

MEMORANDUM OF LAW

DATE: May 29, 1987

TO: Deputy Chief C. M. Rice  
FROM: City Attorney  
SUBJECT: ARJIS Project Manager

You recently inquired whether the ARJIS Project Manager's salary should be set by the ARJIS Board of Directors or the City Manager as is currently done.

As we understand from your explanation, the current ARJIS Project Manager is an employee of the City of San Diego at the direction of the San Diego City Manager, who by virtue of appointment by the Board of Directors is the Chief Executive Officer of ARJIS. ARJIS Joint Powers Agreement, section 11. Since this employee is supplied by the City Manager and subject to his control, the salary is set by the City Manager or his designee pursuant to Ordinance No. O-16832 (attached).

We note that the ARJIS Joint Power Agreement (hereinafter JPA) grants the ARJIS Board of Directors wide authority over employment:

4. Powers of ARJIS Board of Directors

As may be necessary for the accomplishment of the purposes of this Agreement, ARJIS shall have the power, in its own name, to make and enter into contracts; to employ agents and employees; to provide for employee retirement, health and welfare benefits; to acquire, hold and dispose of property, real and personal; to sue and be sued in its own name; to hire legal counsel and to incur debts, liabilities or obligations....

ARJIS Joint Powers Agreement at p. 2

Inherent in such authority to "employ" and "provide for employee retirement, health and welfare benefits" is the authority to set the employee's salary. Hence if the Board of Directors chooses to exercise its authority and select an employee as Project Manager, it would set the salary.

Conversely, as long as the Board chooses to accept the employee supplied by the City Manager as Project Manager, the City Manager is the appointing authority and he or his designate appropriately sets the salary within the range authorized by the San Diego City Council. Similarly since the Project Manager is

appointed by the City Manager, it is to the City Manager or his designate that he/she reports.

The reporting distinction becomes artificial, however, in light of the JPA and Board of Directors' Bylaws. The organization chart attached to the Bylaws designates the San Diego City Manager as the Chief Executive Officer, who is responsible to them for the administration of ARJIS and its supporting activities. Hence, although the Project Manager is an appointee of the Manager and hence directly responsible to the Manager rather than the Board, the Manager is directly responsible to the Board. JPA, section 11; Bylaws of the ARJIS Board of Directors, Article IV, section 3a. Hence the ARJIS Project Manager directly serves the Manager, although he/she is the Manager's vehicle for fulfilling his responsibilities to the Board.

In sum, the Manager may continue as in the past to set the Project Manager's salary within the range set forth in the salary ordinance. As previously indicated, the Board may then accept this action or exercise its independent power of hiring its own employee pursuant to JPA, section 4.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

TB:js:520.2(x043.2)

Attachment

ML-87-58