

Methodology for Funding Legal Services for Non-Current Expense Fund Agencies

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INTRODUCTION AND BACKGROUND

The special study of the methodology for funding and accounting for legal services provided by the Civil Division of the Prosecuting Attorney to non-Current Expense (CX) fund agencies was requested by the Chair of the Growth Management Committee and incorporated into the 1992 Auditor's Work program. The study request arose from concerns reported in previous audits regarding the lack of accurate methods of establishing, accounting for and reporting legal services necessary to support the Code Enforcement and Financial Guarantee (bond) Forfeiture programs administered by the Environmental Division and the Building and Land Development Division. (BALD and the Environmental Division were re-organized into a new department, Development and Environmental Services, in January 1993, after the final draft study was released.)

The preponderance of Civil Division expenditures and programs (80% of 103 staff and 86% of the \$1.73 million 1993 budget) were supported by State contract or dedicated non-CX revenue. These sections included the Child (Family) Support Enforcement Section funded by the State

DSHS contract; the Risk Management (Torts) Section funded by the County Insurance Fund; and the Involuntary Treatment Prosecution Working Group supported by the Mental Health Fund.

Ongoing legal services to most County agencies were provided by PAO staff in the County Services, Land Use, and Employment/Contracts working groups, and were funded by a mix of Current Expense funds and directly billed revenue from other County (non-CX) funds.

The majority of County Current Expense, and some non-CX agencies, were not charged for legal services. Most non-CX agencies which were charged for legal services paid through the Overhead Cost Allocation. Only the following non-CX agencies paid through a combination of direct charges and the Overhead Cost Allocation:

- Environmental Division (Code Enforcement Program)
- BALD Division (Financial Guarantees)
- Roads Division
- Solid Waste Division
- Community Development Block Grant Section (CDBG)

The combined direct charge and overhead method

1) directly billed charges in the current year, and

2) assessed charges two years later through the legal services portion of the Central Overhead Allocation Charge to cover costs not previously billed. In 1993, approximately 15 of 31 staff and 46% of the total budget for the non-dedicated sections were to be directly charged to non-CX funds.

The study focused on the funding methodology for non-CX agencies for legal services provided by staff in the non-dedicated Civil Division Sections.

OBJECTIVE AND SCOPE

The study objectives were to review County practices in budgeting and accounting for legal services, with specific attention to non-CX agencies and recent initiatives to develop case management and time billing systems for the Civil Division.

Audit staff reviewed non-CX agency funding for legal services in comparison to PAO revenues for the 1990 through 1993 (proposed) budget periods. The method for incorporating PAO costs into the CX fund overhead charge and the data reported on the Deputy Time Allocation Form were also reviewed. In addition, audit staff interviewed staff from non-CX agencies and from the State Attorney General and Seattle City Attorney offices. Audit staff also requested a report on the status of time-billing and case management systems, prepared by PAO financial and automation staff.

SUMMARY STATEMENT OF FINDINGS

Based on an analysis of financial data and deputy time reporting information for 1990 through 1993 (proposed), the study concluded that current methods for establishing legal services costs, and for reporting and billing services provided to non-CX agencies were inaccurate and conflicting for the agencies reviewed. As a result, agencies which budgeted funds for legal services to accomplish program objectives dependent on legal staffing, could not assume the level of service planned for would be provided.

Other public legal agencies interviewed, the Seattle City Attorney and the State Attorney General, had instituted time tracking systems for deputy attorneys, and the City Attorney's Office also reported paralegal time. Alternative approaches employed by these agencies in budgeting for legal services should be considered by King County.

In order to effectively plan and budget for legal services provided to County agencies, the study recommends implementation of the following actions:

- 1) establish a time tracking system for the Civil Division consistent with the Council's adoption of 1993 budget proviso requirements;
- 2) revise the 1992 Deputy Time Allocation Form;
- 3) develop service agreements with client agencies; and
- 4) evaluate and report on alternative methods for funding legal services (a joint project by the Budget Office and PAO to be transmitted to the Council prior to the 1994 budget process).

MAJOR FINDINGS AND RECOMMENDATIONS

Finding II-1. The Deputy Time Allocation Form completed annually was an inadequate basis for determining legal service costs.

The time allocation sheets, filled out by deputy attorneys in a very brief, once-per-year exercise, provided the data for computing the legal services portion of the Central Services Overhead Allocation Charge, billed on a two-year delayed cycle to non-CX agencies. The study noted the following problems with this process:

- Time allocation forms were not filled out concurrently with the work performed; did not accurately reflect agencies directly billed or programs to be supported; and did not capture time spent for CX agencies.
- Paralegal and other support staff directly billed to client agencies did not complete the allocation forms.
- Client agencies were not provided with reports on how deputy and paralegal time was actually spent and billed, making it difficult to determine how funding was spent and the

full amount paid for legal services.

- No criteria could be identified to determine which agencies should be billed directly versus being billed through the Overhead Cost Allocation Plan. For example, there was no apparent basis for directly billing attorneys and paralegals for the Solid Waste and Roads Divisions of the Public Works Department, in contrast to using overhead allocation payments for the Surface Water Management and Airport Divisions.

Finding II-2. Although the direct reimbursement system had justified the addition of new deputy and support staff positions in the Civil Division, it had not been accompanied by an accurate method of accounting for the amount of legal services actually provided.

Audit staff reviewed budget and ARMS data for the years 1990 through 1993 (proposed) for the non-CX agencies which directly budget and are billed for legal services, and noted the following deficiencies:

- Initial expenditure levels appropriated by the agencies and the revenues estimated to be received by the PAO were consistently out of balance. The 1993 proposed/adopted budget contained a \$38,387 shortfall of agency expenditures needed to meet ARMS revenue projections for the PAO.
- In the case of the CDBG program, no expenditures were made, although the ARMS system reflected estimated revenue to the PAO of more than \$78,000 over a three year period, indicating a potential loss of revenue to the CX fund.
- Direct billings did not correspond to the agency program to be supported.
- Deputies whose salaries and benefits were directly billed to a client agency were assigned, but not necessarily fully dedicated, to work for the agency billed.

The study recommended that revisions to the budgeting process are needed, specifically, 1) the PAO and Budget Office should revise the 1992 Deputy Time Allocation form (for use in 1993) to include all CX and non-CX agencies served and the appropriate division of agency functions; and 2) the Budget Office and PAO should complete of a joint project which evaluates alternative approaches for funding legal services, such as creating an internal services fund or other direct billing mechanism. The report should be presented to the Council for consideration prior to the 1994 budget process. (No later than September 15, 1993.)

Finding III-1. Washington State and City of Seattle legal agencies used time tracking and service level agreements. Other legal agencies tracked attorney time.

Both the Attorney General's Office and the City Attorney's Office tracked staff time on daily time sheets, and the City Attorney tracked paralegal as well as deputy attorney time. Depending on the type of client agency, some deputies used 10 minute intervals, while others used 30 minute time categories. Both agencies used service level agreements (with some, but not all client agencies) to establish budgets and identify specific legal services to be provided. Neither

agency used the overhead method to establish legal services costs, and the Attorney General's Office billed out all actual costs to client agencies on a quarterly basis.

The study recommended that service level agreements or letters of intent for 1993 should be prepared between non-CX agencies and the Civil Division (particularly where separate programs within a single fund are being supported). The agreements should contain elements such as the specific staff positions to be directly funded, accurately establish estimated revenues to the PAO and expenditures from the agencies, and describe and distinguish special priorities or other services to be provided through direct funding as distinguished from ongoing, general legal advice, if appropriate.

Finding IV-2. Research and development for a time tracking system for the PAO Civil Division had been initiated, and a Council budget proviso had requested implementation of time tracking in 1993. PAO staff initiated development of time tracking system in 1992. Implementation to occur in 1993.

The 1992 adopted budget for the Civil Division had earmarked approximately \$50,000 in funding to support a Fiscal Management Specialist position to assist in the development of a time-billing system for the division. Although the position was not filled, PAO automation and fiscal staff initiated development of a time tracking system. The Council subsequently adopted a proviso to the 1993 County Budget which requested a report by April 1, 1993, on conversion to a time allocation system for the Civil Division, and implementation of the system no later than July 1. Implementation of an accurate time tracking system would increase accountability and improve the accuracy of budgeting, allocating and reporting for legal services provided to County agencies.

The study recommended that a timekeeping system for the Civil Division should be implemented in 1993 consistent with 1993 Budget proviso requirements, instituted initially in non-dedicated sections.

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