



VINCENT C. GRAY  
MAYOR

**BY HAND**

April 22, 2013

The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Suite 504  
Washington, DC 20004

Dear Chairman Mendelson:

Thank you for writing me regarding the issue of the Budget Request Act provision that confirms Congress' initial intent when it ratified a Control Board order on Fire and Emergency Medical Services (FEMS) overtime pay as positive law. You are correct that the District has been unsuccessful thus far at the administrative and lower court level in appealing a 2007 arbitration ruling that found the statute did not continue after the initial fiscal year. However, we believe the prior rulings are legally erroneous – where, in contravention to standard principles of statutory construction, great weight was given to a letter from a member of Congress purporting, many years after the fact, to explain Congress's intent – and we intend to pursue the appeal vigorously in the Court of Appeals. Still, we recognize the inherent unpredictability of the appeals process and feel compelled to do everything in our power to protect the interests of District taxpayers.

Thus, to protect the taxpayers' interest, and to avoid having to set aside an additional \$36 million in the Fiscal Year 2014 Settlements and Judgments Fund to transmit a certified, balanced budget, we have elected to include a provision in the Budget Request Act that merely requests that Congress reaffirm its original intent. I do not believe this is an extraordinary step because we are simply asking Congress to ratify what it has already enacted. We certainly encourage your support for this provision, because it saves the taxpayers \$36 million that they should not be legally obligated to pay and allows the District to utilize these funds for other important purposes in FY 2014.

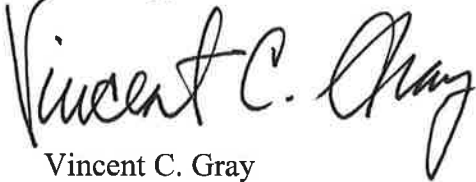
Regarding your request to increase overtime pay, I will not unilaterally increase overtime pay for FEMS. Such an agreement needs to be resolved through the collective bargaining process. Currently, as you know, the bargaining is at impasse and is going to arbitration over the issue of the shift change as well as other issues.

I believe a shift change is an indispensable component of any agreement we reach with our FEMS union. For me, this is a public safety matter, first and foremost. It is not in the best public safety interest to have emergency fire and medical services personnel working a 24-hour shift. Further, the existing shift structure permits many personnel to commute extraordinary distances to report for work. Should a serious emergency situation impact the District of Columbia, as it did just last week in Boston, it would be almost impossible for many off-duty FEMS workers, who would be desperately needed, to respond in a timely manner to meet the needs of our residents.

I have enormous respect for our FEMS workers who put their lives on the line to serve others. I know that the shift change will mean that some workers may need to rearrange their schedules for second jobs they may hold. It also may mean that some workers may have to decide between moving closer to the District or leaving employment at FEMS. While I certainly don't take these changes lightly, I cannot let the adherence to the status quo prevent us from implementing a change that is necessary to more safely serve our residents.

I will consider proposals to change overtime pay, going forward, as part of a collective bargaining package that includes a change in FEMS shifts.

Sincerely,

A handwritten signature in black ink that reads "Vincent C. Gray". The signature is written in a cursive, flowing style.

Vincent C. Gray

cc: Paul Quander, Deputy Mayor for Public Safety and Justice  
Kenneth Ellerbe, Chief, FEMS  
Councilmember Tommy Wells