



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

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INTEROFFICE MEMORANDUM

TO: City Budget Office

FROM: Tracy Reeve *LFR for TPR*
City Attorney

SUBJECT: FY2017-18 Fall Budget Monitoring Process

Attached is the City Attorney's Office's Fall Budget Monitoring Report for FY2017-18. In summary, the office's prior year expenditures were 2% under budget. There are no significant issues to report for the prior year.

The office is requesting General Fund resources to fund a temporary Paralegal position through the end of the fiscal year. The office's workload to collect on delinquent business license accounts has increased significantly. There is an estimated \$7.4 million in delinquent business license revenue due to the City. Current legal staffing levels are insufficient to perform the work required to collect it. A temporary paralegal will cost \$112,000 for one year. Without the paralegal position, the office must forgo working on half of the 564 currently open cases. Even if the office focuses only on the highest dollar value cases, potential revenue collections will be reduced by over \$1 million. The cost of the position is well below the revenue it will help generate.

The second request will increase one Senior Deputy City Attorney position from part time (0.7 FTE) to full time (1.0 FTE). The workload in the office is increasing due to additional demand for contract reviews, business license collections, complex litigation and the office's focus on preventive legal training for City employees. In addition, the office is experiencing the retirement of several experienced attorneys. This results in additional work and has created a need for this full time Senior Deputy City Attorney position. The increase in FTE will not require additional resources because newer employees are starting at lower salaries.

Thank you for your consideration.

TPR/ccj
Encls.

**CBO Discussion and Recommendations
FY 2017-18 Fall Supplemental Budget Ordinance**

Bureau: Office of the City Attorney

Type: New Request

Request: AT_001 - Revenue Collections Paralegal

	Fall BMP Requested Adjustments	Fall BMP CBO/Council Changes	Fall BMP Total Adjustments
EXPENDITURES			
Personnel Services	97,476	0	97,476
External Materials and Services	14,524	0	14,524
TOTAL EXPENDITURES	112,000	0	112,000
REVENUES			
General Fund Discretionary	112,000	0	112,000
TOTAL REVENUES	112,000	0	112,000
FTE			
Limited Term Positions	1.00	0.00	1.00
TOTAL FTE	1.00	0.00	1.00

Bureau Description:

The office requests one-time funding for one limited term paralegal through the FY17-18 fiscal year in the amount of \$112,000 to handle delinquent business license collections, currently estimated at \$7.4 million. This request makes good economic sense because the additional funding will result in collections beyond the cost of the position.

The Revenue Bureau and City Attorney's Office have been working tirelessly to ensure the City collects its business license revenues. Over the last several years, the City Attorney's Office has increased collection efforts for delinquent business license accounts resulting in millions of dollars in increased revenue to the City and County. Collection efforts include negotiations, sending demand letters and, when all other efforts are unsuccessful, filing lawsuits to collect monies owed to the City. The paralegal position performs essential investigative functions including research relating to debtors' business and corporate relationships, assets and liabilities, background and location research to help determine case viability and enhance litigation success, and drafting pleadings such as complaints, default judgments and other enforcement documents.

The workload has been increasing significantly each year: In FY14, the office opened 40 new cases; FY15: 123 cases; FY16: 336 cases; and FY17: 485 cases. Permanent staffing includes two attorneys and one paralegal, with legal assistant and general office support. In FY17, the office hired a second paralegal with vacancy savings to help reduce the backlog of cases. However, the number of cases continues to increase and the office does not expect vacancy savings this year. In addition, the Revenue Bureau is implementing a new program that is expected to identify additional delinquent accounts. This has the potential to double the current workload of the City Attorney's office's collections team. The office currently has around 564 open cases worth an estimated \$7.4 million in revenue. If a second paralegal is not funded for FY17-18, the office will not be able to work on half of the current cases. Even if the office focuses only on high dollar value cases, potential collections will be reduced by over \$1.0 million. (This does not include the additional work expected by the Revenue Bureau's new program.) The revenue collected is expected to be far greater than the cost of the position. And, although difficult to quantify, when the office demands payment but does not follow through with litigation, it reduces the effectiveness of the program. If the City does not commit the resources to enforce the program, many businesses will not bother to pay knowing there will be no real consequences.

After the Revenue Bureau's new program is implemented and the additional workload is quantified, the office will submit a request in the FY18-19 budget process for ongoing staff to ensure the City can effectively and efficiently collect on delinquent business license revenues.

CBO Discussion and Recommendation

**CBO Discussion and Recommendations
FY 2017-18 Fall Supplemental Budget Ordinance**

Bureau: Office of the City Attorney

Type: Technical Adjustment

Request: AT_002 - Sr Deputy City Attorney Part Time to Full Time

	Fall BMP Requested Adjustments	Fall BMP CBO/Council Changes	Fall BMP Total Adjustments
EXPENDITURES			
Personnel Services	14,386	0	14,386
External Materials and Services	(14,386)	0	(14,386)
TOTAL EXPENDITURES	0	0	0
FTE			
Full-Time Positions	1.00	0.00	1.00
Part-Time Positions	-0.70	0.00	-0.70
TOTAL FTE	0.30	0.00	0.30

Bureau Description:

Increase one part time Senior Deputy City Attorney (0.7 FTE) to full time (1.0 FTE). The workload in the office is increasing due to additional demand for contract reviews, business license collections, general and complex litigation and the office's focus on preventive legal training for City employees. In addition, the office is experiencing the retirement of several senior attorneys resulting in additional work for newer attorneys. This 0.3 increase in FTE will not require additional resources because newer employees will start at lower salaries.

CBO Discussion and Recommendation

Prior Year Business Area Reconciliation Report

	FY 2016-17 Revised Budget	FY 2016-17 Year-End Actuals	Percent of Actuals to Revised
Office of the City Attorney			
EXPENDITURES			
Personnel Services	\$10,255,677	\$10,045,088	98%
External Materials and Services	\$741,756	\$665,995	90%
Internal Materials and Services	\$1,163,216	\$1,149,867	99%
TOTAL EXPENDITURES	\$12,160,649	\$11,860,950	98%
REVENUES			
Charges for Services	\$106,000	\$204,338	193%
Intergovernmental Revenues	\$0	\$38,000	0%
Interagency Revenue	\$5,826,189	\$5,826,189	100%
General Fund Discretionary	\$2,704,181	\$0	0%
General Fund Overhead	\$3,524,279	\$0	0%
TOTAL REVENUES	\$12,160,649	\$6,068,527	50%

Bureau Reconciliation Narrative

Expenditures were on target and two percent under budget. Charges for Services were higher than budget by a significant amount. This line item includes legal services to the Police Bureau for forfeiture work, public records fees, and miscellaneous litigation awards. Because these revenues are difficult to predict, the office has been conservative in its estimates. In addition, the office received \$38,000 in intergovernmental revenues for legal services provided to MHCRC.

Office of the City Attorney

Performance Measures

Performance Measure	Type	FY 2014-15 Year-End Actuals	FY 2015-16 Year-End Actuals	FY 2016-17 Adopted Budget	FY 2016-17 Year-End Actuals	FY 2017-18 Adopted Budget
AT_0001 - Number of litigation cases	WORKLOAD	1,259	1,624	1,850	1,733	1,600
AT_0004 - Number of contracts reviewed and approved	WORKLOAD	8,892	8,983	8,500	9,938	9,000
AT_0006 - Number of training hours provided by City Attorney staff to other City staff	KPM	388	451	420	468	400
AT_0007 - Annual costs of outside counsel	KPM	\$331,624	\$316,443	\$460,000	\$508,718	\$400,000
AT_0008 - Cost of service per attorney hour	KPM	\$133	\$138	\$146	\$138	\$151
AT_0010 - Percentage of cases favorably resolved	KPM	89%	95%	85%	90%	85%

Performance Measure Variance Descriptions

Litigation Cases: The overall number of litigation cases handled by the office is higher than prior years primarily due to an increase in business license collections and civil forfeitures, resulting in additional revenue for the City. The number of cases handled was not as high as estimated due, in part, to fewer grievances, tort employment cases and tort cases involving the Police Bureau, which is a positive reflection of the office's preventive approach. The office has been investing in Citywide preventive training to reduce liability and, while difficult to measure, the expectation is that fewer tort cases will be filed against the City as a result.

Contracts Reviewed: The number of contracts reviewed has more than doubled in the last ten years and continues to rise. The City Attorney's Office has been able to handle the increases with available resources. However, if the upward trend continues over the next few years, the office may need to increase staffing for this work or lower the expectation for timeliness of review. Currently, the average turnaround time for contract review is 1.8 days with 73% of contracts returned within two days. Two years ago, 81% of contracts were returned within two days.

Training Hours Provided: The number of training hours provided to City staff was on target. The office continues to make legal training a priority, which lowers risk and cost to the City. Legal training for City employees on topics such as ADA compliance, the discipline process, HRAR 2.02, election laws, civil forfeitures and legal records management, for example, are important to reaching all four of the office's primary goals: providing excellent customer service and legal advice, providing effective advocacy, achieving equity, and ensuring good stewardship of public resources.

Outside Counsel Costs: Outside counsel costs were slightly higher than predicted. Because in-house rates are significantly lower than rates for outside counsel, and because the office attorneys have greater expertise in municipal matters, a goal of the City Attorney's Office is to minimize the number of occasions when outside counsel is hired. Some outside counsel costs are unavoidable; however, having sufficient in-house staff has reduced costs while providing consistent and high quality legal services. The City Attorney's Office will continue to strive for low outside counsel costs.

Cost of Service per Attorney Hour: The actual attorney hourly rate was lower than anticipated due to expenses coming in under budget. The attorney hourly rate remains less than half the rate of outside counsel and is a clear indicator that the City Attorney's Office minimizes the City's overall legal costs. Providing cost-effective legal services relates directly to all four of the office's primary goals and, in particular, demonstrates that the office continues to be an effective steward of public resources by providing excellent, easily accessible legal services to the City, at a very affordable rate.

Percent of Cases Favorably Resolved: The City Attorney's Office handles cases in state and federal courts and in other proceedings to protect the City's interests. Cases can be resolved in many ways including early alternative dispute resolution, the strategic use of offers of judgment to minimize the risk of adverse outcomes in cases taken to trial, and the vigorous defense or prosecution of cases through pretrial motions, trial and on appeal. This effectiveness measure, implemented last year, measures the results, either favorable or unfavorable, of litigation cases. The office set a high target of 85% of cases resolved in favor of the City. The office has exceeded this target. Not only are these excellent results, but they were achieved at a very low cost to the City by using in-house counsel rather than more-expensive outside counsel. The office will continue to strive for excellent results when advocating for the City's interests.