

REQUEST FOR LEGAL SERVICES

Date: April 15, 2024
From: Yuki Lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee

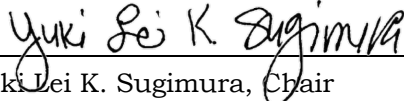
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Victoria J. Takayesu, Esq.

Subject: **FISCAL YEAR ("FY") 2025 BUDGET** (BFED-1) (CC-8)

Background Data: Please see the attached document for questions that arose from the Committee's discussion with the Department of the Corporation Counsel. Please submit your response to bfed.committee@mauicounty.us with a reference to BFED-1 and CC-8.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER: Please see background data section above.

Requestor's signature  Yuki Lei K. Sugimura, Chair	Contact Person <u>James Krueger or Carla Nakata</u> (Telephone Extension: <u>7761 or 5519, respectively</u>)
---	---

ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____
REASON: _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

bfed:2025bgt:240415acc01:jpp

cc: Acting Budget Director

Attachment

Thank you for participating in the Committee's discussions on April 12, 2024. The Committee respectfully submits the follow-up questions listed below.

1. Please provide a copy of your complete opening remarks provided at the April 12, 2024, Committee meeting.
2. How many lawsuits does Takitani Agaran Jorgensen & Wildman, LLLP, have against the County as it relates to the August 2023 wildfires?
3. The Department of the Corporation Counsel's mission, as noted in the FY 2025 Program Budget and Section 8-2.3(2) of the Revised Charter of the County of Maui (1983), as amended, is to serve as the chief legal advisor and legal representative for the County of Maui, the Mayor, Council, all departments, boards, commissions, officers, and employees in matters relating to their official duties, except as otherwise provided in the Charter. Please explain under what circumstances the Department can decline to represent one of its clients under the Charter or otherwise.
4. The Committee noted that special counsel has been paid, to date, a total of \$493,850.42. Of that total, \$434,572.55 was for fire-related special counsel and \$59,277.87 was for non-fire-related special counsel. Please provide a list of all cases assigned to special counsel, and for each case, delineate the law firm assigned and the amount paid to date.

bfed:2025bgt:240415acc01_attachment:jpp

BFED Committee

From: BFED Committee
Sent: Monday, April 15, 2024 5:49 PM
To: CorpCounselRFLS@co.maui.hi.us
Cc: BFED Committee
Subject: OCS - BFED, FISCAL YEAR (FY) 2025 BUDGET (BFED-1) (CC-8); reply by 04/22/2024
Attachments: (CC-8) Correspondence to Corp Counsel 04-15-2024.pdf

RICHARD T. BISSEN, JR.
Mayor

VICTORIA J. TAKAYESU
Corporation Counsel

MIMI DESJARDINS
First Deputy

LYDIA A. TODA
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808)270-7740

April 19, 2024

Honorable Richard T. Bissen, Jr., Mayor
Office of the Mayor, County of Maui
200 S. High Street
Wailuku, Hawaii 96793

Lesley Milner, Acting Budget Director
200 S. High Street
Wailuku, Hawaii 96793

FOR TRANSMITTAL TO:

Yuki Lei K. Sugimura, Chair
and Council Members
Budget, Finance, and Economic
Development Committee
200 S. High Street
Wailuku, Hawaii 96793

SUBJECT: FISCAL YEAR ("FY) 2025 BUDGET (BFED-1) (CC-8)

Dear Chair Sugimura, Vice-Chair Kama, and Council members, below please find the responses of the Department of the Corporation Counsel to the Budget, Finance, and Economic Development Committee's Request for Legal Services follow-up Questions dated 4/15/2024.

APPROVED FOR TRANSMITTAL

Richard T. Bissen, Jr.

Mayor Date 4-22-24

QUESTION	RESPONSE
OVERALL	
<p>1. Please provide a copy of your complete opening remarks provided at the April 12, 2024, Committee meeting.</p>	<ul style="list-style-type: none"> • Please see attached.
<p>2. How many lawsuits does Takitani Agaran Jorgensen & Wildman, LLLP, have against the County as it relates to the August 2023 wildfires?</p>	<ul style="list-style-type: none"> • The Takitani firm has associated itself with Pannish Shen Ravipudi LLP, an LA law firm, as well as Morgan & Morgan, a Florida law firm. As of this date, the County has been served in one case by these entities, although we have been notified that more are expected to be filed against the County by this firm.
<p>3. The Department of the Corporation Counsel’s mission, as noted in the FY 2025 Program Budget and Section 8-2.3(2) of the Revised Charter of the County of Maui (1983), as amended, is to serve as the chief legal advisor and legal representative for the County of Maui, the Mayor, Council, all departments, boards, commissions, officers, and employees in matters relating to their official duties, except as otherwise provided in the Charter. Please explain under what circumstances the Department can decline to represent one of its clients under the Charter or otherwise.</p>	<ul style="list-style-type: none"> • The Department does not decline representation of any client who has acted within the course and scope of their employment. Occasionally, we have recommended to Council to retain special counsel on cases where we or the client believe the Department has a conflict of interest. In addition, we also determine whether that conflict can be remedied by an ethical wall around the deputy, pursuant to the Hawai’i Rules of Professional Conduct.
<p>4. The Committee noted that special counsel has been paid, to date, a total of \$493,850.42. Of that total, \$434,572.55 was for fire-related special counsel and \$59,277.87 was for non-fire related special counsel. Please provide a list of all cases assigned to special counsel, and for each case, delineate the law firm assigned and the amount paid to date.</p>	<ul style="list-style-type: none"> • McCorrison, Miller, Mukai and MacKinnon LLP, a local Hawaii firm (M4), and Meyers Nave, a California firm (Meyers), are defense special counsel for all fire cases against the County of Maui. They are working as co-counsel, with M4 as the lead firm on 137 filed wildfire cases. Payments are as follows: <ul style="list-style-type: none"> ○ M4 = \$444,400.79 (as of 4/19/2024) ○ Meyers = \$445,678.76 (as of 4/26/2024)

Yuki Lei K. Sugimura, Chair
and Council Members
Budget, Finance and Economic
Development Committee
April 19, 2024
Page | 3

	<ul style="list-style-type: none">○ ES&A, Inc – <u>Jacobs v. Perreira</u> = \$28,367.81 (as of 4/12/2024)○ Kobayashi, Sugita & Goda – <u>Christopher Salem v. COM</u> = \$116,466.83 (as of 4/26/2024)
--	---

Sincerely,

Victoria Takayesu-Hamilton

VICTORIA J. TAKAYESU
Corporation Counsel

PRESENTATION OF VICTORIA J. TAKAYESU - BEFORE BFED 4/12/2024

Good morning Committee Chair, Committee members

I'd like to present the budget of the Department of the Corporation Counsel. I believe our budget manifests our goal in wanting to bring forth the best possible work product from our staff, who consistently put forth their best efforts in completing the assignments and tasks put before them. As noted in our Department Summary, our department contains 3 main divisions; counseling and drafting, litigation, and Risk Management. Together, we counsel, advise, litigate, and together with Risk Management, protect our County's employees and assets. In addition, the Board of Ethics also comes under our Department.

On a positive note, we are nearly at capacity. We have two clerical positions remaining, and one deputy position that is committed to our intern passing the Bar. We are beginning our summer internship and have a great program lined up for them, and as mentioned, we have one full time intern already placed that will be taking the Bar.

Looking forward, our proposed budget can't be discussed without emphasizing the impact on our department that the fires have had, and I am sure this is no news to anyone.

We currently have 302 non-fire related litigation cases. These are handled by our litigation staff of 8 deputies, 1 intern and 2 paralegals.

We are of course additionally involved with the wildfire litigation. As of today we have 134 lawsuits filed against the County, representing several hundred individuals and entities. We have retained the assistance of special counsel to assist us in this highly specialized area of mass tort but continue to be actively involved in every aspect of this litigation. We have managed our costs wisely. The comparative outlay of legal fees paid by another entity have been reported to exceed over ten million dollars to date.

This hasn't come without a cost however. Our litigators are taxed with the amount of cases we are handling, including cases that I wouldn't consider fire related but have arisen out of our recovery. With that, and with full awareness of

these financially precarious times, we are asking for one additional deputy position for our litigation section. We are fully staffed so we have no vacancies to offer.

For our Counseling and Drafting division, we have seen an unsurprising increase in the number of Requests for Legal Services as our County grapples with our recovery. To date in this fiscal year, we have received 4,221 Requests for Legal Services. This doesn't include the volume of calls, emails and other queries we needed to address immediately, both after the fires and on a daily basis, that aren't tracked through the RFLS.

We have been tasked with advising on the legalities the County faces on rebuilding a town, finding homeless solutions, our economic recovery, interfacing with State and Federal agencies and so on. The Department of Corporation Counsel touches all of the departments, board, commissions and the Council. We are here to provide advice and assistance.

To do that though, we do have some asks that we need to make, again with full awareness that this is a year we have to be very conscious of how we spend our money.

Aside from a new deputy position, we are asking for a Secretary position specifically for the Board of Ethics. We have one secretary who is juggling this assignment along with her regular clerical duties which leads to other people having to jump in to assist. Having a dedicated Secretary who can be assigned to the Board of Ethics will ensure that the Board is adequately manned. As you know, those include attending meetings, fielding calls and emails, posting agenda items, handling the minutes from the meetings, addressing the concerns of the board, among other things. If we are awarded a Secretary position, that person can be focused on the Board, and if they have excess time we can use them for other clerical functions in the office.

In the same vein, we are also asking for an additional investigator. This is due to the high demand for personnel investigations, and assistance to both the Police Commission and Board of Ethics investigations we are being requested to assist on as well as the investigations needed pursuant to own litigation and worker comp cases.

Risk Management is also seeking an expansion position for the rise in anticipated workers comp cases. The anticipated rise is not only anecdotal, but based on the number of Records Only documentation that we have been receiving. We are also in the process of moving Risk over to the Trask building. The funds we are asking for in that regard include the cost of modular setups, furniture and other incidentals.

We are also requesting funding for an EDiscovery platform. Our department is way behind the times on this. At this point, we have been ordered by the Court in our wildfire cases to implement an Ediscovery platform for the mutual exchange of documents and other forms of data. Fortunately our special counsel have a platform in place and we have been able to retain the use of their service, but with a cost. And while we are paying for the Ediscovery platform with regards to our wildfire litigation, but it doesn't help us at all for our remaining non-wildfire cases. It is only a matter of time before our Courts start requiring Ediscovery in all of our cases and we don't want to be caught flat footed. The \$90,000 estimate is based on the setup and costs involved in vetting the system, setting it up and transferring data and either the hosting fee or on prem costs.

BFED Committee

From: Janina Agapay <Janina.E.Agapay@co.maui.hi.us>
Sent: Monday, April 22, 2024 9:41 AM
To: BFED Committee
Cc: Lesley Milner
Subject: (BFED-1)(CC-8)
Attachments: (BFED-1)(CC-8).pdf

Categories: Processed

Hello,

Please see attached correspondence from Department of Corporation Counsel.

Thank you,

Janina Agapay

County of Maui

Budget Office

(808) 270-7836

Janina.E.Agapay@co.maui.hi.us