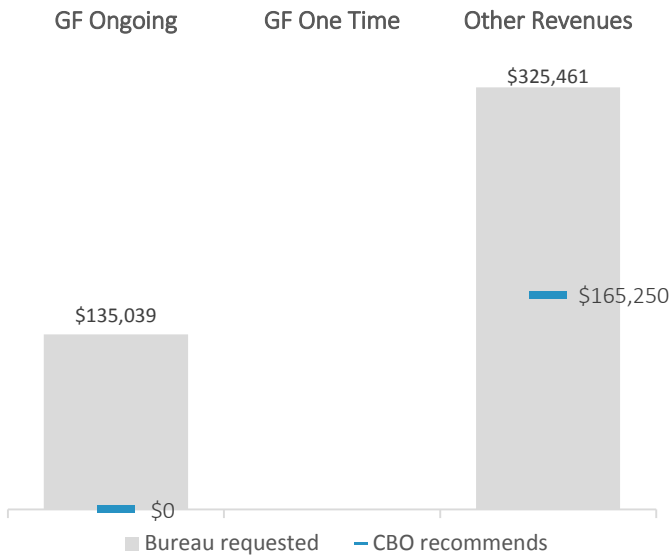


City Attorney

The City Attorney has offered up two reductions that would greatly impact level of service; the office has also requested multiple new positions to handle increased workload. Two of the three additional staff requests pertain to the Department of Justice Settlement agreement. The City Attorney's software systems are failing and will need replacing over the next several years.

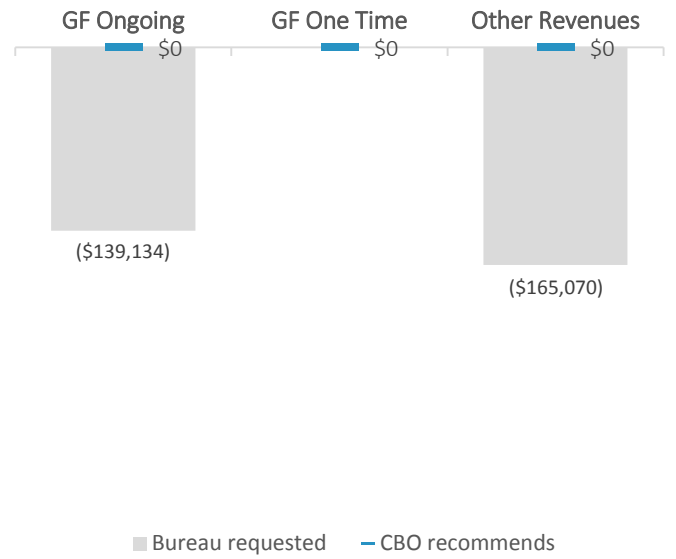
Adds



3.00 FTE Requested

1.00 FTE Recommended

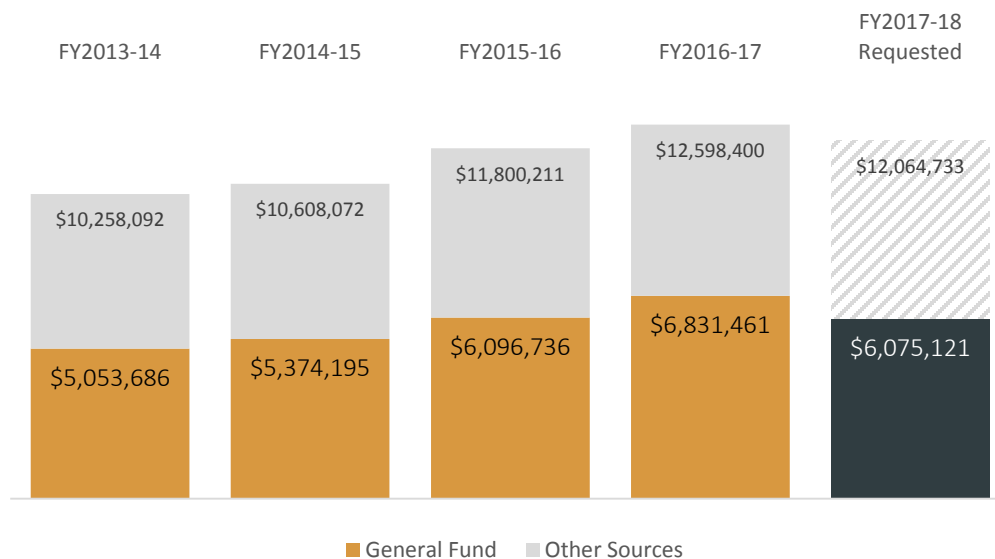
Reductions



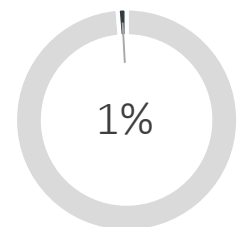
(1.00) FTE Requested

(0.00) FTE Recommended

Adopted Budget 5-Year look back



Decision Packages & Requested Budget



■ FY-17-18 Request Base
 ■ FY17-18 Decision Packages

Key Issues

Staffing Composition

Staff composition is a key issue for the City Attorney. As noted in previous reviews, the bureau has grown significantly in the last decade; however, the growth is primarily in attorney positions, and support or administrative staff has not grown commensurately.

Currently, the City Attorney is fully staffed with paralegals. The conclusion of the Anderson Case will provide more flexibility among the paralegal staff. Additionally, savings from a vacant attorney position has allowed the office to hire a temporary paralegal; another ongoing paralegal position was added in FY 2016-17.

Conversely, to meet budget guidance for FY 2016-2017 the bureau eliminated a technology support staff position funded through an interagency agreement with BTS. The elimination of this position has meant that existing administrative resources have had to redistribute work, and the current staff is struggling to keep up. Crucial administrative tasks are being completed; yet, less pressing administrative tasks that would benefit the efficiency and effectiveness of the office are not undertaken. For example, the office does not have capacity to track data as thoroughly as they would like to report on the office's equity plan and strategies, revamp their website to provide more information of interest to the public, or provide more information on available legal resources for low income and historically disadvantaged members of the community.

The City Attorney is relatively flat, organizationally. The City Attorney believes that the flat structure allows her to use experienced attorneys where there is the most demand for legal services. The City effectively has 27 separate businesses (bureaus), and the City Attorney must provide legal counsel and advice to each one. Specialization and flexibility help ensure more work is performed in-house leading to lower outside counsel costs, consistency, and increased quality. That said, there is a need for more junior attorneys who would move up as more senior positions retire. In 2014, the Attorney's office realigned resources to develop two Honors Attorney¹ positions to help advance equity goals and cultivate more junior attorneys with succession planning in mind. For FY 2017-18 a chief deputy attorney will be retiring, and this is providing an opportunity for the City Attorney to re-organize resources.

Affirmative Litigation

The workload for the City Attorney is often difficult to predict and, as outlined in City Charter 3.10.030, the majority of their work is not optional. All obligations must be performed in-house at approximately \$148 per hour, or by outside counsel at \$375 per hour. Moreover, it should be

¹ "The Honors Attorney Program is a two-year program for recent law school graduates, newly admitted lawyers and judicial clerks who are committed to public service...The Program actively seeks to recruit, hire, promote and retain a diverse class of Honors Attorneys every two years. <https://www.portlandoregon.gov/attorney/article/498264>. Accessed 2/27/2017

noted that the City Attorney recently added a performance measure for cases favorably solved and is exceeding their goal of 85%. This may be a result of in-house attorneys having an in-depth knowledge and understanding of the City.

The only work performed in-house that is not a core service and could be eliminated without reducing level of service to the City is affirmative litigation, where the City is the plaintiff. Unlike other activities, affirmative litigation generates revenue for the City. Examples include: foreclosures (see AT_05), collections, forfeitures, and Revenue Bureau business licenses.

The equivalent of one and a half full time positions work on affirmative litigation each year. The City Attorney was unable to provide exact revenue numbers for the affirmative litigation cases as this was not currently tracked in detail until FY 2016-17 when the City Attorney added a performance metric for cases favorably resolved. However, the City Attorney was able to provide data indicating since FY 2013-14 a minimum revenue of \$2.91 million was attributed to affirmative litigation. The results of a very basic cost benefit analysis demonstrate the positive return on investment from this activity.²

Affirmative Litigation Revenues*	\$	2,910,785
Cost for 1.5 attorneys from FY14-FY17	\$	991,500
Affirmative Litigation NET	\$	1,919,285

*excludes foreclosure and forfeitures

The figures above do not include affirmative litigation related to home foreclosures as this is discussed more in depth in AT_05.

Decision Package Analysis & Recommendations

Materials and Services 1% Reduction, AT_01&02, (\$60,841), 0.00 FTE

The City Attorney has taken reductions to materials and services five out of the last eight years. The bureau opted to specify two discrete decision packages, each totaling 0.5% that could be cut. The first decision package, AT_01, reduces external materials and services for office supplies and miscellaneous expenses by \$30,420. The second decision package, AT_02, reduces external materials and services for education, travel, legal publications and technology upgrades. The City Attorney is in dire need of software upgrades for Practice Manager (PM)

² In relation to the cost of one and a half attorneys at mid-range (\$165,250) over the same length of time, the net for the City is \$1.48 million. This is not an exact science as some litigation cases span years, for example the Expedia case which brought in \$1.9 million in revenue in 2016 but was started years before.

software as well as Summation and Visionary, the office's litigation management software programs. Since the City implemented Office 365, PM can no longer communicate with Outlook. Moreover, Summation is failing and Visionary is unsupported and will need to be replaced as soon as possible. Initial estimates to upgrade Summation are \$277,000, \$161,000 of which are ongoing annual costs. Currently, Summation costs the City Attorney \$10,000 annually. In light of this difference in maintenance cost, the bureau has sought alternative solutions. At this time, the Project Manager has identified an alternative solution that would require acquisition and implementation of three separate software programs. This is not best practice and could mean higher transaction costs than upgrading the current software. On average, the City Attorney underspends its external materials and services budget by approximately \$100,000 per year. The City Budget Office recommends these cuts not be taken and that the City Attorney request to carryover unspent funds to seed a software replacement fund.

CBO Recommendation: \$0, 0.00 FTE

Chief Deputy City Attorney Position 4% Reduction, AT 03, (\$243,363), 1.00 FTE

The City Attorney has proposed eliminating a Chief Deputy City Attorney to comply with the 5% reduction budget guidance. As noted in the key findings section of this review, this position is currently filled but the incumbent is retiring. When considering how and where to take budget reductions, the bureau considered eliminating two Honors Attorney positions in lieu of one Chief Deputy position. This would eliminate the Honors Program entirely and has a negative equity impact. The bureau also considered eliminating a Deputy City Attorney position that works on collections (affirmative litigation). This reduction does not fulfill the 5% reduction budget guidance, and as discussed in key findings, brings revenue into The City.

This particular Chief Deputy Attorney works in the areas of Land Use, Infrastructure and Natural Resources. If this position is cut, there is a direct impact to housing. Land use issues are presented involving zoning for and siting shelters and affordable housing. The City Attorney anticipates the work load for this specialization to be particularly heavy in the coming year due to the work regarding the Comprehensive Plan and Department of Land Conservation and Development (DLCD) and Land Use Board of Appeals (LUBA), and continued emphasis on the housing emergency.

The bureau estimates that reducing the Chief Attorney Position will increase outside counsel costs by approximately \$600,000. Although the bureau could divert resources from affirmative litigation, as discussed above this would have a negative impact on the City's finances. In light of the mounting land use workload, the financial benefit of affirmative litigation, and the cost-savings associated with using in-house counsel, CBO does not recommend this reduction.

CBO Recommendation: \$0

Legal Services to PPB for DOJ work, AT 04, \$165,250, 1.00 FTE

This decision package is for an additional attorney to work with the Portland Police Bureau on Department of Justice settlement policies. The Portland Police Bureau will fund the position one-time through an interagency agreement. The DOJ settlement is a three step process. The City has set an aspirational goal to complete the first step, policy adoption, by the end of October 2017. The DOJ settlement has distinct categories of actions that need to be taken: the use of force, training, community-based mental health services, crisis intervention, employee information system, office accountability, and community engagement.³ There are approximately 120 tasks related to these categories that will, as identified by the DOJ, impact 47 City policies. The City has been working to review these 47 policies by category. To date, the DOJ has reviewed and approved only 7 of the 47 policies that are intended to be complete by the end of 2017.

By Fall of 2016, PPB recognized that additional assistance from the City Attorney was necessary and a limited term attorney was funded via an interagency agreement. This request extends the position for another year. General risk management principles and national best practices inform the decision to include an attorney in the process as there is a large volume of constitutional and statutory laws that apply to police operations. Including an attorney in the process increases efficiency by eliminating an iterative process. Given the impending time frame, the importance of this work, the desire of the customer bureau to fund with existing resources, and temporary nature of the DOJ Settlement, the City Budget Office recommends this decision package.

CBO Recommendation: \$165,250 one-time, 1.00 FTE

Vacant/Abandoned Houses Attorney Support, AT 05, \$165,250, 1.00 FTE

In FY 2016-17, one-time General Fund resources were approved for an attorney to address vacant and abandoned houses in Portland. This decision package converts the limited term position to an ongoing position.

Portland has traditionally not pursued foreclosures, and in the first year of work, a foreclosure process has been created and implemented by the limited term attorney. This work required amending City Code 5.30, working with multiple bureaus to disseminate and advise them on the foreclosure process, developing a Vacant Property Registration ordinance, and collaborating with other stakeholders and experts to develop techniques to address community livability.

³ United States of America v. City of Portland, Settlement Agreement, 4. Accessed February 11, 2017, <https://www.portlandoregon.gov/police/article/506328>

To date, nine properties have been approved by Council for foreclosure. Of these nine, two liens have been paid off, three are being monitored due to active foreclosure from outside parties, and the remaining four are targeted for foreclosure proceedings to begin this year.

The two paid liens totaled \$79,471 and the remaining seven total \$505,664. The potential revenue from these proceedings would exceed the cost of this position for two years by over \$250,000. Vacant and abandoned homes impact neighborhood livability and compound problems during a homelessness crisis.

CBO recognizes that this is a form of affirmative litigation and thus, is not a core service. While initial estimates suggest that funding this position will result in net positive revenues for the City and increase neighborhood livability,⁴ due to limited resources CBO does not recommend funding at this time. CBO would like to see this work completed by the City Attorney through reprioritizing other activities with the understanding that response time and level of service might be lowered. CBO recommends that the City Attorney consider working with the bureaus who are most often the direct beneficiaries of paid liens. The properties on the current approved foreclosure list had liens that were code violations related only; therefore, the Bureau of Development Services (BDS) and the LID fund are directly positively impacted.

CBO Recommendation: \$0

DOJ/Community Engagement/Accountability Policy, AT 06, \$130,000, 1.00 FTE

The City Attorney is requesting funding for an ongoing Senior Policy Advisor that will work in the Mayor's Office and will interact with all elected officials to manage the DOJ settlement. This position will work closely with the Portland Police Bureau (PPB) and the City Attorney to facilitate timely compliance with the DOJ settlement agreement. Currently, there are positions within each bureau that manage activity related to the DOJ settlement agreement, but there is no single manager of the process across the city. Managing compliance with the DOJ settlement agreement is costing the City valuable time and resources, and it is in the City's best interest to reach compliance as soon as possible. This position fills an important role related to the DOJ agreement and helps the City's efforts to achieve complete compliance.

In FY 2016-17, this deficit was identified and in order to respond as quickly as possible, the position was filled and funded through vacancy savings from the City Attorney; however, these vacancy savings will not continue in FY 2017-18 and therefore can no longer fund the position.

The City Budget Office recommends that the ongoing funding for the Compliance Officer Community Liaison and Community Oversight Advisory Board (COCL/COAB) be reduced by \$130,000 (one time) and using those to support this position. Currently, the COCL/COAB is being restructured and funding requirements are unknown, but CBO believes that a \$130,000 reduction in the \$800,000 budget would leave ample funding for the COCL contract (\$355,000)

⁴ Example of vacant home/zombie home story, Accessed February 10, 2017, <http://www.kgw.com/news/local/zombie-house-in-n-portland-brought-to-life-now-for-sale/405438190>

and other necessary costs. Finally, CBO recommends the funding and the position be included in the Mayor's budget since the position will be under the guidance of the Mayor.

CBO Recommendation: \$0, 0.00 FTE

Bureau Budget Summary – Request and Recommendations

Below is a summary of The City Attorney’s operating budget.

	Adopted FY 2016-17	Request Base (A)	Bureau Decision Packages (B)	CBO Recommended Adjustments (C)	Total Recommended Revised (A+B+C)
Resources					
Charges for Services	\$ 106,000	\$ 30,000	\$ -	\$ -	\$ 30,000
Interagency Revenue	5,660,939	5,794,362	165,250	-	5,959,612
General Fund Discretionary	3,037,182	2,782,654	(4,095)	4,095	2,782,654
General Fund Overhead	3,524,279	3,301,421	(4,859)	4,859	3,301,421
Total Resources	\$12,328,400	\$11,908,437	\$156,296	8,954	\$12,073,687
Requirements					
Personnel Services	\$ 10,396,979	\$ 10,397,451	\$ 203,300	\$ (49,622)	\$ 10,551,129
External Materials and Services	848,205	488,798	(47,004)	58,576	500,370
Internal Materials and Services	1,083,216	1,022,188	-	-	1,022,188
Total Requirements	\$12,328,400	\$11,908,437	\$156,296	\$ 8,954	\$12,073,687

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>Adds</i>											
AT_04 - Legal Services to PPB for DOJ work	01	1.00	0	0	165,250	165,250	1.00	0	0	165,250	165,250
AT_05 - Vacant/Abandoned Houses Attorney Support	02	1.00	75,581	0	89,669	165,250	0.00	0	0	0	0
AT_06 - DOJ/Community Engagement/Accountability F	03	0.00	59,458	0	70,542	130,000	0.00	0	0	0	0
<i>Total Adds</i>		<i>2.00</i>	<i>135,039</i>	<i>0</i>	<i>325,461</i>	<i>460,500</i>	<i>1.00</i>	<i>0</i>	<i>0</i>	<i>165,250</i>	<i>165,250</i>
<i>Reductions</i>											
AT_01 - Materials and Services Reduction 0.5%	01	0.00	(13,913)	0	(16,507)	(30,420)	0.00	0	0	0	0
AT_02 - Materials and Services Reduction 0.5%	02	0.00	(13,914)	0	(16,507)	(30,421)	0.00	0	0	0	0
AT_03 - Chief Deputy City Attorney Position Reduction	03	(1.00)	(111,307)	0	(132,056)	(243,363)	0.00	0	0	0	0
<i>Total Reductions</i>		<i>(1.00)</i>	<i>(139,134)</i>	<i>0</i>	<i>(165,070)</i>	<i>(304,204)</i>	<i>0.00</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
Total Office of the City Attorney		1.00	(4,095)	0	160,391	156,296	1.00	0	0	165,250	165,250

