From:	YOUNGJ@sao.wa.gov
To:	Michelle Meyer
Cc:	Strand, Ann (SAO); Hylton, Scott (SAO); Young, Joshua (SAO); Adams, Haji (SAO); Fenton, Crystal (SAO); Adams, Haji (SAO); Fenton, Crystal (SAO)
Subject:	Response to Client Helpdesk Request 94237
Date:	Tuesday, November 7, 2023 2:16:36 PM

Your request # 94237 for Lynnwood, City of has been resolved.

Your question was:
Can an employee receive specialty pays on top of regular pay under the terms of an MOU signed by the Mayor for a Collective Bargaining Agreement that was approved by Council AND also under the terms of a policy approved by the Mayor, not Council, that applies to non-represented staff.

The background information you provided was:
The City of Lynnwood has a Council/Mayor form of government. Compensation is established by the Council by adopting a salary ordinance for non-represented staff and by approving collective bargaining agreements for represented staff, in accordance with the City's municipal code. The City has a collective bargaining agreement with a police management guild. There is an MOU for this CBA that says Deputy Chief positions, although excluded from guild membership shall maintain the same specialty pays as the guild members. The Mayor recently signed a policy that authorizes non-represented employees not covered under a CBA to receive special project pay. There are no specific positions or amounts of special project pay identified in the policy. One Deputy Chief position is now receiving 6.85% education premium pay and 5% emergency management premium pays under the terms of the MOU/CBA, and another 18% special project pay under the new non-represented policy that the Mayor signed. I would like to confirm that one position can be paid under the terms of both the MOU/CBA and the new policy.

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Our response is as follows:
Good afternoon,

There are some legal implications or considerations to your question which include things such as whether the Mayor has the authority to establish policies that set pay for employees. Our Office does not have the constitutional or statutory authority to provide legal advice or perform original legal research. We would suggest you contact MRSC or your legal counsel if you need legal advice or with specific legal questions on this matter.

For audit purposes, we would expect the City to be able to clearly support that any amounts paid have been earned by that employee. Documentation for this type of support would include who should be receiving these types of specialty pay, what they need to do to earn it, and how much will be paid to employees who do earn the specialty pay. Your question stated there are no specific positions or amounts of special project pay identified in the policy, but you said the individual is receiving 18% special project pay. Based on the information provided, this would likely not meet expectations. The City should be able to demonstrate how it came up with 18% and why this particular individual is qualifying for this 18% pay increase.

Thank you for contacting the HelpDesk. If you have further questions on this topic, feel free to reach out to me.

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If you have additional follow-up questions, please reference this request number when you contact us again. A copy of this response is provided to your audit team to ensure that we are consistent and efficient when working with you.

Sincerely,
JOSHUA Young

Disclaimer: Answers are informational only and are based on the specific circumstances presented. As laws and circumstances change, or additional facts are presented, the answer is subject to change. The information provided by the Washington State Auditor's client helpdesk is not a legal or a binding opinion.

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