

THE COUNCIL OF THE CITY OF NEW YORK

Speaker of the Council
Christine C. Quinn

Hon. Gale A. Brewer
Chair, Committee on Governmental Operations



Hearing on the Fiscal 2014 Preliminary Budget & the Fiscal 2013 Preliminary Mayor's Management Report

Law Department

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Latonia McKinney, Deputy Director

John Russell, Principal Legislative Financial Analyst

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Law Department Overview

Under the direction of the corporation counsel, the New York City Law Department is responsible for all of the legal affairs of the City. It represents the City, the Mayor, other elected officials, and the City's many agencies in all affirmative and defensive civil litigation, as well as juvenile delinquency prosecutions brought in Family Court and Administrative Code enforcement proceedings brought in Criminal Court. Law Department attorneys draft and review local and State legislation, real estate leases, procurement contracts, and financial instruments for the sale of municipal bonds.

The Law Department is comprised of 17 legal divisions and three support divisions and is responsible for more than 80,000 matters, and provides legal advice to all City agencies. It is staffed with 690 lawyers and 850 support professionals (not all of which are salaried positions) in ten offices located in all five boroughs, as well as in Kingston, N.Y.

This report provides a review of the Law Department's Fiscal 2014 Preliminary Budget. In the first section the highlights of the Fiscal 2014 Preliminary Plan are presented. The report then reviews the City's Fiscal 2014 Judgment and Claims Budget, and the Department's miscellaneous revenue projections. The report describes the Department's Tort Division, the agency's largest, and the Family Court Division. Financial Plan actions and relevant sections of the Preliminary Mayor's Management Report for Fiscal 2013 are presented throughout the report. A summary of the Department's financial plan actions since Adoption can be found in Appendix A.

Fiscal 2013 Preliminary Plan Highlights

- **Judgment and Claims.** The City's projected Fiscal 2013 Judgment and Claims Budget is \$735.2 million and is significantly higher than the actual J&C expenditures 3-year average of \$605 million from 2010-2013. A breakdown of judgment and claims is outlined on page 3.
- **Additional Tort Division Staff New Need.** The Department will need 76 additional Tort Division staff in Fiscal 2014 and 45 positions in Fiscal 2015 for litigation-related discovery due to a high volume of cases. Details on this new need are described in the Tort Division section on page 4.
- **Increase in Law Department Funding in the Miscellaneous Budget.** The November and Preliminary Financial Plans include additional Law Department funding of \$7.7 million in Fiscal 2014 and \$4 million in Fiscal 2015. The majority of new funding is allocated to expenses related to the FDNY hiring bias case. See page 5 for more details.

Law Department Financial Summary

<i>Dollars in Thousands</i>	2012	2013	2013	2014	*Difference
	Actual	Adopted	Prelim. Plan	Prelim. Plan	2013 - 2014
Spending					
Personal Services	\$98,281	\$104,858	\$106,174	\$106,504	\$1,645
Full-Time Salaried	91,223	101,852	103,097	103,498	1,646
Other Salaried & Unsalaries	4,252	2,722	2,722	2,722	0
Additional Gross Pay	1,845	282	282	282	0
Overtime - Civilian	969	1	61	1	0
Fringe Benefits	0	0	11	0	0
PS Other	(7)	0	0	0	0
Other Than Personal Services	\$39,150	\$38,814	\$42,015	\$36,084	(\$2,730)
Supplies and Materials	1,088	1,208	1,158	1,208	0
Property and Equipment	711	524	876	524	0
Other Services and Charges	20,057	19,479	20,345	20,376	897
Contractual Services	17,263	17,585	19,589	13,958	(3,627)
Fixed and Misc. Charges	30	18	48	18	0
TOTAL	\$137,431	\$143,672	\$148,189	\$142,588	(\$1,085)
Funding					
<i>City Funds</i>		\$136,346	\$138,514	\$136,028	(\$318)
<i>Other Categorical</i>		417	1,676		(\$417)
<i>Capital-IFA</i>		3,335	3,335	3,335	\$0
<i>Federal - Other</i>			182		\$0
<i>Intra-City</i>		3,575	4,482	3,225	(\$350)
TOTAL	\$137,431	\$143,673	\$148,189	\$142,588	(\$1,085)
Positions					
Full-Time Positions	1,249	1,322	1,379	1,357	35

**The difference of Fiscal 2013 Adopted compared to Fiscal 2014 Preliminary Plan funding.*

In the Preliminary Plan, the Law Department's budget for Fiscal 2014 totals \$142.5 million, of which 95 percent is City tax levy funding. The Department's headcount varies from year to year depending on case volume.

Fiscal 2014 Financial Plan Action

- **Personal Services (PS) Accruals.** The Department will realize personal services savings of \$2 million in Fiscal 2013 from current vacant positions.
- **Special Federal Litigation Division Continuation.** Funding totaling \$3.6 million for Fiscal 2014 and 2015 is included in the Preliminary Plan for the Special Federal Litigation Division which specializes in defending the City and its officials in civil rights cases brought in federal court in which police, District Attorney, or correction officer misconduct is claimed. The funding for this division is budgeted on a bi-yearly basis so as to consider case volume.

Other Highlights

Judgment and Claims

The Judgment and Claims (J&C) Budget is a part of the City's Miscellaneous Budget and includes \$735.2 million in Fiscal 2013 for payments resulting from judgments against the City.

(In Thousands)	Actual			Planned	
	2010	2011	2012	2013	2014
Non Med Mal. Personal Injury	\$397,923	\$409,129	\$374,923	\$500,222	\$524,083
Medical Malpractice	133,639	143,264	121,015	180,937	188,476
Non-Tort	26,651	28,867	76,820	39,000	40,000
PD	10,034	12,814	10,110	15,000	15,200
Special Cases	0	70,000	0	0	0
TOTAL	\$568,246	\$664,073	\$582,868	\$735,159	\$767,759

As outlined above, non-medical malpractice personal injury and property damage, which include a wide range of cases, comprises the majority (64.3 percent in Fiscal 2012) of J&C payments. Medical malpractice accounts for 24.6 percent of the total projected J&C budget for Fiscal 2013. Non-tort payments cover contract disputes and fair labor standards and accounts for 5.3 percent of the Fiscal 2013 total. Funding for special cases is added only when warranted. The \$735.2 million budgeted for Fiscal 2013 is significantly higher than the actual J&C expenditures 3-year average of \$605 million from 2010-2013.

Miscellaneous Revenue

The Department's miscellaneous revenue sources include: fines from violations to the City's administrative code; revenues for the sale of de-mapped, small non-functional city roads; affirmative judgments and settlements in cases brought by the City; fees for OTPS costs associated with FOIL requests; and reimbursements for worker compensation pay-outs.

The Affirmative Litigation Division oversees the activities of the Department's collection contract. Attorneys in this Division represent the City as plaintiff on a wide range of issues including restitution, breach of contract and insurance.

	Actual		Planned			
	2011	2012	2013	2014	2015	2016
Admin. Code Violations	\$1,635,704	\$1,240,800	\$1,300,000	\$1,300,000	\$1,300,000	\$1,300,000
Sale of Streets	6,970,150	1,625,664	1,162,000	1,322,000	275,000	275,000
Affirmative R/E Litigation	2,276,361	209,614	13,448,000	448,000	448,000	448,000
Affirmative Litigation	21,584,073	13,681,857	10,314,000	9,759,000	9,759,000	9,759,000
Vending, XEROX Subpoena Fees	57,269	46,995	100,000	100,000	100,000	100,000
Collection Agency Claims	2,193,358	1,919,255	1,100,000	1,100,000	1,100,000	1,100,000
Worker Compensation	8,704,869	8,861,241	7,404,000	7,404,000	7,404,000	7,404,000
TOTAL	\$43,421,784	\$27,585,426	\$34,828,000	\$21,433,000	\$20,386,000	\$20,386,000

Increased Revenue Collections. The Department will realize additional revenue of \$13.3 million in Fiscal 2013 from a one-time settlement and the World Trade Center Captive Insurance reimbursement. Additionally, the Department will generate revenue of \$887,000 in Fiscal 2013 and \$1.05 million in Fiscal 2014 for the disposition of four city streets in Brooklyn, Bronx and Queens. These actions were included in the 2012 November Plan as part of the Department's Program to Eliminate the Gap (PEG). Revenue PEGs are realized in the City's General Fund and do not directly impact the Agency's budget.

Tort Division

The Tort Division is the Law Department's largest. It employs over 200 lawyers and almost as many support staff. The Division represents the City, the Department of Education, and the Health and Hospitals Corporation in all tort claims. It handles a caseload of over 7,000 new cases each year, with another 33,000 pending as a result of an investigation, defense before State and federal courts, and settlement.

The following action will impact the Fiscal 2014 budget.

- **Additional Tort Division Staff New Need.** The Department will need 76 additional Tort Division staff in Fiscal 2014 and 45 positions in Fiscal 2015 for litigation-related discovery due to a high volume of cases. The positions are not budgeted beyond Fiscal 2015. This action will require \$5.7 million in Fiscal 2014 and \$1.7 million in Fiscal 2015.

Performance Measures

	FY 10	FY 11	FY 12	4-Month Actual FY 12	4-Month Actual FY 13	Target FY 14
Total cases commenced against the City	8,941	9,030	9,695	3,172	3,149	*
Total Cases pending in State Court	17,085	16,707	17,020	16,927	17,556	*

Cases pending in State Court increased four percent during the first four months of Fiscal 2013 as a result of matters filed after the December 2010 blizzard, Hurricane Irene and the snowstorm in October 2011.

The Family Court Division

The Family Court Division is the Department's second largest division, with over 80 attorneys who are responsible for handling some 15,000 cases annually. The Division is responsible for prosecuting juvenile crime, and its work also encompasses assisting victims of youth crime to secure access to a broad array of community-based services, including counseling, crisis intervention, and safety planning. In its civil practice, the Family Court Division aids families by bringing enforcement proceedings designed to obtain necessary financial support for children.

Performance Measures

	FY 10	FY 11	FY 12	4-Month Actual FY 12	4-Month Actual FY 13	Target FY 14
Referred cases for prosecution (%)	55%	55%	55%	55%	55%	55%
Crime victims assessed for comm. based services (%)	34%	46%	44%	50%	16%	35%
Juvenile conviction rate (%)	72%	71%	73%	71%	70%	70%

During the first four months of Fiscal 2013, the Department's juvenile conviction rate remained stable. At the same time, cases filed for prosecution decreased by seven percent as the Department sought to divert more cases to community-based programs.

Law Department Funding in the Miscellaneous Budget

Law Department funding for major cases which outside counsel may be used is housed in the Miscellaneous Budget. The Fiscal 2013 Adopted Budget included \$9.5 million for the Department's major law suits. The financial plans for Fiscal 2014 include additional Law Department funding of \$7.7 million in Fiscal 2014 and \$4 million in Fiscal 2015. The majority of new funding is allocated to expenses related to the FDNY hiring bias case in which the Court has appointed four "Special Masters" to adjudicate the claims for back-pay and compensatory damages, and a Court Monitor to oversee procedure and policy changes at the FDNY going forward. In addition, the Court required the City to retain an EEO consultant and a Recruitment consultant to provide assistance to the FDNY in making policy changes. The Court Monitor has also retained the services of a consulting firm to assist with duties relating to recruitment and EEO. Other cases for which the funding will be used include those that deal with the Central Park Jogger case and firearm issues.

Appendix A: Budget Actions in the November and Preliminary Plans

<i>Dollars in Thousands</i>	FY 2013			FY 2014		
	City	Non-City	Total	City	Non-City	Total
Law Dept Budget as of Adopted FY 2013 Plan	\$136,346	\$7,327	\$143,673	\$125,947	\$6,977	\$132,924
Program to Eliminate the Gap (PEGs)						
PS Accruals	(2,000)	-	(2,000)	-	-	0
TOTAL, PEGs	(\$2,000)	\$0	(\$2,000)	\$0	\$0	\$0
New Needs						
Lease Renewal Increases	240	-	240	779	-	779
Litigation Needs - 53 Positions	3,560	-	3,560	5,702	-	5,702
Special Federal Litigation	-	-	0	3,600	-	3,600
Taxi Drivers Case	218	-	218	-	-	-
TOTAL, New Needs	\$4,018	\$0	\$4,018	\$10,081	\$0	\$10,081
Other Adjustments						
Misc. City Adjustments	150	-	150	-	-	-
Other Categorical Grants and Adjustments	-	1,259	1,259	-	(417)	(417)
Federal Funding	-	182	182	-	-	0
Intra-City Adjustments	-	907	907	-	-	0
Collective Bargaining adjustment	-	-	0	-	-	0
TOTAL, Other Adjustments	\$150	\$2,348	\$2,498	\$0	(\$417)	(\$417)
TOTAL, All Changes	\$2,168	\$2,348	\$4,516	\$10,081	(\$417)	\$9,664
Law Dept Budget as of Prelim. Plan FY 2014	\$138,514	\$9,675	\$148,189	\$136,028	\$6,560	\$142,588

Appendix B: Contract Budget

Category	Number	Budgeted	Pct of DOL Total	Pct of City Total by Cat.
Contractual Services General	12	\$410,300	2.94%	0.09%
Maint & Repair, General	40	\$1,770,632	12.69%	1.52%
Office Equipment Maintenance	53	\$200,000	1.43%	1.58%
Data Processing Equipment	9	\$701,200	5.02%	0.35%
Temporary Services	20	\$3,378,973	24.21%	9.46%
Cleaning Services	7	\$15,000	0.11%	0.07%
Transportation Expenditures	2	\$50,000	0.36%	0.36%
Training Programs for City Employees	2	\$85,450	0.61%	0.55%
Professional Services Accounting & Auditing	5	\$100,000	0.72%	0.38%
Professional Services Legal Services	17	\$923,000	6.61%	0.99%
Professional Services Engineer. & Architect.	11	\$130,000	0.93%	2.26%
Professional Services: Other	39	\$6,193,834	44.37%	3.59%
Fiscal 2014 Preliminary Budget	217	\$13,958,389	100%	0.13%

The Law Department's Fiscal 2014 Contract Budget totals \$14 million and accounts for approximately 9.8 percent of the Department's total operating budget. The Department's temporary service contracts which include payments, fees and commissions for administrative and clerical support, court reporting and transcribing and other outside temporary services, account for more than 9.5 percent of the City's total budget for that category. The Department uses temporary services to manage increases in case volume.