

**CITY OF BALTIMORE, MARYLAND**  
**Baltimore, Maryland**

**QUADRENNIAL PERFORMANCE AUDIT REPORT**  
**Baltimore City Law Department**

**November 29, 2016**

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Members of the Baltimore City Council  
Baltimore, Maryland

This report represents the results of our performance audit of the City of Baltimore Law Department's management assertions of performance found within the agency's detail budget document. The performance audit included a review of the performance metric process during the period July 1, 2010 to June 30, 2014. As part of our work, we interviewed key Department officials with budgetary responsibility, and reviewed relevant policies and procedures related to the performance audit. The performance audit approach and methodology are detailed later in this report.

We conducted our performance audit in accordance with generally accepted government auditing standards, as applicable to performance audits contained in the *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence, to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our summary is hereby incorporated as the Executive Summary, of the report.

Our work did not include an assessment of the sufficiency of internal control over financial reporting or other matters not specifically outlined in the enclosed report. CliftonLarsonAllen LLP cautions that projecting the results of our performance audit to future periods is subject to the risks that conditions may materially change from their current status. The information included in this report was obtained from the Division on or before November 29, 2016. We have no obligation to update our report or to revise the information contained therein to reflect events and transactions occurring subsequent to November 29, 2016.

CliftonLarsonAllen LLP's policy requires that we obtain a management representation letter associated with the issuance of a performance audit report citing generally accepted government auditing standards. We requested a management representation letter from the Law Department on November 17, 2016, and received the signed representation letter on November 17, 2016, which was then updated through November 29, 2016.



**CliftonLarsonAllen LLP**

Baltimore, Maryland  
November 29, 2016

**CITY OF BALTIMORE LAW DEPARTMENT  
EXECUTIVE SUMMARY**

CliftonLarsonAllen LLP (CLA) completed a performance audit of the City of Baltimore Law Department's (the Department) management assertions of performance found within the agency's detail budget document for the period covering July 1, 2010 to June 30, 2014. The core objective of the audit was to assess the reliability, validity, and relevance of selected performance measures for the four fiscal years 2011 to 2014, including an evaluation of the mechanisms in place to track and generate performance data. The purpose of the audit was to identify areas of improvement and provide recommendations to improve the accuracy, consistency, relevance and usage of the performance metrics used by the Department. Our work was completed at the direction of the City of Baltimore City Council between May and October 2016.

Overall the Department has done a fairly good job in establishing and selecting performance measures for outcome-based budgeting for the services it provides. Nonetheless, we identified certain areas where performance metric processes and controls can be improved.

Several of the measures analyzed however, are output measures, a tabulation of the results of some aspects of the activity of the Department, expressed in numbers (quantitatively), such as the number of cases handled, the number of bills reviewed, or the number of Maryland Public Information Act (MPIA) requests answered within deadlines. These measures do not reflect efficiency because they do not specifically showcase what is accomplished or the level of service quality rendered by the Department in terms of key aspects like legal analysis, legal judgment and legal strategy. Further, the results of these measures depend upon factors outside the control of the Department, such as the success of the Departments debt collection's efforts. The Department should develop a more balanced performance measurement array to include measures that represent the qualitative aspects of performance.

We believe that the recommendations included in this report will strengthen the budgeting process for the Department and improve the quality of performance information reported to the City. The detail of our work is found in the *Findings and Recommendations* section of this report. Following is a summary of findings by topic area. Management's response to findings and recommendations is included under Exhibit A. Additional auditor comments are included as Exhibit B.

Relevance of the performance measures

We determined through observation and discussion that although the metrics were utilized in the development of the budget, not all the metrics truly represent the core business processes and the efficiency and effectiveness with which those processes are carried out. As a result, some services are represented too broadly and are not broken down in sub-process areas. Likewise, some services are represented by a metric that only showcases one of the services sub-processes.

For example, the measure "Percent of repayment versus amount negotiated for collection cases" does not truly reflect the success of the Collections Division because collection agreement collections' is only one of several collection activities carried out by the Division. Reporting solely on this activity underrepresents the effort and contributions of this area of service.

Recognizing that the most important services that the Law Department provides are intangible intellectual efforts, CLA recommends that management review the current metrics and determine whether any additional services or business processes could be meaningfully represented in the performance measurement system.

#### Reliability of the performance metric's actual value

The results of a performance measure must be reproducible for a fixed set of conditions irrespective of who makes the measurement or when it is made. CLA recalculated actual results of performance metrics selected for analysis, noting some instances in which the recalculated value did not agree to the actual value included in the budget. Inaccurate actual data could lead to misleading information and result in inaccurate future targets.

For example, the actual performance measure values reported in the budget for the metric "Application review/process turnaround time" was inaccurate. In fiscal years 2012 and 2014, the re-calculated actual number of calendar days to review/process applications reported in the budget was approximately 40% higher than the number reported in the budget; in fiscal year 2014, the amount was approximately 11% lower.

To improve, the Department should methodically review the process for gathering performance information and verify the accuracy of the records used to support performance metrics reported in the budget.

#### Validity of the performance measure's target value

There does not appear to be a robust process for reviewing the validity of all the target values established in fiscal years 2011 - 2014. For some measures, target values do not consistently appear to reflect past achievement in alignment with desired future results. For example, the actual number of calendar days to review/process applications (average) was greater than the established target in all four fiscal years reviewed. To arrive at valid target values for this measure, the Department should establish a process for supporting and reviewing changes in target metrics year after year. The process should also demonstrate the target's representation of the service's improvement goal. Further, the target should be in alignment with the Department's and the City's mission and initiatives.

In other cases, the validity of the target is difficult to assess because the actual result is contingent upon actions outside the Department's control. For example, the performance measure target established for the FY 2014 measure "Percent of repayment versus amount negotiated" for collection cases does not reasonably represent past performance because this particular measure is dependent upon factors like the economy or the ability of businesses and individuals to pay their debt.

#### A more balanced performance measurement array

The Law Department mainly uses only two (output and effectiveness) of the four typical performance metric types of effectiveness, efficiency, economy and output. Although the nature of the Law Department's activity may not optimally fit the efficiency-type measures, we believe there is room to develop certain efficiency measures to potentially describe how well a service is provided in the context of cost (dollars or time) per unit of output or outcome.

Of the 19 metrics utilized during the audit period, 85% were either output or effectiveness measures. An output metric type represents the quantity of the service delivered; effectiveness measures describe how well a service is provided to meet standards based on customer expectations. Absence of efficiency measures could lead to resources being inappropriately assigned to underperforming areas and areas not accountable for quality standards.

The Department should evaluate the current metrics and to determine if there are efficiency measures that could be used to enhance the qualitative aspects of performance.

### Use of technology

Overall, there is a need to improve the information technology systems used to support the Department's business processes and the related data used to track and report performance. Tracking certain business processes is a manual or quasi-manual activity, which takes time from key functions and can lead to error.

The Department acknowledges that its technology is not adequate and has submitted budget enhancement proposals to be funded to improve its technology since December 2010 (for FY2012), obtaining some limited funding to improve its e-discovery capacity. Last year the Department succeeded in obtaining funding for a comprehensive evaluation of the existing information technology needs and to launch a pilot for two case management applications. The Department anticipates being funded to include all controversies services in these technology upgrades. We recommend management to ensure that all services and business processes are included in this technology upgrade initiative.

## OBJECTIVES, SCOPE AND METHODOLOGY

### Objectives and scope

The objectives of our performance audit are as follows:

1. Assess the reliability, validity, and relevance of selected performance measures for the four fiscal years 2011 to 2014, including an evaluation of the mechanisms in place to track and generate performance data. See selected measures in the table below.
2. Assess the mechanisms used to capture client satisfaction.
3. Determine whether all key Department services are fairly represented in the performance measurement system.

The scope of our audit covered the period from July 1, 2010 through June 30, 2014 (FY 2011 – 2014). Our audit was limited to certain performance measures based upon our evaluation of the Department in conjunction with feedback from key stakeholders, including the City's Bureau of the Budget and Resource Management (BBMR), City Council and the Department.

### Methodology

Our work included an evaluation of the processes and procedures in place for gathering and reporting performance data, and testing of selected performance metrics to determine whether the Department procedures were followed and performance metrics are properly reflected in the budget document. Procedures included:

- Interview of Department employees that oversee the selected performance metrics. Interviews focused on understanding of how performance metrics are established and defined; and how the results are collected, reviewed, and utilized.
- Review of pertinent policies and procedures
- Develop a methodology to select and test specific performance metrics
- Analyze the results, identified areas for improvement, and developed recommendations to advance the Department's outcome-based budgeting processes.

### Selection of performance measures

For each of the 19 performance metrics included within the audit period, we established a weighted score using a 1 to 5 scale and used the scale to rank the measures. The following criteria and weighting were used to determine the ranking:

- 50%- Measurement Type: Effectiveness = 5, Efficiency = 4, Outcome = 3, Output = 2
- 30%- Financial Score: Total service unit budget, top 5 = 5, middle 5 = 4, smallest = 3
- 20%- Service Unit Size: Total positions, Top 5 = 5, Middle 5 = 4, Smallest = 3

The ranked metrics were then subjected to a second ranking step that included:

- 30%- Measure Type: same as above
- 10%- Financial Score: same as above

- 10%- Service Unit Size: same as above
- 30%- Subject Type: The context of the metric
- 20%- Variability Score: Difference between FY12 & FY13 target and actual results, high variability = 5, moderate variability = 3, no variability = 1

We applied the methodology described above to the set of measures in place during the audit period, generally selecting measures that scored 3.85 and above, plus two measures to render an appropriate coverage of core Department services. The final selection of metrics for testing was adjusted with management, and is presented in the table below.

No.	Measure	Type	Responsible Section
1	Percent of repayment versus amount negotiated for collection cases	Effectiveness	Controversies
2	Percent of bills reviewed on time	Effectiveness	Transactions
3	Percent of PIA requests answered on time	Effectiveness	Transactions
4	Application review/process turnaround time (days)	Effectiveness	Minority and Women's Business Opportunity Office
5	Percent of clients rating services good or excellent	Effectiveness	Controversies
6	Number of lawsuits handled and Percent of payout of damages claimed	Output	Controversies

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## **OUTCOME-BASED BUDGETING OVERVIEW**

The City's BBMR utilizes outcome based budgeting to allocate City departments and agencies funding based on seven priority outcomes and results that matter to citizens. The Law Department formally began using the outcome based budgeting concept and reflecting performance measures in the agency's FY 2013 budget, which included actual performance metric results for FY 2011 and targeted performance metric results for FY 2012 and FY 2013.

Performance metrics are a critical component within the Outcome-based Budgeting process and each City department/agency is required to present them within their budget submissions. These performance metrics are intended to help the Mayor determine whether the proposed service represents a good value for the dollars requested, clarify the performance expectations and aspirations for the service, enable the Mayor to assess the service's performance over time, and communicate to the community the results they are getting for tax dollars.

Although there are no exact requirements for the specific performance metrics used by the service area the metrics ideally incorporate four types, output, outcome, efficiency, and effectiveness as they are relevant to the core operations or business processes within the area. The performance metrics are updated annually and new actuals, along with future targets, are reported and submitted as part of the City's comprehensive budget.

During the annual budgeting process, every City agency compiles actual and target figures for each performance metric for prior and future years, which is reviewed by the agency leadership. During the years under review the Department's senior lawyers compiled all of the final performance metric and budget information for each service unit(s), which was then reviewed by the Solicitor. The Department's finalized budget is submitted to the budget office and incorporated within the City-wide budget.

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## **LAW DEPARTMENT OVERVIEW**

The mission of the Law Department is to represent the interests of the City in litigation matters; protect the corporate and financial interests of the City in the negotiation and consummation of contractual, financial, and real estate transactions; aggressively defend the City in liability cases; enhance and expand collection efforts; and provide sound legal advice and counsel to the Mayor, City Council and City departments, boards and commissions.

The Department's workload as mandated by City Charter includes:

- Litigate all suits brought against the City
- Evaluate all claims brought against the City before they reach the "lawsuit stage"
- Review all contracts for form and legal sufficiency before entered into by the City
- Oversee all property acquisitions and eminent domain proceedings
- Review all bids as requested by the Board of Estimates, and
- Provide opinions of the legal sufficiency of all ordinances for the City Council and the Mayor

The Law Department has 11 separate divisions specializing in different practice areas: Administration, Labor and Employment, Litigation, Central Bureau of Investigation (CBI), Contracts, Land Use, Corporate Real Estate, Collections, Advice and Counsel, Minority and Women's Business Opportunity Office, and Police Legal Affairs. In the first year of Outcome Budgeting, the Law Department submitted a separate proposal for each Division. To reduce the number of senior attorney and Solicitor hours expended on the process, the Law Department's Outcome Budgeting proposals were restructured from 11 to 4 service areas in FY 2011 to FY 2014, described below. Today, all Law Department divisions determine and report performance metrics in the budget. Following is a description of the Department's business areas.

### **CONTROVERSIES**

This service provides the general litigation, labor and employment litigation, land use litigation, collections, and pre-litigation claims investigation services for the City. This service aims at increasing City recovery of monies due to the City while avoiding or limiting liability payouts despite rising numbers of claims against the City.

### **TRANSACTIONS**

This service provides advice for the City's real estate, economic development, lending and municipal finance; negotiates, drafts and reviews all City contracts; and advises the Mayor and City Council, and all City agencies, boards and commissions on the full range of legal issues facing the City. This service also oversees and facilitates the City's compliance with the Maryland Public Information Act.

### **MINORITY AND WOMEN'S BUSINESS OPPORTUNITY OFFICE**

This service is responsible for certification of Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs), maintaining a directory of certified businesses, investigating alleged violations of the MWBE ordinance, maintaining statistics on availability and utilization of MBEs and WBEs, setting annual and contract participation goals, and providing assistance to bidders in identifying MBE/WBE firms.

### **REPRESENTATION AND ADVICE FOR LAW ENFORCEMENT**

This service handles all civil legal matters for the Baltimore Police Department (BPD); defending the BPD and its members in civil litigation in both federal and State Court and administrative agencies; representing the BPD in internal discipline proceedings, civil citation hearings, forfeiture hearings, and City Code violation hearings; and providing legal advice, contract review, and limited training for the BPD.

Operating budget

The table below shows the Department’s budget breakdown by area and by each of the fiscal years under evaluation. The largest and basically only expense is attorney salaries. According to the Solicitors Introduction, 2017 budget, Law Department attorneys cost the City an estimated average of \$65 – \$75 per hour (including non-salary burden), significantly lower than hourly rates for outside counsel which range from \$250 to over \$900, per hour depending on the nature of the work.

**Total Department Budget by Service**

<b>Fiscal Year</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Administration-Law	\$475,796	\$687,284	\$675,203	\$1,142,869
Controversies	5,233,829	6,220,772	6,827,242	7,581,776
Transactions	2,043,373	1,005,883	1,357,678	2,306,692
Minority and Women's Business Opportunity Office	412,663	342,753	444,025	659,515
Representation and Advice for Law Enforcement	546,397	611,326	119,684	- <sup>(1)</sup>
<b>Total</b>	<b>\$8,712,058</b>	<b>\$8,868,018</b>	<b>\$9,423,832</b>	<b>\$11,690,852</b>

<sup>(1)</sup> This service is fully supported through a transfer credit from Police Administration.

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## FINDINGS AND RECOMMENDATIONS

**1. Service 861: Controversies**

**Responsible unit: Collections Division**

**Metric evaluated: Percent of repayment versus amount negotiated for collection cases**

### PERFORMANCE MEASURE BACKGROUND

The purpose of this measure is to provide the percent collected over Payment Agreements that the City establishes in different scenarios where the City is owed monies as a result of legal settlement or judgment, or referral from a City agency related to an administrative process. The Collections Division (the Division) is responsible for negotiating the payment agreements within certain parameters, which is typically a 30% down payment of the amount owed, with balance payable in a 12-month period. The Agreement becomes effective upon the Division Chief’s review and execution on behalf of the City.

The Division uses an “Active Agreements” Excel spreadsheet to track payment status. The Division’s Legal Assistant Supervisor adds new payment agreements to the spreadsheet. Upon receipt of payment, checks are logged and the spreadsheet is updated and remitted to Finance to apply to the corresponding account or invoice.

The Division does not send any reminders to the debtor during the life of the agreements except for water agreements, for which debtors are issued payment coupons. The Legal Assistant Supervisor monitors the payment status of all agreements. If the debtor misses two consecutive payments, the debtor is issued a “Payment Breach” letter. If the debtor does not respond and no additional payments are received, the Agreement is terminated and debtor must pay in full or become subject to legal action by the City.

The Division collects a large amount of collections-related data on a monthly and annual basis. The table below is a summary of the collections’ statistics for the years evaluated.

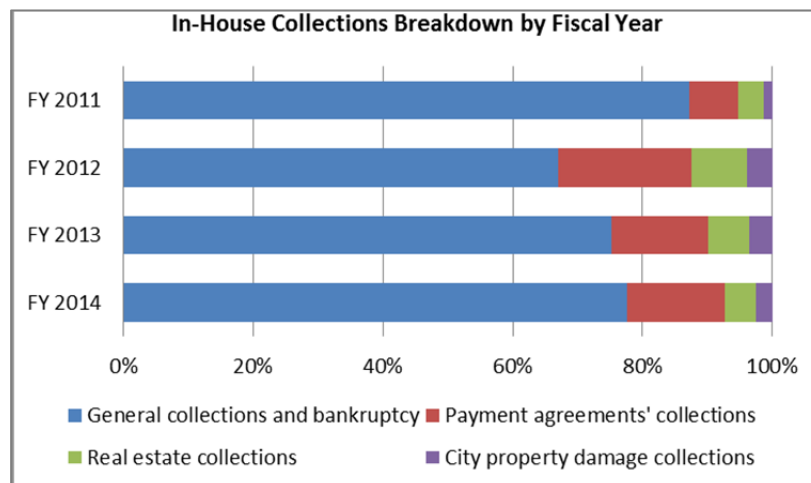
#### Collections Division Performance statistics for FY 2011 – 2014

	FY 2011	FY 2012	FY 2013	FY 2014
<u>In-house Collections:</u>				
General collections and bankruptcy	\$ 14,455,749	\$ 7,723,568	\$ 9,063,296	\$ 8,634,466
<b>Payment agreements' collections</b>	1,264,635	2,372,530	1,805,785	1,676,919
Real estate collections	639,728	994,957	770,261	526,416
City property damage collections	<u>234,150</u>	<u>446,452</u>	<u>421,852</u>	<u>278,308</u>
Subtotal in-house collections	<u>16,594,263</u>	<u>11,537,507</u>	<u>12,061,194</u>	<u>11,116,109</u>

	FY 2011	FY 2012	FY 2013	FY 2014
<b>Third-party Collections:</b>				
Line of Duty (LOD)	740,242	851,687	747,132	1,133,332
Non Line of Duty (NLOD)	<u>71,406</u>	<u>53,861</u>	<u>53,874</u>	<u>54,241</u>
Subtotal third-party collections	<u>811,648</u>	<u>905,548</u>	<u>801,006</u>	<u>1,187,573</u>
<b>Total third-party &amp; in-house collections</b>	<u>17,405,911</u>	<u>12,443,055</u>	<u>12,862,200</u>	<u>12,303,683</u>
<b>Fees (revenue):</b>				
Document preparation and attorney fees	30,174	53,790	41,792	33,525
Deed execution fees	<u>27,000</u>	<u>12,225</u>	<u>25,500</u>	<u>23,700</u>
<b>Total fees (revenue)</b>	<u>57,174</u>	<u>66,015</u>	<u>67,292</u>	<u>57,225</u>
<b>Grand total amount collected</b>	<u>\$ 17,463,085</u>	<u>\$ 12,509,070</u>	<u>\$ 12,929,492</u>	<u>\$ 12,360,908</u>

Source: Collections Division Annual Statistic Reports.

The data showed that payment agreements' collections represented approximately 15 percent of total collections, as shown below.



The data also showed that third party collections increased by \$375K between 2011 and 2014, and that in-house collections decreased by \$5.4M during the same period. CLA did not determine whether the change was due to decrease in the number of agreements or a decrease in the amounts placed under collection.

**Total third-party and in-house collections by fiscal year**

Fiscal Year	FY 2011	FY 2012	FY 2013	FY 2014
Total in-house collections	\$16,594,263	\$11,537,507	\$12,061,194	\$11,116,109
Total third-party collections	\$811,648	\$905,548	\$801,006	\$1,187,573
Percent of in-house collections	95%	93%	94%	90%
Percent of third-party collections	5%	7%	6%	10%

Source: Collections Division Annual Statistic Reports.

## PERFORMANCE MEASURE ANALYSIS

### a. Performance measure attributes

- Reliability of the actual value

CLA was able to reproduce the actual value of the performance measure. CLA recalculated the actual performance results from data from the *Collections Division Statistics* summary, noting that the performance measure's *actual* result was accurate in the two fiscal years (2013 and 2014) in which the Department reported actual data in the budget. See table below.

**Percent agreements' payment collected versus amount negotiated FY 2011 - 2014**

Fiscal Year	FY 2011	FY 2012	FY 2013	FY 2014
Collection agreements total agreed-upon amount	\$ 2,194,316	\$ 4,346,825	\$ 2,558,788	\$ 2,247,472
Payment agreements' collections	1,264,635	2,372,530	1,805,785	1,676,919
<b>Percent agreements' payment collected versus amount negotiated</b>	<b>58%</b>	<b>55%</b>	<b>71%</b>	<b>75%</b>

Source: Collections Division Annual Statistic Report.

- Relevance of the performance measure

#### **Finding 1**

The measure does not truly reflect the efficiency or the effectiveness of the Division's collection efforts per se, because the Division has no obligation to follow up and pursue Agreements that default payment. Additionally, payment agreements' collections is only one of several collection activities carried out by the Division. Reporting solely on this activity underrepresents the effort and contributions of this area of service.

#### **Recommendation 1**

The Department should use the data currently being collected to generate measures with enhanced performance reporting and analysis, and broader representation of all of the collections activity. Recognizing that the most important services that the Law Department provides are intangible intellectual efforts, CLA recommends that management review the current metrics and identify any additional services or business processes that could be meaningfully represented in the performance measurement system. We recommend that the Department reach out to internal experts in either the Department of Finance or CitiStat to create a performance measure that captures more of the activities of the Collections Division.

- Validity of the target value

**Finding 2**

A valid target for this measure cannot be reasonably established because such target and its achievement are beyond the Department’s control. Therefore, the performance measure target itself may not reasonably represent Department performance.

**Performance Measure: Percent of Repayment versus Amount Negotiated for Collection  
Cases FY 2011 – 2014**

FY 2011			FY 2012			FY 2013			FY 2014		
Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual
NA	NA	58% <sup>(1)</sup>	NA	NA	55% <sup>(1)</sup>	NA	71%	71%	80%	75%	75%

<sup>(1)</sup> Although neither target nor actual information was tracked this fiscal year, CLA was able to calculate the actual value based on available data.

**Recommendation 2**

See Recommendation 1.

**b. Other observations**

**Finding 3**

The collection activity is not supported by a specific system or application. The activity is maintained in Excel worksheets, which can cause inefficiency and human error. Although the Department is making efforts to enhance business processes through automation, the collections activity is not specifically included in this initiative.

For example, a mechanism to track amount paid off on an agreement by agreement basis is not in place. The current amounts on the summary are an aggregate of payments associated to all agreements active during the year. This includes payment on agreements that span more than one fiscal year. Through an application designed to support collections, the Division would be able to track repayment on individual agreements and ultimately, increase collection amounts.

**Recommendation 3**

Increase the use of technology to support the collections activity. Additionally, update the *Collections Division Performance* statistics summary to accurately reflect the activity; the CLA format can be used as a starting point.

**2. Service 862: Transactions**

**Responsible unit: Opinions and Advice Practice Group**

**Metric evaluated: Percent of bills reviewed on time**

**PERFORMANCE MEASURE BACKGROUND**

The purpose of this measure is to represent the percent of bills drafted by City Council that the Department's Legal Advice and Opinions Practice Group reviewed on time to meet the bill's hearing date established by City Council. The process begins when City Council drafts an ordinance/legislation in the form of a bill, designates the agency responsible for reviewing the bill, and forwards the bill to the Law Department Practice Group Chief. Upon receipt and initial review, the Practice Group Chief assigns the bill to one of the Practice Group attorneys to conduct an in-depth review and produce a written report.

Bill review requests are maintained in a Microsoft Word log, which documents the date the bill review request was received (Date Requested), the date the bill's opinion report was submitted to City Council (Date Submitted), the date the bill's public hearing is scheduled (Hearing Date), and the name of the attorney assigned to the bill. Once the designated attorney completes the review, they prepare an opinion report which is submitted to City Council on time for the bill's scheduled public hearing.

**PERFORMANCE MEASURE ANALYSIS**

**a. Performance measure attributes**

- Reliability of the actual value

**Finding 4**

The actual value reported in the budget in FY 2013 is higher than the actual value recalculated by CLA. As shown in the table below, the percent of bills analyzed that were submitted 5 days in advance of the Hearing Date was approximately 81%, not 95% as reported in the budget. The same analysis showed that 100% of the bills were submitted in advance of the Hearing Date. According to management, there are many factors influencing timely submittal including that City Council sometimes schedules hearings with less than 5 days of advance notice.

Due to the manually intensive effort to complete this analysis, CLA did not evaluate the target for the other two years for which data was available; however, CLA considers that one year of analysis adequately supports this conclusion.

Notably, the CLA analysis showed that the average number of calendar days between submittal and Hearing Date is 80 days. This result indicates that the service is effective.



### FY 2013 Proposed Legislation (Bills) Turnaround Analysis

Total number of records (bills) on the log	107
Number of bills without a Hearing Date record <sup>(1)</sup>	16
Number of bills included in analysis (bills that had a record of Hearing Date)	91
Number of bill analyses submitted 5 days or less from the Hearing Date	17
Percent of bills in analysis that were submitted 5 days from the Hearing Date	85%
Percent of bills in analysis that were submitted before Hearing Date	100%

Source: Division's Bill Review Log.

<sup>(1)</sup> Per Law leadership, some bills never receive a Hearing Date from City Council due to a number of valid reasons. There is no need to set a goal to review unheard bills because at the end of the four-year electoral term, all bills introduced that did not pass will die. The incoming City Council then starts from the beginning, introducing and hearing bills from the new members.

#### Recommendation 4

Revise the mechanism used to report the actual result of the performance measure “percent of bills reviewed on time”, and adjust as necessary. Additionally, revise the process for reviewing the changes in target values from year to year based on actual performance results and desired improvement goal. Also, consider renaming the performance measure to “percent of bills submitted on time (5 days prior) for the scheduled public hearing” to make it more specific.

- Validity of the target value

#### Finding 5

Although the performance measure target established for FY 2012 – FY 2014 appears to reasonably represent past performance, the difference noted in Finding 4 may indicate a need to revise the process used to set targets based on more accurate actual results.

#### Performance Measure: Percent of bills reviewed on time, FY 2011 – 2014

FY 2011			FY 2012			FY 2013			FY 2014		
Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual
NA	100%	Not Calculated	90%	95%	Not Calculated	95%	95%	81%	90%	95%	Not Calculated

CLA actual value not calculated due to sample-based approach and labor intensive calculation process.

#### Recommendation 5

See Recommendation 4.

- Relevance of the performance measure  
The measure reflects the effectiveness of the bill review process.

**b. Other observations**

**Finding 6**

The bill review process is currently supported with a Word document that does facilitate data analysis.

**Recommendation 6**

Increase the use of technology to support the bill review activity. Consider incorporating the use of Excel to track dates and facilitate data summarization and reporting.

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**3. Service 862: Transactions**

**Responsible unit: Opinions and Advice Practice Group**

**Metric evaluated: Percent of Public Information Act (PIA) requests answered on time.**

**PERFORMANCE MEASURE BACKGROUND**

The City of Baltimore receives approximately 500 PIA requests from the general public each year. PIA requests are usually transmitted from the agency to the Law Department by the City agency's Public Information Officer, but they can also be transmitted by other agency staff. The Law Department gets involved in only the requests that are transmitted from the agency to the Law Department when the agency requests assistance in handling the request. The legal deadline for responding to the request is triggered by submission to the agency, so the Law Department's ability to respond to the request on time is heavily dependent upon the agency's promptness in forwarding requests to Law. PIAs referred to the Department are generally handled by a full-time attorney, usually a contractual employee, tasked with this function and supervised by a senior attorney.

The timeline to respond to PIA requests is imposed by the Maryland Public Information Act (the state PIA law). During the audit period, the law required agencies to respond to the person requesting the information within 30 days of the request or, by extension, a later time. On October 1, 2015, the law was modified to require an initial response letter issued within 10 days of the agency's receipt of the request, followed by a full response within 30 calendar days or extra time, if an extension is agreed to by the requestor. During the years under review, the PIA deadline was 30 days (with option for 30 day extension) and no 10 day response was required.

The Law Department is permitted to take a routine extension of 30 days, with notice to and consent by the requestor. According to leadership, the Department encourages agencies to develop internal policies to expedite the transmittal of the PIA request from the agency to the Law Department, but the Law Department has no control over whether this happens in a timely manner. If the Law Department cannot assist the agency client in responding within the initial 30 days, the Law Department itself requests, or has the agency client request, the 30 day extension.

PIA requests are tracked in an Excel log maintained by the attorney responsible for PIA requests. The log includes the date the agency requested assistance (Date of Request) along with the Due Date, the Extended Due Date (if any), and the Date Response Sent. The log also registers the name of the City agency to which the PIA request was submitted, as well as a summary of the records requested. Upon completion of the attorney's PIA research and review, the responsible attorney prepares and submits the response letter with any responsive disclosable documents. At this point, the PIA log is updated accordingly.

## PERFORMANCE MEASURES ANALYSIS

### a. Performance measures attributes

- Reliability of the actual value

CLA was able to reproduce the actual value of the performance measure. CLA recalculated the actual performance results from data registered in the PIA log, noting that the performance measure's *actual* result was accurate in fiscal year 2013. See table below.

Due to the manually intensive effort to complete this analysis, CLA did not evaluate the target for the other two years for which data was available; however, CLA considers that one year of analysis adequately supported this conclusion. Notably, the analysis showed that the median number of days to submit a response is 11 days, a result that favorably represents the effectiveness of this business process.

Total PIAs FY 2013 registered in log	275
Number of PIA requests with no record of Date Response Sent	14
Total PIAs included in analysis	261
▪ Median number of days to submit a response	11
▪ Number of PIAs responses sent on or before the "Due Date"	223
▪ Number of PIAs with a "Due Date Extension Request" sent on or before the "Extended Due Date"	22
▪ Number of PIA requests responded by the original due date or by the extended due date	245
▪ Number of PIA responses NOT sent "On Time"	17 (*)
▪ Percent of PIA requests responded by the original due date or by the extended due date that had a record of Extended Due Date	100%
▪ Percent of PIA requests NOT responded by the original due date or by the extended due date that did not have a record of Extended Due Date	7% <sup>(*)</sup>

Source: Division's Bill Review Log.

(\*) The analysis described above does not consider the notes column of the Bill Review Log which contains privileged information not accessible to CLA. According to management, in consultation between attorneys and client agencies, the Department is able to negotiate a narrowing of the applicants' requests or otherwise facilitate the timely response and those negotiations are recorded in the log notes.

- Validity of the target value

**Finding 7**

The performance measure target established for FY 2013 and FY 2014 does not reasonably represent past performance or the expectation that 100% of the PIAs are reviewed and submitted by the established due date.

**Performance Measure: Percent of PIA Requests Answered On Time FY 2011 – 2014**

FY 2011			FY 2012			FY 2013			FY 2014		
Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual
NA	100%	Not Calculated	100%	98%	Not Calculated	95%	100%	100%	95%	100%	Not Calculated

CLA actual value not calculated due to sample-based approach and labor intensive calculation process.

**Recommendation 7**

Establish the target at 100% of PIAs reviewed and submitted by the established due date, as expected.

- Relevance of the performance measure

The measure reflects the effectiveness of the bill review process.

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**4. Service 862: Transactions**

**Responsible unit: Minority and Women's Business Opportunity Office**

**Metric evaluated: Application review/process turnaround time (days).**

**PERFORMANCE MEASURE BACKGROUND**

The purpose of this measure is to represent the number of days to process Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) applications submitted to the Minority and Women's Business Opportunity Office (MWBOO).

The MWBOO uses the Applications Log (APPS Log), an Access database, to document all new and renewal applications received. In parallel, a report generating system connected to the same Access database, allows MWBOO to capture approved MBEs and WBEs by date, alphabetically, by description code, zip codes, etc. New applications are entered in the APPS log upon the Division Chief's preliminary review of the application; when the application process is completed, the Access database is updated with the result (certified, denied, suspended). The City's public directory allows the citizens to search WBEs or MBEs by service description, service code, owner's first, last name, company name, and race.

**PERFORMANCE MEASURES ANALYSIS**

**a. Performance measures attributes**

- Reliability of the actual value

**Finding 8**

The actual performance measure values reported in the budget were inaccurate during the period evaluated. For example, in FY 2012 the CLA re-calculated sample of actual number of calendar days to review/process applications reported in the budget was 30 days greater (40% difference) than the number reported in the budget. See table below.

Due to the manually intensive nature of the process required to document the number of days to review/process applications (see "Other observations" section below), CLA used a sample based approach that used the first 30 entries of the alphabetically sorted list of applications processed each year. The sample represented approximately 10 percent of the total number of applications logged each year. The sample only included companies eligible for certification; it did not include companies that were applying for renewal and companies that were denied certification or did not complete the application process. See results in table below.

**Four-year, sample-based analysis (30% of all applications on record) of  
MBE and WBE application review/process turnaround time**

<b>Fiscal Year</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Target (calendar days)	45	45	40	40
Actual number of calendar days to review/process applications reported in the budget	NA	45	35	50
Recalculated actual average number of calendar days to review/process applications	51	75	60	45
Difference between the actual number of days and the recalculated number of days	NA	30	25	-5
Number of applications processed within the established target	20	21	21	11
Percent of applications processed within the established target:	67%	70%	70%	37%

**Recommendation 8**

Develop a mechanism to report the actual performance measure results in an accurate manner.

- Validity of the target value

**Finding 9**

The actual number of calendar days to review/process applications (average) was greater than the established target in all four fiscal years reviewed.

**Performance Measure: Turnaround Time of the application review and process (calendar days) FY 2011 – 2014**

<b>FY 2011</b>			<b>FY 2012</b>			<b>FY 2013</b>			<b>FY 2014</b>		
<b>Target</b>	<b>Actual</b>	<b>CLA Actual</b>	<b>Target</b>	<b>Actual</b>	<b>CLA Actual</b>	<b>Target</b>	<b>Actual</b>	<b>CLA Actual</b>	<b>Target</b>	<b>Actual</b>	<b>CLA Actual</b>
NA	45	51	45	45	75	40	35	60	40	50	45

**Recommendation 9**

We recommend the Department establish a process for supporting and reviewing the changes in target values from year to year based on actual performance results. Additionally, develop targets that reasonably represent a goal for improving performance.

- Relevance of the performance measure

The measure reflects the effectiveness of the MBE and WBE application review/process turnaround time

**b. Other Observations**

**Finding 10**

The Access database currently used to support the application review process does not have sufficient fields to allow straightforward reporting. Consequently, in order to produce the data necessary to assess the review/turn-around time for new applications, the Department has to follow a time-consuming and cumbersome process. Further, the process is manually intensive, which creates room for human error.

CLA also noted that the MBE/WBE applications are paper-based, not automated through an electronic form available for on-line completion. This creates inefficiency.

**Recommendation 10**

Increase the use of technology in processing MBE and WBE applications. At minimum, incorporate business data analytics by adding data fields to the database used currently used to track application review process' milestones to facilitate review and performance reporting.

Additionally, take measures to create an on-line application process for MBE/WBE certifications.

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**5. Service 862: Controversies**

**Responsible unit: Controversies**

**Metric evaluated: Percent of clients rating services good or excellent**

**PERFORMANCE MEASURE BACKGROUND**

The Law Department administers the Customer Satisfaction Survey at the end of each fiscal year. The survey is sent to representatives of each client entity that has received legal services from the Law Department during the prior year. Approximately 85-90 responses were received during each of the years under review. The Department uses Survey Monkey to facilitate the survey and collect results. According to Department leadership, any response “Somewhat Agree”, “Disagree” or “Strongly Disagree” is investigated to understand why the client provided a less than optimal response.

**PERFORMANCE MEASURE ANALYSIS**

**a. Performance measures attributes**

▪ Reliability of the actual value

The Department made survey data available for the four years under scope. CLA selected and analyzed the survey results of one of the years, FY 2013, since one year represents a reasonable basis to support this conclusion.

The FY 2013 survey data allows CLA to reproduce the actual value of the performance measure reported in the budget, noting that the actual result was accurate in fiscal year 2013. See table below.

▪ Validity of the target value

**Finding 11**

The performance measure target evaluated is "percent of clients rating services good or excellent" however, all the questions in the survey inquire about service quality. Consequently, it is not clear which of the survey questions is used to report on this measure. The Law Department calculates an average of all the questions. Further, the target states “rating good or excellent” but the actual survey uses a different rating scale (strongly agree to disagree).

**Performance Measure: Percent of Clients Rating Services Good or Excellent FY 2011 - 2014**

FY 2011			FY 2012			FY 2013			FY 2014		
Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual
NA	92%	Not Calculated	90%	89%	Not Calculated	90%	93%	93%	85%	89%	Not Calculated

CLA actual value not calculated although data was available for analysis.

**Recommendation 11**

Develop and document a procedure that clearly defines and describes the methodology used to calculate the target value.

- Relevance of the performance measure

**Finding 12**

While the measure aims at gathering opinions on level of service quality and although the survey participants indicate the group that they mostly interact with (Collections, Contracts, Employment, Corporate Real Estate, Litigation, etc.), the survey results are not analyzed in such way that it allows a linkage between survey responses and specific Law Department areas.

**Recommendation 12**

Use data already being gathered to connect responses to individual Law Department groups being evaluated. Change the survey tool settings in which the survey results are compiled in a manner that allows leadership to link survey responses to the specific Law Department Division or attorney that is the subject of the survey participant’s evaluation.

Additionally, consider the cost-benefit of changing the frequency of the survey from annual to continual whereby the Customer Satisfaction Survey is administered to clients upon conclusion of significant cases or projects. This would allow the Department to correct issues in a more timely and effective manner.

**b. Other observations**

CLA analyzed the survey results for the two years for which data was available, noting that from FY 2015 to FY 2016, clients reported increased satisfaction in 9 of the 11 areas evaluated, and that client’s level of satisfaction decreased in 2 of the 11 areas. The table below shows the 2-year survey results

**Performance Measure: Percent of Clients Rating Services Good or Excellent FY 2015 – 2016**

FY 2015 (86 survey participants)			FY 2016 (78 survey participants)		
Target	Actual	CLA Actual	Target	Actual	CLA Actual
92%	NA	89%	89%	NA	91%

The table below shows the dialed results the FY 2015 – 2016 survey comparison.

**LAW Department FY 2016 Customer Satisfaction Survey  
And Two-Year “Strongly Agree and Agree Comparison”**

Survey Question No. <sup>(1)</sup>	Question	Strongly Agree	Agree	Somewhat Agree	Disagree	Strongly Disagree	Percent Strongly Agree and Agree responses	
							FY 2016	FY 2015
4	Attorneys are readily accessible in person, by telephone, or by email.	75%	20%	4%	0%	0%	95%	94%
5	The advice the Law Department gives me is useful; it is clear, relevant, and understandable.	72%	23%	5%	0%	0%	95%	93%
6	Attorneys respond to my questions in a timely manner.	73%	23%	1%	3%	0%	96%	98%
7	The Law Department gives advice that shows a good understanding of my department's operations and objectives.	66%	25%	4%	4%	0%	91%	88%
8	The Law Department gives me advice and/or prepares documents that help me accomplish my objectives.	68%	25%	4%	3%	0%	93%	89%
9	If the Law Department has concerns about the legality of any part of a project, it tells me quickly; it does not wait until the last minute to let me know.	75%	17%	4%	4%	0%	92%	89%
10	The Law Department is creative and flexible in finding ways to reach my objectives or resolve legal problems; it suggests alternative approaches when the initial approach will not work or cannot be done.	59%	24%	12%	4%	1%	83%	80%
11	The Law Department keeps me informed of the progress of a matter that takes a long time to resolve.	57%	28%	9%	5%	0%	85%	87%
12	The Law Department adequately prepares me for a trial, hearing, deposition, or real estate settlement or major meeting.	57%	30%	7%	3%	3%	87%	86%
<b>Average rating:</b>							91%	89%

(1) Questions 1 - 3 referred to respondent demographics.

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**6. Service 862: Controversies**

**Responsible unit: Controversies**

**Metrics evaluated: Number of lawsuits handled and Percent of payout of damages claimed**

**PERFORMANCE MEASURE BACKGROUND**

These two performance measures track how many lawsuits the Law Department handles each year, and what percent of the damages claimed are actually paid in either settlements or judgments.

**Finding 13**

The Law Department’s litigation defense services performance metric “amount of pay-outs to plaintiffs who sue the City” does not appropriately reflect effectiveness or efficiency. Although decreasing or maintaining the pay-out percent from year to year may seem like an appropriate goal, the Law Department has no control over how many lawsuits are filed against the City and its agencies, and it does not control the activities of City personnel or the condition of the City’s infrastructure which might incur liability.

According to management, in the past this measure gave the Department insight into trends for liability, but the Law Department cannot adopt a goal to reduce payouts because the factors that determine how much is paid out are not within Law Department control.

A very significant cause of increased exposure beyond Law Department control is modification of the laws by either the judiciary or the legislative process. Both of these have occurred in recent years with enormous impact. Last year the legislature doubled the limitation of liability of local governments from \$200,000 to \$400,000. In addition, courts have continuously eroded traditional defenses of local governments while recognizing novel theories of liability. Further, a recent change in Maryland law has undermined the usefulness of this measure, even as a tool indicating liability trends. The Maryland Rules no longer require plaintiffs to plead a specific amount for damages, but only to specify whether they seek damages “over \$75K.”<sup>1</sup>

Otherwise, the Department does not have the ability to summarize the dollars the City is exposed to, in a simple and systematic or organized manner. The amounts actually paid out in settlement or court judgment is captured in the City’s STARS program. One key challenge is that there is no single system used to house all litigation cases and activity. During the audit review period the Department used STARS, a workers compensation and risk management tool, to track lawsuits and claims. The system was not used for employment law claims; and the law enforcement support activity was tracked manually until fiscal year 2015. Currently a pilot study is underway to adapt two information technology systems (CLIO and MS365) to be used in all litigation, and the Department anticipates that it will be funded to expand this pilot to cover all litigation.

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<sup>1</sup> Every six months the Law Department makes a detailed report to the City’s external auditor in which the Department analyzes the pending lawsuits which present significant monetary exposure to the City or the BPD. The external auditor conducts a CAFR audit to ensure that adequate funds are maintained in reserve to cover potential liability. These Law Department confidential and privileged reports summarize insights and analysis from each attorney handling each case of significant exposure, based on information the attorney has garnered through investigation, discovery, motion practice, or negotiations with opposing counsel, depending upon the stage of the litigation.

**Recommendation 13**

Continue efforts to increase and expand the use of technology to all areas of litigation, thus creating more effective mechanisms to track activity in a centralized and systematic manner. Further, consider the development of performance measures that address the group’s effectiveness or efficiency, such as a performance metric (ratio) that compares total legal staff personnel expense to the cost of outsourcing legal services to private counsel.

**Performance Measure: Number of lawsuits handled FY 2011 - 2014**

FY 2011			FY 2012			FY 2013			FY 2014		
Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual	Target	Actual	CLA Actual
NA	372	Not Calculated	375	362	Not Calculated	377	428	Not Calculated	379	329	Not Calculated

Note: CLA actual value was not calculated due to unavailable data. As mentioned above, the Department does not have the ability to summarize the dollars the City is exposed to in a simple and systematic or organized manner, and there is no single system used to house all litigation cases and activity.

**Exhibit A: Management Response**

<b>FROM</b>	NAME & TITLE	<b>David E. Ralph, Acting City Solicitor</b>	CITY OF BALTIMORE  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	<b>Department of Law</b>		
	SUBJECT	<b>Response to Auditors Findings</b>		

**TO Henry Raymond, Director of Finance**

DATE: 11/29/16

The independent auditing firm, Clifton Larson and Associates (“CLA”) conducted an audit of the Department of Law. On November 21, 2016 the Law Department received an audit report titled “QUADRENNIAL PERFORMANCE AUDIT REPORT” (October 26, 2016) (hereinafter “November 21<sup>st</sup> Audit Report”) and a request that we provide a response. The Law Department responded to the November 21<sup>st</sup> Audit Report on November 23<sup>rd</sup>. On November 28, 2016, Law received a new final audit report titled “QUADRENNIAL PERFORMANCE AUDIT REPORT (November 23, 2016)” (hereinafter the “Audit Report”). The Law Department responses to the Audit Report are documented below.

**Executive Summary**

As an initial matter, Law points out that CLA’s initial report of November 21<sup>st</sup> came to the conclusion in its Executive Summary,

Data-based metrics do not lend themselves to evaluation of the most meaningful and valuable aspects of legal services, which are legal analysis, legal judgment and legal strategy concerning complex matters. Such performance metrics can only crudely capture gross indicators of services (how many cases handled, how many bills reviewed or MPIA requests answered within deadlines, etc.). The Law Department cannot measure either the quality or the efficiency of its legal services with such global data driven measures. Instead, the Law Department, like private law firms, relies upon its supervisory structure for close consultation, training and oversight for line attorneys among one another and by Division Chiefs, the Department’s Executive Committee and ultimately, the Solicitor.

*November 21<sup>st</sup> Audit Report*, p. 2. In our Response of November 23<sup>rd</sup>, the Law Department emphatically concurred in this conclusion.

Inexplicably, CLA’s final Audit Report omits this conclusion from its Executive Summary and instead adds a recommendation that runs directly counter to that conclusion: “The Department should develop a more balanced performance measurement array to include measures that represent the **qualitative** aspects of performance.” *Audit Report* p. 2 (emphasis added). The Law Department disagrees with this recommendation. As CLA so aptly concluded prior to

this last revision, “data-based metrics do not lend themselves to evaluation” of the qualitative aspects of intellectual effort—i.e. “the most meaningful and valuable aspects of legal services, which are legal analysis, legal judgment and legal strategy concerning complex matters.” No Law firm relies upon such measures to evaluate the quality of its services because quality of intellectual effort on complex legal matters cannot be meaningfully measured with data metrics. Instead, the efficiency and excellence of legal work is evaluated and ensured through close supervision by experienced attorneys of less experienced attorneys, by close collaboration among attorneys with niche expertises, and ultimately the Solicitor.

Law acknowledges and concurs with **Findings 1, 2, and 12**. Specifically, **Finding 12** recommends that we conduct careful “cost-benefit” analysis related to increasing the frequency of our client satisfaction survey, an Outcome Budgeting driven task. Such tasks consume valuable senior attorney time which could otherwise be applied to further the City’s legal interests. Similarly, Findings 1 and 2 recognize that our most valuable service is “intangible intellectual effort” and that “[a] valid target for this [Collections] measure cannot be reasonably established because such target and its achievement are beyond the Department’s control. Therefore, the performance measure target itself may not reasonably represent Department performance.” *Id.* 12-13. The Law Department is small and has a robust and effective supervisory structure in place comparable to private law firms or other law departments. Before Law expends additional senior attorney time on Outcome Budgeting measures we need to evaluate the likelihood they would produce any corresponding improvement in the quality or efficiency of our services.

Law acknowledges and concurs in **Findings 3, 6, 10, and 13** that the Law Department has been functioning with inadequate technology and that Law should continue to expand the CLIO and MS365 case management software systems to all litigation divisions. In addition, the Opinions and Advice Division and the Minority and Women’s Business Opportunity Division should also continue to obtain improved software systems to automate their reporting functions.



In addition, Law submits the following Responses:

**Service 861: Controversies and Collections Divisions**

Law acknowledges and concurs in **Finding 1** of the Audit Report that an additional Performance Measure could reflect more of the funds which this Division recovers for the City through its strategic litigation practices. Law plans to “reach out to internal experts in either the Department of Finance or CitiStat to create a performance measure that captures more of the activities of the Collections Division.” *Id.* p.12.

However, Law notes that the Audit Report incorrectly attributes third party collections for non-line of duty injuries to outside counsel when in fact those are also performed by our Collections Division. Therefore, Law does not concur in the calculations contained on pages 10 and 11 or the Report’s conclusions which emanate from those calculations.

**Service 862: Transactions, Opinions and Advice Division**

Law notes that our measure for “percent of bills reviewed on time” is determined by whether Law files a bill report by the legal deadline of at least five days prior to the City Council hearing on the bill. It appears that the Audit Report confuses this measure. As a result, Law can neither concur nor dispute **Findings 4 and 5**. The Audit Report uses 5 days as the measure in the text on page 15, but the table on page 16 of the Audit Report uses 6 days. The percentage will be higher if 5 days is used to measure timeliness. Even using the 6-day measure that the table purports to use, our calculations differ from the Audit Report. The Department’s Bill Report Log for FY13, documents that of the bills referred to Law, 88 were scheduled for a hearing. Seventy-five bill reports on those bills were submitted within 6 days of the hearing. Of the 13 that were not submitted within 6 days, 7 reports were on bills that were introduced less than 6 days before the hearing which made it impossible to meet the 6-day measure; in addition, one bill on the log was not referred to Law. By our calculations these figures would yield: 85% on time without correction for bills for which the 6 -day rule was impossible to comply. Law achieved 94% if one omits the bills that had a less than 6 day turn around and also subtract out the bill never referred to Law. In any event, our measure is 5 days and not 6 days, because the law requires our bill reports to be filed at least 5 days prior to the hearing.

Law concurs with **Finding 7**, that this Division reviewed and submitted responses to PIA requests on time 100% of the time during the year the auditor reviewed and that is “a result that favorably represents the effectiveness of this business process.” *Id.* p. 18.

However, we disagree with the **Recommendation** that Law should therefore set its future performance target at 100%. This is because, as the Audit Report notes, “The legal deadline for responding to the [PIA] request is triggered by submission to the agency, so the Law Department’s ability to respond to the request on time is heavily dependent upon the particular agency’s promptness in forwarding requests to Law.” *Id.* p. 17. Thus, our ability to formulate timely responses is dependent upon actors outside the Department.

In addition, we note that Law does not “oversee [] and facilitate [] the City’s compliance with the Maryland Public Information Act” as stated on page 8 of the Audit Report. We only assist with requests that agencies and quasi-governmental entities forward to us, which during FY2013 was approximately 500 requests. Several agencies never request assistance and most agencies handle the majority of their requests without the assistance of Law.

**Service 862: Transactions, Minority and Women’s Business Opportunity Office**

Law concurs in **Findings 8 and 9.**

**Service 861: Controversies**

Law partially concurs in **Finding 13** that “the Department does not have the ability to summarize the dollars the City is exposed to, in a simple and systematic or organized manner.” *Id.* p. 26. Our concurrence is only partial because we agree that such calculations are not “simple” but instead require strategic legal analysis. Law does, however, have a systematic and organized process for calculating such exposure: the CAFR audit process which requires privileged and confidential analysis every six months of each case presenting significant risk exposure to the City or BPD based on information the lead attorney on the case has garnered through investigation, discovery, motion practice, or negotiations with opposing counsel, depending upon the stage of the litigation. Inexplicably, the final Audit Report deleted its prior recommendation that Law continue to participate in the CAFR audit process, and it relegates mention of the ongoing CAFR audit process to the only footnote in the Report. *Id.* p.26 n.1. The Audit Report might thus be read to incorrectly imply that Law lacks a process for tracking risk which is “organized and systematic.”

As mentioned above, Law concurs in **Recommendation 13**, that we continue to expand our roll out of the CLIO and MS365 case management software.

## Exhibit B: Additional Auditor Comments

The following two additional comments are offered in connection with the Legal Department's management response dated November 29, 2016.

1. **Executive Summary:** The conclusion paragraph referred to by the Department was drafted and suggested for report inclusion by the Department in their edits provided to CLA on November 15, 2016. The paragraph was included in a second draft submitted to the Department on November 21, which generated a management response dated November 23. Based upon the response from the Department, CLA produced and submitted a third and final draft on November 28 that included five specific edits. One of these edits was the elimination of the aforementioned paragraph expressly made to resolve language redundancy and to reflect the extent of the work performed by CLA. The nature of the paragraph referred to by the Department in their response contained language which reflected management's considerations and thus, more appropriate for inclusion as part of management's response. This final draft report caused management's response dated November 29, 2016, as included in this report. Both the November 21 and the November 28 reports were in draft version.
2. **Findings 4 and 5:** The Auditor revised the re-calculation of the percent of bills analyzed that were submitted 5 days in advance of the Hearing Date, arriving at 85%, which is still lower than the actual value of 95% reported in the budget for FY 2013.