

Agency: 082 Public Disclosure Commission
Decision Package Code/Title: 01 92E AG Legal Services
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

This request is to provide currently unfunded AGO client advice to the Public Disclosure Commission and underfunded representation for enforcement of campaign finance laws services for the PDC in response to the rebase reduction in its legal services allocation . The PDC's General Counsel position and funding was eliminated in the 2015-17 budget which resulted in an increase in requested AGO services without a reciprocal AGO funding increase. The Commission experienced a surge of complaints that will be moving through the system in this biennium. If funded, the increase will provide for client advice (i.e., for questions on public records, contract, rule-making, legislation) and augment the current allotment for enforcement representation .

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	103,000	105,000	208,000
Total Cost	103,000	105,000	208,000

Package Description:

The PDC received a reduction in its base legal services for 2015-17 based on an out-of-date billing history . While underspent in 11-13, AGO billings actually were overspent in 13-15 by \$25,000. The number of pending complaints continues to climb and the demand for AGO services continues to grow both for client advice and litigation .

Until January 2014, the PDC obtained advice on contracts, public records requests, rule-making and legislation from an in-house General Counsel. That position was established in 2009 when a long-time AAG moved in-house . At that time, PDC's legal services allocation was reduced to reflect that reduction in its demand for legal services . In January 2014, the individual left the in-house General Counsel position, and the position remained unfilled because of budget constraints . The PDC continued to suffer significant reductions in funding, culminating in the 2015 legislative session when the position and its funding were eliminated from the PDC's budget. However, during this time period, the PDC continued to need legal advice on a variety of matter including contracts, public records request, rule-making and legislation and began to seek such advice from the AGO .

Based on AGO continued unfunded work for the PDC in advice matters, the AGO estimates the need for .25 AAG FTE will be necessary to support this client advice need .

In addition, the request is to add funding for .25 AAG FTE to support the increasing need for representation provided to the PDC's compliance group on an ongoing basis. The PDC has placed a renewed emphasis on clearing its backlog of pending complaint

investigations and providing a shorter turnaround time for complaints. The agency recently administered a LEAN process review to help existing staff more promptly review, investigate, and make enforcement decisions. The agency hired a temporary employee to review over 90 pending complaints to determine if a formal investigation was warranted for the cases. There are currently 35 pending investigations which are moving through the new, more LEAN system. This work led to an increase demand for case review, administrative case presentation, and the potential for more referrals to the AGO for superior court litigation for the future. The increased funding is to pay for enforcement of the state's campaign finance laws.

These requests are supported by the AGO and it will file a matching Decision Package.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The PDC and AGO expect the additional resources to improve the timeliness of complaint resolutions. This in turn will improve the public's faith in the effectiveness of the agency in supporting the mission of the state's campaign finance disclosure laws. Cases that are handled more quickly provide valuable direction to candidates, political committees, and lobbyists on what is expected of them. It provides citizens with the faith that elections in Washington are conducted in accordance with the laws and that their interests in the financial disclosures about those elections are being protected. It will also allow for citizens to have faith in the conduct of the legislature when lobbyists and elected officials are held to a high standard of disclosure.

The addition of funding for AGO client advice will also ensure that the current legal resources are not diverted from the compliance work, thus reducing the effectiveness of that program. It will also protect the State from the risk of inadvertent violations of such laws as those related to public records, open public meetings, and contracting.

Performance Measure Detail

Activity:

Incremental Changes

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

Goal 4. Improve the efficiency and effectiveness of enforcement efforts

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Goal 5. Efficient, Effective and Accountable Government

Sub-Topic: Customer Satisfaction and Confidence

Outcome Measures:

1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.

1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of legal services with the funding available to the PDC for sustaining its current workload demands. It clarifies that state resources are spent in alignment with client needs and risks, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

What are the other important connections or impacts related to this proposal?

Given the reduction in funding for the PDC since 2009, agency effectiveness to meet statutory responsibility has been diminished. In the 2015-17, the Legislature put new money towards technological improvements to enhance the PDC's mission and restore public

access to much demanded information. This proposal will continue to improve the PDC's ability to provide quicker responses in terms of compliance and enforcement. This will also enhance the public confidence in how these laws are enforced. This should receive bi-partisan support as all stakeholders in the law demand quicker resolution of issues.

The AGO supports this decision package and will be filing a matching one.

What alternatives were explored by the agency, and why was this alternative chosen?

If this package is not funded, it will require existing funding to be diverted to cover the AGO client advice responsibilities to the PDC, or in the alternative, to not seek this type of legal assistance. If advice is not provided, it increases the risk of uninformed and potentially costly decisions, and may increase the risk of challenges to PDC actions. Any funds diverted will result in a reduction or delay in the legal representation in the enforcement area. Reduction in legal representation attorney time will result in a delay in responding to enforcement advice, and the scheduling for administrative proceedings before the PDC. This may cause cases to become unenforceable because they will have not been charged within the five year statute of limitations under the law. Additionally, it will cause a lack of public confidence in those working on campaigns that may be violating the law without repercussions. Additionally, it may cause complainants to choose to come to the AGO for enforcement putting a strain on existing AGO resources and delay in processing complaints.

What are the consequences of adopting or not adopting this package?

If this package is not funded, it will require existing AGO funding to be diverted to cover the client advice responsibilities to the PDC, or in the alternative, to not provide this type of legal assistance. If advice is not provided, it increases the risk of uninformed and potentially costly decisions, and may increase the risk of challenges to PDC actions. Any funds diverted will result in a reduction or delay in the legal representation in the enforcement area. Reduction in legal representation attorney time will result in a delay in responding to enforcement advice, and the scheduling for administrative proceedings before the PDC. This may cause cases to become unenforceable because they will have not been charged within the five year statute of limitations under the law. Additionally, it will cause a lack of public confidence in those working on campaigns that may be violating the law without repercussions. Additionally, it may cause complainants to choose to come to the AGO for enforcement putting a strain on existing AGO resources and delay in processing complaints.

What is the relationship, if any, to the state's capital budget?

None

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None

Expenditure and revenue calculations and assumptions

Per AG's office an Increase of \$103,000 in FY16.
Per AG's office an Increase of \$105,000 in FY17.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The funding would be ongoing and carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
E Goods\Other Services	103,000	105,000	208,000