

**LAW DEPARTMENT
FISCAL YEAR 2015 BUDGET TESTIMONY
APRIL 16, 2014**

EXECUTIVE SUMMARY

DEPARTMENT MISSION AND FUNCTION

The Law Department is responsible for providing legal advice to all officers, departments, boards, and commissions within the City concerning any matter arising in connection with the exercise of their official powers. Included within this responsibility is the collection of fines, taxes and other debts owing the City, the representation of the City and its officers in litigation, the preparation of ordinances for introduction in City Council, and preparation of City contracts. Chiefly, our mission is to provide timely and high quality legal advice and representation. Other objectives include reducing costly reliance on outside counsel whenever possible, increasing revenue to the City through coordination with the Department of Revenue, providing cost effective representation in litigation and maintaining high quality legal services while continuing to recruit and retain high quality staff.

PROPOSED BUDGET HIGHLIGHTS/FUNDING REQUEST

- **General Fund:** The Law Department requests \$7,003,545 in Class 100, \$6,010,034 in Class 200, \$211,185 in Class 300 and \$37,491 in 400 for a total of \$13,262,255. This represents an increase of \$172,000 from FY14 estimated obligations to increase its General Fund budgeted staffing levels from 147 for FY14 to 152 in FY15.
- **Water Fund:** The Law Department requests \$3,166,711 in the Water Fund, which is the same as our FY14 estimated obligations.
- **Aviation Fund:** The Department requests \$1,971,311 in the Aviation Fund, which is also the same as our FY14 estimated obligations.
- **Community Development:** The Department requests \$154,637 in the Community Development Fund, which is \$1,303 higher FY14 estimated obligations.

HIGHLIGHTS/ACCOMPLISHMENTS

- **Revenue Initiatives** – Increased the amount of Sheriff Sale petitions filed to 6,938 in the first eight months of this fiscal year compared to the 3,503 petitions filed the entire FY13 representing a 50.5% increase.. Overall real estate tax collections continue to be on a rise, as the collection plan in FY14 and beyond includes sequestration petitions for nearly all delinquent commercial property owners who own tenant occupied buildings, thousands of bulk lawsuits filed in Municipal Court for one year old delinquencies under \$10,000 in liability, as well as the future implementation of a new law (“Act 93”) that permits the City to transfer “in rem” real estate tax liens of delinquent properties as personal judgments against valid off-site addresses of the delinquent property owner. Collection initiatives include the rejuvenation of the Sequestration program and the creation of the Commercial Activity License Revocation program. .
- **Cost Effective Representation in Litigation** - FY14 estimated indemnity obligations are \$41 million, as compared with FY13 budgeted obligations of \$30.3 million. A few higher settlements in civil rights cases and a number of additional new cases are largely the reasons for the increase. New cases continue to increase and are expected to reach 1,791 by the close of FY14 as compared to 1,744 new cases in FY13. For comparison, new cases in FY09 totaled just 1,324. With the rise in cases over the last five years, the Law Department closed 18 percent more cases in FY13 than in FY09. By the end of FY14, we expect to close 1,884 cases, a significant increase from FY13 when we closed 1,584 cases.

As of September 30, 2013, the Law Department was defending 2,590 active litigation cases. In FY13, 63 percent of cases were closed without any payment by the City while 37 percent were closed with pay. Despite the fact that a vast majority of these suits are ultimately deemed to be without merit, the Law Department is still obligated to spend resources to defend the City and to budget funds that may be needed to pay out claims, until and unless those cases are dismissed or withdrawn.

In FY13, 22 civil rights cases were tried to verdict resulting in 20 defense verdicts and 2 nominal verdicts in favor of plaintiffs. Over 100 civil rights cases were closed without any City payment by way of filing a motion and thereby, avoiding trial. More than 750 prisoner cases involving allegations of unconstitutional conditions of confinement were resolved for a nominal sum of \$37,500. Regarding civil tort claims, the average cost of closure was among the lowest in the last six years at \$19,443. Claims attorneys were successful in 77% of the tort claims arbitrated with payment costs on the remainder consistently less than the plaintiff's demands. Another 42 tort claims were resolved by way of dispositive motions avoiding the necessity of a trial. Finally, the City was successful in having its defense and liability exposure assumed in 12 civil actions pursuant to contractual obligations of contractors and insurance carriers.

- **Non-Tax Revenue** – In FY14 the Law Department recovered funds as a result of a settlement payment by a judgment debtor in a mortgage foreclosure action. For FY15, the Law Department expects to collect funds as a result of a settlement of a matter brought by a City vendor on behalf of City to recover overpayments made to another service provider.
- **Cost Effective Representation in Transactions** - The Law Department worked on more than 2,151 contracts in FY13 in addition to miscellaneous purchase orders, various forms of competitively bid contracts and a myriad of real estate transactional documents. By supporting the Division of Aviation's Security Department in negotiating eight separate agreements, responsibility for security monitoring was transferred from the Division of Aviation to appropriate airport tenants. Also in FY13, Law provided counsel for the extension to the Airport-Airline Use and Lease Agreement which will provide an additional \$721 million in capital improvements and was instrumental in the drafting of legislation which recently passed and therefore, will provide the funding for a proposed consolidated rental car facility at the airport. Law also negotiated a contract with Unisys on behalf of OIT and the Managing Director's Office for a cloud-based software solution for management of the City's 311 call center. Under this agreement, Unisys Corporation will implement the 311 System by which citizens can request municipal information and report matters requiring municipal action, such as potholes or abandoned vehicles or graffiti. This model shifts traditional costs and responsibilities to the provider resulting in projected cost savings and operational efficiencies as compared with traditional IT systems.

**LAW DEPARTMENT
BUDGET SUMMARY AND OTHER BUDGET DRIVERS**

Financial Summary by Class - General Fund

	Fiscal 2013 Actual Obligations	Fiscal 2014 Original Appropriations	Fiscal 2014 Estimated Obligations	Fiscal 2015 Proposed Appropriations	Difference FY14 - FY15
Class 100 - Employee Compensation	\$6,511,482	\$6,563,545	\$6,831,545	\$7,003,545	\$172,000
Class 200 - Purchase of Services	\$7,631,701	\$6,010,034	\$6,010,034	\$6,010,034	\$0
Class 300 - Materials and Supplies	\$244,333	\$233,676	\$233,676	\$211,185	(\$22,491)
Class 400 - Equipment	\$4,259	\$15,000	\$15,000	\$37,491	\$22,491
Class 500 - Contributions	\$434,999	\$0	\$0	\$0	\$0
Class 700 - Debt Service	\$0	\$0	\$0	\$0	\$0
Class 800 - Payment to Other Funds	\$0	\$0	\$0	\$0	\$0
Class 900 - Advances/Misc. Payments	\$0	\$0	\$0	\$0	\$0
TOTAL	\$14,826,774	\$12,822,255	\$13,090,255	\$13,262,255	\$172,000

Staff Demographics Summary*

Total	Minority	White	Female
197	32%	68%	62%
8	50%	50%	75%
Average Salary - ES	\$130,539	\$126,468	\$136,198
Median Salary - ES	\$131,221	\$134,393	\$134,393

Employment Levels*

Budgeted	Approved	Filled**
204	204	197
1	1	1
8	8	8

**All unfilled positions as of 12/2013 increment run subsequently filled as they were merely temporary.

Contracts Summary*

	FY10	FY11	FY12	FY13	FY14*
Total amount of contracts	\$5,211,324	\$5,549,606	\$5,577,179	\$5,588,387	\$3,486,911
Total amount to M/W/DBE	\$2,413,327	\$2,309,562	\$2,284,648	\$2,527,745	\$1,775,001
Participation Rate	46%	42%	41%	45%	51%

*As of December 2013

LAW DEPARTMENT PERFORMANCE, CHALLENGES AND INITIATIVES

DEPARTMENT PERFORMANCE (OPERATIONS)

Maintained Efficiency in Contract Process – The Law Department processed more than 2,400 contracts in FY13. The Department’s combined goal for Law draft and Department draft contracts is to average no more than 24 calendar days for all five of the steps of the review process for which Law is responsible. In FY13, through careful monitoring we were able to achieve an average time of 24 days. Typical contracts move even faster; our median time for FY13 was 20 days.

Decreased the Costs of Outside Counsel - Excluding labor negotiation obligations, FY14 General Fund legal obligations for outside counsel are expected to total \$2.6 million as compared with \$2.2 million in FY13.

DEPARTMENT CHALLENGES

- Given the current salary levels of attorneys in the Law Department recruiting attorneys from the private sector to fill vacancies continues to be difficult.
- Because billable rates offered to outside counsel for City work are frequently four times lower than the firm’s regular billable rates many firms are unwilling to accept City legal work.
- Like other city departments older technology is also a challenge that our department faces.

STAFFING LEVELS

Of the total Law Department staff of 204 as of February 2014, which includes attorneys, legal assistants, and support staff, 32 percent are minority and 62 percent are women. At the Executive Committee level, 6 of 8 members are women and 4 are minority.

PAST INITIATIVES

Master Ordering Contract for IT Services - The Law Department developed a master services ordering contract under which OIT pre-qualifies vendors for enterprise planning and architecture services, then issues service orders to specific vendors on a project-by-project basis. By soliciting quotes from pre-qualified vendors, versus soliciting and negotiating a separate contract for each project, OIT can greatly shorten transaction time, quickly identify best prices, and, incentivize vendors to provide competitive rates. This project will be a model for streamlining OIT’s technology procurement process and saving valuable resources.

Progress in the Windows and Doors Code Enforcement Program - Law has established special hearing dates for cases with the Court of Common Pleas to compel property owners to make repairs. During 2013, approximately 150 new cases were filed, bringing the total since the inception of the program to over 550 and court hearings are continuing at about one a month. Because the Court often imposes a fine at the first hearing, rather than waiting several hearings for compliance as often occurs in regular enforcement cases, many owners are now agreeing to pay a fine up front rather than contest them. As of December 2013, a total of over \$220,000 in fines has been collected. Beyond the direct assessment and payment of fines in these cases, Law has generated additional revenue by requiring owners to pay license and permit fees related to their use of the property, as well as back taxes.

Code Enforcement Collections - The Law Department continues to collect funds against code enforcement actions.

Energy Efficiency and Conservation Block Grant Program - The Law Department partnered with the Mayor’s Office of Sustainability and other departments and agencies to implement energy efficiency and conservation programs funded under this block grant beginning in FY 2010 and through the closeout of the grant in FY 2014. A total of 43 grant agreements were completed with businesses that made energy efficiency improvements resulting in a total annual cost savings of over \$100,000 and an estimated reduction of over 800,000 pounds per year in greenhouse gas emissions. By satisfying the environmental, historic preservation and Buy American requirements for the installation of over 42,000 LED traffic signals, the savings to the City of will approach approximately \$1 million annually in electricity costs.

Proper Neighborhood Zoning - The Law Department successfully defended against a due process challenge in litigation brought by Waterfront Renaissance Associates. The focus of the challenge was a height restriction in a

neighborhood zoning overlay ordinance that allegedly prevented plaintiffs from building a multi-use condominium project on the Delaware Avenue Riverfront. The decision by the United States Court of Appeals established that a plaintiff cannot be awarded compensatory damages without showing a direct and immediate injury, and that City Council is entitled to tremendous deference in evaluating the proper zoning for a neighborhood.

Closed a Loophole in Gun Permit Laws - Law Department attorneys worked with the Centre County District Attorney's Office in shaping the prosecution's argument on appeal in a gun permit case, submitted an amicus brief on behalf of the City, and argued the case with the Commonwealth in Harrisburg. In an extraordinary victory for public safety, the Superior Court held that it is unlawful for a Pennsylvania resident, while in Pennsylvania, to carry a firearm with only a permit to carry issued by another state.

CURRENT INITIATIVES

Reducing Institutional Placements for Children - The Law Department continues to support DHS in its efforts to reduce the number of children in congregate care, advocating for the court to order the least restrictive placements. Since the start of this initiative, DHS has reduced the number of youth in congregate care from 33% to 22%. The move from congregate care significantly benefits children. Family connections are better maintained and children spend more time in a family setting. Costs for congregate care are also more expensive than family-based placements and thus, saved resources can be diverted to other programs to promote permanent homes for children

New SEPTA Master Lease - The City has completed negotiations with SEPTA on a new long-term master lease of its transit infrastructure. This lease replaces the prior lease arrangement which dates back to 1968.

Love Park Garage Sale and Redevelopment of Love Park - The Law Department recently completed the drafting of all supporting transaction documents for the sale of Love Park Garage, the 820-space garage located beneath at 15th and Arch Streets. The proceeds from the potential sale of the garage are expected to pay for the Love Park renovations as well as reduce long term indebtedness.

Sale of the Philadelphia Gas Works - The Law Department provided extensive advice to the City in connection with the competitive sale of PGW, and will continue to support the process of seeking authorization by Council and approval by regulatory authorities.

NEW INITIATIVES

Land Bank - In FY15, the Law Department will work on clearing up and conveying title to approximately 6,000 vacant properties owned by the City.

Implementation of the Actual Value Initiative (AVI) and defending AVI Values - The Law Department will defend approximately 23,000 Tax Year 2014 tax assessment appeals filed with the Board of Revision of Taxes and any related appeals to the Court of Common Pleas and the appellate courts.

APPENDIX LAW DEPARTMENT

CONTRACTING EXPERIENCE

M/W/DBE Participation on Large Contracts

FY14 Contracts

Vendor	Service Provided	Amount of Contract	RFP Issue Date	Contract Start Date	Ranges in RFP	% of M/W/DBE Participation Achieved	\$ Value of M/W/DBE Participation	Total % and \$ Value Participation - All DSBEs	Living Wage Compliant?
Ballard Spahr LLP	Various labor and employment legal matters.	\$965,000	05/02/12	11/01/12	MBE: WBE: DSBE:	0% 100% 0%	\$0 \$965,000 \$0	100% \$965,000	y y y
Community Legal Services	Legal services to indigent Philadelphia residents.	\$800,000	04/11/11	07/01/11	MBE: WBE: DSBE:	0% 0% 0%	\$0 \$0 \$0	0% \$0	y y y
Pietro Gallo Gordon Alfano Bosick & Raspanti LLP	Legal services.	\$440,000	12/01/10	02/15/11	MBE: WBE: DSBE:	0% 0% 0%	\$0 \$0 \$0	0% \$0	y y y
Archer & Greiner	Various civil rights legal matters.	\$387,500	04/27/10	12/05/10	MBE: WBE: DSBE:	95% 5% 0%	\$368,125 \$19,375 \$0	100% \$387,500	y y y
Center City Legal Reproduction	Reproduction services for litigation support.	\$325,000	05/23/11	09/20/11	MBE: WBE: DSBE:	2% 2% 0%	\$6,500 \$6,500 \$0	4% \$13,000	y y y

EMPLOYEE DATA

Staff Demographics
 Full-Time Staff
 Executive Staff

	Male	Female	Male	Female
Total	75	122	2	6
% of Total	38%	62%	25%	75%
Total	African-American	African-American	African-American	African-American
% of Total	9	41	0	3
	5%	21%	0%	38%
Total	White	White	White	White
% of Total	65	68	2	2
	33%	35%	25%	25%
Total	Hispanic	Hispanic	Hispanic	Hispanic
% of Total	1	7	0	0
	1%	4%	0%	0%
Total	Asian	Asian	Asian	Asian
% of Total	0	5	0	1
	0%	3%	0%	13%
Total	Other	Other	Other	Other
% of Total	0	1	0	0
	0%	1%	0%	0%
Total	Bi-lingual*	Bi-lingual*	Bi-lingual	Bi-lingual
% of Total	0	0	0	0
	0%	0%	0%	0%

*Unknown

LAW DEPARTMENT
(Other Relevant Data and Charts)

Contract Participation - The Law Department is committed to supporting the Administration's goal of 30% minority, women, and disabled-owned business participation in city wide contracting. In FY13 the department's participation rate was 45% as compared to 11.42% in FY 12. Based on available contracting opportunities for FY14, OEO set the department's participation goal at 25% of the contract awards. In FY14, we anticipate 51% of contract dollars totaling \$1.8 million to be obligated to minority and women-certified contractors or those contractors led by a minority and women staff. Our goal for participation for FY15 is 30%.