salary and benefits costs are outside the direct control of the County and are not negotiated. These include the increased cost of health care, which is influenced by national trends; workers compensation costs; and increases in retirement contributions that are driven by equity market returns. Consequently, some departments, particularly those with state and federal funding sources, are facing rising program and/or staffing costs and reduced revenues. In these instances, the departments are making decisions to eliminate non-mandated programs or reduce spending for contracts, supplies and services. Although changes in employee salary and benefits contribute to increased costs they cannot be isolated as the only cause of any reduction in County programs.

Additionally, Orange County has attempted to stay competitive in a job market that is increasingly limited for employers who must hire skilled workers in many highly specialized and difficult-to-recruit occupations. Therefore, compensation strategies approved by the Board are designed to meet the County's business need to attract and retain qualified talent at any point in the cycle of economic upturns and downturns, particularly those times when the job market is highly competitive.

3. Some affected departments/agencies management had little or no participation or input in the negotiations with bargaining units.

Response: Disagree with finding.

Decisions regarding salary ranges and negotiated increases and benefits are largely made by the Board of Supervisors based on recommendations from the CEO and the Assistant CEO/Human Resources. These decisions must be made on a countywide basis to maintain consistency among the workforce and to facilitate legal requirements related to collective bargaining, however departments are involved in the process as appropriate.

Department heads are consulted prior to the development and presentation of bargaining strategies and proposals to the Board of Supervisors. With regard to the three-year labor contracts currently in place, all department heads were included in an offsite planning session prior to the beginning of negotiations. All elected and appointed department heads attended the planning session. At the session, department heads were asked to identify contract modifications that were needed or desired in order to further their business objectives. The most critical and broadly supported issues brought forward by department heads were incorporated into negotiations strategies and were agreed to as part of the negotiations process including annual leave and the more flexible tuition reimbursement program.

With the largest employee organization, OCEA, the County partnered with labor to form a "Partnership for Progress" for the 2001 negotiations. The Partnership for Progress was comprised of employees, OCEA staff, CEO/Employee Relations, and managers from virtually every County department. Negotiations training was provided to all participants prior to beginning the collective bargaining process, and many department-specific issues were negotiated at the department level, with department management staff participating in the process. The Partnership for Progress was an innovative approach to ensuring maximum department participation in the collective bargaining process, and received a CSAC Challenge Award Honorable Mention in 2001.

In addition, some of the changes requested by department heads were incorporated into Board of Supervisors policy. A number of the negotiated agreements and policy changes give authority and discretion to department heads or their designees. For instance, Annual Leave Plans still require department-level approval of time off, and authority for approving or denying Educational and Professional Reimbursement Program related expenses resides with the department head.

Finally, upon Board approval of any negotiated agreement, department heads are briefed in the bi-monthly department head meetings. Additionally, key managers from all departments are invited to a meeting to review and receive a summary of the changes to negotiated agreements, and department managers are invited to participate in steering committees, working groups, and implementation teams on virtually all new programs that result from labor agreements.

4. **Proposed increases in benefits and wages are not thoroughly and accurately costed out prior to offering them to bargaining units or presented to B.O.S.**

Response: Disagree in part with finding.

The CEO relies on the Assistant CEO/Finance and Budget (Chief Financial Officer/CFO) and the Assistant CEO/Human Resources to provide thorough and accurate cost estimates. When the Board of Supervisors approves negotiations strategies and proposals, they authorize a dollar amount for funding. The subsequent agreements that are agenized for Board approval must, and do, fall within that authorization.

A multi-year comparison of the dollar amount authorized versus budgeted costs associated with negotiated salary, benefit, and other labor contract provisions conducted by the CFO in May 2002 confirmed there has been no deviation from the amounts authorized by the Board. In fact, the CFO found that the actual costs were slightly less than the amounts authorized.

Potential costs for some programs, such as Annual Leave, are not precisely identified, since a primary goal of the program is to change behavior (i.e., reduce unplanned absences and related overtime costs), and the potential for savings and costs must be monitored and evaluated as experience is gained. In these cases, the Board's authorization may include (as it does with Annual Leave) the ability to modify or end the program at a future point based on whether the program is achieving its stated objectives for the County. While we agree that the Auditor-Controller's office was not involved in computing the cost of the Annual Leave Program, prior to it being submitted to the Board of Supervisors for approval, it should be pointed out that pursuant to CEO direction, all future programs will be submitted to the County Chief Financial Officer who will work with the Auditor-Controller to conduct a thorough cost analysis prior to being submitted to the Board of Supervisors for approval.

Other costs, such as those associated with changed retirement formulas, can be, and are, thoroughly and accurately costed, as required by Government Code statute, based on data provided by the actuarial firm engaged by the Orange County Employees Retirement System (OCERS). Overall retirement benefit costs are also impacted by factors that are not subjects of collective bargaining or controlled by the Board of Supervisors, such as equity market returns and earnings and interest assumptions set by the OCERS Board.

5. **Orange County has recently established a pattern of ever expanding and increasing payroll and related benefits spending. This pattern is counter to the model of cost cutting in private industry and is vitally significant during periods of uncertain or diminished economic outlook.**

Response: Disagree with finding.

See response to Finding #2.

Recommendations:

1. **The Orange County Board of Supervisors follow through on Human Resources Steering and Oversight Committee to oversee the County's Human Resources labor negotiating activities implementing its recommendation.**

Response: The recommendation will not be implemented, as it is not warranted.

Decisions regarding increases in employee salary and benefits reside with the Board of Supervisors. The Board's direction is carried out through the negotiations process as required by State law. The County Executive Office administers the Human Resources programs and functions including the labor negotiations function. Under the CEO model, the County Executive Officer is responsible directly to the Board of Supervisors for this function, and has direct responsibility for oversight of the CEO/Human Resources function.

Financial projections for salaries and benefits are planned for in advance by the CFO in the County's long-range strategic financial plan. Strategies for labor negotiations are presented to the Board of Supervisors in closed session prior to the commencement of the process. The Board of Supervisors approves the parameters and funding for negotiations during these sessions. Once contracts are negotiated with the respective labor organization, the Board adopts the contracts in a public meeting.

Additionally, as detailed in response to "Finding 3." There is an extensive process in place to obtain department involvement in the negotiations process. This includes meetings with department heads to obtain their top priorities, which are used to develop countywide negotiating strategies. Additionally, negotiations have been conducted at the department level on various operational issues with teams comprised of department management. As outlined, the process to obtain Department involvement in the negotiation process, prior to the commencement of negotiations, will continue.

2. **Require that prior to passage, all new wage and benefit initiatives receive review by the Auditor-Controller with input and review by the Chief Financial Officer and by any affected department. This review should be required prior to submittal of all wage and benefit proposals to the County Executive Officer or the Board of Supervisors for approval.**

Response: The recommendation has been implemented.

Affected departments are asked to provide input during the development of negotiating strategies. The CEO requires that all bargaining strategies and proposals be reviewed by the Chief Financial Officer (CFO) prior to seeking Board of Supervisors authorization to enter into contract discussions. The CFO is also confirming identified cost impact with the Auditor Controller prior to bringing negotiated agreements back for Board approval.

3. **The Auditor-Controller, Chief Financial Officer and affected departments should have greater participation and input to the negotiations with bargaining units.**

Response: The recommendation has been implemented.

See response to Finding #3 and Recommendation #2. The mechanisms for department input and financial review are already in place.

4. **Consider renegotiating certain pay and employment benefits that have become increasingly costly.**

Response: The recommendation will be implemented.

Labor contracts are currently in place through June 2004 for the vast majority of the bargaining units. Prior to renegotiating those contracts, the Board of Supervisors will consider its bargaining position and strategies for the renegotiation of those contracts. At that time the Board will provide direction to the Chief Negotiator.

Attachments:

Section 1. Information pertaining to Department Head input into planning for 2001-2004 labor contract negotiations

Section 2. Information pertaining to Department participation in the 2001 negotiations process via the *Partnership for Progress* program

Section 3. Chronology pertaining to coordination between CEO/Human Resources and CEO/Finance and Budget related to labor contract negotiations and Strategic Financial Planning