Approved:

City of Riverside, California
Human Resources Policy and Procedure Manual

Human Resources Director

City Manager

Number: V-12 Effective Date: 07/06

SUBJECT: DEFERRED COMPENSATION

PURPOSE:

To define the City of Riverside Deferred Compensation Plan as arranged under Section 457 of the Internal Revenue Code (IRC) and provide basic guidelines for Plan administration.

POLICY:

1. **Establishment of Trust**

Contributions under Section 457 allow participants to defer a designated portion of their pretax salary for investment purposes. These funds are for the long-term benefit of the City's employees through individual participant accounts.

The City of Riverside has established a trust arrangement to ensure assets for the deferred compensation plans are protected and used exclusively for plan participants and their beneficiaries. In the event of a financial crisis, this trust will protect the participants' assets from the City's creditors.

2. **Enrollment**

A. All benefited City employees may participate in the Deferred Compensation Plan(s). The City of Riverside currently has a continuous open enrollment for deferred compensation whereby enrollments or changes may be submitted at any time during the year. To enroll or make changes, appropriate forms must be submitted to the Human Resources Department.

Representatives from Deferred Compensation Provider(s) will be available to answer questions on a regular basis at different work sites throughout the City. Availability calendars will be sent out and posted in all City divisions. Employees may contribute to any or all of the plans offered. The deferred compensation companies will send quarterly statements to the participants.

B. Enrollment in deferred compensation for temporary/seasonal employees is automatic and mandatory under Federal law unless/until the employee becomes vested in CalPERS. To be vested, members must have five (5) years of service with CalPERS and have funds still in the system.

This temporary plan is in lieu of Social Security. The City matches the required employee contribution of 3.75% for temporary/seasonal employees.

3. **Employee Contributions**

A. The minimum a benefited employee can contribute is $10.00 per pay period. Contributions are made on a pre-tax basis and can be made up to 24 times per calendar year. The maximum an employee can contribute towards a 457 is set by the Internal Revenue Code Section 457 Plan for Government Employees.

B. Participants who have a balance in a 457, 401(k), 401(a), and/or 403(b) account through a previous employer may roll these funds into their 457 account with the City of Riverside. This rollover does not count toward the annual limit.

C. Employees who have an excess of vacation and/or compensation time on the books over what is authorized by the City, and in accordance with the Fringe Benefits and Salary Resolution, may once a year at the end of the calendar year, request in writing to the Human Resources Department that excess time be transferred into their deferred compensation account. The transfer is on a pretax basis, and must not exceed the compensation maximum for that calendar year. Transferring excess time is calculated on base current hourly rate times hours transferred.

D. Upon separation from employment, an employee may elect to transfer any percentage or flat dollar amount of final payoff check up to the allowed maximum into deferred compensation for the year in which the employee separates. The employee must make the request in writing to the Human Resources Department thirty (30) days prior to separation. Employees separating at the end of the calendar year may only transfer final payoff check through pay period that is paid in the calendar year in which the employee separates.

4. **City Contributions**

The City will contribute a flat negotiated dollar amount per month for Safety Management and non-Safety Management employees who contribute at least $25.00 per pay period. If the employee is enrolled in the long-term disability plan, premiums are deducted from the City contribution.

The City will contribute a flat negotiated dollar amount per month for Confidential employees who contribute at least $25.00 per pay period.

City contributions are made during the first pay period of the month. For those employees who are promoted effective the second pay period of the month, a prorated City contribution will be made.[1]

[1] Prior to 03/05/98, City contributions were not pro-rated for those employees promoted during the second pay period of the month.

5. **Catch-up Provision**

This provision allows the City to calculate how much the employee could have put into deferred compensation based on salary since 1979. The employee may contribute the difference between what could have been contributed and what was actually contributed, with a maximum set by the IRS in addition to regular contributions. The earliest a catch up provision can begin is three (3) years prior to eligible CalPERS retirement year without reduction of benefits.

Employees may participate in Catch-up for a period not to exceed three calendar years, the last of which must fall in the calendar year prior to the calendar year in which the employee retires.

Participants may change the amount contributed; however, under the IRC, if contributions are completely stopped, they cannot be restarted.

6. **Withdrawal of Funds**

In accordance with Section 457 of the IRC, there are specific instructions that pertain to withdrawal of funds. Section 457 states that funds may be withdrawn from the employee's account upon:

A. Retirement;

B. Separation from the City;

C. Death; or

D. Inactivity for two years if the balance is less than an amount set by the IRS. Such distributions can be employer or employee initiated (as stated in the IRC de minimis rule, effective January 1, 1997).

If a withdrawal is made under 6.D above, this cannot be used in calculating allowable Catch-up contributions at a later date.

The only other circumstance under which the employee may withdraw funds is if the employee experiences an Aunforeseeable emergency@ and exhausts all other means of resolving the financial situation. An unforeseeable emergency is defined as a ***severe financial hardship*** resulting from:

A. A sudden and unexpected illness or accident of the participant or dependent;

B. Loss of the participant's or dependent's property due to casualty; or

C. Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or dependent.

BANKRUPTCY, DIVORCE, AND TAX LIENS ARE NOT BONA FIDE HARDSHIPS UNLESS THEY RESULT IN A SEVERE FINANCIAL HARDSHIP. Other examples of what are not

considered to be unforeseeable emergencies include: the need to send a Participant's child to college; the desire to purchase a home; or the need to pay off credit cards/loans.

If the employee meets the minimum requirements, the Emergency Withdrawal Packet must be completed and returned to the Human Resources Department. The Deferred Compensation Committee will convene to review the facts and circumstances of the hardship. The Committee's decision will be based upon the rules and regulations as set forth in Section 457 of the IRC. The Human Resources Department will notify the employee immediately following the decision. This benefit is only for benefited active City employees.

Withdrawals of amounts because of an Unforeseeable Emergency must only be permitted to the extent reasonably needed to satisfy the emergency need. The Committee will review and decide whether or not the request can be granted under the applicable State and Federal laws and the City's Plan. Approved requests will be paid in a lump sum. Other payment options are subject to Committee approval.

7. **Loan Provision**

Benefited active City employees may borrow up to 50% of account balance for up to five (5) years, with a maximum of $50,000. The minimum an employee can borrow is $1,000. Employees can only receive one loan at a time. Loans are repaid through payroll deduction and are paid on after tax dollars.

Employee must contact deferred compensation provider directly for a loan request.

8. **Deferred Compensation Committee**

The nine members of this Committee are appointed by the City Manager and represent a cross-section of City departments. The Committee makes all determinations on issues regarding implementation of the Plan, not specifically set forth by the Plan itself or State law. All requests for emergency withdrawals are reviewed and decided by the Committee. In accordance with the IRS guidelines, all information subject to review by the Committee will be considered confidential. Three members constitute a quorum when a decision is needed.

PROCEDURE:

Responsibility	Action
Employee	1. Completes all necessary paperwork to enroll, change, or stop contributions, and submits to the Human Resources Department.
	2. Completes all necessary paperwork to withdraw funds after separation/retirement.
	3. Contacts the appropriate company representative for assistance with paperwork.

Human Resources	4.	Processes all paperwork as necessary.
	5.	Schedules Deferred Compensation Committee meetings as needed to review implementation of the Plan.
	6.	Convenes Deferred Compensation Committee as soon as possible to review Emergency Withdrawal Requests. Notifies the employee as soon as a decision is made.
	7.	Schedules the Plan Representatives for availability throughout the City.
	8.	Notifies all employees of the Plan Representative availability via printed calendars.
Department/Division	9.	Posts availability notices/calendars for all deferred compensation representatives.

Disclaimer: This policy is for internal processes only. Should a discrepancy exist between this document and the Deferred Compensation Plan Document, the Deferred Compensation Plan Document will prevail. Should a discrepancy exist between this document and Federal or State Law, the Federal or State Law will prevail.