



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Councilmember
Donald Rocha

SUBJECT: LANDSCAPING CONTRACT

DATE: December 12, 2011

Approved

Don Rocha

Date

12/12/11

RECOMMENDATION

As part of the motion on this item, direct the City Attorney and the City Manager to:

1. Evaluate the various means by which the City can ensure that basic vacation, sick leave and holiday benefits are provided to contract employees, and report back to Council on the range of available options. As part of this analysis, staff should evaluate the possibility of adding criteria to our Request for Proposal (RFP) process that would award points based on the level of leave benefits a given proposer provides to employees.
2. With the assistance of the City's Human Resources staff, attempt to determine industry norms for provision of vacation, sick leave and holiday benefits that may be suitable as minimum standards for City contractors.

ANALYSIS

A few weeks ago, I was disturbed to learn that our janitors only receive 5 vacation days and 5 holidays per year. My concern has deepened after learning that the landscaping contract before us today would provide a similarly low level of time off for workers. I feel responsible for not having raised this issue earlier, but now that we do know about it, I believe swift action is imperative. I recommend that we direct staff to report back to us on the various means by which we can ensure that contract employees receive a basic level of time-off benefit.

As a measure of just how low the benefits provided in to some of our contract employees are, consider them in comparison to the average level of benefit provided in the private sector. According to the March 2011 National Compensation Survey from the Federal Bureau of Labor Statistics, the following are average benefit rates in the United States:

Employee Tenure	Mean Number of Vacation Days for Private Sector Employees in 2011	Mean Number of Sick Days received by Private Sector Employees in 2011	Mean Number of Paid Holidays for Service Workers in 2011
0-5 years	10	8	6
More than 5 years	14	8	

Please see Attachments A, B and C for full data and note that holiday benefits in this data set are broken out by industry and job type, not by tenure.

It seems equitable that the private sector contractors engaged by the City at least provide their employees the average number of days offered in the private sector. As I understand it, the City does collect data on days off as part of the so-called "third tier review" of RFP's, but does not use this information in evaluating proposals. I believe that making the issue of time-off benefits a formal part of the RFP process may be one way to move towards minimally adequate benefit levels, but I'm interested in hearing from staff on all possible approaches to this issue.

Some might suggest that contract employees—janitors or landscapers, for instance—don't deserve to have a basic level of benefits. In response, I would point out that one of the key principles of our democracy is that all human beings are morally equal. Just because some of our contract employees may still be overcoming social and economic barriers, and thus may not yet have a high level of education or work experience, doesn't mean that they don't have human needs, like the need to rest, the need to meet family obligations, the need to take care of pressing personal business. If they have no choice but to work all the time, they can't meet their needs as a person and member of society.

Others may argue that we need not worry because some our contract employees are represented by a union: they can negotiate for benefits on their own. I would respond that, as an employer and a public agency, it is ultimately our responsibility—not anyone else's—to provide a basic level of benefit that allows those who serve our city to lead a dignified life. If it is within our power to promote minimally acceptable working conditions, we should not sit idly by.

This memo is not intended to express any opinion on the wisdom of contracting out City positions. Instead, I simply seek to establish that insofar as we do contract out, we do it in accordance with our values as citizens of a democracy. There may be some limited cost to amending our RFP process or establishing minimum benefit standards, but that should not dissuade us from doing what's right. Any additional cost pales in comparison with the value of treating other human beings with respect and dignity.

ATTACHMENT A

Source: www.bls.gov/ncs/ebs/benefits/2011/ownership_private.htm

Table 38. Paid vacations: Number of annual days by service requirement,¹ private industry workers, National Compensation Survey, March 2011

(All workers with paid vacations = 100 percent)

Characteristics	Paid vacation days by length of service ²						Mean number of days	Median number of days
	Less than 5 days	5 to 9 days	10 to 14 days	15 to 19 days	20 to 24 days	Greater than 24 days		
After 1 year								
All workers	7	38	36	12	0	2	10	10
Full time	4	37	30	13	0	2	10	10
Part time	24	48	21	4	3	1	7	6
Union	6	47	37	7	3	2	9	8
Nonunion	7	37	36	12	0	2	10	10
1 to 99 workers	9	45	34	8	3	1	8	8
1 to 49 workers	9	45	34	8	3	(3)	8	8
50 to 99 workers	7	47	34	8	3	-	8	7
100 workers or more	6	31	37	15	8	3	11	10
100 to 499 workers	7	41	35	12	4	2	9	10
500 workers or more	3	19	40	19	14	6	13	10
After 5 years								
All workers	2	10	37	34	11	8	14	16
Full time	1	0	37	36	12	7	14	15
Part time	10	24	36	20	6	4	11	10
Union	1	7	47	33	9	4	13	12
Nonunion	2	11	35	34	12	7	14	15
1 to 99 workers	3	14	40	32	8	4	13	10
1 to 49 workers	3	18	39	31	8	3	12	10
50 to 99 workers	2	10	44	33	7	4	13	12
100 workers or more	1	8	33	35	15	9	15	16
100 to 499 workers	1	8	41	34	11	4	14	14
500 workers or more	1	4	24	37	20	14	17	16

numbers that appear in the memo

See footnotes at end of table.

Table 38. Paid vacations: Number of annual days by service requirement,¹ private industry workers, National Compensation Survey, March 2011—Continued

(All workers with paid vacations = 100 percent)

Characteristics	Paid vacation days by length of service ²						Mean number of days	Median number of days
	Less than 5 days	5 to 9 days	10 to 14 days	15 to 19 days	20 to 24 days	Greater than 24 days		
After 10 years								
All workers	2	7	18	41	22	13	17	16
Full time	1	6	18	42	23	13	17	15
Part time	9	10	17	34	14	8	14	15
Union	1	4	11	58	19	9	17	16
Nonunion	2	8	18	39	22	13	17	15
1 to 99 workers	3	12	21	39	18	7	18	15
1 to 49 workers	3	13	23	37	17	7	15	15
50 to 99 workers	2	8	18	45	20	7	16	15
100 workers or more	1	3	10	42	25	18	18	16
100 to 499 workers	1	4	13	49	22	10	17	15
500 workers or more	(3)	2	7	33	30	27	20	20
After 20 years								
All workers	2	7	13	19	35	25	19	20
Full time	1	5	13	19	36	26	20	20
Part time	9	17	14	18	28	17	16	15
Union	1	3	7	11	43	36	21	20
Nonunion	2	7	13	20	34	23	19	20
1 to 99 workers	3	11	18	25	28	15	16	15
1 to 49 workers	3	13	20	26	25	14	18	15
50 to 99 workers	2	7	14	25	34	17	18	20
100 workers or more	1	3	8	13	42	34	22	20
100 to 499 workers	1	4	9	18	45	23	20	24
500 workers or more	(3)	1	8	7	38	48	24	24

¹ Employees either are granted a specific number of days after completion of the indicated length of service or accrue days during the next 12-month period. The total number of days is assumed to be available for use immediately upon completion of the service interval. Periods of service are chosen arbitrarily and do not necessarily reflect individual provisions for progression. Fractional vacation amounts were rounded to the nearest full number of days.

² Employees eligible for paid vacations but who have not fulfilled the minimum service requirement are included as receiving 0 days. Estimates include plans that are

exclusively for paid vacation and vacation plans that are part of a consolidated leave plan that provides a single amount of time-off for workers to use for multiple purposes.

³ Less than 0.5 percent.

NOTE: Because of rounding, sums of individual items may not equal totals. Dash indicates no workers in this category or data did not meet publication criteria. For definitions of major plans, key provisions, and related terms, see the "Glossary of Employee Benefit Terms" at www.bls.gov/ncs/ebs/glossary20102011.htm.

ATTACHMENT B

Source: www.bls.gov/ncs/ebs/benefits/2011/ownership_private.htm

Table 36. Paid sick leave: Number of annual days by service requirement,¹ private industry workers, National Compensation Survey, March 2011

(All workers with fixed number of days per year sick leave plans = 100 percent)

Characteristics	Paid sick leave days by length of service ²					Mean number of days	Median number of days
	Less than 5 days	5 to 9 days	10 to 14 days	15 to 29 days	Greater than 29 days		
After 1 year							
All workers	20	66	21	3	1	8	6
Full time	18	66	22	3	.1	8	6
Part time	32	49	17	--	--	9	5
Union	18	43	33	8	1	8	6
Nonunion	20	57	19	2	1	8	6
1 to 99 workers	28	57	15	2	(³)	7	5
1 to 49 workers	26	57	18	1	1	7	5
50 to 99 workers	27	57	13	--	--	6	5
100 workers or more	15	54	26	4	2	9	6
100 to 499 workers	19	63	17	2	(³)	7	6
500 workers or more	9	42	39	8	4	11	9
After 5 years							
All workers	18	66	22	3	2	8	6
Full time	10	58	23	3	2	9	6
Part time	31	50	17	--	--	7	5
Union	16	44	33	5	2	8	6
Nonunion	16	67	20	2	2	8	6
1 to 99 workers	24	57	18	2	1	7	5
1 to 49 workers	23	58	18	2	1	7	5
50 to 99 workers	25	57	14	--	--	8	6
100 workers or more	13	53	27	3	3	10	6
100 to 499 workers	17	62	18	2	1	7	6
500 workers or more	8	41	40	5	7	13	10

Numbers that appear in the Memo

See footnotes at end of table.

Table 36. Paid sick leave: Number of annual days by service requirement,¹ private industry workers, National Compensation Survey, March 2011—Continued

(All workers with fixed number of days per year sick leave plans = 100 percent)

Characteristics	Paid sick leave days by length of service ²					Mean number of days	Median number of days
	Less than 5 days	5 to 9 days	10 to 14 days	15 to 29 days	Greater than 29 days		
After 10 years							
All workers	18	66	22	3	2	8	6
Full time	16	56	23	3	2	9	6
Part time	31	49	17	--	--	7	5
Union	16	44	32	6	2	10	7
Nonunion	16	66	21	2	2	9	6
1 to 99 workers	24	57	18	2	1	7	5
1 to 49 workers	23	57	17	2	1	7	5
50 to 99 workers	26	58	14	--	--	7	6
100 workers or more	13	53	27	4	3	11	6
100 to 499 workers	16	52	18	2	1	8	5
500 workers or more	8	40	40	6	7	16	10
After 20 years							
All workers	16	55	22	3	2	9	6
Full time	16	55	23	3	2	10	6
Part time	31	49	17	--	--	7	5
Union	16	44	34	7	2	10	7
Nonunion	18	56	21	2	2	9	5
1 to 99 workers	24	57	18	2	1	7	5
1 to 49 workers	23	57	17	2	1	7	5
50 to 99 workers	26	58	16	--	--	7	6
100 workers or more	12	53	27	4	3	12	6
100 to 499 workers	16	63	18	2	1	8	5
500 workers or more	7	40	40	6	7	16	10

¹ Employees either are granted a specific number of days after completion of the indicated length of service or accrue days during the next 12-month period. The total number of days is assumed to be available for use immediately upon completion of the service interval. Periods of service are chosen arbitrarily and do not necessarily reflect individual provisions for progression.

² Employees eligible for paid sick leave but who have not fulfilled the minimum service requirement are included as receiving 0 days.

³ Less than 0.5 percent.

NOTE: Because of rounding, sums of individual items may not equal totals. Dash indicates no workers in this category or data did not meet publication criteria. For definitions of major plans, key provisions, and related terms, see the "Glossary of Employee Benefit Terms" at www.bls.gov/ncs/ebs/glossary20102011.htm.

ATTACHMENT C

Source: www.bls.gov/ncs/ebs/benefits/2011/ownership_private.htm

Table 34. Paid holidays: Number of days provided, private industry workers, National Compensation Survey, March 2011

(All workers with paid holidays = 100 percent)

Characteristics	Paid holidays											Mean number of days	Median number of days
	Less than 6 days	6 days	7 days	8 days	9 days	10 days	11 days	12 days	13 days	14 days	Greater than 14 days		
All workers	10	25	13	14	9	14	6	4	1	1	2	8	8
Worker characteristics													
Management, professional, and related	3	15	13	14	12	21	9	7	2	2	2	9	9
Management, business, and financial	2	11	11	14	13	25	9	8	2	2	2	9	9
Professional and related	3	17	14	14	11	19	8	7	2	2	2	9	9
Service	26	27	14	13	6	5	4	2	1	1	1	6	6
Protective service	—	20	—	—	—	5	6	3	—	—	—	7	7
Sales and office	10	32	13	13	8	14	6	3	1	1	1	7	7
Sales and related	18	47	12	10	6	6	2	1	(1)	—	—	8	6
Office and administrative support	7	24	14	14	10	10	8	3	1	1	1	8	8
Natural resources, construction, and maintenance	10	31	18	13	7	11	5	3	1	(1)	1	7	7
Construction, extraction, farming, fishing, and forestry	14	32	18	13	6	8	3	1	1	—	—	7	7
Installation, maintenance, and repair	7	30	18	12	7	13	9	4	1	(1)	1	6	7
Production, transportation, and material moving	9	23	12	16	10	14	7	4	2	1	3	8	8
Production	6	18	12	14	10	16	8	6	3	1	4	8	9
Transportation and material moving	11	30	12	17	9	10	6	3	1	1	1	7	7
Full time	8	23	14	14	10	16	7	5	2	(1)	2	8	8
Part time	28	35	11	10	4	7	3	1	(1)	(1)	1	6	6
Union	2	16	10	18	11	16	11	7	3	2	5	8	9
Nonunion	11	26	14	13	9	14	6	4	1	1	1	8	7
Average wage within the following categories:²													
Lowest 25 percent	27	35	14	10	4	6	2	1	(1)	—	—	6	6
Lowest 10 percent	49	26	11	7	3	2	2	—	—	—	—	5	6
Second 25 percent	11	32	14	14	8	12	5	2	1	1	1	7	7
Third 25 percent	8	22	13	15	10	18	8	5	2	1	1	8	8
Highest 25 percent	3	13	12	15	12	22	9	8	2	1	3	9	9
Highest 10 percent	2	11	11	13	13	24	10	10	3	1	2	9	10
Establishment characteristics													
Goods-producing industries	6	17	11	13	12	18	9	7	3	1	3	9	9
Construction	15	35	18	13	8	6	2	(1)	—	—	—	7	6
Manufacturing	3	12	9	13	13	21	11	9	3	2	4	9	9
Service-providing industries	11	27	14	14	0	14	6	3	1	1	1	8	7
Trade, transportation, and utilities	14	40	12	13	7	7	4	2	1	(1)	1	7	6
Wholesale trade	5	22	19	18	11	10	7	4	1	1	2	6	8
Retail trade	21	58	10	7	3	2	1	—	—	—	—	6	6
Transportation and warehousing	6	22	9	24	7	17	9	—	—	—	—	6	8
Utilities	—	—	—	—	20	20	18	10	11	—	—	10	10

See footnotes at end of table.

number that appears in the memo

Table 34. Paid holidays: Number of days provided, private industry workers, National Compensation Survey, March 2011—Continued

(All workers with paid holidays = 100 percent)

Characteristics	Paid holidays											Mean number of days	Median number of days
	Less than 6 days	6 days	7 days	8 days	9 days	10 days	11 days	12 days	13 days	14 days	Greater than 14 days		
Information	—	16	30	17	9	17	7	4	(1)	—	—	9	8
Financial activities	1	11	8	19	13	35	9	3	1	(1)	1	9	9
Finance and insurance	1	8	6	20	14	41	7	3	1	(3)	1	9	10
Credit intermediation and related activities	2	7	3	14	7	57	6	3	—	—	—	9	10
Insurance carriers and related activities	—	9	12	26	18	20	8	3	1	—	—	9	9
Real estate and rental and leasing	3	24	17	13	10	10	—	4	—	—	—	8	8
Professional and business services	7	21	14	19	10	18	6	6	1	—	—	9	8
Professional and technical services	2	12	14	16	13	24	6	6	0	—	—	9	9
Administrative and waste services	14	36	15	13	6	8	5	3	—	—	—	7	7
Education and health services	7	29	16	12	8	11	6	3	2	2	3	9	9
Educational services	2	2	4	10	6	15	14	14	12	8	15	12	11
Junior colleges, colleges, and universities	2	4	2	7	7	10	16	15	15	11	15	12	12
Health care and social assistance	3	33	18	12	8	11	5	2	1	—	—	7	7
Leisure and hospitality	45	13	14	14	5	2	3	—	—	—	—	5	8
Accommodation and food services	63	10	15	14	6	—	—	—	—	—	—	5	5
Other services	10	26	13	14	7	11	4	6	2	4	3	8	8
1 to 99 workers	14	27	15	14	9	13	4	3	1	1	1	7	7
1 to 49 workers	14	27	16	15	8	13	4	2	1	1	1	7	7
50 to 99 workers	14	26	14	12	11	13	4	4	—	—	2	7	8
100 workers or more	7	23	12	14	9	18	8	6	2	1	1	8	8
100 to 499 workers	8	28	14	12	10	14	7	3	2	1	1	8	8
500 workers or more	6	18	9	15	9	19	10	9	3	2	4	9	9
Geographic areas													
New England	5	15	11	11	12	22	10	7	2	1	3	9	9
Middle Atlantic	10	21	13	12	10	16	8	6	2	1	3	9	6
East North Central	8	27	15	13	10	14	5	3	2	1	3	8	6
West North Central	6	31	19	15	9	8	6	1	3	—	—	7	7
South Atlantic	14	29	13	12	7	14	4	4	1	1	1	7	7
East South Central	18	21	14	16	9	12	6	3	1	—	—	7	7
West South Central	14	27	12	13	8	14	6	4	1	1	1	8	7
Mountain	11	28	12	18	6	11	7	3	1	—	—	8	7
Pacific	8	20	13	19	9	17	6	6	2	1	1	8	8

¹ Less than 0.5 percent.

² The categories are based on the average wage for each occupation surveyed, which may include workers with earnings both above and below the threshold. The average wages are based on the estimates published in the "National Compensation Survey: Occupational Earnings in the United States, 2010." See Technical Note for more details.

NOTE: Because of rounding, sums of individual items may not equal totals. Dash indicates no workers in this category or data did not meet publication criteria. For definitions of major plans, key provisions, and related terms, see the "Glossary of Employee Benefit Terms" at www.bls.gov/ncs/ebs/glossary20102011.htm.