

Analysis By: Jane Marie Ford

OFFICE OF THE CITY ATTORNEY

All Funds Budget Summary	Adopted FY 2015-16	Request Base FY 2016-17	Decision Pkgs FY 2016-17	Request Total FY 2016-17	Percent Change
Resources					
Charges for Services	\$78,049	\$106,000	\$0	\$106,000	35.8%
Interagency Revenue	5,625,426	5,660,939	0	5,660,939	0.6%
General Fund Discretionary	2,921,772	2,669,732	(133,487)	2,536,245	-13.2%
General Fund Overhead	3,174,964	3,192,498	(159,625)	3,032,873	-4.5%
Total Resources	\$11,800,211	\$11,629,169	(\$293,112)	\$11,336,057	-3.9%
Expenditures					
Personnel Services	\$9,959,964	\$10,024,535	\$0	\$10,024,535	0.6%
External Materials and Services	876,672	612,394	(142,764)	469,630	-46.4%
Internal Materials and Services	963,575	992,240	(150,348)	841,892	-12.6%
Total Requirements	\$11,800,211	\$11,629,169	(\$293,112)	\$11,336,057	-3.9%
Total Bureau FTE	64.05	64.30	0.00	64.30	0.4%

Percent Change is the change from FY 2015-16 Adopted Budget to FY 2016-17 Total Requested Budget.

Key Issues

Historical Office Growth

Since FY 2006-07, the City Attorney's Office has grown by 16.95 FTE, or 35.8%. As a proportion of its total staff, this is one of the highest rates of growth across City bureaus, with the office's overall budget increasing by 71.8%¹. During this time, there has been an increased emphasis on performing the City's legal work in-house wherever possible in order to ensure that the City is receiving the highest quality of legal services in the most cost-effective way. For FY 2016-17, the anticipated City attorney rate is \$144² per hour, while the average outside counsel rate is \$364 per hour. The bureau has also taken on more legal work for individual bureaus, adding new attorney positions to support the Portland Housing Bureau, Risk Management, and the Portland Police Bureau, which includes the Department of Justice settlement. Other workload changes include support for the Portland Harbor Superfund site, the creation of a Civil Rights attorney position to focus on equity, community justice, and civil rights enforcement, and new programmatic areas added by Council that require additional legal support. Additional notable changes are discussed below.

Support Staff

Most of the employee growth is due to funding new attorney positions, which grew by 11.60 FTE since FY 2006-07. In that same time period, the support staff has grown by 5.35 FTE. The Office has been able to reassign some duties and reprioritize existing resources to fund temporary staff, but has reached a point

¹ Percent change is from the FY 2006-07 Adopted Budget to FY 2015-16 Adopted Budget. The FY 2015-16 Adopted Budget also included \$285,020 for funding related to the Portland Harbor and \$100,000 for "Ban the Box implementation," which are not part of the bureau's operational expenses and therefore not included in the percent change calculation.

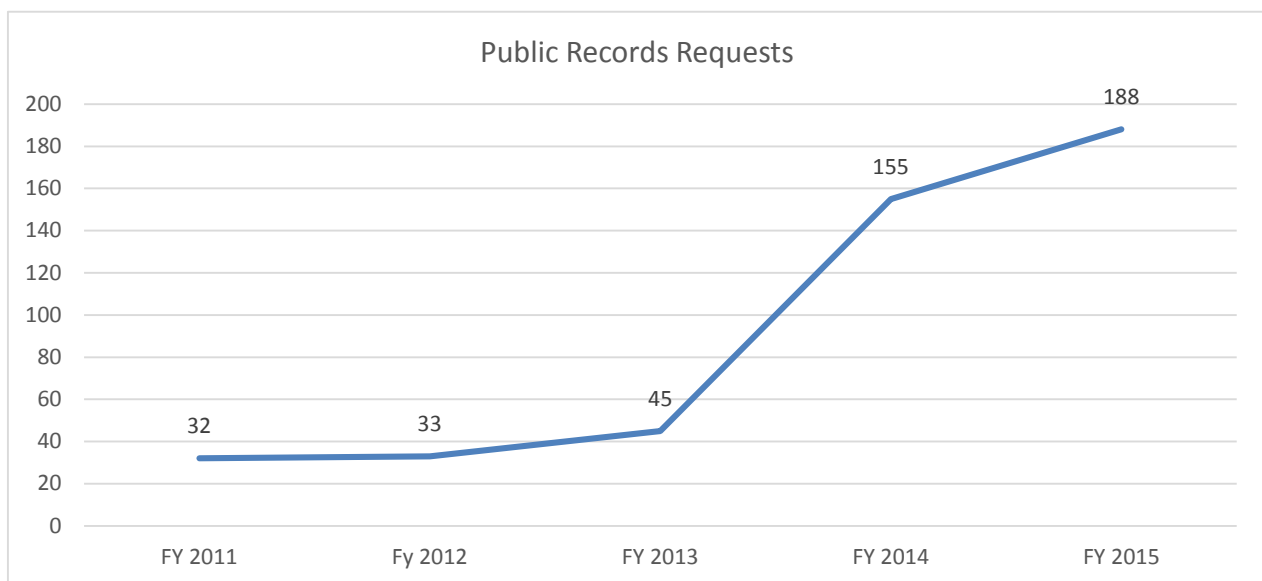
² Assuming authorization of a new 1.00 FTE paralegal position, discussed further below.

where it cannot take on additional workload without impacting service and performance. While the ideal ratio for attorneys to support staff varies widely by firm and type of practice,³ at the City, several key programs and cases have led to a need for additional support staff:

The Anderson v. City ratepayer lawsuit (*Anderson et al v. City of Portland*) has been pending for nearly four years. The Office anticipates that the case will be appealed, and the process could take an additional two to three years to resolve. Additional paralegal support is required to manage the high volume of documents associated with this case, which is over 200,000 pages to date.

The City Attorney's Office began work on the Citywide Legal Records Management Project (LRMP) in FY 2014-15 in cooperation with the Auditor's Office and other bureaus to develop, implement, and administer policies and practices to manage electronic and other records. Funding was approved in the FY 2014-15 Adopted Budget for a full-time attorney to focus on this program, but the request for an accompanying paralegal was not funded. The FY 2015-16 Adopted Budget authorized a new interagency-funded full-time Assistant Program Specialist (reclassified into a Management Assistant position) to support the Legal Holds component of the larger LRMP, but additional support is needed to manage the increasing workload.

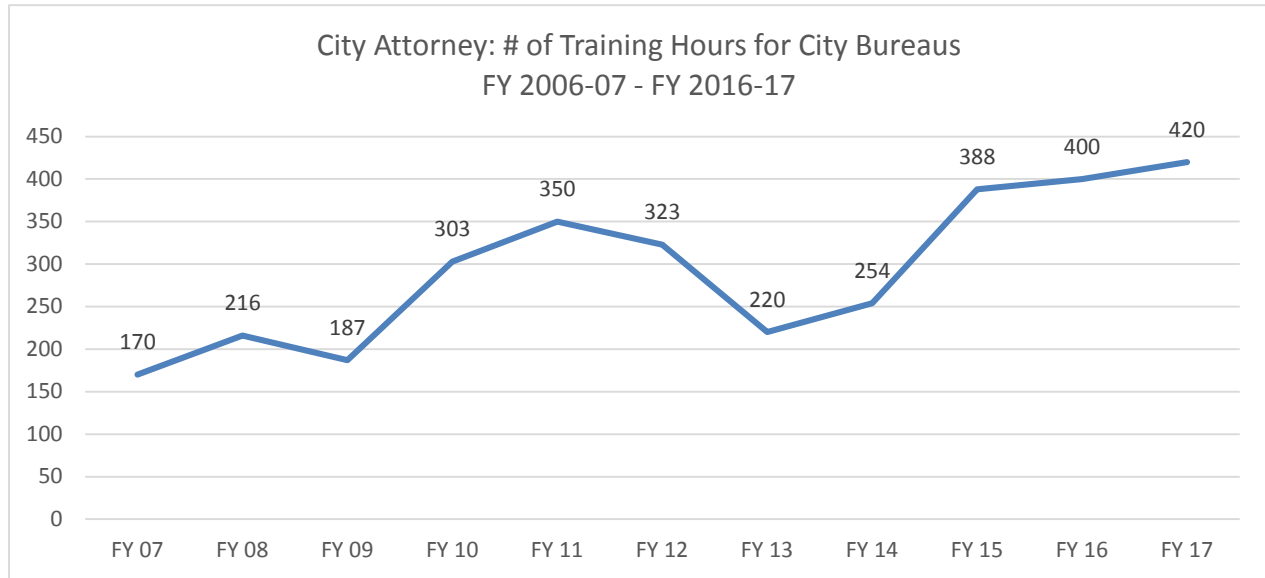
The new public records request online database, Gov QA⁴, went live in December 2015. Since then, a total of 1,862 requests have been submitted through the system, and the City Attorney's Office has advised bureaus on many of them. The chart below illustrates the dramatic increase the number of record requests formally assigned to the City Attorney's Office over the last several years, not including requests for which attorneys provided legal advice. The bureau has also been asked to handle increasing numbers of records requests related to Council Offices; it may be advantageous to formally transfer this responsibility to the City Attorney's Office in order to ensure that public records requests are handled expeditiously and correctly.



³ Sharon Quintance, "Caution: Flaws of the Attorney-To-Secretary Ratio," *Law 360*, December 2, 2014, <http://www.law360.com/articles/600559/caution-flaws-of-the-attorney-to-secretary-ratio>.

⁴ The City's Gov QA link is available at: <https://www.portlandoregon.gov/66961>

Training is another key component of the LRMP project. After rebuilding from the loss of an attorney position in 2013, the Office has seen a steady increase in the number of training hours it is able to provide to other bureaus.⁵ This is one of the measures that the City Attorney’s Office uses to gauge its performance in assisting clients with preventive legal advice, as noted in its 2015-2020 Strategic Plan. As discussed further below, the office is considering adding a new key performance measure assessing the effectiveness of these training hours.



Additionally, the Office has increased affirmative litigation to collect sums owed to the City, rebuilding after a steady decline since FY 2006-07. In addition to \$1.9 million awarded in the *Expedia, et al. v. City, et al.* case and \$680,000 from civil asset forfeitures, the office is currently working on cases that could potentially yield over four million dollars in delinquent business license revenue for the City. Business license collections handled by the bureau totaled \$570,913 in FY 2012-13, \$297,478 in FY 2013-14, and \$274,307 in FY 2014-15. The City could take on even more cases with additional paralegal support, as the Office currently has a very large backlog of collection complaints that need to be filed.

Absent more support staff, attorneys have and will continue to take on additional duties that could be carried out more cost-effectively by paralegals and legal assistants. The FY 2016-17 cost per paralegal hour is approximately \$64, which includes personnel costs as well as an average of materials and services. In contrast, the estimated FY 2016-17 cost per attorney hour is \$146, which is expected to drop slightly to \$144/hour with the addition of a 1.00 FTE paralegal position.⁶

2015 Audit Report

The Auditor’s Office released a report in March 2015 assessing the Office’s strategic plan, performance measures systems, and supervision of external legal services contracts⁷. The bureau had already begun the process of developing a comprehensive strategic plan as recommended in the audit, and the strategic

⁵ Note that figures for FY 16 and FY 17 are projections; all other figures are actual.

⁶ Data provided by the Office of the City Attorney

⁷ Mary Hull Caballero, Drummond Kahn, and Kristine Adams-Wannberg, “City Attorney’s Office: Good practices in place; next steps include strategic plan, measures, and post-contract evaluations,” March 2015, <http://www.portlandonline.com/auditor/index.cfm?c=66565&a=521801>

plan has since been finalized to incorporate specific objectives, strategies, and connections to meaningful performance measures. The City Attorney's Office added a new KPM for FY 2016-17 identifying the percentage of cases favorably resolved (AT_0010). With additional support staff, the Office may also be able to start collecting and analyzing surveys evaluating the effectiveness of training provided to bureaus. While it is not possible to accurately gauge the cost savings or number of lawsuits prevented, it may be useful to track feedback on how trainings impact bureau processes, procedures, and decision-making.

Decision Package Analysis & Recommendations

Paralegal Realignment, AT_01, \$0, 1.00 FTE / New Paralegal Reduction, AT_04, (\$100,098)

Prior to 2014, legal services related to the Portland Police Bureau's civil asset forfeiture program were provided by outside counsel. The City Attorney's Office assumed this responsibility in 2014 to promote consistency and oversight, with costs to be at least partially recovered through statutory attorney's fees from the program. The Office requests to realign PPB interagency revenue from external materials and services to personnel in order to create a new paralegal position, in lieu of requesting new General Fund support. However, in order to meet the budget guidance to provide 5% General Fund reductions, the City Attorney's Office has proposed cutting the requested paralegal position.

CBO recommends authorizing the new paralegal position with no reduction to General Fund resources. This support staff position will enable the Office to maintain and expand its current legal services, litigation, and training without the addition of new attorney positions or increasing its General Fund allocation.

CBO Recommendation: \$0, 1.00 FTE

Materials and Services Reduction, AT_02, (\$42,666)

The City Attorney's Office has proposed decreasing its external materials and services budget by \$42,666 in order to meet its 5% budget reduction. This will include office supplies, legal publications, and education. The City Attorney's Office is able to manage this reduction through utilizing electronic resources and in-house training.

CBO recommends this decision package. Based on historical spending patterns, the Office should be able to absorb this cut without impacting service levels.

CBO Recommendation: (\$42,666)

Technology Support Staff Reduction, AT_03, (\$150,348), (1.00) FTE

The City Attorney's Office currently has a full-time Applications Analyst funded through an interagency agreement with the Bureau of Technology Services (BTS) to manage its specialized software needs. This position is responsible for managing, updating, and configuring software applications, training new employees on specialized software systems, maintaining the Office's website, and providing ongoing

troubleshooting and technology support as needed. The Office has proposed eliminating this position in order to meet budget guidance to identify 5% General Fund reductions. This may require the Office to utilize outside consultants to assist with new software implementation; in the next year, this may include replacing its litigation discovery software, as well as upgrading or replacing its practice management software.

CBO recommends this reduction. The bureau will be able to delegate some of the work currently performed by the Applications Analyst to current support staff if the new paralegal position is approved. Based on historical spending patterns and projections from the first six months of FY 2015-16, CBO anticipates that the bureau should be able to absorb outside contracting costs even with the proposed reduction to its materials and services budget. At this point in time, it is likely that the staff position can be reassigned to other duties within BTS.

CBO Recommendation: (\$150,348), (1.00) FTE

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

	Bureau Priority	Bureau Requested					CBO Analyst Recommendations				
		FTE	Gen Fund Ongoing	Gen Fund 1-Time	Other Revenues	Total Expenses	FTE	Gen Fund Ongoing	Gen Fund 1-Time	Other Revenues	Total Expenses
Office of the City Attorney											
<i>Reductions</i>											
AT_02 - Materials & Services Reduction	01	0.00	(19,431)	0	(23,235)	(42,666)	0.00	(19,431)	0	(23,235)	(42,666)
AT_03 - Technology Support Staff Reduction	02	0.00	(68,470)	0	(81,878)	(150,348)	0.00	(68,470)	0	(81,878)	(150,348)
AT_04 - New Paralegal Reduction	03	(1.00)	(45,586)	0	(54,512)	(100,098)	0.00	0	0	0	0
<i>Total Reductions</i>		(1.00)	(133,487)	0	(159,625)	(293,112)	0.00	(87,901)	0	(105,113)	(193,014)
<i>Realignments</i>											
AT_01 - Paralegal Realignment	01	1.00	0	0	0	0	1.00	0	0	0	0
<i>Total Realignments</i>		1.00	0	0	0	0	1.00	0	0	0	0
Total Office of the City Attorney		0.00	(133,487)	0	(159,625)	(293,112)	1.00	(87,901)	0	(105,113)	(193,014)