

May 6, 2013

Jeff Kropf, Executive Director  
Oregon Capitol Watch  
P.O. Box 130  
Sublimity, Oregon 97385

**Total Compensation:**

As requested, I have conducted research into the State of Oregon “Compensation Market Comparison Reports” you provided me, and read the e-mail transmittals you sent. What is clear is the fact that the majority of positions that are far above the market value expected pursuant to ORS 240.235 and the General Compensation Policy 20.005. Plentiful examples exist, of the lack of adherence to reside within the represented classifications, both in terms of Total Market value and the number of positions presently enjoying this fiscal abundance (Refer to Figure 2). To make matters worse, these excessive market values only represent a portion of the actual compensation paid to employees holding these positions.

<b>Compensation Category</b>	<b>Included in Comp. Report</b>	<b>Excluded in Comp. Report</b>
Base Pay	X	
PERS	X	
Health Insurance	X	
Merit Pay Increases	X	
COLAs		X
Discounted Life Insurance		X
Holiday, Vacation, Sick Leave		X
<b>Differentials</b>		X
Tuition Reimbursement		X
Transit Payroll Tax		X

**Figure 1 - Included and Excluded Compensation Categories**

As indicated in Figure 1, there are many compensation categories which are not included in the “Total Compensation Market Comparison Report”, which is the basis upon which compensation is derived for all positions. Thus, the Total Compensation Maximum Ratio in just the following highest categories woefully under-report the total compensations actually paid.

<b>Classification #</b>	<b>Number of Employees</b>	<b>TC Max Ratio</b>
0861A-Program Analyst 2	18	147.90%
7510A-Dentist	24	149.84%
4137A-Liquor Distribution Worker 1	19	145.24%
6710-Mental Health Therapy Tech	63	145.06%
3769-Experimental Aide	75	151.39%
5911E-Health Care Investigator/Advisor	6	151.55%
3769-Experimental Biology Aide	149	151.31%
6710A-Mental Health Therapy Tech	306	145.03%

**Figure 2 – 2012 Total Compensation Market Comparison Report**

Figure 2, shown above, represents only those total compensation market comparisons of positions whose Total Compensation Max Ratios are over 145% of market value, and represent those classifications where more than five (5) employees exist. Considering the relationship of Figure 1 to Figure 2, it is easily deduced that these six hundred sixty (660) employees are in excess of the 5% above Total Market Compensation as the relevant Oregon Revised Statute and Department of Administrative Services Policy dictates. Further, these comparisons do not include “total compensation”.

To appreciate the impact of the compensation that had not been included in the overall compensation for these, and all other positions, let’s consider Differential Pay for example. These are additional compensation categories that remain hidden, and at the same time are continuously remunerated according to contractual agreement and functionality as exemplified in Figure 3 – Differentials.

Consider the current Collective Bargaining Agreement between the Department of Administrative Services (DAS), on behalf of the Department of Environmental Quality, and the American Federation of State, County, and Municipal Employees (AFSCME) for 2011-2013.

- A. Cost of Living Adjustments (COLA) – Article 47 – adjusts the base rate of pay increases at least two (2) times within the biennium for a total of 2.94%.
- B. Paid Holiday Leave – Article 28 – 9 days per year.
- C. Paid Vacation Leave – Article 29 – a range of leave from 8 hours per month to 18 hours per month depending upon length on service.
- D. Paid Sick Leave – Article 30 – 8 hours per month.
- E. Personal Leave – Article 31 – 24 hours per year.

For a person earning base pay at Step One and employed for five (5) years or less, the value of that paid leave would amount to 288 hours, or 36 days per year.

For a person earning base pay at the Step Nine or Ten, depending on the number of Steps in that classification, and employed in excess of twenty-five (25) years, the value of that paid leave would amount to 408 hours, or 51 days per year.

For Differentials, please refer to Figure 3, under the appropriate Collective Bargaining Agreement.

Additionally, since the current market trends are to reduce hours of work, insurance benefits, and eliminate previously compensated leaves, the value of Total Market Value will drive the comparisons further apart, with State of Oregon employees fairing considerably better than their private sector counterparts. This private sector out-pacing by Public Employees, will also exacerbate the PERS obligation.

### **Transit Payroll Tax:**

The Oregon Department of Revenue administers tax programs for the Tri-County Metropolitan Transportation District (TriMET) and the Lane County Mass Transit District (LTD). Nearly every employer who pays wages for services performed in these transit districts must pay transit payroll tax. This tax is imposed directly on the employer for all employees wage, including all salaries, commissions, bonuses, fees, payments to a deferred compensation plan, or other items of value. Whether these taxes are based on the Total Compensation

Market Comparison Report figures is unknown to this reviewer. Conversely, if the State of Oregon combined the total value of salary for each employee within these transit districts, when paying the Transit Tax, does that figure equate to the pay schedules that comprise the Total Compensation Market Comparison Report? A closer look at this question is warranted.

### **Merit Pay:**

Reflecting back to Tyler Smith's e-mail transmittal to you ,Jeff Kropf, dated October 25, 2012, it would be prudent to review the belief that the state, ..."doesn't have to use the Merit Pay System for anyone that is in a union". If I interpret Mr. Smith's statement correctly, he is assuming the limitations and conditions of the Merit Pay System do not apply to employees covered under the collective bargaining agreement, and therefore are not confined to be limited to salaries that art between -5% to +5% of Total Compensation over Market Value.

Pursuant to the authority of ORS 240.145, Statewide Policy 10.000.01 (effective 10/08/08) the definition of "Merit Pay System" ..."allows for the orderly progression of an employee's pay from the established minimum to the maximum of the salary range based on documented meritorious performance". There are no constraints placed upon the Merit Pay System to only be applied where no collective bargaining agreement exists. To the contrary, Merit Pay language is consistently and continually agreed upon by mutual knowledge an approval by the exclusive representatives to each and every negotiated collective bargaining document. For example, let's refer back to some of the collective bargaining agreements currently in existence:

- A. The Oregon University System and SEIU, in Article 66.1, specifically mentions the Merit Pay Program, which increases base pay conditioned upon performance. SEIU and the State of Oregon Department of Administrative Services, Institutions Coalition, identifies "Merit Increases" within Article 29, predicated upon performance. Finally the AFSCME and Department of Environmental Quality, identifies "Merit Salary Increases" in Article 34, which are also based upon performance.
- B. In all collective bargaining agreements, the language delineating "Management Rights" includes the right to hire and promote based on merit, best qualified, best fit rather than based on seniority.

Suffice it to say, there is a mutually agreed upon and contractually understood theme that the Merit Pay System exists in terms of annual Step Increases, hiring and promotion awards. Further, that system is based upon meritorious performance. Thus, the original disqualifying argument, that union represented positions do not comport with the Merit Pay System, needs to be reviewed with counsel.

Please feel free to contact me if you have any questions.

Mel Galvin-Conrad  
*ExecuSTAF* LLC.  
P.O. Box 5715  
Salem, Oregon 97304  
(503) 391-4617