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HEARING ON THE FISCAL YEAR 2014 EXECUTIVE BUDGET FOR THE

LAW DEPARTMENT

May 13, 2013

EXECUTIVE BUDGET HIGHLIGHTS

- **Law Department Fiscal 2014 Budget.** The Department's proposed Fiscal 2014 Expense Budget totals \$147.4 million, including \$107.8 million in Personal Services funding to support 1,370 full-time positions.
- **Additional Litigation Needs.** Since Adoption, the financial plan includes new funding totaling \$9.7 million in Fiscal 2014. The Fiscal 2014 budget includes \$6.5 million to support 76 short-term positions and 13 permanent staff for litigation-related discovery due to a high volume of cases.
- **Law Department Funding in the Miscellaneous Budget.** Additional Law Department funding housed in the Miscellaneous Expense Budget totals \$17.4 million in Fiscal 2014. This funding is allocated to expenses related to major cases for which outside counsel is used, including 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. Other cases for which the funding will be used include those that deal with the Central Park Jogger case and firearm issues. A total of \$2 million is allocated for 50-h (pre-action) hearings.
- **Special Federal Litigation Division Continuation.** Funding totaling \$3.6 million for Fiscal 2014 and 2015 was 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-annual basis so as to consider case volume.
- **Judgment and Claims (J&C).** The City's projected Fiscal 2014 Judgment and Claims Budget is \$767.8 million and is significantly higher than the actual J&C expenditures 3-year average of \$605 million from 2010-2012.

FINANCE DIVISION

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OVERVIEW

This report provides an overview of the Law Department's Fiscal 2014 Budget, and review of the significant initiatives included in the Executive Budget. Appendix 1 reports the changes made to the Fiscal 2013 and Fiscal 2014 Budget since adoption of the Fiscal 2013 Budget. Appendix 2 reviews the City's Judgment and Claims payments. For additional information on the Department's Budget and its various programs, please refer to the "Law Department Fiscal 2014 Preliminary Report" available on the Council's website.

Law Department Financial Summary

<i>Dollars in Thousands</i>	2012 Actual	2013 Adopted	2013 Exec. Plan	2014 Exec. Plan	*Difference 2013 - 2014
Spending					
Personal Services	\$98,281	\$104,858	\$104,349	\$107,767	\$2,909
Full-Time Salaried	91,223	101,852	101,271	104,761	2,909
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	43,110	39,666	852
Supplies and Materials	1,088	1,208	1,238	1,206	(2)
Property and Equipment	711	524	936	674	150
Other Services and Charges	20,057	19,479	20,557	20,140	661
Contractual Services	17,263	17,585	20,331	17,629	44
Fixed and Misc. Charges	30	18	48	18	0
TOTAL	\$137,431	\$143,672	\$147,458	\$147,433	\$3,761
Funding					
<i>City Funds</i>		136,346	137,593	140,457	4,111
<i>Other Categorical</i>		417	842	417	0
<i>Capital-IFA</i>		3,335	3,335	3,335	0
<i>Federal - Other</i>		0	182	0	0
<i>Intra-City</i>		3,575	5,507	3,225	(350)
TOTAL	\$137,431	\$143,672	\$147,458	\$147,433	\$3,761
Positions					
Full-Time Positions	1,249	1,322	1,382	1,370	48

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

In the Executive Plan, the Law Department's budget for Fiscal 2014 totals \$147.4 million, of which 95 percent is City tax levy-funding. The Department's headcount varies from year to year depending on case volume.

MAJOR LAW DEPARTMENT ISSUES

In the Response to the Mayor's Fiscal 2014 Preliminary Budget, the Council made the following recommendations:

- **Pursue Emergency Communications Transformation Project (ECTP) Payment Recovery.** The Council urges the Administration to aggressively pursue the recovery of payments to contractors working on the ECTP, who either overbilled the City or under-delivered on the terms of their contract. At the Fiscal 2014 Preliminary Budget Hearing, the Law Department confirmed that it is currently engaged in such efforts. The City has committed over \$1 billion in capital funding for the project which costs over \$50 million annually to maintain. It is incumbent on the Administration to keep the Council informed on all fiscal matters related to the ECTP in order for the Council to properly perform its oversight responsibility.
- **Enhanced Defense of City Lawsuits.** The Council supports the expansion of the Law Department's initiative to increase staffing to more vigorously defend the City against civil lawsuits in an effort to reduce judgments and claims against the City and deter frivolous lawsuits. The Law Department continues to see positive results from this initiative, reporting a slight drop in civil rights cases filed and a greater success rate in defending those cases.
- **Develop Strategy for Electronic Discovery.** The Council recommends that the City develop a formal strategy to deal with the impact of the explosive growth in electronic discovery and ensure that each agency is carrying out its electronic discovery obligations. Electronic discovery refers to discovery in civil litigation which deals with the exchange of information in electronic format. The Law Department cites this increase as one of the Department's biggest concerns requiring additional resources year to year. A comprehensive plan could result in cost reductions.

APPENDIX 1: BUDGET ACTIONS IN THE NOVEMBER, PRELIMINARY AND EXECUTIVE PLANS

<i>Dollars in Thousands</i>	FY 2013			FY 2014		
	City	Non-City	Total	City	Non-City	Total
Law Dept. Budget as of Adopted 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 - 89 Positions in FY 14	3,560		3,560	6,548		6,548
OTPS Litigation Needs			0	3,147		3,147
Special Federal Litigation			0	3,600		3,600
Taxi Drivers Case	218		218			
TOTAL, New Needs	\$4,018	\$0	\$4,018	\$14,074	\$0	\$14,074
Other Adjustments						
Misc. City Adjustments	(771)		(771)	435		435
Other Categorical Grants and Adjustments		425	425		0	0
Federal Funding		182	182			0
Intra-City Adjustments		1,932	1,932			0
Collective Bargaining adjustment			0			0
TOTAL, Other Adjustments	(\$771)	\$2,539	\$1,768	\$435	\$0	\$435
TOTAL, All Changes	\$1,247	\$2,539	\$3,786	\$14,509	\$0	\$14,509
Law Dept. Budget as of Exec. 2014 Plan	\$137,593	\$9,866	\$147,459	\$140,456	\$6,977	\$147,433

APPENDIX 2: JUDGMENT AND CLAIMS

The Judgment and Claims (J&C) Budget is a part of the City's Miscellaneous Budget and includes \$767.8 million in Fiscal 2014 for payments resulting from judgments against the City.

<i>(In Thousands)</i>	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 2010-2012.