

MEMORANDUM OF LAW

DATE: October 19, 1995

TO: Bob W. Lawrence, Principal Accountant, Accounting Division,
Auditor and Comptroller

FROM: City Attorney

SUBJECT: Reimbursement for Fire Fighters Activated by the Federal
Emergency Management Agency

QUESTION PRESENTED

Must the City pursuant to the Memorandum of Understanding ("MOU") with Fire Fighters Union, Local 145 ("Local 145") compensate fire fighters on volunteer active duty with the Federal Emergency Management Agency ("FEMA") for all hours while activated, whether on-duty or not?

SHORT ANSWER

The question you ask is fact specific. Therefore, the answer will depend upon the individual facts of the case. Compensable time will vary depending on the type of duty involved and the nature and breadth of activity in which the fire fighters participate when not actively involved in rescue operations. The following analysis will allow you to determine the compensation due to the fire fighters after you obtain the necessary facts.

BACKGROUND

The attached memorandum was researched and prepared by Senior Legal Intern Tom Merrick. It responds to each of your issues separately. The fire fighters assert that the MOU between the City and Local 145 controls this situation. However, as Mr. Merrick notes, the MOU is not applicable to the facts presented by this situation. We, therefore, look to the Fair Labor Standards Act ("FLSA") for guidance. 29 U.S.C. Section 207 specifically addresses compensation issues for fire protection employees of public agencies who perform similar activities on a volunteer basis for other agencies. Because of the limited scope of the FEMA coverage, Mr. Merrick again turned to federal law for guidance. Additionally, the Code of Federal Regulations addresses reimbursement for travel time. The Memorandum of Agreement with FEMA addresses only travel costs.

We concur with Mr. Merrick's legal analysis. If, after obtaining the background facts essential for your analysis, you need additional guidance, please feel free to contact me.

JOHN W. WITT, City Attorney

By

Sharon A. Marshall

Deputy City Attorney

SAM:jrl(x043.2)

Attachment

ML-95-74