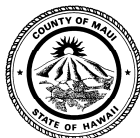


Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
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Director of Council Services
Traci N. T. Fujita, Esq.

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

April 4, 2022

Ms. Moana Lutey, Corporation Counsel
Department of the Corporation Counsel
County of Maui
Wailuku, Hawaii 96793

Dear Ms. Lutey:

SUBJECT: **FISCAL YEAR ("FY") 2023 BUDGET** (CC-2) (BFED-1)

May I please request you also be prepared to answer the following supplemental question at the BFED Committee meeting held via BlueJeans on **April 5, 2022**.^{*} This will enable the Committee to comprehensively review the FY 2023 Budget. Please also submit your answers to bfed.committee@mauicounty.us by the end of the day on **April 7, 2022**. *^{*}Date subject to change without notice.*

Operations and Equipment (Categories "B" and "C")

1. Please provide more detail on the deletion of funds for computer software. (Page 111, Program Budget; Page 2-9, Budget Details, Index Code 905310B, Sub-Object Code 6244) (KRF)

Thank you for your attention to this request. Should you have any questions, please contact me or the Committee staff (Lesley Milner at ext. 7886, Jerry Paredes at ext. 7140, or Yvette Bouthillier at ext. 7758).

Sincerely,

A handwritten signature in black ink, appearing to read "Keani N.W. Rawlins-Fernandez".

KEANI N.W. RAWLINS-FERNANDEZ, Chair
Budget, Finance, and Economic Development
Committee

bfed:2023bgt:220404acc03:ljcm

cc: Mayor Michael P. Victorino
Budget Director

MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
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
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April 7, 2022

Keani N.W. Rawlins-Fernandez
Chair, Budget, Finance and Economic
Development Committee
200 S. High Street
Wailuku, Hawaii 96793
Via email: bfed.committee@mauicounty.us

SUBJECT: Fiscal Year 2023 Budget (CC-1 & CC-2)(BFED-1)

Dear Chair Rawlins-Fernandez and BFED Committee Members:

Please find below our responses to the Committee's questions dated April 3, 2022 (CC-1) and April 4, 2022 (CC-2):

Overall

- 1. The Department notes an increase of 937 Requests for Legal Services (RFLS) between FY2021 and FY2020. Please provide an explanation for this increase. (Page 105, Program Budget) (KTK)**

RFLS track Counseling and Drafting assignments; Litigation assignments are tracked differently. Therefore, the increase of the number of RFLS relates to Counseling and Drafting assignments only. While a small portion of these requests may be attributed to pandemic response (e.g., emergency proclamations and rules, certain legislation, CARES Act and other emergency-related procurement), the increase has been steadily increasing every year.

From July 1, 2021, to date, we have received more than 3,500 RFLS. We anticipate a continued increase in the Counseling and Drafting

division's workload with staffing and advising the Department of Agriculture, as well as new boards and commissions.

2. What cost savings and decrease in workload does the Department anticipate due to the end of the Charter Commission term? (Page 2-8, Budget Details, 905205B) (KTK)

The Charter Commission's decennial review of the Charter of the County of Maui commenced in February 2021, with the appointment of the Commissioners. The Charter mandates that the Commission provide its report to the County Clerk within 16 months. Under the Charter and state law, the Commission also must provide a "digest" or plain language voter guide prior to the general election on November 8, 2022. The proposed budget includes \$50,000 in professional services and \$60,000 for advertising (public outreach), both decreases from FY2022, and any funds not spent on these cost categories would result in a savings.

Unfortunately, the Commission received no applicants for the commission secretary position. As a result, the Corporation Counsel's executive secretary stepped into that role, in addition to her duties as secretary to the Corporation Counsel and the Board of Ethics. In addition to the commission analyst, which was a contract position, the department assigned two dedicated deputies. The workload was significant, and included nights, weekends, and holidays. The end of Charter Commission's work in the late summer/early fall of 2022 will decrease the additional workload for the Corporation Counsel employees assigned to this commission.

Salaries and Wages (Category "A")

1. How many positions are currently vacant and what is the Department's plan to fill those positions? (Page 110, Program Budget; Pages 2-3 through 2-5, Budget Details, 905125A) (KTK)

The following positions are currently vacant:

- P-25445 – Law Technician I supporting Counseling and Drafting. (Due to incumbent's transfer to the Office of Council Services).
- P-29800 – Law Technician I supporting Counseling and Drafting. (Due to incumbent's promotion to Law Technician II vacancy).

- P-25502 – Deputy Corporation Counsel supporting Litigation. (Due to the incumbent's resignation and transfer to the Department of the Prosecuting Attorney).
- P-25503 – Deputy Corporation Counsel supporting Litigation. (Due to incumbent's resignation and transfer to the Department of the Prosecuting Attorney).
- P-29582 – Safety Specialist III. (Due to incumbent's termination).

We are recruiting for the above-listed positions in coordination with the Department of Personnel Services. The jobs are posted on the County's webpage and social media, GovernmentJobs.com, and we have advertised or posted in the Maui News, Star Advertiser, and on LinkedIn.

2. The Department is requesting \$246,250 for two Deputy Corporation Counsel and one Law Technician I expansion positions. (Pages 105 & 110 Program Budget; Pages 2-4 & 2-5, Budget Details, 905018A & 905125A)

a. Please explain the need for the new positions. (TK) (KTK)

The volume of work has been steadily increasing, and has resulted in many deputies working nights, weekends, and holidays. Note that the attorneys do not receive overtime or comp time. The workload is not sustainable. In the last fiscal year alone, our Counseling and Drafting division received 937 additional requests for legal services over the previous fiscal year.

The Litigation division has also seen a steady increase in litigation matters. We average 350 open litigation matters at any one time. However, that can change significantly and is beyond our control. For example, in the last fiscal year we received over 1,300 tax appeals related to timeshares.

There are also general liability claims (49 open presently) and workers' compensation claims (approximately 200).

With the volume of work expected to continue to increase, we need two full time attorneys - one for Counseling and Drafting and one that can do both litigation and counseling and drafting.

We require the additional staff position to assist with the work being performed by existing attorneys and the additional new attorney positions.

b. What is the Department's plan to attract and retain high quality candidates for the new positions? (KTK)

We typically do not have any issue with retaining employees. The two litigation attorneys who recently left our department were career prosecutors who returned to the Prosecutors' office.

As to recruitment, we advertise in the Star Advertiser, Maui News, Governmentjobs.com, LinkedIn, the Hawaii State Bar Association Bar Journal, the County's website and by word of mouth.

The Department competes with the private sector, and due to the complexity of the work, we seek experienced attorneys. We received three applications in the last 7 months or so and have been unable to hire any new attorneys. The lone applicant who was an experienced litigator rejected our offer of employment because he could not afford the cost of living here. We believe the lack of interest in the open deputy positions is due primarily to the inequity between the pay and the high cost of living.

c. What is the estimated recruitment time to fill a Deputy Corporation Counsel position? (MM)

If we receive qualified applicants, we can fill these positions in the next few months. Historically, it has been easier to fill a Counseling and Drafting attorney position compared to a Litigation attorney position.

d. Does the Department have adequate office space available for two new deputies? (MM)

Yes, we do.

e. What areas (i.e., drafting and legislation, litigation, or other) will the two new Deputies be assigned to? Will the

positions fill a specific need or are they proposed to address a general increase in services requested? (SS)

One position would be for a Counseling and Drafting attorney. The second would be "hybrid" - an attorney to do both counseling and drafting as well as litigation. As discussed in response to question 2(a), above, we require additional deputies to assist with the increasing workload.

f. Are the proposed positions sufficient to meet the anticipated needs and increased workload of the Department? (KRF)

Yes. We believe that the new deputy corporation counsel positions and staff would meet the anticipated needs and increased workload of the Department.

3. Were there any additional positions being considered for the Department's budget to address workforce needs? If so, please provide position titles, job descriptions, and potential cost. (Page 105, Program Budget; Pages 2-4 & 2-5, Budget Details, 905018A & 905018A (KRF)

Only as described above.

Operations and Equipment (Categories "B" and "C")

1. The Department has proposed three expansion positions but no additional costs for Operations and Equipment. Please explain. (Page 2-11, Budget Details, 905018C) (TP)

We currently have sufficient space and equipment.

2. Please provide further details to explain significant differences following:

a. FY 2020 and FY 2021 Actual expenses for Equipment.

FY2020 included the following:

\$8,145 for on-going copier leases

\$45,000 for Surface Pro Tablets or similar with Jet Paks

\$50,000 Card Access System for Parks Department

FY2021 included the following:
\$8,145 for on-going copier leases
\$67,500 for Commercial Air Purifiers

b. FY 2022 Adopted and FY 2023 Proposed funding for Equipment (Page 107, Program Budget; Page 2-11, Budget Details, 905018C, 7044) (KRF)

FY2022 included the following:
\$8,145 for on-going copier leases

FY2023 includes the following:
\$8,145 for on-going copier leases
\$36,800 for Zoll Automated External Defibrillators (AED)
\$4,800 for Zoll AED training machines for the Wailuku Campus buildings and the Kahului Service Center

The AED's currently in use were purchased in 2009. The average lifespan of an AED is 10-12 years based on use. Our Cardiac Science AEDs will be 13 years old as of August 2022. While all machines are still operational, some have started to show issues with maintaining a working battery. The software of the machines is outdated and cannot be updated any longer. Since these machines are used to save lives in very critical moments, it is important to purchase new machines that have current technology. The Zoll AED 3 is the latest machine from Zoll Medical Corporation. Zoll products are widely used throughout the global medical community. Zoll monitors and products are currently used at Maui Memorial Medical Center and by AMR ambulance service. Maui Fire Department and the Maui Police Department have begun to switch their front line apparatus to the Zoll AED 3. In order to reduce waste and increase efficiency in a cardiac arrest response, continuity between departments would be both lifesaving and cost efficient.

3. What is the Department's plan for contracting \$50,000 in Professional Services for Legal Services Administration? (Page 2-7, Budget Details, 905018B, 6132) (MM)

The Department maintains a Professional Services budget annually to cover certain departmental expenses (e.g., Civic Plus (county website development services), Diane Petropoluos for training, Board of Ethics expenses, court reporter, and transcription fees and costs).

4. **The Department is requesting \$50,000 for Professional Services for the Charter Commission. This request is half the amount adopted for the Charter Commission in FY 2022 and the Charter Commission's term ended in FY 2022. Please explain the need for the request in FY2023. (Page 2-8, Budget Details, 905205B, 6132) (TP) (MM)**

In FY2023, the Charter Commission has anticipated expenses, including graphic design of the voter "digest," a public information pamphlet required by law and other printed or published materials, including graphic design services; translation of the ballot questions into other languages (in 2011-2012, the Commission translated the digest into Ilocano); and transcription of the meeting minutes.

5. **What Charter Commission advertisements does the Department anticipate spending \$60,000 on in FY 2023 now that the Commission's term has ended? (Page 2-8, Budget Details, 905205B, 6101) (MM)**

The requested \$60,000 is based on the expenses of the 2011-2012 Charter Commission for this phase of the Commission's work, which includes various forms of public outreach and informational publications, including pamphlets, print (advertising in the Maui News and other county publications), postage, and other print or electronic media projects.


6. **Does the Department anticipate incurring the \$75,000 annual fee for Target Solutions online compliance training in perpetuity? (Page 2-9, Budget Details, 905310B, 6132) (MM)**

We anticipate having this cost in perpetuity. The program is very successful and has enabled multiple departments to bring required safety training in house when they were unable to do that before.

Keani Rawlins-Fernandez, BFED Chair
April 7, 2022
Page 8

Thank you for the opportunity to respond.

Sincerely,



MOANA M. LUTEY
Corporation Counsel

LF: FY2023 Budget

BFED Committee

From: Moana Lutey <Moana.Lutey@co.maui.hi.us>
Sent: Thursday, April 7, 2022 5:30 PM
To: BFED Committee
Cc: Lisa Kahuhu; Richelle Thomson
Subject: RE: (CC-2) PLEASE READ attached letter re: FISCAL YEAR ("FY") 2023 BUDGET (BFED 1) (CC-2)
Attachments: BFED Responses.pdf

Please see attached responses.

Best,
Moana

From: BFED Committee <BFED.Committee@mauicounty.us>
Sent: Monday, April 4, 2022 6:57 PM
To: Moana Lutey <Moana.Lutey@co.maui.hi.us>
Cc: Cory-Lynn Vicens <Cory-Lynn.Vicens@co.maui.hi.us>; Melody Andrion <Melody.Andrion@co.maui.hi.us>; Lisa Kahuhu <Lisa.Kahuhu@co.maui.hi.us>; Michelle Santos <Michelle.Santos@co.maui.hi.us>; Michele Yoshimura <Michele.Yoshimura@co.maui.hi.us>; Zeke Kalua <Zeke.Kalua@co.maui.hi.us>
Subject: (CC-2) PLEASE READ attached letter re: FISCAL YEAR ("FY") 2023 BUDGET (BFED 1) (CC-2)

Ms. Lutey: Please refer to the attached letter from the Budget, Finance, and Economic Development (BFED) Committee Chair, dated April 4, 2022.

Mayor's Office (attention: Michelle Santos and Zeke Kalua): Please forward the attached letter to Mayor Victorino.

Ms. Yoshimura: FYI

Thank you,
Yvette Bouthillier, Secretary
BFED Committee

MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
First Deputy

LYDIA A. TODA
Risk Management Officer

**DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI**

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April 8, 2022

Keani N.W. Rawlins-Fernandez
Chair, Budget, Finance and Economic
Development Committee
200 S. High Street
Wailuku, Hawaii 96793
Via email: bfed.committee@mauicounty.us

SUBJECT: Fiscal Year 2023 Budget (CC-2)(BFED-1)

Dear Chair Rawlins-Fernandez and BFED Committee Members:

Please find below our response to the Committee's questions dated April 4, 2022:

Operations and Equipment (Categories "B" and "C")

- 1. Please provide more detail on the deletion of funds for computer software (Page 111, Program Budget; Pages 2-9, Budget Details, Index Code 905310B, Sub-Object Code 6244) (KRF)**

These funds were previously utilized for personnel investigation software to guide the departments' personnel officers and standardize investigation methodology and reporting. Corporation Counsel first utilized the Investipro software; however, the company went out of business. We have moved to Google Workspace, which is working well. The initial year's costs for software programs are customarily paid by Corporation Counsel, with Information Technology picking up annual maintenance thereafter. Since we are moving into year 2 with Google Workspace, the funds are not needed for FY2023.

Keani Rawlins-Fernandez, BFED Chair

April 8, 2022

Page 2

Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read 'Moana M. Lutey', written over the printed name.

MOANA M. LUTEY
Corporation Counsel

LF: FY2023 Budget

BFED Committee

From: Lisa Kahuhu <Lisa.Kahuhu@co.maui.hi.us>
Sent: Friday, April 8, 2022 11:40 AM
To: BFED Committee
Subject: Fiscal Year 2023 (CC-2) (BFED -1)
Attachments: 2022-04-08 CC-2 BFED-1 Resp o 2nd question.pdf

Please see attached.

Mahalo!

Lisa A. Kahuhu
Administrative Assistant II
Dept. of the Corporation Counsel
Tel. No. (808) 270-7585