



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

Robert L. Taylor, City Attorney
1221 SW 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax: (503) 823-3089

September 9, 2021

INTEROFFICE MEMORANDUM

TO: City Budget Office

FROM: Robert L. Taylor
City Attorney

SUBJECT: FY2021-22 Fall Budget Monitoring Process

Enclosed is the City Attorney's Office's Fall Budget Monitoring Report for FY2021-22. In summary, the Office's prior year expenditures were 4% under budget. There are no significant issues to report for the prior year.

The City Attorney's Office is requesting approval of the following decision packages:

- Encumbrance Carryovers for three projects that started in FY2020-21 that are continuing into FY2021-22. The office requires encumbrance carryover funds to complete these one-time projects.
- One technical adjustment to convert from limited-term to permanent one interagency-funded FTE that was inadvertently omitted from the Adopted Budget.

With the approval of these decision packages, the City Attorney's Office believes it will have sufficient resources in the current fiscal year's budget given the current projected revenues and expenditures.

Thank you for your consideration. We are happy to discuss the requests and answer any questions.

RT/ccj
c: Crystine Jividen
Tony García

AT - Office of the City Attorney

DP Type

Technical Adjustments

Request Name: 12515 -Technical Adjustments

Package Description

This technical request converts a limited term Deputy City Attorney FTE to ongoing that was inadvertently omitted from the Adopted Budget. In the FY2020-21 Fall BMP, the office adjusted its Interagency Agreement with Risk management to add a limited term attorney position to handle a large increase in tort litigation cases filed against the City. The large influx of protest-related cases added to an already demanding workload has created a critical need for an ongoing position. In the Adopted Budget, the office increased its interagency agreement with Risk Management to fund the ongoing position, but inadvertently omitted the ongoing FTE in the Adopted Budget. This technical adjustment is for zero dollars and 1.0 FTE ongoing Deputy City Attorney position that is already funded in the Adopted Budget.

Service Impacts

If the position is not added, the City Attorney's Office may have to resort to outside counsel to handle a number of litigation cases. This is not cost effective, since the City Attorney's Office can provide legal services at \$168 per attorney hour compared to an average rate of \$400 per attorney hour for outside counsel. In addition, the City Attorney's Office is often best situated to handle litigation on behalf of the City because of the City's institutional understanding of the City's operations, documents, priorities, and key personnel. Having outside counsel handle litigation cases often takes more time and may result in poorer service outcomes because outside counsel lacks the institutional understanding of the City possessed by the City Attorney's Office.

Equity Impacts

The racial justice movement continues to catalyze and intensify the City's urgent need to address systemic and institutional racism in all of the City's policies, programs and services. The City Attorney's Office is critical to the City's work to advance racial equity through the Office's legal advice in policy development, program change, and service delivery. At the same time, the Office is becoming increasingly overwhelmed by the number of new protest-related cases filed against the City. Without adequate litigation support the Office's overall ability to effectively serve the legal needs of the City will be compromised, which will include an adverse impact on the Office's ability to effectively perform its critical legal work to advance the City's racial equity goals.

2021-22 FALL Requested Adj		
Expense	Personnel	0
Expense	Sum:	\$0

Position Detail						
Job Class - Name	FTE	Salary	Supplemental	Statutory	Benefit	Total
30003020 - City Attorney, Deputy	1.00	0	0	0	0	0
Total	1.00	0	0		0	0

AT - Office of the City Attorney

DP Type

Encumbrance Carryover

Request Name: 12516 -Encumbrance Carryovers

Package Description

The office has three encumbrance carryover requests.

1) The City contracted with OIR Group to assist with an independent review of the Police Bureau. \$150,000 was added to the City Attorney's Office budget in the FY 2020-21 Spring BMP. The contract was effective on March 29, 2021, and the office has spent \$10,894. The work did not begin in earnest until the new fiscal year and the office requests an encumbrance carryover in the amount of \$139,106 to complete the work.

2) The office contracted with Fat Pencil Studios to assist with development of a legal records database to assist with management of extensive litigation video records. The contract for \$100,000 was effective April 1, 2021, and the work is in progress. To date, \$777 has been spent and the office requests an encumbrance carryover in the amount of \$99,223 to complete the work. . The office expects additional cases to be filed in relation to protests during 2020 and will need these services to comply with the law.

3) The office is working with Facilities to make safety and security improvements to the office's reception area. The work began in FY2020-21 and is expected to be completed in FY21-22. The design phase has been completed and the construction bid portion is in progress. The office requests the budgeted \$100,000 be carried over to complete the work.

Service Impacts

1) The OIR Group audit of the Police Bureau cannot continue without encumbrance carryover funds because the office does not have sufficient funds in its base budget for this one-time project.

2) The office is defending numerous tort litigation cases resulting from the City's response to demonstrations. Evidence for these cases include large amounts of video records that are difficult to track with existing tools. The office needs this database to efficiently and effectively defend these cases and comply with the law.

3) The safety and security of employees and visitors is important to the office. The reception area of the office requires safety and security improvements to ensure access is limited to authorized personnel and to add pandemic health and safety measures. The office began this project last fiscal year and expects to complete it before employees return to the office.

These one-time projects require encumbrance carryover funds for completion.

Equity Impacts

The OIR Group Audit is essential to outreach, public engagement and collaborating with communities to inform, modify and reform City programs and services. This audit provides the information necessary to complete those tasks in line with the City's racial equity goals. Similar to the audit data, efficient access to video records not only serves litigation defense interests, but provides access for internal review and analysis to inform, modify and reform City programs and services. The safety and security improvements provide safer space to all employees and public guests receiving services.

2021-22 FALL Requested Adj		
Expense	External Materials and Services	238,329
	Internal Materials and Services	100,000
Expense	Sum:	\$338,329

2021-22 FALL Requested Adj		
Revenue	General Fund Discretionary	338,329
Revenue	Sum:	\$338,329

Prior Year Fund Reconciliation Report

Office of the City Attorney

100 - General Fund

EXPENDITURES	2020-21 Revised Budget	2020-21 Actuals	Percent of Actuals to Revised
Personnel	13,144,137	12,776,861	97.21%
External Materials and Services	597,286	461,713	77.3%
Internal Materials and Services	1,629,862	1,505,643	92.38%
TOTAL EXPENDITURES	15,371,285	14,744,216	95.92%

REVENUES	2020-21 Revised Budget	2020-21 Actuals	Percent of Actuals to Revised
Charges for Services	25,000	26,901	107.6%
General Fund Discretionary	3,491,391	0	0%
Interagency Revenue	7,625,465	7,625,465	100%
General Fund Overhead	4,229,429	0	0%
TOTAL REVENUES	15,371,285	7,652,366	49.78%

Expenditure Discussion

Expenditures were on target and 4% percent under budget. Personnel Services were 3% under budget due to retirements and turnovers resulting in a small amount of vacancy savings. External Materials was underspent by 23% due in part to a few projects overlapping fiscal years. Internal Materials and Services expenses were 8% under budget due to a Facilities project overlapping fiscal years. Encumbrance Carryovers will be requested to complete these projects.

Revenue Discussion

All revenues were collected as expected. The Charges for Services category, which includes legal services for civil forfeiture work, public records fees, and miscellaneous revenue, slightly exceeded target. These revenues are inconsistent and difficult to predict but are only a small fraction of the office's overall revenue.

Other Notes

Bureau Performance Narrative

Over the past year, the City Attorney's Office achieved many significant results while also navigating tough challenges. The office continues to provide exceptional legal services to the City, as demonstrated by the 91% success rate in litigation, over 7200 contracts reviewed, and 426 training hours provided to City staff. The office performed these exceptional services – and more – while maintaining a comparably inexpensive cost of service per attorney hour. The office has ably defended the decisions of City employees in court and provided legal advice on the City's top policy priorities, including housing, demonstrations, fossil fuels, and other high-profile matters. Some affirmative litigation matters such as business license collections have been paused due to the pandemic but are expected to resume in the near future. Finally, internal process improvements, such as transferring review of certain routine contracts to Procurement staff, for example, has allowed attorneys to focus on more complex legal reviews. With additional staffing and process improvements in this area of law, turnaround time has improved significantly resulting in improvements to the City's contracting processes.

The office continues to face challenges from both internal and external factors. Internal factors include retirements and regular turnover, which necessitates hiring, training and the reassignment of work. These challenges can impact the continuity of legal services in some areas with a loss of institutional knowledge. External factors include the increasing number of tort claims filed against the City, both for the City's response to demonstrations and other tort cases. In addition, office attorneys are called upon more and more to provide sound and creative legal advice to help policy-makers confront the challenges of a changing and growing City. Issues such as policing and livability require several attorneys in order to cover the many legal areas impacted by decisions on these subjects. These demands can put a strain on existing office resources. The office's main response to these challenges is to try to continue to hire and retain the best attorneys and staff available and use more expensive outside counsel only when necessary.

The office continues to make a commitment to equity, and advancing equity remains one of the four main office goals. The office has maintained the Honors Attorney program, which is intended to help develop attorneys from under-represented communities who are interested in public service. In addition, the office continues to look for ways to retain, develop, and advance employees of color in the office, all of which are consistent with the office's Racial Equity Plan. Specifically, the office has created an Inclusion, Diversity, Equity & Awareness committee which is working on small and large group training, auditing the office's performance under its current racial equity plan and drafting a new racial equity plan.

Key Performance Measures	Measure Type Name	FY 2018-19 Actuals	FY 2019-20 Actuals	FY 2020-21 Target	FY 2020-21 Actuals	FY 2021-22 Target	Strategic Target	Details
AT_0004	Number of contracts reviewed and approved	10,290	9,016	10,200	7,216	8,000	8,000	
AT_0006	Number of training hours provided by City Attorney staff to other City staff	421	205	300	426	300	400	
AT_0007	Annual costs of outside counsel	\$341,568	\$838,595	\$500,000	\$801,086	\$850,000	\$500,000	
AT_0008	Cost of service per attorney hour	\$150	\$168	\$166	\$161	\$168	\$168	
AT_0010	Percentage of cases favorably resolved	96%	96%	95%	91%	90%	90%	
Other Performance Measures	Measure Type Name	FY 2018-19 Actuals	FY 2019-20 Actuals	FY 2020-21 Target	FY 2020-21 Actuals	FY 2021-22 Target	Strategic Target	Details
AT_0001	Number of litigation cases	1,324	1,055	1,100	973	1,100	1,200	