

THE COUNCIL OF THE CITY OF NEW YORK



Hon. Melissa Mark-Viverito
Speaker of the Council

Hon. Ben Kallos
Chair, Committee on Governmental Operations

Report on the Fiscal 2016 Preliminary Budget and the
Fiscal 2015 Preliminary Mayor's Management Report

Office of Administrative Trials and Hearings

March 19, 2015

John Russell, Unit Head

Finance Division

Latonia McKinney, Director

Regina Poreda Ryan, Deputy Director

Nathan Toth, Deputy Director

Table of Contents

Office of Administrative Trials and Hearing Overview	1
Fiscal 2016 Preliminary Budget Highlights	1
Financial Summary	2
Tribunals	3
OATH Tribunal	3
Health Tribunal	3
Taxi and Limousine Commission Tribunal.....	3
Environmental Control Board (ECB)	3
Tribunal Fine Revenues.....	4
Appendix A: Budget Actions since Fiscal 2015 Adoption.....	5
Appendix B: Contract Budget	5
Appendix C: Preliminary Mayor’s Management Report	6

Office of Administrative Trials and Hearing Overview

The Office of Administrative Trials and Hearings (OATH) 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 2016 Preliminary Budget Highlights

- **OATH Fiscal 2016 Budget.** The Preliminary Budget for OATH includes \$37.8 million for Fiscal 2016. Personal services funding comprises approximately 75.1 percent of its total Fiscal 2016 budget and provides for 252 full-time positions.
- **Tribunal Fine Revenue.** It is projected that OATH will generate combined tribunal fine revenue of \$127 million in Fiscal 2015. ECB fine revenue represented 67 percent of the Office's total fine revenue in Fiscal 2014.
- **Relocation of the TLC Tribunal Hearing Office.** The Preliminary Plan includes baseline funding of \$1.2 million in lease expenses related to the relocation of the TLC Tribunal to 31-00 47th Ave., Long Island City. In addition, planned commitments totaling \$10.7 million for the renovation of the new TLC office is included in the Capital Plan.
- **ECB Outstanding Debt.** The ECB sends some of its outstanding debt to the Department of Finance for collection. The amount of this debt as of July 2014 was \$1.48 billion from 1.5 million outstanding notices of violation, of which 24 percent, or \$350 million, is interest.
- **OATH Contract Budget.** OATH's Fiscal 2016 Contract Budget totals \$2.5 million for 19 contracts and accounts for 26.8 percent of the agency's total OTPS budget.

Financial Summary

OATH Financial Summary						
	FY13	FY14	FY15	Preliminary		*Change
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	2015	2016	FY15 - FY16
Spending						
Personal Services	\$24,130	\$24,489	\$27,716	\$28,655	\$28,414	\$698
Full-Time Salaried – Civilian	14,594	14,930	15,526	16,001	16,197	672
Other Salaried & Unsalariated	8,897	8,969	11,645	11,700	11,672	26
Additional Gross Pay	600	487	505	913	505	0
Overtime - Civilian	39	101	40	40	40	0
Other Than Personal Services	\$6,595	\$6,857	\$7,819	\$7,827	\$9,337	\$1,518
Supplies and Materials	1,357	1,197	1,756	1,466	1,717	(38)
Property and Equipment	745	280	562	491	354	(208)
Other Services and Charges	2,471	2,784	3,421	3,243	4,736	1,315
Contractual Services	2,022	2,596	2,081	2,627	2,531	450
Total	\$30,726	\$31,346	\$35,535	\$36,482	\$37,751	\$2,216
Funding						
City Funds	\$30,726	\$31,346	\$35,535	\$36,482	\$37,751	\$2,216
Total	\$30,726	\$31,346	\$35,535	\$36,482	\$37,751	\$2,216
Budgeted Headcount						
Full-Time Positions - Civilian	238	237	250	250	252	2

*Change from Fiscal 2015 Adopted Budget compared to Fiscal 2016 Preliminary Budget.

The Preliminary Budget for OATH includes \$37.8 million for Fiscal 2016. Personal Services funding comprises approximately 75.1 percent of the agency's total Fiscal 2016 budget and provides for 252 full-time positions. Compared to the Fiscal 2015 Adopted Budget, OATH's Budget increases by \$2.2 million. The increase is primarily the result of new lease funding for the TLC Tribunal's relocation of its Long Island City hearing office and increases in staff salaries, including collective bargaining adjustments. As a result of recent labor contract settlements, the Financial Plan includes additional funding of \$415,000 in Fiscal 2016 and in the outyears for collective bargaining adjustments for OATH staff, the majority of which is allocated to DC 37 members.

Relocation of the TLC Tribunal Hearing Office. The Preliminary Plan includes baseline funding of \$1.2 million for lease expenses related to the relocation of the TLC Tribunal to 31-00 47th Ave., Long Island City. The move would provide a more functional and comfortable space for both the TLC Tribunal and the general public. In addition, planned commitments totaling \$10.7 million for the renovation of the new TLC Tribunal office are included in the Capital Plan.

Tribunals

The chart below summarizes the Fiscal 2016 budgets of the four administrative tribunals.

FY 2016 Preliminary Budget				
<i>\$ In Thousands</i>	PS	OTPS	Total	Positions
OATH	\$4,237	\$2,644	\$6,881	47
Health	4,989	697	5,686	50
TLC	3,059	1,583	4,642	26
ECB	16,129	4,413	20,542	129
Total	\$28,414	\$9,337	\$37,751	252

OATH Tribunal

The Fiscal 2016 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 2016 Preliminary Budget includes \$5.7 million for the Health Tribunal, including \$5 million to support 50 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 2016 Preliminary Budget includes \$4.6 million for the TLC Tribunal, including \$3.1 million to support 26 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 2016 Preliminary Budget includes \$20.5 million for the ECB, including \$16.1 million to support 252 full-time positions.

Tribunal Fine Revenues

The Health Tribunal, TLC Tribunal, and the ECB generate revenues for the City through the collection of fines issued for various violations. Revenues totaled \$137.2 million in Fiscal 2014.

<i>In Thousands</i>	Actual				Planned	
	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16
ECB Fines	\$87,174	\$94,888	\$87,173	\$91,838	\$89,510	\$89,510
DOHMH Fines	45,631	53,639	41,548	38,744	30,000	30,000
TLC Fines	10,416	11,270	6,995	6,655	7,471	7,298
TOTAL	\$143,221	\$159,797	\$135,716	\$137,237	\$126,981	\$126,808

It is projected that OATH will generate combined tribunal fine revenue of \$127 million in Fiscal 2015. ECB fine revenue represented 67 percent of OATH's total fine revenue in Fiscal 2014. 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 since Fiscal 2015 Adoption

<i>Dollars in Thousands</i>	FY 2015			FY 2016		
	City	Non-City	Total	City	Non-City	Total
OATH Fiscal 2015 Adopted Plan	\$35,535		\$35,535	\$35,801		\$35,801
New Needs						
TLC Tribunal New Lease	0	0	0	1,145	0	1,145
Network and VOIP Service	0	0	0	38	0	38
Small Business First	8	0	8	16	0	16
Subtotal New Needs	8	0	8	1,199	0	1,199
Other Adjustments						
Collective Bargaining Adjustments	267	0	267	415	0	415
Hearing Officer Backpay	408	0	408	0	0	0
Salary Increases and Adjustments	264	0	264	336	0	336
Subtotal Other Adjustments	939	0	939	751	0	751
Total All Changes	947	0	947	1,950	0	1,950
OATH Fiscal 2016 Preliminary Plan	\$36,482	0	\$36,482	\$37,751	0	\$37,751

Appendix B: Contract Budget

Category	FY 2016 Preliminary	Number of Contracts
Contractual Services General	\$850,367	4
Maintenance & Rep General	0	0
Telecommunications Maintenance	86,744	1
Office Equipment Maintenance	53,980	3
Printing Contracts	87,459	1
Security Services	830,638	2
Temporary Services	195,169	1
Cleaning Services	60,402	2
Training Prgm City Employees	8,000	2
Prof Serv Computer Services	323,731	1
Prof Serv Direct Education	7,150	1
Professional Services: Other	27,000	2
Total	\$2,530,640	20

OATH's Fiscal 2016 Contract Budget totals \$2.5 million for 19 contracts and accounts for 26.8 percent of the agency's total OTPS budget. Security Services for the Tribunals represent 33 percent of the agency's total contract budget.

Appendix C: Preliminary Mayor's Management Report

Performance Indicators	Actual			Target		4-Month Actual	
	FY12	FY13	FY14	FY15	FY16	FY14	FY15
Average time for the OATH Tribunal to issue decisions after records closed (business days)	13.4	13.9	15.2	25.0	25.0	18.9	7.7
OATH Tribunal cases with decisions issued within 45 business days (%)	98%	98%	94%	*	*	88%	97%
Average adjournment time at the OATH Tribunal (business days)	14.8	16.6	15.7	20.0	20.0	12.9	16.2
OATH Tribunal settlement rate (%)	59%	59%	55%	55%	55%	58%	59%
Cases filed at the OATH Tribunal (total)	2,027	2,358	2,665	*	*	839	989
Notices of Violation (NOV) received by ECB Tribunal	563,477	464,666	566,566	*	*	192,357	225,887
ECB Tribunal hearings conducted	255,718	208,922	195,284	*	*	66,901	63,385
Average time from ECB Tribunal hearing assignment to decision (days)	8	5	6	20	20	7	6
ECB Tribunal decisions rendered	172,409	141,371	142,390	*	*	52,677	50,367
- Dismissed	71,357	59,821	61,059	*	*	24,316	19,707
- In violation	99,198	79,954	79,847	*	*	27,789	30,266
- Stipulated	1,854	1,596	1,484	*	*	572	394
Dockets received by the OATH Health Tribunal	N/A	41,772	40,255	*	*	14,132	13,074
OATH Health Tribunal hearings conducted	N/A	36,187	37,932	*	*	13,593	12,015
OATH Health Tribunal decisions rendered	N/A	23,787	26,043	*	*	9,515	8,157
Summonses received by the OATH Taxi Tribunal	N/A	N/A	97,392	*	*	41,929	30,743
OATH Taxi Tribunal hearings conducted	N/A	N/A	59,929	*	*	20,846	24,889
OATH Taxi Tribunal decisions rendered	N/A	N/A	50,264	*	*	17,718	20,847

According to the Fiscal 2015 Preliminary Mayor's Management Report: The number of cases filed with the OATH Tribunal increased by 18 percent to 989 in the first four months of Fiscal 2015, compared to 839 a year earlier. The average time to issue a decision after the records closed decreased to eight business days, 11 days less than the same period last fiscal year, and 97 percent of OATH Tribunal cases had decisions issued within 45 days during the period. The decrease in decision time can be attributed to an increase in the proportion of less complex cases decided by the OATH Tribunal during the period.

During the first four months of Fiscal 2015, the Environmental Control Board continued to provide prompt hearings, improving its average time from hearing assignment to decision to six days, one day less than in the same period last year and well below the annual target. During this period, the number of notices of violation received by ECB increased by 17 percent; ECB conducted five percent fewer hearings than in the first four months of Fiscal 2014.

During the first four months of Fiscal 2015, the overall number of dockets received by the Health Tribunal from the Department of Health and Mental Hygiene decreased by seven percent. The number of Health Tribunal hearings conducted decreased by 12 percent and the number of decisions it rendered decreased 14 percent from the same period of Fiscal 2014,

reflecting a 13 percent decrease in the number of restaurant-related hearings during the period, which constitute over 85 percent of the hearings at the Health Tribunal.

Although the Taxi & Limousine Tribunal received 27 percent fewer summonses from enforcement agencies in the first four months of Fiscal 2015 than in the corresponding period of the previous year, the number of hearings it conducted increased by 19 percent. The number of decisions rendered by this tribunal increased by 18 percent from the first four months of Fiscal 2014, as it continued to utilize the electronic case management system and new practice rules implemented over the last two years.