

ISSUE BRIEF: Monitoring Report for Policy 2.3 Compensation and Benefits (January 2020-August 2021)

Finance Committee Review Date: Nov 9, 2021

Board Meeting Review Date: Nov 18, 2021










INFORMATION TYPE:
Decision
RECOMMENDED ACTION(S):
<p>Consider accepting Monitoring Report as level A – Compliant.</p> <p>Complete the survey before EOB Monday, November 8th, 2021.</p>
ISSUE SUMMARY:
<p>TheRide’s Board of Directors establish policies that define what methods are unacceptable to use to achieve expected results, called Executive Limitations. This monitoring report provides the CEO’s interpretations of those policies, evidence of achievement, and an assertion on compliance with the Board’s written goals. As with other monitoring reports, the Board decides whether the interpretations are reasonable, and the evidence is convincing.</p> <p>This report was due in October 2021 but was delayed until November. The CEO’s interpretations have been changed since the last monitoring of the policy.</p> <p>I certify that the information is true and complete.</p> <div style="display: flex; justify-content: space-between; align-items: center;">  <p><u>October 28, 2021</u></p> </div>
BACKGROUND:
Monitoring Reports are a key Policy Governance tool to assess organizational/CEO performance in achieving Ends (1.0) within Executive Limitations (2.0).
IMPACTS OF RECOMMENDED ACTION(S):
<ul style="list-style-type: none"> • Budgetary/Fiscal: Fiduciary Oversight • Social: NA • Environmental: NA • Governance: Fiduciary Oversight
ATTACHMENTS:
1. Monitoring Report for Policy 2.3: Compensation and Benefits

Table of Contents

POLICY TITLE: TREATMENT OF STAFF:	Page #	Compliance this period
2.3 With respect to employment compensation and benefits, the CEO will not cause, allow or fail to respond to any situation which jeopardizes to the agency’s effectiveness, fiscal integrity, or public image. Further, without limiting the scope of the foregoing by this enumeration, the CEO shall not:	3	
2.3.1 Operate without a compensation and benefits program that attracts and retains highly qualified employees.	4	
2.3.1.1 Offer a benefits program that does not include health insurance	5	
2.3.2 Establish compensation and benefits that deviate materially from the geographic or professional market for the skills employed.	6	
2.3.3 Change the CEO’s own paid compensation and benefits, except to make his or her benefits consistent with a package for all other non-unionized employees, without Board approval.	7	
2.3.4 Operate without a robust, impartial, and transparent process for determining employee compensation.	8	
2.3.4.1 Allow compensation for agency employees (union and non-union), suppliers, or contracted employees to be less than a “living wage”, as defined by ordinance of the City of Ann Arbor.	9	
2.3.5 Establish or change retirement benefits so as to cause unpredictable or inequitable situations, including those that: A. Incur unfunded liabilities. B. Provide less than some basic level of benefits to all full-time employees. C. Treat the CEO differently from other senior employees.	10	

 Fully Compliant
  Partially Compliant
  Non-Compliant
  TBD

CEO Interpretations and Evidence

EXECUTIVE LIMITATIONS POLICY 2.3:

With respect to employment compensation and benefits, the CEO will not cause, allow or fail to respond to any situation which jeopardizes to the agency's effectiveness, fiscal integrity, or public image. Further, without limiting the scope of the foregoing by this enumeration, the CEO shall not:

Degree of compliance: In Compliance

Interpretation

The Board has fully interpreted this policy in the policies below. Compliance with those policies will constitute compliance with this policy.

Evidence

See below.

EXECUTIVE LIMITATIONS POLICY 2.3.1:

Operate without a compensation and benefits program that attracts and retains highly qualified employees.

Degree of Compliance: In Compliance

Interpretation

Compliance with this policy will be demonstrated when 1) the AAATA is in compliance with policy 2.3.2 (below), and 2) recruitment activities are reasonably successful and 3) attrition rates are relatively low.

While pay is just one factor in attracting highly qualified employees, I interpret this policy to mean that the pay and benefits offered must be an effective element of recruiting and retaining the desired workforce and helping the AAATA become a “workplace of choice” (policy 2.2.1).

Evidence

- Evidence of compliance with policy 2.3.2 is provided on the pages below.
- **Recruitment Success:** During the monitoring period, the AAATA recruited for 27 positions. Of those, 3 remain open.
- **Retention Success:** Through August 31, 2021, voluntary non-retirement turnover was 6.96% overall. The Bureau of Labor Statistics reports that the corresponding national rate for state/local government (excluding education) employees was 9.0%. Note that BLS statistics¹ were available through July 2021 at the writing of this document, and July numbers are preliminary.

¹ <https://www.bls.gov/jlt/home.htm>

EXECUTIVE LIMITATIONS POLICY 2.3.1.1

Offer a benefits program that does not include health insurance.

Degree of Compliance: In Compliance

Interpretation

Compliance with this policy will be demonstrated when all full and/or part-time employees (union and non-union) are offered benefits packages that include some level of health insurance coverage. This interpretation is reasonable because some employees decline health coverage since they are covered by other insurance (e.g. are covered by spouses insurance).

Evidence

Presently, all eligible employees (union, non-union, full-time, part-time) have affirmatively enrolled in one of the group health plans, are in a waiting period before becoming eligible for benefits or have waived the medical coverage option. To ensure all employees are medically insured, one must provide proof of other insurance to have AAATA's medical insurance waived. The table below illustrates the enrollment/waver status of all employees as of August 31, 2021.

Total Employees	Enrolled in a Health Plan	Voluntarily Waived Health Plan	In Waiting Period	Nonresponsive/No election made
273	213	43	15	2

Note: 2 employees who were rehired in 2021 were non-responsive to several communications regarding benefit elections and missed the eligibility enrollment period.

Detailed records are available for Board inspection upon request.

EXECUTIVE LIMITATIONS POLICY 2.3.2:

Establish compensation and benefits that deviate materially from the geographic or professional market for the skills employed.

Degree of Compliance: In Compliance

Interpretation

Compliance will be demonstrated when the salaries for non-union staff positions are benchmarked against similar positions in southeast Michigan and the public transit industry by an authoritative third-party source. The benchmarks will be updated at least every two years, or in the event of material changes in salary trends. This is reasonable because there are several outside suppliers of compensation structures that have methodologies capable of transparently and thoughtfully comparing one employer with their broader environment. It is more effective for the AAATA to purchase one of these processes than trying to develop our own.

Evidence

As of early 2021, utilizes a new outside process for assessing whether staff compensation is in line with geographic and transit-industry markets. This process was provided by Korn Ferry, a reputable outside firm specializing in compensation structures. The Korn Ferry process benchmarks AAATA staff positions and compares them to a cross-section of employers in the southeast Michigan region and the public transit industry (for certain positions). This process ensures internal equity (similar pay for similar roles) and allows an organization to transparently position its paid scale relative to the relevant labor markets (i.e. local labor market or national industry).

During the Korn Ferry work, AAATA jobs were mapped to levels based on measured job content, and external benchmarking was conducted utilizing Korn Ferry's pay database and other regional surveys to determine appropriate salary grades. The salary grades and ranges were established by Korn Ferry utilizing a market blending approach for the transportation market where equal weightings are applied to the market data to create an aggregated point-based market value. Annually, Korn Ferry provides a report with market adjustments based on relevant data sources.

The Korn Ferry work found most AAATA positions were already paid correctly. There were a small number of employees that were underpaid compared to market comparisons, and those salaries have already been adjusted up to become competitive. It also found that some positions were overpaid, and those positions have been "red circled" and will not be provided with inflationary increases until they are back within the appropriate pay range. The study also found that AAATA non-union *benefits* are competitive compared to the market.

EXECUTIVE LIMITATIONS POLICY 2.3.3:

Change the CEO's own paid compensation and benefits, except to make his or her benefits consistent with a package for all other non-unionized employees, without Board approval.

Degree of Compliance: In Compliance

Interpretation

Compliance with this policy will be demonstrated when compensation available only to the CEO (i.e. salary or benefits) is adjusted only by act of the Board of Directors. However, the CEO may decide to voluntarily reduce their own salary, for example during economic emergencies, or by a voluntary reduction in salary. This is reasonable because the CEO should not be able to increase their own compensation.

However, changes to benefits which apply to other non-unionized staff, and includes the CEO, can be approved by the CEO. For example, if a more advantageous company-wide dental plan is found. This is reasonable because it allows the CEO's benefits to remain consistent with other employees.

Evidence

During the monitoring period, there was only one instance where the CEO's compensation changed other than by an act of the Board. At the beginning of the pandemic (c. April 2020) the CEO voluntarily cut his pay by 10% for six months along with the rest of the Executive Team.

Records are available for the Board inspection upon request.

EXECUTIVE LIMITATIONS POLICY 2.3.4:

Operate without a robust, impartial, and transparent process for determining employee compensation.

Degree of Compliance: In Compliance

Interpretation

Compliance with this policy will be demonstrated when the AAATA uses an objective, transparent process from a third-party source for determining staff wages. The process must create *internal equity* between AAATA positions (impartial), is documented in advance and can be reasonably explained (transparent), and is used consistently (robust). Such a process determines the range of compensation for each role based on the value created by the position and ensures similar roles are treated in a similar fashion, regardless of the individual in the position. This is reasonable because such a process removes arbitrary considerations from the act of determining compensation for each position.

I interpret “compensation” to mean wages and salary; but not benefits which are addressed elsewhere.

Evidence

As of early 2021, utilizes a new outside process for assessing whether staff compensation is internally equitable. This process was provided by Korn Ferry, a reputable outside firm specializing in compensation structures. The Korn Ferry evaluation methodology evaluates positions (jobs) based on multiple factors of job content and establishes a consistent hierarchy of positions within the organization based on their relative value to the organization. Only the position is evaluated, not the employee. This resulted in a clear and consistent ranking of each position in the organization, with similar roles aligned on similar pay levels. When combined with labor market benchmarking (described above in 2.3.1) this resulted in pay scales for each level. In this way internal equity is achieved. Positions and benchmarks are updated as needed.

The Korn Ferry work found most AAATA positions were already paid correctly. There were a small number of employees that were underpaid compared to market comparisons, and those salaries have already been adjusted up to become competitive. It also found that some positions were overpaid, and those positions have been “red circled” and will not be provided with inflationary increases until they are back within the appropriate pay range. We believe that the presence and use of the Korn Ferry process demonstrates compliance with the policy, even if its use requires adjustments that may take a few years to be completed.

The AAATA’s new Korn Ferry-supplied process is documented (110 pages) and controlled by the Human Resources department. All positions at the AAATA are covered by this process, except for the CEO who’s compensation is determined by the Board of Directors.

EXECUTIVE LIMITATIONS POLICY 2.3.4.1:

Allow compensation for agency employees (union and non-union), suppliers, or contracted employees to be less than a “living wage”, as defined by ordinance of the City of Ann Arbor.

Degree of Compliance: In Compliance

Interpretation

Compliance with this policy will be determined when all direct employees (full or part time) of the AAATA, and employees of our suppliers and contractors are paid an hourly wage at or above the living wage as defined by the City of Ann Arbor. Ann Arbor’s current living wage (2021) is a minimum of \$14.05/hour with health care and \$15.66/hour without health care. Suppliers with contracts under \$10,000 annually, 5 employees (for-profit), or 20 employees (non-profit) are exempt (Source: Living Wage Declaration Poster for 2021-2020, available at www.a2gov.org)

This is reasonable because it is the only prevailing local definitely of living wage.

Finally, I interpret this policy does not apply to armored-car services for transporting cash. This is reasonable because this is the one service which neither the AAATA nor the City of Ann Arbor can obtain living wage compliance due to our small size.

Evidence

- During the monitoring period the lowest hourly rate paid to any AAATA staff was \$17.74 per hour, well above the minimum. Detailed listing can be made available for the Board upon request but is not included here to maintain staff privacy.
- All AAATA contracts with suppliers require that they pay a rate at or above the threshold. A compliance audit of contractor payrolls was completed by the Purchasing Department and only the contract provider of armored car services was found to be non-compliant. Audit results can be made available to the Board upon request.

EXECUTIVE LIMITATIONS POLICY 2.3.5:

Establish or change retirement benefits so as to cause unpredictable or inequitable situations, including those that:

- A. Incur unfunded liabilities.
- B. Provide less than some basic level of benefits to all full-time employees.
- C. Treat the CEO differently from other senior employees.

Degree of Compliance: In Compliance

Interpretation

Compliance with this policy will be demonstrated when, if retirement benefits are created or altered, they must meet the following criteria:

- The AAATA will provide only a defined-contribution pension/retirement benefit program.
- Allow participation in the defined-contribution (pension program) program will be open to all employees working in full time positions.
- The CEO does not allow the creation of any post-employment benefit that applies only to themselves (aside from what the Board allows in the CEO's contract).

This interpretation is reasonable because a define-contribution program facilitates an affordable organization contribution to employee benefits without incurring unaffordable future liabilities, and equity is achieved by being open to all full-time employees.

Evidence

Affordability

- All full-time permanent employees are required to participate in the AAATA's defined-contribution pension program, after a waiting period. As of August 31, 2021, all employees were either enrolled, in a required waiting period pending enrollment, or not eligible due to part-time status. The table below illustrates the breakdown.

Total Employees	Enrolled in Pension	Part-Time, non-eligible	In Waiting Period
273	252	1	20

This is the only pension program the AAATA offers.

- All full-time permanent employees are enrolled in the Michigan Employees Retirement System (MERS) Healthcare Savings Plan (HCSP). Many years ago, AAATA switched from *providing* retiree health benefits to *funding* a health care savings plan during the employee's employment and administered by the MERS. Ten retirees who opted not to switch remain on a retiree Medicare Advantage health care plan. This is accounted for in the budget and is affordable. The table below illustrates the breakdown.

Total Employees	Enrolled in MERS/HCSP	Part-Time, Non-eligible	In Waiting Period
273	257	1	15

CEO Benefits

- Other than provisions in the Board-approved 2020 CEO contract regarding a supplemental disability benefit and a separate deferred comp plan, the CEO only has the same benefits plans as all other non-unionized AAATA employees, including the Deputy CEOs. This has not changed in the monitoring period.

Detailed records regarding all above assertions are available for Board inspection upon Board request.

CEO Notes

Policy 2.3.4 is not a part of the general Policy Governance boilerplate policy template but was added by the AAATA board in 2017. The CEO wonders whether 2.3.4 and 2.3.4.1 might be better suited as separate sub-policies under 2.3.2, which *is* a boilerplate policy, as they all pertain to the same internal tool (compensation process).

Policy 2.3.1 continues to be a problematic policy. It is not a part of the original Policy Governance boilerplate policy template and was added by the AAATA Board in 2017. It seems redundant with policy 2.3.2, and requires a definition of “highly qualified” employees that the CEO has not been successful in developing to date. Developing a successful interpretation of this policy may require a considerable amount of staff time. Further, this policy may be inherently prescriptive. The CEO would ask that the Board review this policy, perhaps with Rose Mercier.

Monitoring Policy 2.3 Compensation and Benefits

Guidance on Determining “Reasonableness” of CEO Interpretations

The International Policy Governance Association has developed the following guidance for Board members to use in deciding whether a CEO’s interpretation is “reasonable”:

An interpretation is deemed to be reasonable when it provides an operational definition which includes defensible measures and standards against which policy achievement can be assessed...

Defensible measures and standards are those that:

- *Are objectively verifiable (e.g., through research, testing, and/or credible confirmation of observable phenomena.)*
- *Are relevant and conceptually aligned with the policy criteria and the board’s policy set.*
- *Represent an appropriate level of fulfillment within the scope of the policy.*

- “*What makes an Interpretation Reasonable and What are the Expectations for the Operational Definition: Policy Governance Consistency Framework Report Number 2*”. International Policy Governance Association. June 11, 2016. Available on the IPGA website.

Board’s conclusion on monitoring report

The Board has received and reviewed the CEO’s Monitoring Report references above. Following the Board’s review and discussion with the CEO, the Board makes the following conclusions:

Executive Limitations Report (select one)

The Board finds that the CEO:

- A. **Is in compliance**
- B. Is in compliance, except for item(s) noted.
- C. Is making reasonable progress toward compliance.
- D. Is *not* in compliance or is *not* making reasonable progress toward compliance
- E. Cannot be determined.

Board notes: (If applicable)

The Board accepted this report as (A) in compliance.