

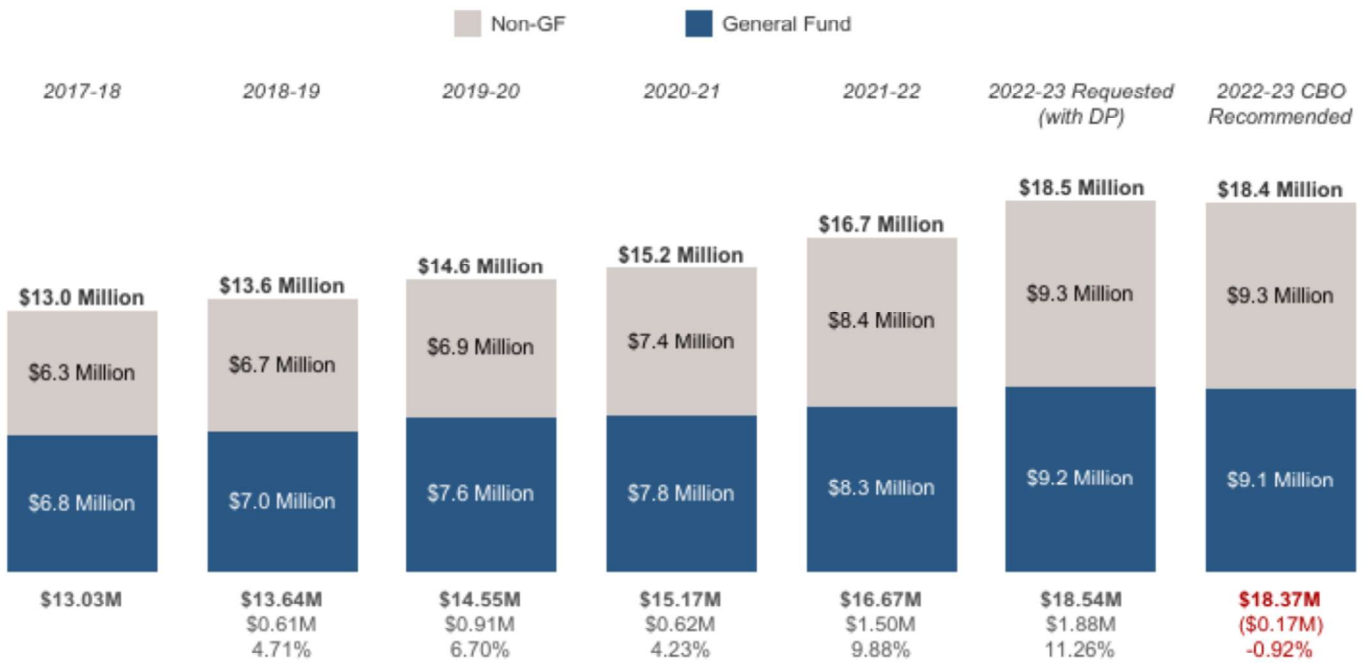


**City  
Budget  
Office**

# Attorney's Office

*Analysis by Joshua Martin*

## Adopted Budget Revenues | 5-Year Lookback



*Adopted Full-time Equivalent Totals*

67.30	70.60	71.60	72.60	77.30	82.60	81.60
	3.30	1.00	1.00	4.70	5.30	-1.00
	4.903%	1.416%	1.397%	6.474%	6.856%	-1.211%

## INTRODUCTION

The City Attorney’s Office FY 2022-23 Requested Budget totals \$17.9 million without decision packages and \$18.5 million when Decision Packages are included. This is an increase of 13% or \$2.1 million over the prior year. This review focuses on public records management and transparency as key bureau issues in FY 2022-23.

There is one decision package submitted by the Attorney’s Office. The bureau has requested ongoing General Fund resources to enhance current resources dedicated to the fulfillment of public records at the City. This request totals \$646,963 and would add 4.0 FTE to the Office of the City Attorney.

- CBO recognizes this request will require subsequent ongoing General Fund resources and this request meets critical legal obligations and service expectations for the City.
- CBO recommends funding 3.0 of the requested 4.0 FTE with \$476,204 of General Fund discretionary and overhead ongoing resources.
- This is the only package out of all bureau submissions received that the CBO is recommending ongoing resources to support given both the extremely limited available ongoing funds and the critical nature of this request.

## BASE BUDGET & KEY ISSUES

The Office of the City Attorney provides legal counsel and services to all bureaus, employees and offices Citywide. The Office’s base budget for FY 2022-23 totals \$17.9 million. About half of total revenues are General Fund Discretionary and General Fund Overhead resources (\$8.5 million), with the remaining \$9.2 million from interagency payments from bureaus requiring a higher level of legal support. On the expense side, costs are driven primarily by personnel services totaling \$15.6 million across 78.6 FTE, which equates to 87% of total expenditures. Internal Materials and Services (IMS) expenses total \$1.7, which is 9% of the bureaus operating budget. The remaining 3% of the bureau’s expenses total \$0.6 million in external materials and services. The IMS costs are driven largely by the

centrally administered internal services for space rent costs and information technology expenses. According to the Budget Advisory Committee, the increased cost of AT legal counsel rates is due to inflation, but it is still half the rates that outside legal counsel in the Portland Metro region.

<b>FY 2022-23 Requested Base Budget</b>	
<b>Total Revenues</b>	<b>\$17,897,940</b>
General Fund Discretionary	\$3,670,735
General Fund Overhead	\$4,921,423
Charges for Services	\$12,000
Interagency Agreements	\$9,293,782
<b>Total Expenses</b>	<b>\$17,897,940</b>
Personnel	\$15,616,675
Internal Materials and Services	\$584,214
External Materials and Services	\$1,697,051

## Public Records & Transparency

In 2021 the city received 32,706 public record requests. According to Oregon State Law the City and the receiving bureau has 5 days to acknowledge the request and 10 additional business days to fulfill the request, for a total of 15 business days. If the request cannot be completed within those 15 business days the City is required to provide a written statement of the time and cost it will take to provide the records. However, the longer that it takes to complete a request, the more likely it is that there will be litigation brought forward. The chart below shows the total requests for 2021 and how many were completed.

As political movements nationwide have increased so has the requests from residents to access documents from their cities. Part of the Attorney's Office goals are to maintain efficiency and transparency which can become more difficult under the weight of increased and more legally complex public record requests are received at an accelerated rate. Additionally, public records system technical support demand has continued to increase but the Attorney's Office had to eliminate their IT support position during FY 16-17 to meet the General Fund budget reduction target.

<b>Portland Police Bureau (PPB)</b>	
Total Backlog 2021	18,624
Average Request Increase Each Month	3.2%
Average Requests Completed Every Month	2,124 <sup>1</sup>
Average Requests Completed Every Month Per Employee	283.2 <sup>2</sup>
Expected Request Increase 2022	9,600
Expected Total Backlog End of 2022	28,224
Training Time Required for PPB Record Specialist	6 Months

---

<sup>1</sup> This average is from 2019 when staffed with 7.5 fully trained FTE.

<sup>2</sup> Based on a fully-trained experienced employee.

In the current landscape Citywide there are five employees who spend 80% or more time on Public Records, three in the City Attorney’s Office and two in the Bureau of Emergency Communications (BOEC). The Bureau of Development Services has six Development Services Technicians and a team lead that spend approximately 50% of their time responding to public records requests for permit records. Portland Police Bureau has 8.0 Coordinator I FTE in the public records unit but due to COVID-19, approximately 50% of their time is dedicated to regular records work. For other bureaus their employees spend from 25%-50% on public record requests such as Fire Bureau, Office of Management & Finance, Bureau of Environmental Services, Portland Bureau of Transportation, Water Bureau, and Council Staff.

<b>Employees that Spend (50%≤ x) on Public Record Requests</b>		
Bureau	# Of Employees	Percent of workload dedicated to Record Requests
AT	3	80%
BOEC	2	80%
BDS	6	50%
PPB	8	50%

In order to provide support to the many bureaus and staff at the City, the Attorney’s Office has developed public record request instructions and “How To videos” for employees which is in addition to approximately 650 hours of public record request training in the last 8 years. There are currently 18,624 records in the backlog at the point of writing this review. The City has received approximately 165 appeals to the District Attorney since 2017 and there have been twelve lawsuits and appeals on a variety of issues related to public records, six of which are still open. There is a one current lawsuit seeking an injunction regarding timeliness of response to public records requests. Since 2017 the City has paid out a total of \$359,839 in public record request lawsuits, with the most significant payment totaling \$250,000.

The current workload is untenable for resource allocations at the City. The vast majority of the current backlog and requests for public records are for the Portland Police Bureau records. The Attorney’s Office not only wants to be able to complete the current backlog but to also establish a more transparent system that meets the needs and expectations of the public.

# DECISION PACKAGES

## Public Records Support

AT\_12962, \$646,963, 4.00 FTE

### Request Summary

The Office of the City Attorney is requesting \$646,963 in on-going General Fund resources to hire 4.0 FTE to help the current public request overflow, support smaller bureaus in their requests, and further develop bureau capabilities to respond to public record requests citywide. As stated earlier in this review, this is the most pressing and timely issue for the Office.

### CBO Analysis

As highlighted above, the Office of the City Attorney has expressed that the City is in dire need of public record request support given the past and current increased workload trends for public records request received by the City. This request comes on heels of a recent lawsuit where the City was liable for \$250,000 in attorney fees, and made this payment in January 2022. This recent action has now set a firmer legal precedent where it is anticipated to lead to further litigation from other entities when deadlines are missed or responses are mishandled. The requested decision package totals \$646,963 in ongoing funding to add 4.0 FTE. Specifically, this request would add 1.0 FTE Deputy City Attorney, 2.0 FTE Paralegal positions, and 1.0 FTE Business Systems Analyst. Each position would play a vital role within the office and will add capacity to work with all city bureaus to improve the city's ability to respond to public record requests within the legally ascribed timelines.

This request coincides with another decision package submitted by OMF to support 11.0 FTE creating a Public Records Division in OMF. The Public Records Division, if established would create a new centralized public requests office with a program manager and ten support FTE whose goal is to assist any bureau that is understaffed and has overflow requests or not meeting statutory deadlines. The initial work to be done by this support staff would be to respond to the unfilled public record requests in Portland Police Bureau which has historically received the most requests and has the largest backlog of unfilled requests. It would be anticipated that after the reduction of the backlog the program manager would decide through their analysis if the 10.0 FTE support staff should stay as a specialty support group or become their own new records office. Part of the justification for the 10.0 new FTE also stems from a process consultant hired by PPB in 2019 that stated there needed to be more employees to meet with the increased record request demand.

These two proposals are complementary. One of the paralegals in the proposal from the City Attorney would specifically be trained to handle requests originated with the PPB. The Business system analyst will be directly assisting bureaus respond to record requests as well as supporting understaffed bureaus and developing their record request abilities.

CBO understands the importance of completing and properly finishing public record requests in order to avoid any litigation or lawsuits. In total, the Office of the City Attorney and OMF are asking for nearly \$2.2 million in ongoing resources for lawsuits that have amounted to a combined \$359,839 in the last five fiscal years. Given the lack of ongoing resource availability,

and the need to act with urgency, CBO recommends the City better develop the current capabilities and capacities of all bureaus public record request personnel through a central and known point of contact within the Office of the City Attorney.

CBO recommends the scarce available ongoing resources in the General Fund go towards funding the majority of this decision package:

- 1.0 FTE Paralegal,
- 1.0 FTE Business Systems Analyst,
- 1.0 FTE Deputy City Attorney.

Based off of current public record requests it would appear the PPB dedicated paralegal would be most urgent, however CBO recognizes the bureau needs to have operational flexibility and defers to the Office of the Attorney to decided final deployment options. Due to constrained General Fund resources and competing proposals for said resource, CBO is unable to recommend the full funding for all four positions as requested.

**CBO Recommendation: \$200,000 ongoing General Fund Discretionary and \$276,204 in General Fund Overhead resources | 3.00 FTE**

# SUMMARY OF REQUESTS & RECOMMENDATIONS BY FUND

Office of the City Attorney

## 100 - General Fund

		2021-22 Adopted Budget	2021-22 Requested Base (A)	Bureau Decision Packages (B)	CBO Recommended Adjustments (C)	Total Recommended Budget (A+B+C)
Revenue	Charges for Services	\$20,000	\$12,000	\$0	\$0	\$12,000
	General Fund Discretionary	\$3,632,936	\$3,670,735	\$271,718	(\$71,718)	\$3,870,735
	General Fund Overhead	\$4,623,666	\$4,921,423	\$375,245	(\$99,041)	\$5,197,627
	Interagency Revenue	\$8,390,729	\$9,293,782	\$0	\$0	\$9,293,782
Revenue	<b>Sum:</b>	<b>\$16,667,331</b>	<b>\$17,897,940</b>	<b>\$646,963</b>	<b>(\$170,759)</b>	<b>\$18,374,144</b>
Expense	External Materials and Services	\$843,155	\$584,214	\$50,000	(\$34,712)	\$599,502
	Internal Materials and Services	\$1,503,150	\$1,697,051	\$0	\$0	\$1,697,051
	Personnel	\$14,321,026	\$15,616,675	\$596,963	(\$136,047)	\$16,077,591
Expense	<b>Sum:</b>	<b>\$16,667,331</b>	<b>\$17,897,940</b>	<b>\$646,963</b>	<b>(\$170,759)</b>	<b>\$18,374,144</b>

# SUMMARY OF REQUESTS & RECOMMENDATIONS (ALL FUNDS)

## Office of the City Attorney

		2021-22 Adopted Budget	2021-22 Requested Base (A)	Bureau Decision Packages (B)	CBO Recommended Adjustments (C)	Total Recommended Budget (A+B+C)
Revenue	Interagency Revenue	\$8,390,729	\$9,293,782	\$0	\$0	\$9,293,782
	General Fund Overhead	\$4,623,666	\$4,921,423	\$375,245	(\$99,041)	\$5,197,627
	General Fund Discretionary	\$3,632,936	\$3,670,735	\$271,718	(\$71,718)	\$3,870,735
	Charges for Services	\$20,000	\$12,000	\$0	\$0	\$12,000
Revenue	<b>Sum:</b>	<b>\$16,667,331</b>	<b>\$17,897,940</b>	<b>\$646,963</b>	<b>(\$170,759)</b>	<b>\$18,374,144</b>
Expense	Personnel	\$14,321,026	\$15,616,675	\$596,963	(\$136,047)	\$16,077,591
	Internal Materials and Services	\$1,503,150	\$1,697,051	\$0	\$0	\$1,697,051
	External Materials and Services	\$843,155	\$584,214	\$50,000	(\$34,712)	\$599,502
Expense	<b>Sum:</b>	<b>\$16,667,331</b>	<b>\$17,897,940</b>	<b>\$646,963</b>	<b>(\$170,759)</b>	<b>\$18,374,144</b>