

Employment Agreements: Clarify approval authority to increase transparency and reduce risks

Why this audit is important

Employment and separation agreements create a contract between an employee and Metro. These agreements can reduce risks when an employee departs, while recognizing the service and contributions the employee made on the agency’s behalf.

Metro Code has different approval requirements for employment agreements and settlement agreements. Employment agreements require Council action, while separation agreements were considered part of the COO’s authority to appoint and remove employees.

This audit was initiated based, in part, on a concern raised about the appropriateness of a payment made at the end of service. While researching the issue it became clear that similarities and differences between the two types of agreements caused confusion, which increased financial and compliance risks, and reduced transparency.



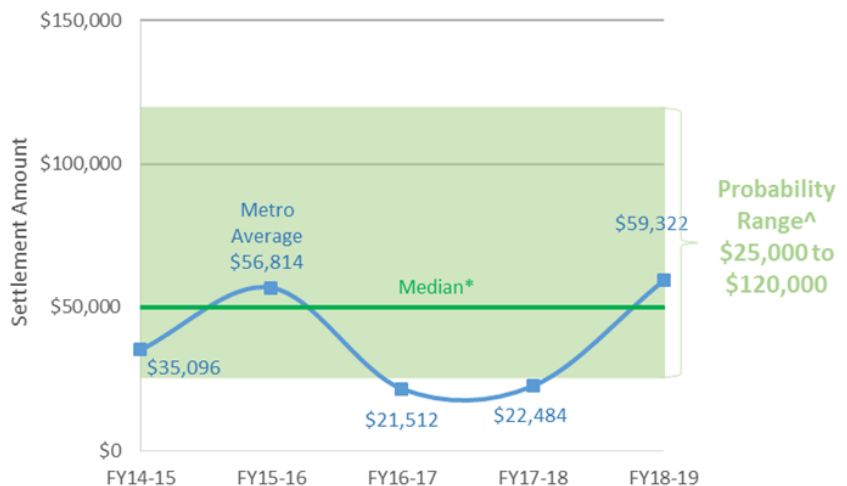
What we found

In 2014, Metro Council approved an ordinance that delegated authority to the COO to approve employment agreements in certain circumstances. Some of the agreements approved by the COO did not appear to meet the criteria for delegation in Metro Code.

We also found a couple of examples that raised questions about which approval method was appropriate based on the provisions contained in each type of agreement. When similar provisions can be approved using either process, transparency and accountability can be compromised.

Metro’s use of employment agreements has been inconsistent over time. Lack of employment agreements could increase the amount paid to some employees when they leave service. Conversely, depending on the provisions in the contract, an employment agreement could result in unknown financial impacts if certain provisions were not controlled.

We estimated the cost of the separation agreements Metro has reached with former employees and compared it with benchmark data. The analysis indicated Metro has managed employment separations well, on average, to keep the financial impact to the agency relatively low.



Source: Auditor’s Office analysis of Metro’s estimated separation amounts and settlement data from Thomson Reuters’ *Employment Practice Liability: Jury Award Trends and Statistics*, 2018 Edition.

*The median is the middle settlement value among all settlements from 2011-2017 listed in ascending order. This value provides the most accurate gauge for a specific sampling of settlement data.
 ^The probability range is defined as the middle 50 percent of all settlements arranged in ascending order in a sampling, 25 percent above and below the median award. Although settlements rarely produce a normal distribution, the probability range and the median settlement does aid in establishing parameters of where settlements tend to cluster.

What we recommend

The audit contains five recommendations to clarify approval authority, and reduce financial and compliance risks.