

Analysis By: Daniel Trubman

## OFFICE OF THE CITY ATTORNEY

All Funds Budget Summary	Adopted FY 2013-14	Request Base FY 2014-15	Decision Pkgs FY 2014-15	Request Total FY 2014-15	Percent Change
<b>Resources</b>					
Charges for Services	\$0	\$6,000	\$0	\$6,000	NA
Interagency Revenue	5,204,406	5,152,877	0	5,152,877	-1.0%
General Fund Discretionary	1,958,268	2,407,924	125,344	2,533,268	29.4%
General Fund Overhead	3,095,418	2,807,419	146,140	2,953,559	-4.6%
<b>Total Resources</b>	<b>\$10,258,092</b>	<b>\$10,374,220</b>	<b>\$271,484</b>	<b>\$10,645,704</b>	<b>3.8%</b>
<b>Expenditures</b>					
Personnel Services	\$8,676,258	\$8,776,872	\$245,484	\$9,022,356	4.0%
External Materials and Services	717,973	736,403	16,000	752,403	4.8%
Internal Materials and Services	863,861	860,945	10,000	870,945	0.8%
<b>Total Requirements</b>	<b>\$10,258,092</b>	<b>\$10,374,220</b>	<b>\$271,484</b>	<b>\$10,645,704</b>	<b>3.8%</b>
<b>Total Bureau FTE</b>	<b>59.50</b>	<b>59.35</b>	<b>2.00</b>	<b>61.35</b>	<b>3.1%</b>

Percent Change is the change from FY 2013-14 Adopted Budget to FY 2014-15 Total Requested Budget.

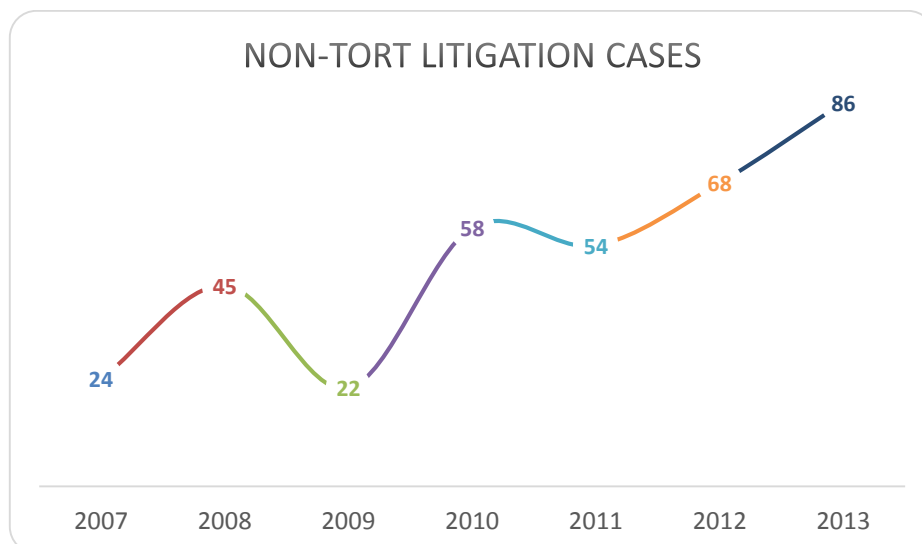
### Key Issues

#### Financial Outlook

As an internal service bureau with only one program, Legal Services, the size and operations of the City Attorney's office is driven by the need to provide legal assistance, advice, and representation to City bureaus. With approximately half of its resources coming from interagency revenue, the office's forecast is predicated on several bureaus' willingness to pay for a level of service above what the office could provide solely with General Fund discretionary and overhead funding. The office expects proceedings related to the City's Superfund responsibilities to continue through FY 2019-20, which will require the hiring of an additional attorney to deal with Superfund issues.

#### Non-Tort Litigation

The City has seen a significant increase in the number of non-tort litigation cases, specifically more complex cases that require higher external costs to defend. While individual bureaus are responsible for external litigation expenses, not all bureaus set aside sufficient funds, and the City Attorney's Office has at times been required to pay for part or all of an expense. While the office has managed to absorb those costs in the pasts, further escalation of this trend could strain the office's external materials and services budget for expenses that should be paid for by the responsible bureaus.



### Performance Measures

The office’s performance metrics primarily assess outputs, not outcomes. The number of litigation cases, as well as number of contracts reviewed and approved, is anticipated to remain flat in FY 2014-15. The sole efficiency metric, the hourly rate, is anticipated to improve, declining 3% from \$160 to \$156. The office’s hourly rate is 45% cheaper than the benchmark of \$284 (Oregon State Bar 2012 Economic Survey). The office continues to provide legal services at a substantially lower cost than comparable outside counsel.

The number of training hours provided by City Attorney staff continues to decline. If funded, the office’s decision packages would increase the number of training hours provided (related to the City’s public records legal obligations), but would still total about half (165 vs. 323) of the hours of training provided in FY 11-12.

## Decision Package Analysis & Recommendations

### Legal Records, AT\_01 and AT\_02, \$271,484, 2.00 FTE

These decision packages add a Sr. Deputy City Attorney and Paralegal Assistant respectively to develop, implement, and administer Citywide policies and practices to manage electronic records to fulfill all public and legal records request obligations. Inability to comply with public or legal records requests could lead to significant financial sanctions, or impede the office’s ability to defend the City in court. Federal and state courts are increasingly unsympathetic to municipalities’ claims of inability to fulfill their legal records obligations, especially larger entities. Tri-Met and Beaverton have recently been sanctioned for failure to meet record obligations. A large sanction or judgment caused by insufficient record retention efforts could be especially burdensome to bureaus with a limited ability to absorb unexpected costs. The City Attorney’s Office may be forced to increase its reliance on outside counsel to handle records litigation, or restrict the already limited records retention assistance provided to bureaus.

The packages are aligned with the City Auditor's package to improve electronic records management and expand TRIM deployment. Part of this package would provide funds for the office to deploy a public records tracking platform that will allow the office to better manage multi-bureau public records requests, and increase the public's ability to submit and track requests online.

The most direct effect of these decision packages on performance measures would be to increase the number of training hours provided by the City Attorney's office by 11%, which would be performed by the new attorney. While the number of training hours provided has declined significantly since FY 2011-12, providing preventative legal advice remains a main goal of the office.

The City Budget Office, while recognizing the importance of proactively advising and training all City bureaus on public records legal requirements, e-discovery requirements, handling complex public records issues on behalf of elected officials and bureaus and litigating public records requests where necessary, is not recommending these packages because of the scarcity of General Fund discretionary resources. Going forward, the office should work with the bureaus and the City Auditor to incorporate legal discussions in all future record retention and storage trainings, and ensure all Citywide policies and practices to manage electronic records are sufficient to meet legal obligations. While the City Attorney's Office currently does not believe a realignment within the bureau is feasible, it is one approach to consolidate the office's records efforts to improve efficiency and effectiveness. However, the City Budget Office recognizes that any realignment would require a decrease in other legal services currently provided.

*CBO Recommendation: \$0, 0.00 FTE*

**City of Portland**  
 Decision Package Recommendations  
 (Includes Contingency and Ending Balance)

	Bureau Requested					CBO Analyst Recommendations					
	Bureau Priority	FTE	Gen Fund Ongoing	Gen Fund 1-Time	Other Revenues	Total Expenses	FTE	Gen Fund Ongoing	Gen Fund 1-Time	Other Revenues	Total Expenses
<b>Office of the City Attorney</b>											
<i>Critical Needs</i>											
AT_01 - Legal Records Attorney	01	1.00	74,509	0	86,871	161,380	0.00	0	0	0	0
AT_02 - Legal Records Paralegal	02	1.00	50,835	0	59,269	110,104	0.00	0	0	0	0
<i>Total Critical Needs</i>		2.00	125,344	0	146,140	271,484	0.00	0	0	0	0
<b>Total Office of the City Attorney</b>		<b>2.00</b>	<b>125,344</b>	<b>0</b>	<b>146,140</b>	<b>271,484</b>	<b>0.00</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>