

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Melissa Mark-Viverito
Speaker of the Council

Hon. Ben Kallos
Chair, Governmental Operations



Report of the Finance Division on the
Fiscal 2018 Preliminary Budget

Law Department

March 13, 2017

Finance Division

Latonia McKinney, Director
Regina Poreda Ryan, Deputy Director
Nathan Toth, Deputy Director

Paul Scimone, Deputy Director
Sheila D. Johnson, Financial Analyst
John Russell, Unit Head

Table of Contents

Law Department Overview 1

Fiscal 2018 Preliminary Budget Highlights 1

Financial Plan Summary 2

 Judgment and Claims 2

 Miscellaneous Revenue 3

 Contract Charts 4

 Tort Division 5

 Family Court Division 6

Appendix A: Budget Actions in the November and the Preliminary Plans..... 7

Appendix B: Fiscal 2018 Personal Services (PS) Chart 8

Law Department Overview

Under the direction of the corporation counsel, the New York City Law Department (the Department) is responsible for the legal affairs of the City. It represents the City, the Mayor, other elected officials, and other City agencies in all affirmative and defensive civil litigation and juvenile delinquency prosecutions brought in Family Court and Administrative Code enforcement proceedings. 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 Department is comprised of 16 legal divisions with 800 lawyers and four support divisions with 690 support professionals in 10 offices.

This report provides a review of the Department's Preliminary Budget for Fiscal 2018. The first section provides the highlights of the \$206.3 million Fiscal 2018 expense budget. The second section provides the financial plan summary since the Fiscal 2017 Adopted Budget. The third section provides an overview of the Judgment and Claims Budget and Miscellaneous Revenue. The report then presents the Department's budget by program area, provides analysis of significant program areas, discusses budget actions included in the November and Preliminary Financial Plans and reviews relevant sections of the Preliminary Mayor's Management Report for Fiscal 2017. Finally, the appendices are included to highlight the Budget Actions in the November and Preliminary Plans and the Contract Budget.

Fiscal 2018 Preliminary Budget Highlights

- **Law Department Fiscal 2018 Preliminary Budget.** The Department's proposed budget for Fiscal 2018 totals \$206.3 million, including \$149.5 million in Personal Services funding to support 1,697 budgeted positions.
- **Law Department New Needs.** The Fiscal 2018 Preliminary Plan includes new needs funding of \$14.5 million in Fiscal 2017 and \$724,000 in Fiscal 2018. The majority of new needs in Fiscal 2017 are related to outside counsel with case-specific technical and legal expertise. Of the total funding for Fiscal 2017 case-specific new needs, \$10.5 million is for legal representation of city employees related to investigations of Mayoral campaign contributions. For Fiscal 2018, the Department identified new needs that included consulting services for environmental law and additional lease expenses for the Brooklyn Tort Division.
- **Citywide Cost Savings.** Since the Adoption of the Fiscal 2017 Budget, the Department has identified budget savings of \$1.7 million in Fiscal 2017 in Personal Services accruals from vacant positions. The Department has also identified additional revenue of \$1.5 million in Fiscal 2017 from the sale of a small parcel of Mercer Street in Manhattan as part of the savings program.
- **Judgements and Claims (J&C).** Included in the Miscellaneous Budget is \$720 million for J&C payments for Fiscal 2018, increasing to \$740 million by Fiscal 2021. In Fiscal 2016, payments for J&C totaled \$720 million.
- **Law Department Contract Budget.** The Law Department's Fiscal 2018 Contract Budget totals \$33 million or 22 percent of its total budget. The Fiscal 2018 Preliminary Contract Budget decreases by \$3 million when compared to the Fiscal 2017 Adopted Contract Budget.

- **Increase in State Cases Pending.** In Fiscal 2017, the number of cases pending in State Court were 21,925 compared to 20,751 in Fiscal 2016. This represents an increase of 1,174 cases in State Court.

Financial Plan Summary

Law Department Financial Summary						
<i>Dollars in Thousands</i>	2015 Actual	2016 Actual	2017 Adopted	Preliminary		*Difference
				2017	2018	2017 - 2018
Spending						
Personal Services	\$111,056	\$118,777	\$146,028	\$140,803	\$149,472	\$3,444
Full-Time Salaried	102,236	109,672	142,747	137,522	146,172	\$3,425
Other Salaried	4,862	5,437	2,997	2,997	3,016	\$19
Additional Gross Pay	2,603	2,296	282	282	282	\$0
Overtime - Civilian	1,354	1,372	1	1	1	\$0
Other Than Personal Services	\$64,534	\$75,574	\$65,485	\$85,391	\$56,840	(\$8,645)
Contractual Services	40,698	48,819	42,601	59,367	33,051	(\$9,550)
Supplies and Materials	864	1,299	1,252	1,327	1,252	\$0
Property and Equipment	1,822	1,192	674	1,744	984	\$310
Fixed and Misc. Charges	90	33	18	87	18	\$0
Other Services and Charges	21,060	24,231	20,940	22,866	21,535	\$595
TOTAL	\$175,590	\$194,351	\$211,512	\$226,194	\$206,312	(\$5,201)
Funding						
City Funds			\$203,692	\$216,152	\$198,434	(\$5,257)
Other Categorical			417	729	417	\$0
Capital-IFA			3,705	3,705	3,742	\$36
Fed-Community Development			97	336	107	\$10
Intra-City			3,601	5,272	3,612	\$10
TOTAL	\$175,590	\$194,351	\$211,512	\$226,194	\$206,312	(\$5,201)
Budgeted Headcount						
Full-Time Positions	1,378	1,428	1,697	1,702	1,697	0
TOTAL	1,378	1,428	1,697	1,702	1,697	0

**The difference of Fiscal 2017 Adopted Budget compared to Fiscal 2017 Preliminary Budget.*

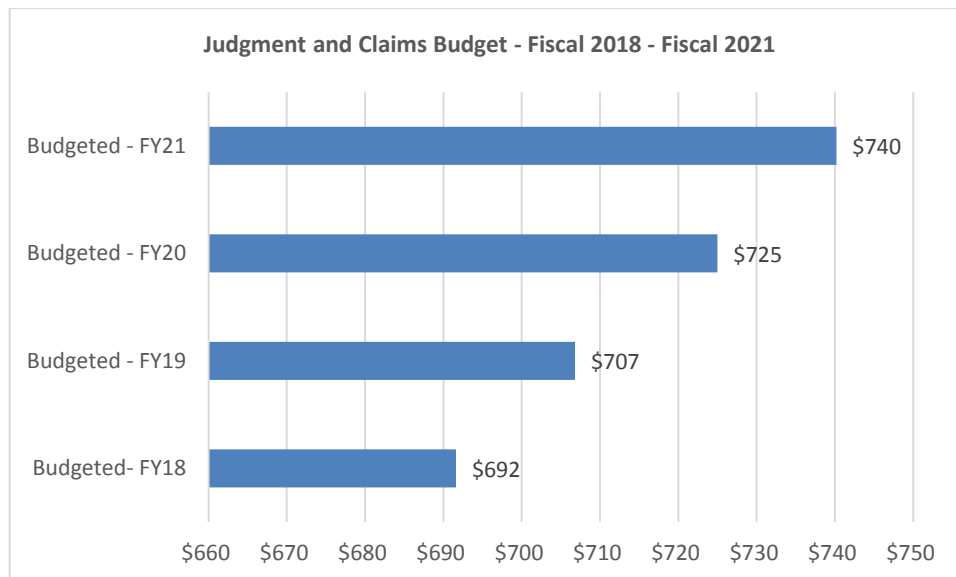
The Department's proposed budget for Fiscal 2018 totals \$206.3 million, including \$149.5 million in Personal Services funding to support 1,697 budgeted positions. The decrease in funding can in large part be attributed to efforts to use in-house counsel to replace its reliance on outside consultants. The decrease is partially offset by additional Personal Service costs which is largely due to a collective bargaining increase. The Department's budget also includes funding for court-appointed Special Masters/Court Monitors, for which the City is required to pay. In Fiscal 2016, these expenditures totaled \$9 million with projected annual costs estimated at the same.

Judgment and Claims

The Judgment and Claims (J&C) Budget is included in the City's Miscellaneous Budget and totals \$720 million in Fiscal 2018 for payments resulting from judgments against the City. These expenditures represent the City's costs for tort and contract liability. Tort expenditures cover both personal injury and property damage claims and typically represent about 95 percent of total costs.

Citywide Judgment and Claims Payouts <i>Dollars in Thousands</i>					
	Actuals				
Agency	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Police	\$204,578	\$156,600	\$245,665	\$274,279	\$229,651
Fire	31,578	23,436	138,281	51,699	27,435
H+H	127,480	124,066	131,692	127,142	8,973
Transportation	73,456	75,764	73,291	54,389	63,168
Sanitation	42,536	34,544	41,107	34,149	43,070
Education	32,958	37,680	34,871	42,442	28,350
Environmental Protection	8,540	4,042	19,852	20,731	6,511
Parks	20,423	30,923	19,266	15,096	13,495
Corrections	26,651	12,127	18,522	42,284	16,437
All Other Payments	14,668	25,301	9,674	17,393	282,879
Total	\$582,868	\$524,483	\$732,221	\$679,604	\$719,968

Payments for J&C vary from year to year due to settlements for major cases. J&C payments spiked in Fiscal 2014 in large part due to the settlement of the Central Park Five case and the FDNY exam bias case. Over the last five fiscal years, J&C actual spending averaged \$648 million.



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 payouts. 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.

Law Miscellaneous Revenue Budget Overview						
<i>Dollars in Thousands</i>						
Revenue Sources	2013	2014	2015	2016	Preliminary Plan	
	Actual	Actual	Actual	Actual	2017	2018
Adm. Code violations	\$1,393	\$1,088	\$822	\$760	\$1,000	\$1,000
Affirmative litigation	12,588	10,187	25,287	5,144	9,759	9,759
Affirmative r/e Litigation	13,356	30	339	806	250	250
Collection Agency Claims	2,127	2,713	13,167	3,015	3,300	3,300
Street Sales	1,215	1,323	78	25,287	8034	275
Fees	48	31	3,619	76	75	75
Worker Compensation	8,059	8,095	7,983	7,662	7,000	7,000
TOTAL	\$38,786	\$23,467	\$51,296	\$42,750	\$29,418	\$21,659

**The difference of Fiscal 2017 Adopted Budget compared to Fiscal 2018 Preliminary Budget.*

The Fiscal 2018 Preliminary Budget projects that the Law Department will generate miscellaneous revenue totaling \$21.7 million in Fiscal 2018. The majority of that revenue is projected to be generated through affirmative litigation, collection agency claims and reimbursements for worker compensation payouts. Miscellaneous revenue generated through affirmative litigation varies considerably from year to year depending on the type and size of pending cases. For example, in Fiscal 2013 the Department recognized a \$1.3 million settlement from the owners of 25 and 45 Sutton Place in Manhattan for failure to maintain curtain walls for which the City incurred repair expenses. The chart above shows \$25.3 million in revenue as a result of the sale of lots in Queens in Fiscal 2015.

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 personal 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. The Fiscal 2018 Preliminary Contract Budget totals \$14.4 billion for procurement expenditures across all agencies.

Law Fiscal 2018 Preliminary Contract Budget				
<i>Dollars in Thousands</i>				
Category	Fiscal 2017 Adopted	Number of Contracts	Fiscal 2018 Preliminary	Number of Contracts
Contractual Services General	\$440	14	\$440	14
Maintenance. & Rep. General	1,521	17	1,501	17
Office Equipment Maintenance	200	9	200	9
Data Processing Equipment	701	8	701	8
Security Services	225	1	225	1
Temporary Services	4,501	15	4,501	15
Cleaning Services	15	1	15	1
Transportation Expenditures	50	1	50	1
Training Program City Employees	85	24	105	24
Prof. Legal Services	8,079	31	7,738	31
Other Prof. Services	26,783	308	17,574	308
TOTAL	\$42,600	429	\$33,051	429

The Law Department's Fiscal 2018 Contract Budget totals \$33 million and accounts for approximately 22 percent of the Department's total operating budget. The Fiscal 2018 Preliminary Contract Budget is \$3 million less than the Department's Fiscal 2017 Adopted Contract Budget. The decrease is in large part due to efforts to reduce reliance on outside legal consultants by increasing full-time budgeted positions. Contracts in the category of Other Professional Services, includes funding for consultants with specific expertise working on special cases. Temporary service contracts include payments, fees and commissions for administrative and clerical support, court reporting and transcribing and other outside temporary services. The Department uses temporary services to manage increases in case volume.

Tort Division

The Tort Division is the Department's largest division. It employs over 500 lawyers and almost as many support staff. The Division represents the City, the Department of Education, and Health + Hospitals in all tort claims. It handles a caseload of over 7,000 new cases each year, with another 20,000 pending through investigation, defense before State and Federal courts, and settlement. The Division has nine offices which are spread across the five boroughs: and they include hearings & adjournments, calendar, motions, office managers, pleaders & stipulations, pre-trial possible settlement state, pre-trial possible settlement federal, and settlement clerk. The Division's Fiscal 2018 budget includes \$54 million to support 643 full time positions.

Performance Measures

Law Performance Indicators				Target		4-Month Actual	
	FY14	FY15	FY16	FY17	FY18	FY16	FY17
Total Cases pending in Federal Court	1,659	1,652	1,649	1,700	1,700	1,646	1,553
Dismissals or Discontinuances (Federal)	173	228	243	*	*	64	92
Total Cases pending in State Court	19,039	20,059	21,452	21,500	22,100	20,751	21,925
Cases pending on trial calendar	2,260	2,255	2,425	2,500	2,700	2,405	2,589
Affirmative motions to dismiss or for summary judgment	1,903	1,561	1,516	*	*	446	475
Total cases commenced against the City	9,045	9,922	9,507	*	*	3318	2755
Cases commenced against the City in State Court	7,258	8,112	8,009	7740	7740	2719	2400
Cases commenced against the City in Federal Court	1,787	1,810	1,498	1350	1200	599	355
Win rate on affirmative motions (State)	78%	74%	75%	78%	78%	85%	70%

Listed below are highlights from the Department's Tort Division section of the Preliminary Mayor's Management Report.

- During the first four months of Fiscal 2017, payout for judgments and claims brought against the City in state and federal court increased by 11 percent compared to the same period in Fiscal 2016. The increase is due to several large and longstanding legal matters against the City.
- Total cases commenced against the City decreased by 17 percent during the reporting period.
- Cases pending in state court increased six percent due to the cumulative impact of the increasing number of cases started in Fiscal 2015 through Fiscal 2016. However, additional attorneys hired in Fiscal 2016 and a restructured management strategy aided in an affirmative motion practice increase of seven percent.
- Dismissals and discontinuances in federal court increased 44 percent during the reporting period. In the first four months of Fiscal 2017, there were six percent of actions

pending in federal court compared with four percent of actions during the first four months of Fiscal 2016.

Family Court Division

The Family Court Division is the Department's second largest division, with over eighty attorneys who are responsible for handling some fifteen thousand cases annually. The Division is responsible for prosecuting juvenile crime, assisting youth crime victims with 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 to assist in obtaining financial support for children. The Division's Fiscal 2018 budget includes \$11.6 million in funding to support 151 full-time positions compared.

Performance Measures

Law Performance Indicators	Actual			Target		4-Month Actual	
	FY14	FY15	FY16	FY17	FY18	FY16	FY17
Referred cases filed for prosecution (%)	58%	54%	54%	55%	55%	55%	46%
Juvenile conviction rate (%)	75%	75%	76%	70%	70%	76%	72%
Juveniles successfully referred to a diversion program with no new delinquency referral within one year (%)	85%	84%	81%	75%	75%	66%	70%
Crime victims referred for community-based services (%)	46%	50%	53%	40%	40%	52%	46%
Families entitled to a support order that get a support order (%)	65%	68%	71%	65%	65%	66%	67%

Listed below are highlights from the Department's Family Division section of the Preliminary Mayor's Management Report.

- The juvenile conviction rate decreased by four percent in the first four months of Fiscal 2017 when compared to the same period in Fiscal 2016.
- In the first four months of Fiscal 2017, 16 of 23 juveniles in diversion programs received no new juvenile delinquency referrals within a year, compared to 14 to 21 juveniles in the same four months of Fiscal 2016.
- Crime victims referred by the Department to community-based services decreased six percentage points.

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

<i>Dollars in Thousands</i>	Fiscal 2017			Fiscal 2018		
	City	Non-City	Total	City	Non-City	Total
LAW Budget as of the 2017 Adopted Budget	\$203,691	\$7,820	\$211,511	\$197,711	\$7,867	\$205,578
New Needs						
Case-Specific New Needs	\$14,353	\$0	\$14,353	\$0	\$0	\$0
Environmental Law Consulting Services	150		150	150	0	150
Brooklyn Tort Division Lease	0	0	0	574	0	574
Subtotal, New Needs	\$14,503	\$0	\$14,503	\$724	\$0	\$724
Other Adjustments						
All Other City Adjustments	1	0	1	0	0	0
All Other Non-City Adjustments	0	1,996	1,996	0	10	10
PS Accruals	(1,700)	0	(1,700)	0	0	0
Hiring Plan Adjustment	(1,018)	0	(1,018)	0	0	0
Lease Adjustment	675	0	675	0	0	0
Temp Legal Staff Services	0	225	225	0	0	0
Subtotal, Other Adjustments	(\$2,042)	\$2,221	\$179	\$0	\$0	\$10
TOTAL, All Changes	\$12,461	\$2,221	\$14,682	\$724	\$10	\$734
LAW Budget as of the Prelim 2018 Budget	\$216,152	\$10,041	\$226,194	\$198,434	\$7,877	\$206,312

Appendix B: Fiscal 2018 Personal Services (PS) Chart

Law Program Areas		
<i>Dollars in Thousands</i>		
Program Area	Fiscal 2018 Funding	Budgeted Positions
Administration & Support Services	\$14,130	77
Administrative Law	3,897	41
Affirmative Litigation	2,670	28
Appeals	444	45
Comm. and Real Estate Litigation	4,881	53
Contracting Department	1,085	9
Contracts and Real Estate	236	3
Disability Rights	107	1
Economic Development	2,089	15
E-Discovery Department	1804	11
Environmental Law	1,815	18
Executive	3,533	30
Family Court	11,596	151
General Litigation	3,024	29
Information Technology	2,229	27
Labor and Employment Law	6,575	77
Legal Counsel	3,130	30
Litigation Support Unit	2,434	30
Municipal Finance	659	7
Operations	3,831	71
Special Federal Litigation	14,865	137
Special Law Enforcement Defense Unit	385	5
Tax and Bankruptcy	5,391	71
Tort	53,726	643
Workers' Compensation	4,937	88
Total	\$149,472	1,697