

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Melissa Mark-Viverito
Speaker of the Council

Hon. Benjamin Kallos
Chair, Committee on Governmental Operations



Report on the Fiscal 2017 Preliminary Budget and the Fiscal 2016 Preliminary Mayor's Management Report Office of Administrative Trials and Hearings

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Office of Administrative Trials and Hearings Overview

The Office of Administrative Trials and Hearings (OATH or the Department) is an independent, central court that consists of four tribunals: the OATH tribunal, the Environmental Control Board (ECB), the Taxi and Limousine (TLC) Tribunal and the Health Tribunal.

Fiscal 2017 Preliminary Plan Highlights

- **OATH Fiscal 2017 Budget.** The Preliminary Plan for OATH includes \$39.9 million in Fiscal 2016 for OATH. Personnel services funding comprises approximately 76.8 percent of its total Fiscal 2016 Budget for OATH and provides for 263 full-time positions.
- **Tribunal Fine Revenue.** It is projected that OATH will generate combined tribunal fine revenue of \$127 million in Fiscal 2017. ECB fine revenue represented 71 percent of the Office's total fine revenue in Fiscal 2015.
- **ECB Outstanding Debt.** The Department of Finance collects outstanding debt generated by ECB fines. The amount of this debt as of November 2015 was \$1.58 billion from 1.5 million outstanding notices of violation, up \$91 million from June 2014.
- **ECB Performance.** Compared to the same period year, the total number notices of violation received by the ECB increased by 4,712, while the number of ECB decisions rendered decreased by 1,366.
- **OATH Contract Budget.** OATH's Fiscal 2016 Contract Budget totals \$2.2 million for 20 contracts and accounts for 24.5 percent of the Department's total OTPS budget.

OATH Financial Summary						
<i>Dollars in Thousands</i>						
	FY14	FY15	FY16	Prelim. Plan		*Difference
	Actual	Actual	Adopted	2016	2017	2016 - 2017
Spending						
PS	\$24,489	\$27,231	\$29,879	\$29,442	\$30,650	\$771
Full-Time Salaried – Civilian	\$14,930	\$16,041	\$16,563	\$16,079	\$17,353	\$791
Oth. Salaried & Unsalariated	8,969	10,350	12,771	12,818	12,751	(20)
Additional Gross Pay	487	798	505	505	505	0
Overtime - Civilian	101	42	40	40	40	0
OTPS	6,857	7,141	9,271	8,788	9,269	(2)
Supplies and Materials	1,197	706	1,717	1,115	1,716	(1)
Property and Equipment	280	441	354	415	354	0
Other Services and Charges	2,784	3,138	4,928	4,439	4,928	(1)
Contractual Services	2,596	2,855	2,272	2,819	2,272	0
TOTAL	\$31,346	\$34,371	\$39,149	\$38,231	\$39,919	\$769
Funding						
City Funds			39,149	38,231	39,919	769
TOTAL	\$31,346	\$34,371	\$39,149	\$38,231	\$39,919	\$769
Budgeted Headcount						
Full-Time Positions - Civilian	237	238	253	263	263	10

**The difference of Fiscal 2015 Adopted Budget compared to Fiscal 2016 Preliminary Budget.*

When compared to the Fiscal 2016 Adopted Budget, OATH's Budget increases by \$769,000 due to normal budget growth related to inflation and collective bargaining adjustments. In addition, OATH's total headcount increases by 10 positions, of which six will staff and operate the newly created Center for Creative Conflict Resolution. OATH's budget can absorb the personnel expenditures without a need for a budget increase. As such there is no new funding associated with the increase in headcount.

Hearing Officer. The November Plan for OATH included new baseline funding of \$135,400 for a hearing officer, bringing OATH's total number of hearing officers to 13. Hearing officers conduct hearings and write decisions in cases involving alleged violations of local laws and the rules and regulations of the City of New York or other laws or rules within OATH's ECB and Hearing Division Tribunal jurisdiction.

Lease Savings. Due to delays in moving into the 4th floor of the Falchi Building in Long Island City, OATH will incur \$482,000 in lease savings in Fiscal 2017.

Tribunals

The chart below outlines the Fiscal 2017 Preliminary Budgets of the four administrative tribunals.

FY 2017 Preliminary Budget				
<i>\$ In Thousands</i>	PS	OTPS	Total	Positions
ECB	\$17,001	\$4,557	\$21,558	129
Health	5,526	610	6,135	52
OATH	4,521	2,671	7,192	55
TLC	3,602	1,431	5,033	27
Total	\$30,650	\$9,269	\$39,919	263

OATH Tribunal

The Fiscal 2017 Preliminary Budget includes \$6.9 million for the OATH Tribunal, including \$4.2 million to support 47 full-time positions. The OATH Tribunal conducts disciplinary, disability, and adjudicatory hearings for City agencies. Hearings conducted by the OATH tribunal include: disciplinary cases brought by City agencies against civil service employees; matters pertaining to licensing, regulatory and enforcement authority, including cases involving City contractors; holders of various City licenses and loft tenants and their landlords; and hearings conducted after the New York City Police Department (NYPD) seizes vehicles of drivers accused of crimes.

Health Tribunal

The Fiscal 2017 Preliminary Budget includes \$6.1 million for the Health Tribunal, including \$5.5 million to support 52 full-time positions. The OATH Health Tribunal provides hearings for individuals and businesses charged with violating laws related to, or affecting health within New York City. The Health Tribunal does not issue Notices of Violation

(NOVs) and does not conduct inspections. The Tribunal schedules about 65,000 cases each year. Most of the cases involve public health and environmental sanitation, with the largest number of cases coming from inspections of food service establishments.

Taxi and Limousine Commission Tribunal

The Fiscal 2017 Preliminary Budget includes \$5 million for the TLC Tribunal, including \$3.6 million to support 27 full-time positions. The TLC Tribunal is responsible for holding hearings on tickets that are issued by the TLC, NYPD and the Port Authority of NY/NJ. These tickets are issued to TLC licensees and non-licensees for violations of NYC laws and TLC rules and regulations. The TLC Tribunal is not a part of the TLC. Tribunal judges do not work for the TLC and are independent, impartial decision-makers.

Environmental Control Board (ECB)

ECB is the City's largest tribunal, and holds 200,000 hearings annually on quality of life and public safety charges that are filed by 13 different agencies, including the Department of Buildings, the Fire Department, the Department of Environmental Protection and the Department of Sanitation. The Fiscal 2017 Preliminary Budget includes \$21.5 million for the ECB, including \$17 million to support 129 full-time positions.

Tribunal Fine Revenues

The Health Tribunal, TLC Tribunal, and the ECB generate revenue for the City through the collection of fines issued for various violations. Revenues totaled \$141.2 million in Fiscal 2015.

<i>In Thousands</i>	Actual					Planned	
	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
ECB Fines	\$87,174	\$94,888	\$87,173	\$91,838	\$99,580	\$89,510	\$89,510
DOHMH Fines	45,631	53,639	41,548	38,744	33,082	30,000	30,000
TLC Fines	10,416	11,270	6,995	6,655	8,632	7,298	7,195
TOTAL	\$143,221	\$159,797	\$135,716	137237	\$141,294	\$126,808	\$126,705

It is projected that OATH will generate combined tribunal fine revenue of \$126.8 million in Fiscal 2016. ECB fine revenue represented 71 percent of OATH's total fine revenue in Fiscal 2015. Revenue generated through Health Tribunal fines have decreased since peaking at \$53.6 million in Fiscal 2012. The decrease is due in large part to the Council's efforts to reform the City's restaurant grading system. In October 2013, the Council passed legislation that improved the oversight and performance of the restaurant inspection system. In March of 2014, the Council and the Department of Health and Mental Hygiene announced new restaurant grading rules designed to reduce fines and provide additional educational resources to help restaurants maintain high health standards throughout New York City.

Appendix A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY 2016			FY 2017		
	City	Non-City	Total	City	Non-City	Total
OATH Fiscal 2016 Adopted Budget	\$39,150	\$0	\$39,150	\$40,003	\$0	\$40,003
New Needs						
Hearing Officer	106	0	106	135	0	135
Subtotal New Needs	106	0	106	135	0	135
Other Adjustments						
Collective Bargaining Adjustments	88		88	108		108
PS Savings	(700)		(700)			0
Lease Savings	(481)		(481)	(483)		(483)
DCA Position Transfer	67		67	156		156
Subtotal Other Adjustments	(1,026)	0	(1,026)	(219)	0	(219)
Total All Changes	(920)	0	(920)	(84)	0	(84)
OATH Fiscal 2017 Preliminary Budget	\$38,230	\$0	\$38,230	\$39,919	\$0	\$39,919

Appendix B: Contract Charts

The New York City Charter mandates the preparation of a Contract Budget to identify expenditures for contractual services, which are defined as any technical, consultant or personnel service provided to the City by means of a contract. The Contract Budget is actually a subset of the OTPS portion of the City's Expense Budget. The Administration prepares a Contract Budget twice each fiscal year. In January, it is prepared with the Departmental Estimates, and in late April it is submitted to the Council with the Executive Budget.

Category	FY 2016 Adopted	Number of Contracts	FY 2017 Preliminary	Number of Contracts
Contractual Services General	\$850,367	4	\$850,367	4
Telecommunications Maintenance	86,744	1	86,744	1
Office Equipment Maintenance	53,980	3	53,980	3
Printing Contracts	87,459	1	87,459	1
Security Services	571,503	2	571,503	2
Temporary Services	195,169	1	195,169	1
Cleaning Services	60,402	2	60,402	2
Training Program	8,000	2	8,000	2
Computer Services	323,731	1	323,731	1
Direct Education	7,150	1	7,150	1
Other Professional Services	27,000	2	27,000	2
Totals	\$2,271,505	20	\$2,271,505	20

OATH's Fiscal 2017 Contract Budget totals \$2.2 million for 20 contracts and accounts for 24.5 percent of the agency's total OTPS budget. Security Services for the Tribunals represent 25.2 percent of the OATH's total contract budget.

Appendix C: 2016 Preliminary Mayor's Management Report

Performance Indicators	Actual			Target		4-Month Actual	
	FY13	FY14	FY15	FY16	FY17	FY15	FY16
Average time for the OATH Trials Division to issue decisions after records closed (business days)	13.9	15.2	7.5	25	25	8.2	5.4
OATH Trials Division cases with decisions issued within 45 business days (%)	98%	94%	93%	*	*	93%	88%
OATH Trials Division facts and conclusions adopted by agencies (%)	99%	98%	99%	96%	96%	98%	100%
Average adjournment time at the OATH Trials Division (business days)	16.6	15.7	16.9	20	20	16.3	16.4
OATH Trials Division settlement rate (%)	59%	55%	57%	55%	55%	60%	58%
Cases filed at the OATH Trials Division (total)	2,358	2,665	2,754	*	*	989	858
Cases closed at the OATH Trials Division (total)	2,326	2,425	2,724	*	*	885	853
Cases processed per ALJ (total)	183	187	188	*	*	NA	NA
Notices of Violation (NOV) received by OATH ECB Hearings Division	464,666	566,566	623,758	*	*	225,884	230,596
OATH ECB Hearings Division hearings conducted	208,922	195,284	184,631	*	*	63,385	60,675
Average time from OATH ECB Hearings Division hearing assignment to decision (days)	5	6	6	20	20	6	4
OATH ECB Hearings Division cases with decisions issued within 45 business days of hearing assignment (%)	99.70%	99.90%	99.90%	*	*	99.90%	99.90%
OATH ECB Hearings Division decisions rendered	141,371	142,390	146,266	*	*	50,367	49,031
Dockets received by the OATH Health Hearings Division	41,772	40,255	37,776	*	*	13,076	10,843
OATH Health Hearings Division hearings conducted	36,187	37,932	34,013	*	*	11,844	8,979
OATH Health Hearings Division decisions rendered	23,787	26,043	23,731	*	*	7,986	8,186
Summonses received by the OATH Taxi & Vehicle for Hire Hearings Division	NA	97,392	97,986	*	*	30,743	33,899
OATH Taxi & Vehicle for Hire Hearings Division hearings conducted	NA	59,929	75,402	*	*	24,889	21,582
OATH Taxi & Vehicle for Hire Hearings Division decisions rendered	NA	50,264	63,060	*	*	20,847	17,856
Completed customer requests for interpretation	8,734	9,240	9,419	*	*	3,509	3,231
Letters responded to in 14 days (%)	99.70%	100%	100%	*	*	100%	100%
E-mails responded to in 14 days (%)	100%	100%	100%	*	*	100%	100%
CORE facility rating	90	97	94	*	*	NA	NA

When compared to the same time last fiscal year, the number of OATH ECB Hearings Division decisions rendered decreased by 1,366. This indicator is defined as the Total number of notices of violation (NOV) where a decision has been rendered by the ECB Tribunal. Possible decisions include dismissal, found in violation (respondent is found guilty and must pay the fine and/or correct), or stipulated (only available for certain

violations; represents an admission of guilt, accepting the stipulation to remedy the problem). This decrease is despite that fact that the total number NOVs received by the OATH ECB Hearings Division increased over the same period by 4,712.

Average time that an OATH ECB hearing was assigned to a judge to when that judge made decision a final decision decreased from six days to four days over the same period last fiscal year. The 2016 PMMR attributed this decrease to the continued improvement in ECB Division's efficiency and its provision of timely decisions in the cases it hears.