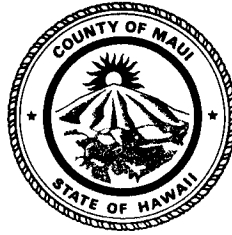


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APR 15 2016
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MEMO TO: Riki Hokama, Chair
Budget and Finance Committee

FROM: Jeffrey Ueoka, Deputy Corporation Counsel *JU*

DATE: April 15, 2016

SUBJECT: **FISCAL YEAR ("FY") 2017 BUDGET** (CC-10) (BF-1)

We are in receipt of your request dated April 12, 2016, requesting clarification in regards to whether fund transfers within a department are required to be accomplished through a resolution as opposed to a budget amendment. The FY 2017 Budget bill may allow that transfers within a department, from one program to another, be accomplished by ordinance rather than resolution. We would not be comfortable approving, as to form and legality, any proposed language requiring transfers to be completed through a resolution as it may be considered a limitation on the ability to amend the operating budget in accordance with Section 9-10(3) of the Revised Charter of the County of Maui (1983), as amended ("Charter"). Furthermore, we do not recommend that the budget ordinance establish a process for the transfer of any unappropriated balance within a department as the process is set forth in the Charter.

In addressing whether a transfer of funds may be accomplished by ordinance rather than resolution, our understanding is that a transfer of funds within a department is not required to be treated as a "transfer" within the meaning of Section 9-10(2) of the Charter¹, but could instead be considered a change to the operating budget. Section 9-10(3) of the Charter authorizes the

¹ Section 9-10(2) of the Charter authorize intradepartmental transfers of funds to be done via resolution.

operating budget to be changed and traditionally this has been accomplished through a bill for an ordinance amending the budget ordinance.² The advantage of a budget amendment over a resolution is that the budget ordinance is amended and will reflect the change in the operating budget. With the incorporation in the Fiscal Year 2016 Budget of Appendix C and the additional language of Section 7, it is imperative that the budget ordinance be amended to reflect transfers within departments. The amount appropriated within programs under each category in Appendix C should accurately reflect any transfers and this can only be accomplished via a budget amendment. The lack of an amendment to Appendix C through a budget amendment would not render the transfer effected by the resolution meaningless, however for tracking purposes and increasing the ease of compliance with Appendix C, we recommend intradepartmental transfers be completed via budget amendment.

The vehicle in which the intradepartmental transfer is sent to the Council does not affect the Council's authority to approve or deny the intradepartmental transfer. However, as stated above, we believe the Charter does not limit the manner in which intradepartmental transfers may be accomplished and while we don't see the necessity of language in the budget ordinance restating the language of the Charter, any language mandating that they be completed via resolution could be seen as conflicting with the Charter.

Please feel free to contact me if you need further clarification or have any questions.

JTU:ikk

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG
Corporation Counsel
2015-3082/BF-1 CC-10 2016-04-15 Transfer of Funds with Dept

² Section 9-6(5) of the Charter states that the Capital Program may be amended by ordinance.