

DATE: May 29, 1987

TO: D. Cruz Gonzalez, Risk Management Director
FROM: City Attorney
SUBJECT: Supplemental Pension and Savings Plan (SPSP) -
Benefit Paybacks

You have requested that this office answer the following questions which are based on a request from a rehired employee to redeposit into the employee's SPSP account funds that were distributed to the employee at the time of the previous termination. These funds were rolled over into and are currently held by the employee in an Individual Retirement Account (IRA).

QUESTION NO. 1: Is it permissible under the existing plan to accept paybacks of benefit payments from a rehired employee and to match those payments with employer contributions if the payback occurs in the appropriate timeframe?

QUESTION NO. 2: Can we accept rollovers from IRAs?

QUESTION NO. 3: If so, and the IRA rollover is used to pay back a benefit payment, is it correct that only the amount of the original benefit payment would be matched with employer contributions and any excess monies in the IRA account would be credited to the employees' SPSP account but not matched?

Active employee participants in both SPSP and SPSP (M) who have made withdrawals from their employee contributions to SPSP may, under certain conditions and within a specific period of time, return the withdrawn amounts to their account in accordance with the provision of article VI of both Plan Documents entitled "Withdrawals While Employed." However, there are no provisions in either Plan Document for the redeposit into an employee's account of monies which were distributed at termination to the employee at the time of said termination. The City may not, therefore, permit a rehired employee to redeposit these funds into his or her SPSP account. Because the answer to your first question is dispositive of the issue, we need not answer

questions 2 and 3. If the affected employee has further questions concerning the tax status of the employee's account, he or she should be referred to his or her own tax consultant.

JOHN W. WITT, City Attorney

By

John M. Kaheny

Deputy City Attorney

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