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

Deputy Director of Council Services
Richelle K. Kawasaki, Esq.

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

April 2, 2024

Ms. Victoria Takayesu, Corporation Counsel
Department of the Corporation Counsel
County of Maui
Wailuku, Hawaii 96793

Dear Ms. Takayesu:

SUBJECT: FISCAL YEAR (“FY”) 2025 BUDGET (BFED-1) (CC-3)

May I please request you be prepared to answer the following questions at the BFED Committee meeting on **April 16, 2024**.^{*} This will enable the Committee to comprehensively review the FY 2025 Budget. May I further request that, after approval by the Office of the Mayor, you transmit your answers to bfed.committee@mauicounty.us by the end of the day on **April 12, 2024**. ^{*}*Date subject to change without notice.*

Overall

1. Relating to the Uniform Information Practices Act (UIPA): (Pages 126 and 127, Program Budget)
 - a. The Department devotes two paragraphs in the Department Summary to discussing the Department’s role in fulfilling UIPA requests, yet there are no goals or objectives addressing UIPA requests. Please explain this omission. Please explain the Department’s goals or objectives for processing UIPA requests. (GJ)
 - b. Please describe how the UIPA tracking software has helped the departments address requests and compliance with UIPA. (NUH)
2. What was the reason for requiring subpoenas for the Fire Safety Research Institute to get information and interviews? Did that add to the County’s workload? (Page 126, Program Budget) (TP)

3. Relating to the Legal Services Program, Goal #2, item 2, why is the FY 2025 Estimate on the percent of civil/administrative litigated actions closed significantly lower than the FY 2023 Actual? (Page 129, Program Budget) (TP)
4. What is the actual expense to date for special counsel in FY 2024 and what is the estimated cost for special counsel in FY 2025? (NUH)
5. Relating to the Legal Services Program, Goals #1 and #2, how do you intend to meet these goals with the increased demand on Corporation Counsel, especially in the Counseling and Drafting and Litigation Divisions, without any additional staff? (Page 129, Program Budget) (NUH)

Salaries and Wages (Category “A”)

1. Which equivalent personnel (“E/P”) are dedicated to processing and fulfilling UIPA requests? How many E/P is required to fulfill UIPA requests at the current volume? What role does the County’s Department of Management, Office of Public Affairs, and Office of Communications and Government Affairs play in supporting the Department in processing and fulfilling UIPA requests? (Page 131, Program Budget) (GJ)
2. The Department notes the need for additional E/P due to the heavy workload following the August 2023 wildfires. How long does the Department anticipate the increased workload due to the wildfires and are these expansions intended to continue into future fiscal years even after the fire impacts have subsided? If the expansion positions will remain, how will their roles change when UIPA and litigation needs decrease? (Page 126, Program Budget) (GJ)
3. Should the Worker’s Compensation SSI position be a civil service position? If the position is intended to be civil service, is there a comparable position at the State level? Has the Department of Personnel Services been consulted regarding how long it would take to describe this position? (Page 132, Program Budget) (TP)
4. The Department is requesting 8 months of funding for an additional Deputy Corporation Counsel position. How confident is the Department in being able to fill the position by November 2024? (Page 132, Program Budget) (TK)
5. All Deputy Corporation Counsel positions are budgeted at the maximum step. Are all positions paid at the maximum step? If not,

please provide the positions that are paid at lower steps and provide the salary amount for each. (Pages 2-4 and 2-5, Budget Details) (YLS)

6. What is the status of the vacancies listed in your December 31, 2023, budget implementation report? Could any of these positions be redescribed to replace any of the expansion positions that you are requesting? (Pages 2-3 through 2-5, Budget Details) (ALL)

Operations and Equipment (Categories “B” and “C”)

1. For the Legal Services Program, relating to Professional Services under Index Code 905018B: (Page 2-7, Budget Details)
 - a. Please explain the need for Communication Services. (YLS)
 - b. Will the \$10,000 request for Communication Services be awarded to a company located and operating in Maui County? (TP)
 - c. Please explain the \$90,000 request for the eDiscovery platform. Will the eDiscovery platform be a one-time expense? Is there a continuation cost for usage of the platform? (ALL) (TP) (YLS)
2. For the Legal Services Program, relating to Claims, Settlements, Judgements under Index Code 905307B:
 - a. When does the Department expect the Council to consider increasing the Mayor’s settlement authority from \$7,500 to \$25,000?
3. For the Legal Services Program, relating to Claims, Settlements, Judgements under Index Code 905307B:
 - a. When does the Department expect the Council to consider increasing the Mayor’s settlement authority from \$7,500 to \$25,000?
 - b. Does the Department anticipate \$75,000 will be enough with a \$25,000 settlement authority? At \$50,000, the Litigation division could potentially settle at least six items for the full amount of \$7,500, while at \$75,000, only three items could be settled for the full amount. (Page 2-8, Budget Details) (TP)
4. The description of external factors is very detailed and comprehensive in describing the impact of the August 2023 wildfires. With 90% of budgeted positions filled and a high demand

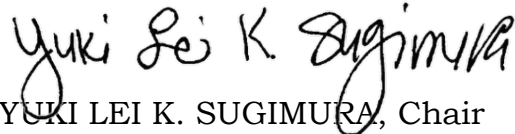
Ms. Victoria Takayesu
April 2, 2024
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for legal services, why did the Department not consider obtaining contracted assistance? (Pages 126 and 130, Program Budget) (TK)

To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (James Krueger at ext. 7761, Kasie Apo Takayama at ext. 7665, or Yvette Bouthillier at ext. 7758).

Sincerely,

A handwritten signature in black ink that reads "Yuki Lei K. Sugimura". The signature is written in a cursive, flowing style.

YUKI LEI K. SUGIMURA, Chair
Budget Finance, and Economic
Development Committee

bfed:2025bgt:240401acc02:kmat

cc: Mayor Richard T. Bissen, Jr.
Acting Budget Director

BFED Committee

From: BFED Committee
Sent: Tuesday, April 2, 2024 9:34 PM
To: Victoria Takayesu-Hamilton
Cc: BFED Committee; mimi.desjardins@co.maui.hi.us; Tabitha Martins; Michelle Santos; Zeke Kalua; Lesley Milner; Kristina Cabbat
Subject: PLEASE READ attached letter re: FISCAL YEAR ("FY") 2025 BUDGET (BFED 1) (CC-3); reply by 04/12/2024
Attachments: 240401acc02 (CC-3).pdf

Ms. Takayesu: Please refer to the attached letter from the Budget, Finance, and Economic Development (BFED) Committee Chair, dated April 2, 2024. Please respond by **April 12, 2024**.

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

Ms. Milner: FYI

Thank you,
Yvette Bouthillier, Senior Secretary
BFED Committee

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 11, 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-3)

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 letter dated 4/2/2024.

APPROVED FOR TRANSMITTAL

Richard T Bissen 4-12-24
Mayor Date

QUESTION	RESPONSE
OVERALL	
1a. The Dept. devotes two paragraphs in the Dept. Summary to	<ul style="list-style-type: none"> Following the August 2023 wildfires, the County received an unprecedented influx of UIPA requests, predominantly from the media. As many departments lacked staffing and

<p>discussing the Dept’s role in fulfilling UIPA requests, yet there are no goals or objectives addressing UIPA requests. Please explain this omission. Please explain the Dept.’s goals or objectives for processing UIPA requests. (GJ)</p>	<p>resources on UIPA, the Department of the Corporation Counsel took on the huge challenge of assisting the departments with responding to the high volume of UIPA requests. We quickly realized the inefficiencies of the status quo manual tracking of UIPA requests and Butte County California, who recently went through its own wildfire disaster, suggested that we look into an online public records management solution. After evaluating interested vendors, we moved forward with implementing GovQA as the County’s new public records management platform.</p> <ul style="list-style-type: none"> • Our initial goal was to launch GovQA as the online UIPA records management platform for the 9 departments who received the most UIPA requests: Fire & Public Safety, Police, MEMA, Mayor’s Office, Department of Management, Planning, Public Works, Water, and Corporation Counsel. We began the implementation process in November 2023; initiated an internal soft launch in December 2023; and hard launched GovQA to the public for these 9 departments on January 24, 2024. • Our goal for FY2025 is to get the remaining departments and the new departments to utilize GovQA as their online UIPA records management platform.
<p>1b. Please describe how the UIPA tracking software has helped the depts address requests and compliance with UIPA. (NUH)</p>	<ul style="list-style-type: none"> • The GovQA online records management platform has helped the initial 9 departments streamline their UIPA process, and meet their UIPA response and production deadlines as required under HRS Chapter 92F. GovQA auto-calculates deadlines for response and department staff and supervisors can track the status of each UIPA request. GovQA also provides template responses based on the State Office of Information Practices (OIP) forms/guidance that department staff can customize in responding to requests, rather than starting from scratch every time. Further, GovQA compiles data that each department is required to report to the OIP twice a year.
<p>2. What was the reason for requiring subpoenas for the Fire Safety Research Institute to get information and interviews? Did that</p>	<ul style="list-style-type: none"> • Document subpoenas were requested to organize and track FSRI’s dozens of requests, many of which FSRI communicated directly to County personnel despite the County’s repeated requests to go through Corporation Counsel. The document subpoenas have greatly assisted in managing FSRI’s more than 150 informal and unorganized document requests and has allowed County personnel to better track the progress of

<p>add to the County’s workload? (pg 126 - TP)</p>	<p>production for each. It has also helped the County identify multiple instances of repeated requests, or requests for information that had already been provided.</p> <ul style="list-style-type: none"> • In support of the Department’s efforts, the County has delivered over 40 different productions of documents containing nearly 20,000 distinct files, including almost 8,000 video and audio files, 48,000 pages, and over 118 gigabytes of data, and has made its personnel, directors, deputies, and employees available for over 150 technical interviews and numerous site visits into and around the affected areas.
<p>3. Relating to the Legal Services Program, Goal #2, item 2, why is the FY2025 estimate on the percent of civil/administrative litigated actions closed significantly lower than the FY 2023 Actual? (pg 129 - TP)</p>	<ul style="list-style-type: none"> • In 2023 the department began a clean-up of older litigation cases that were completed, but had not been closed in our electronic case management system. This system is where we obtain our reporting statistics. Staff took on the arduous task of going through old files, cleaning up and properly closing files in our system, and sending them to storage. Because of that mass file closing undertaking, the statistics were exponentially increased for the percentage of civil/administrative litigated actions closed in that fiscal year. The Department now proactively closes litigated matters in our system that are completed and have passed any appeal deadlines. The Department estimates annual closings to be approximately 20 percent for FY2025.
<p>4. What is the actual expense to date for special counsel in FY2024 and what is the estimated cost for special counsel in FY2025. (NUH)</p>	<ul style="list-style-type: none"> • Paid to date: \$493,850.42 (\$434,572.55 was for fire related special counsel.) (\$59,277.87 was for non-fire related special counsel.) • To be paid by April 30, 2024: \$455,407.00 (for outstanding fire related special counsel invoices that required approval by Council for additional compensation.)
<p>5. Relating to the Legal Services Program, Goals #1 and #2, how do you intend to meet these goals with the increased demand on Corporation Counsel, especially in Counseling and</p>	<ul style="list-style-type: none"> • We believe our FY2025 request for expansion positions will help reduce some of the burden on current staff, and increase our ability to meet the FY2025 goals. Requested expansion positions as follows: <ul style="list-style-type: none"> ○ Deputy Corporation Counsel ○ Secretary II ○ Investigator V ○ Worker’s Compensation Safety Specialist I

<p>Drafting and Litigation Divisions, without any additional staff? (pg 129 - NUH)</p>	
<p>SALARIES AND WAGES (CATEGORY "A")</p>	
<p>1. Which equivalent personnel ("E/P") are dedicated to processing and fulfilling UIPA requests? How many E/P is required to fulfill UIPA requests at the current volume? What role does the County's Dept. of Management, Office of Public Affairs, and Office of Communications and Government Affairs play in supporting the Dept. in processing and fulfilling UIPA requests? (pg 131 - GH)</p>	<ul style="list-style-type: none"> • In the 6 months following the August 2023 wildfires the following breakdowns are approximately how much E/P time was dedicated to UIPA: <ul style="list-style-type: none"> ○ Supervising Attorney – 50% ○ 3 Deputy Attorneys – 90-100% ○ Paralegal – 100% ○ Supervising Law Technician 25%. • Currently, the Supervising Attorney and 3 Deputy Attorneys spend 20-30%, the Paralegal spends 100%, and the Supervising Law Technician spends 15% on UIPA work. • We are not aware of a "Department of Management, Office of Public Affairs" supporting the Department of the Corporation Counsel or any other departments in processing and fulfilling UIPA requests. • The Mayor's Office Communications and Government Affairs Division processes and fulfills UIPA requests for the <u>Mayor's Office only</u>, with the assistance of the Department of the Corporation Counsel.
<p>2. The Dept. notes the need for additional E/P due to the heavy workload following the August 2023 wildfires. How long does the Dept. anticipate the increased workload due to the wildfires and are these expansions intended to continue into future fiscal years even after the fire impacts have subsided? If the expansion positions</p>	<ul style="list-style-type: none"> • It is difficult for the Department to anticipate a decrease in wildfire related work, or predict when fire related impacts may subside. The Department is confident that the work will continue into the future and into future fiscal years. • The Department anticipates an increase in the demand for legal services. During the current times, legal advice from clients is sought more frequently to avoid costly errors and claims. Although the Department cannot control the amount of client legal service requests, claims, or lawsuits it receives, we employ best practices and make every effort to contain costs, reduce risk, improve safety protocols, and attempt to save the County funds by minimizing exposure.

<p>will remain, how will their roles change when UIPA and litigation needs decrease?</p>	
<p>3. Should the Workers Compensation SSI position be a civil service position? If the position is intended to be civil service, is there a comparable position at the State level? Has the Dept. of Personnel Services been consulted regarding how long it would take to describe this position. (pg 132- TP)</p>	<ul style="list-style-type: none"> • The Worker’s Compensation Safety Specialist I position is a civil service position. The Department has confirmed with DPS that the Worker’s Compensation Safety Specialist I & II series is State of Hawaii classified positions, and also classified for Maui County.
<p>6. The Dept. is requesting 8 months of funding for an additional Deputy Corporation Counsel position. How confident is the Department in being able to fill the position by November 2024? (pg 132 – TK)</p>	<ul style="list-style-type: none"> • The Department currently has interested applicants who have applied and been interviewed, but we are unable to hire them because our Deputy positions are all spoken for. The one vacancy we have currently will be filled by our Law Clerk who is in the process of obtaining her Hawaii license in the summer. • We are confident that we could hire someone as early as August, 2024, but as a standard practice, have requested only 8-months salary.
<p>5. All Deputy Corporation Counsel positions are budgeted at the maximum step. Are all positions paid at the maximum step? If not, please provide the positions that are paid at lowers steps and the salary amount</p>	<ul style="list-style-type: none"> • P-29799 – paid at 7 years • P-25433 – paid at 3 years • Pursuant to MCC Section 2.44.015 the Corporation Counsel has sole discretion to set the annual salary of each deputy within a range that is 20 percent greater or less than the allocated amount, provided that it does not exceed the salary of the first deputy corporation counsel. For this reason, as well as the reason that at any given time an attorney paid less than the maximum 9-year salary could leave our employment and a new attorney be hired at the 9-year salary rate, we would ask that the budgeted salaries for deputy positions

<p>for each. (pgs 2-4 and 2-5) (YLS)</p>	<p>remain at the 9 year maximum based on the salary schedules in MCC Section 2.44.015.</p>
<p>6. What is the status of the vacancies listed in your December 31, 2023 budget implementation report? Could any of these positions be redescribed to replace any of the expansion positions that you are requesting? (pgs 2-3 – 2-5 – ALL)</p>	<ul style="list-style-type: none"> • P-25445 Law Technician I (Incumbent has return rights. Difficult to fill.) • P-32491 Deputy Corporation Counsel (This position is to be filled by our Law Clerk pending successful passing of the Hawaii State Bar this summer.) • P-29580 – Loss Control Specialist (This position was filled effective 3/19/2024.)
<p>OPERATIONS AND EQUIPMENT (CATEGORIES “B” AND “C”)</p>	
<p>1a. Please explain the need for Communication Services. (YLS)</p>	<ul style="list-style-type: none"> • The onslaught of media requests our Department has received and will continue to receive relative to the ongoing litigation involving the wildfires has demonstrated a significant need to transmit information timely in a professional and transparent manner. Because our information is so specific and contains what to many appear to be “legalese”, we would like to have a consultant assist us with our communications when appropriate. While our County’s communication team has been of assistance, they are also taxed on the many other items that need to get before the public. Our needs don’t justify our own Public Information Officer position, so we feel that a consultant we can use as needed would fill the need.
<p>1b. Will the \$10,000 request for Communication Services be awarded to a company located and operating in Maui County? (TP)</p>	<ul style="list-style-type: none"> • Pursuant to small purchase requirements, we intend to seek a minimum of 3 written quotations, including from local Maui companies.
<p>1c. Please explain the \$90,000 request for the eDiscovery platform. Will the eDiscovery platform be a one-time expense? Is there a continuation</p>	<ul style="list-style-type: none"> • Our Department hasn’t kept up-to-date with the digital age of legal technology. EDiscovery is the electronic aspect of identifying, collecting and producing electronically stored information in response to a request for production in a lawsuit or investigation. Electronic discovery can be gathered and shared securely through an eDiscovery platform, while preserving the metadata that meets the requirements of the

<p>cost for usage of this platform? (ALL) (TP) (YLS)</p>	<p>Court, and needs of the litigants. It is not a one-time expense and will be a continuing cost for usage.</p> <ul style="list-style-type: none"> • We realized last year that we were behind in procuring an Ediscovery platform, and it was one of our goals last year before everything got sidelined. The wildfire litigation unfortunately has brought this front and center. The Courts in the wildfire cases have ordered discovery be conducted through eDiscovery. Fortunately, our special counsel has a hosted platform that we can avail ourselves of for a monthly cost. Our lack of a platform has highlighted on our need for a system for the remainder of our 300 plus non-wildfire related cases. • Obtaining an eDiscovery platform is a large, but necessary undertaking. One of the main issues initially is to decide whether to have an: <ul style="list-style-type: none"> ○ <u>On premise infrastructure</u>: Everything housed on our own server and the proper IT support staff in place to manage, control, properly store data, physically maintain the system, and deal with technical issues; or ○ <u>Hosted third-party cloud application</u>: A third party would manage, control, properly store data, physically maintain the system, and deal with technical issues for a monthly fee based on the amount of data being stored. • Both have benefits, and continuing costs. We have started preliminary discussions with several vendors. Internally, we are discussing what our data needs are which will give us a better idea of what the costs would look like in relation to on premises v. hosted. IT has agreed to dedicate their resources as well to assisting us in making sure the platform we select is compatible.
<p>2a. and 3a. When does the Dept. expect the Council to consider increasing the Mayor’s settlement authority from \$7500 to \$25,000?</p>	<ul style="list-style-type: none"> • This is currently Bill 64 (2023) listed on the GREAT master agenda under GREAT-12.
<p>3b. Does the Dept. anticipate \$75,000 will be enough with a</p>	<ul style="list-style-type: none"> • The Department feels this amount is sufficient to start off with. It would be reassessed once we determine the amount and frequency of claims \$25,000 and less.

Yuki Lei K. Sugimura, Chair
and Council Members
Budget, Finance and Economic
Development Committee
April 11, 2024
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<p>\$25,000 settlement authority? At \$50,000, the Litigation division could potentially settle at least six items for the full amount of \$7,500, while at \$75,000, only three items could be settled for the full amount. (pg 2-8 – TP)</p>	
<p>4. The description of external factors is very detailed and comprehensive in describing the impact of the August 2023 wildfires. With 90% of budgeted positions filled and a high demand for legal services, why did the Department not consider obtaining contracted assistance? (pgs 126 and 130 – TK)</p>	<ul style="list-style-type: none">• The Department has sought special counsel to assist with wildfire litigation. Section 76-16, HRS requires all positions in the civil service systems of the respective jurisdictions to be filled through civil service recruitment, notwithstanding certain exemptions which the Department did not feel we would be able to meet.

Sincerely,



VICTORIA J. TAKAYESU
Corporation Counsel

BFED Committee

From: Shirley Blackburn <Shirley.Blackburn@co.maui.hi.us>
Sent: Friday, April 12, 2024 9:49 AM
To: BFED Committee
Cc: Lisa Kahuhu; mimi.desjardins@co.maui.hi.us; Victoria Takayesu-Hamilton
Subject: (BFED-1) (CC-3)
Attachments: Shirley Blackburn.vcf; (BFED-1) (CC-3).pdf

Categories: Processed

Aloha,

Please see attached correspondence from Department of Corporation Counsel.

Mahalo,

Shirley L. Blackburn

Budget Specialist

County of Maui

Office of the Mayor

shirley.blackburn@co.maui.hi.us

(808) 270-7516