

**POST AUDIT REPORT
LEGAL SERVICES
PAR21-02**



WEST PALM BEACH

Internal Audit

December 21, 2020

**City of West Palm Beach
Internal Auditor's Office**

Beverly Mahaso, Esq. CIA, CFE
Chief Internal Auditor

December 21, 2020

Audit Committee
City of West Palm Beach
401 Clematis Street
West Palm Beach, Florida

RE: POST AUDIT REPORT OF LEGAL SERVICES (PAR21-02)

Dear Audit Committee Members:

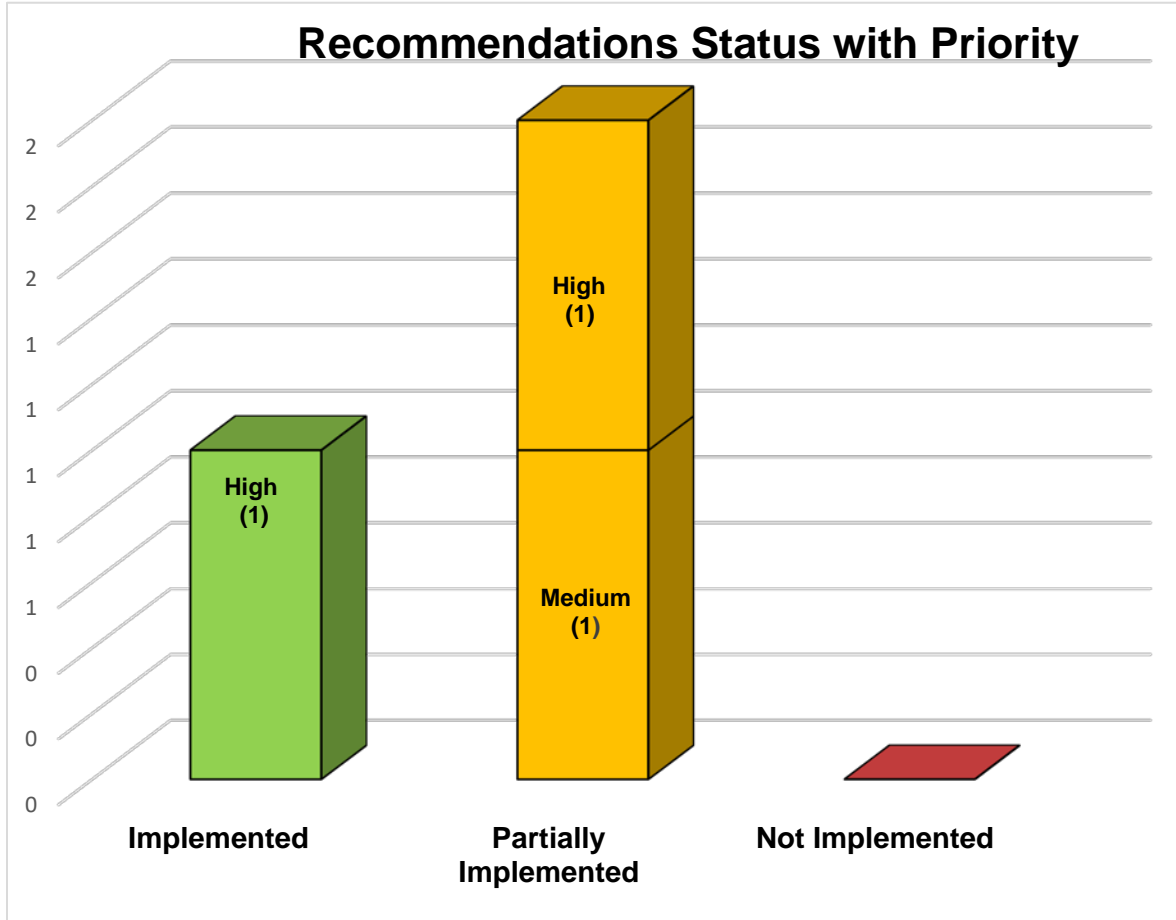
In FY2017, the Internal Auditor's Office released a Limited Review of the Office of the City Attorney's Legal Services (**AUD17-04**). We performed certain procedures, as enumerated below, with respect to activities of the Office of the City Attorney in order to render a conclusion on the status of the recommendations made as a result of that review.

This Post Audit Review (PAR) consisted primarily of inquiries of City personnel and examinations of various supporting documentation. It was substantially less in scope than an audit in accordance with generally accepted government auditing standards.

The evidence obtained provided a reasonable basis for our conclusions; however, had an audit been performed, other matters might have come to our attention that would have been reported to you and our conclusions may have been modified.

The audit contained three (3) recommendations that addressed the audit's findings. Based on the review performed, we concluded that recommendation 3 was implemented, and recommendations 1 and 2 were partially implemented.

We have enclosed a table listing all the recommendations with the current statuses. We found that management made significant efforts to take corrective action. Further, we note that the Office of the City Attorney is actively continuing to make improvements. As such, additional steps may have been taken to implement the recommendations after the conclusion of this Post Audit Review. We will conduct another Post Audit Review in approximately 6 to 12 months, resources permitting, at which time we will review all additional changes made after the conclusion of this Post Audit Review.



We thank the personnel at the Office of the City Attorney for their assistance in conducting this review, and on continuing implementation efforts.

Respectfully Submitted,

s/Beverly Mahaso
Chief Internal Auditor

cc:

Kelly Shoaf, Commission President
Christina Lambert, Commissioner
Cory Neering, Commissioner
Christy Fox, Commissioner
Joseph Peduzzi, Commissioner

Keith James, Mayor
Faye Johnson, City Administrator
Kimberly Rothenburg, City Attorney

Encl.

POST AUDIT REPORT LEGAL SERVICES

Legend
■ Implemented
■ Partially Implemented
■ Not Implemented

AUDIT RECOMMENDATIONS

No.	Auditor's Conditions and Recommendations	Management's Initial Response	Auditor's Status Update
1 Medium Priority	<p>Condition: We found that many outside counsel agreements were broad and used the same or very similar language for the scope of services regardless of the firm or matter. Further, we found that in some instances the invoices submitted for payment were general and lacked specificity as to what services were actually provided. Broad language in agreements combined with invoices that lack specificity, creates challenges for Legal to determine conclusively if it has received the services agreed upon at an accurate fee. While we understand that legal strategy should be protected and not gleaned through billing statements or agreements, we believe that a separate independent review of invoices would assist in substantiating the payment requests.</p> <p>Further, these agreements contain audit clauses which permit audits of invoices, books, and records, however, they are not utilized on a regular basis. We were advised that at one time, Legal contracted with another attorney to review invoices.</p>	<p>Management's Initial Response a) This Office concurs with this recommendation. Future agreements for outside counsel services will be sufficiently detailed to describe the work the lawyer or firm was hired to perform to the extent that the lawyer or firm is not being hired to provide general legal advice relating to a particular subject matter or otherwise reveal legal strategy, mental impressions, or work product. Further, this office will amend future outside counsel agreements to require invoices include sufficient information to describe the work performed to the extent that such specificity does not divulge legal strategy, mental impressions, or work product.</p> <p>b) This Office has previously informally discussed with Internal Audit the possibility of auditing outside counsel bills as we do not have actual knowledge of work performed in worker's compensation and employee representation matters. Since those discussions, worker's</p>	<p>AUDITOR'S STATUS UPDATE PARTIALLY IMPLEMENTED UPDATE AS OF 12/2020 Based on the review completed, we found that the recommendation was partially implemented. Additional work is needed to obtain the resources necessary to review outside counsel agreements. We were advised that the Office of the City Attorney has not had the funding to complete these reviews and the current budget cuts have exacerbated the situation. However, management advised that they are currently reviewing bids from a Third-Party Administrator and are looking to incorporate reviews of invoices as part of the scope of work. Finally, management advised that the new target implementation date will be June 2021.</p>

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	<p>This may be a beneficial practice to re-implement as it may identify savings or at the very least it may serve as a deterrent for erroneous invoices.</p> <p>Recommendation: The City Attorney’s Office should ensure that services provided by external counsel fully meet its needs and charges are appropriate by:</p> <ul style="list-style-type: none"> a. Requiring agreements and invoices to include more specificity as to expectations and work provided, but without divulging legal strategy. b. Conducting more extensive reviews by invoking the audit clause in the agreements. c. Conducting a trial program to have an attorney review Legal’s invoices to determine if they are accurate. Subsequently, a dollar threshold analysis could be performed to determine if a targeted dollar level review would be more effective. 	<p>compensation has been brought in house, leaving employee representation matters a good subject for review. This Office concurs with this recommendation and will seek the assistance of the Internal Auditor’s Office in the review of outside counsel invoices for worker’s compensation and employee representation.</p> <p>c) This Office concurs with this recommendation and will seek an outside lawyer to review invoices for reasonableness. We will attempt to obtain that service on a contingency fee basis – i.e. contingent on reducing fees – or at a low hourly rate. We will note, however, our concern is the same issue with billing from this reviewing lawyer as with outside counsel. Additionally, the reviewing lawyer may be overzealous in attempting to save the City money.</p>	
<p>2 High Priority</p>	<p>Condition: Training – Police Officers receive in-service training regarding the legal parameters that they must operate within. However, with the exception of ethics training, other Departments receive training when requested. Considering the complexity and impact of legal matters, it would be prudent to proactively provide training</p>	<p>Management’s Initial Response In addition to Police Officer in-service training, the City Attorney’s Office also provides the following training: Police Officer new hire training; forfeiture; code enforcement; implementation of newly adopted ordinances; contract database training with Procurement and Risk Management; and City</p>	<p>AUDITOR’S STATUS UPDATE PARTIALLY IMPLEMENTED UPDATE AS OF 12/2020 Based on the review completed, we found that the recommendation was partially implemented. Management advised that the Office of the City Attorney provides department specific training in all areas and also provides weekly meetings to ensure that matters</p>

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	<p>on matters more common to employees and management such as contract requirements or employment matters. We believe that this will be efficient as advice provided by legal counsel typically carries greater weight and may help prevent matters from arising.</p> <p>Recommendation: The City Attorney's Office should ensure that matters are managed as efficiently as possible by establishing training for Departments. An analysis should be performed to identify areas where departments typically request assistance, have matters sent back when insufficient, and other areas as deemed necessary by Legal and the departments. Training should be created based on need and whenever possible, training should be combined to cover as many departments as possible with similar issues. An analysis should be performed to determine if matters are decreasing as a result of the training provided combined with improved communication.</p>	<p>Smart. This office has also assisted Human Resources relating to EEO training and provides guidance for training materials relating to employment matters.</p> <p>The City has been working toward improving its Contract process. Last year the Procurement Department, Risk Management and this Office held multiple training sessions on the contract database and explained how to process a contract request. This year there have been about two trainings and the next training is scheduled for October 1, 2017. Before the October training, this Office will review its part in the contract database training and update the training to include instruction in areas where we note that departments typically request assistance and have matters sent back. We are also in the process of scheduling specific contract training for CRA staff. In addition to the training, the WIN team recommended that a checklist be prepared so that a person could see all steps necessary to process a contract and made other recommendations which are aimed toward reduced employee confusion and error in processing</p>	<p>are managed as efficiently as possible and to prevent recurring issues. However, we found that a documented analysis of training results has not been completed. Thus, a determination cannot be made related to the effectiveness of training.</p> <p>Additional work is needed to develop a process to analyze and document the effectiveness of training. This should include documenting areas where departments typically request or need training, departments have matters sent back when insufficient, as well as documenting training provided to address recurring issues including monitoring the results.</p> <p>At the close of this review, Management advised that they are actively implementing a system to track training that they provide; thus we are cautiously optimistic that this recommendation will be fully implemented during the next follow up.</p>
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		<p>contract requests. We are presently working with Procurement and City Administration to develop checklists on what information is required for each type of contract. In the past 12 months, this Office processed approximately 2,900 matters, a majority of which are contracts. We do not currently have a system in place to track when and why items are returned to a department (without opening and reviewing each individual matter) but will work with IT to see if they have a cost effective solution and will report our findings to Administration and Procurement in April of 2018 (six months after the first training).</p>	
<p>3 High Priority</p>	<p>Condition: Communication – We found that Legal has historically held frequent and/or standing meetings with Police, the CRA, and Planning and Zoning. In recent weeks, standing meetings have increased to include a joint meeting with IT and Procurement. However, other departments or divisions do not have regular standing meetings with Legal. While Legal advises its clients to contact them should they have any questions, it would be prudent to proactively provide their clients with periodic status updates. It should be noted that</p>	<p>Management’s Initial Response In addition to meetings held with Police, CRA, and Planning, this Office has weekly meetings with Risk Management, Administration, the department heads, and Human Resources. Lawyers in this Office have daily contact with all departments by either telephone or e-mail. When a matter comes into the Office, it is assigned to a primary attorney and this Office sends the requestor confirmation of receipt of the assignment with the assigned lawyer’s name and phone number. The lawyers assigned to</p>	<p>AUDITOR’S STATUS UPDATE IMPLEMENTED UPDATE AS OF 12/2020 Based on the review completed, we found that the recommendation was fully implemented. The Office of the City Attorney established a system whereby any department could formally request a meeting with them and there are some departments that have recurring weekly meetings.</p>

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	<p>standing meetings should not be used to replace the Request for Legal Services process. Rather, these meetings should be utilized to facilitate an ongoing open dialogue with Legal that would improve communication, provide greater understanding of legal parameters, and facilitate more efficient case management.</p> <p>Recommendation: The City Attorney's Office should ensure its continued success by establishing periodic meetings for departments to meet with an attorney to discuss matters including but not limited to status updates, challenges faced, and outstanding items from both parties. To ensure that resources are used efficiently, departments should be asked to create an agenda prior to confirming a meeting in order to allow the attorney time to prepare for or research matters.</p>	<p>each case are to respond to inquiries and to keep the departments up to date. Additionally, the contract database provides a status for all contract assignments.</p> <p>Lawyers always need to timely and effectively communicate with their client. City staff always has the ability to call the attorneys directly, as each attorney has a direct dial number and calls are not directed to a receptionist or secretary. To induce additional lines of communication, this Office will develop an open agenda so that any department can add items to the agenda that they would like to discuss, including but not limited to status updates, challenges faced, and outstanding items needed from either party. We do not, however, want this process to cause any department to feel that in order to speak with an attorney, they have to put an item on the agenda. We will follow up with those who participate to ensure that the departments are satisfied with the process and that it enhances our communication efforts.</p>	
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