

**OFFICE OF THE
ATTORNEY GENERAL**





Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

September 12, 2014

David Schumacher, Director
Office of Financial Management
P.O. Box 43113
Olympia, WA 98504-3113

Dear Mr. ~~Schumacher~~: *David -*

Enclosed is the 2015-2017 Biennial Budget Request from the Attorney General's Office (AGO) addressing critical agency and complex litigation needs. I am also including a detailed analysis of a potential 15% reduction to our budget as directed by your office.

I am requesting only the resources necessary to:

- Defend the State in significant litigation (e.g. *Boldt, Moore, Perez*);
- Provide legal support for critical, mandatory services ranging from foster child permanency to fire cost recovery; and
- Further close the gap between the salaries of Assistant Attorneys General and their local government peers across the state.

As you review these requests, I know you will consider the critical nature of our work and its effect on our state's financial outlook. The State's recent victory in the "gain-sharing" case – a case recognized by the Seattle Times as having the potential to "cost the state billions" – is only one example. In response to your request for an exercise cutting 15% from our budget, we compiled a detailed description of the impact of such a reduction on each division within the AGO. As you know, the AGO budget is driven by the legal resource needs of our clients – state agencies, boards, commissions and institutions of higher education. Although we closely coordinate with our clients, we cannot yet project how their own reductions, and the lawsuits they might face, will affect their need for legal services. Consequently we are unable to build a reduced budget level that is aligned with plans that will be submitted by our clients. The AGO budget almost exclusively pays for personnel. Although workforce reductions will be considered only as a last resort, realistically, the only way we can make substantial cuts is to reduce personnel. I will be in a better position to consider more precise effects when we know which agencies will be reducing legal services, and how.

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As context for this process, I believe it is worth noting that the AGO has managed several years of across-the-board reductions to our budget, resulting in the net loss of more than 130 positions from our ranks since 2009. These reductions represent more than ten percent of our workforce. The Solicitor General's Office, which argued the pension cases, has been reduced by 16.5% since 2007. Similarly substantial reductions have also occurred in most of our legal divisions. Our internal service divisions, such as Financial Services, have been reduced by 29% in the same timeframe. We have constantly and proactively made every effort to minimize or eliminate non-essential efforts that rely on state funding. We have done this by consolidating space, eliminating or holding open positions, evaluating each and every program for efficiencies, and controlling costs.

I look forward to working with you and your office in the coming months, and I stand ready to provide information to assist you as you prepare the Governor's budget proposal. If you have questions about this budget request, please contact Mark Melroy, Chief Financial Officer, at (360) 534-4981.

Thank you for your continued assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Ferguson', with a long horizontal flourish extending to the right.

BOB FERGUSON
Attorney General

RWF/jlg

Enclosures

15% Reduction Exercise Cover Memo

I asked every division in the Attorney General's Office (AGO) to engage in this exercise to understand what we could possibly do to further reduce our budget by 15%. Unfortunately this process has revealed a system already under intense pressure with case matters per attorney at their highest levels in recent history and the economic value of our cases escalating dramatically. We can realize savings only by further reducing our workforce and seriously diminishing our ability to represent and defend the State.

We cannot control the demand for legal services. When litigation is commenced, or legal guidance is needed, we must respond. We operate much like a fire department. We try, but cannot reliably predict when and where fires will occur or how they will develop. Nevertheless, we must be ready to serve when called and we must make every attempt to ensure that our response is adequate because an insufficient response carries great risk.

Moreover, the demand for legal services often increases during times of budget reductions, as state agencies reduce staff and services. And, as recent history shows, when AGO staff is reduced, many agencies must deal with increased litigation by using Special Assistant Attorneys Generals (SAAGs) - private counsel retained at private rates. The cost for private sector attorneys exceeds our own AAG expenses by several orders of magnitude. State agency clients have paid double, triple and on occasion as much as nine times an equivalent AAG hourly rate in order to hire outside counsel. These costs quickly outpace the savings garnered by reducing AGO legal services.

Knowledgeable, timely and objective legal advice is essential to the operation of our government and the mission of all of our client agencies. Our adversarial system of justice depends upon skilled and zealous legal advocacy to prosecute and defend cases before our courts. Although the negative effects of a 15% reduction are difficult to predict, we can identify categorically some of the consequences that are very likely to occur:

- **Impacts to Washington Children**

Juvenile Litigation, including the pursuit of permanent homes for foster children:

DSHS is our biggest client and drives our work throughout the state, from Seattle and Olympia to Tacoma, Spokane, Vancouver, Bellingham, Wenatchee, Port Angeles and Kennewick. The work of representing Child Protective Services, and protecting children from abuse and neglect, is a high priority. The only way we can regulate our permanency workload is by slowing the rate at which we file petitions or note them for trial. Delaying permanency cases significantly harms the children of our state and increases foster care costs. The legislature recognized the critical need to fund this work in the 2014 session.

Public Education: Our Education division primarily serves higher education clients and the Office of the Superintendent of Public Instruction (OSPI). If staffing is reduced in the Education division, delays in resolving litigation are inevitable. In addition, reduced

staffing levels would jeopardize certification cases involving teachers who harm students. Reduced attorney staffing would also affect counsel and representation on federal compliance issues, placing federal funding at risk.

- **Loss of Revenues**

As a part of this exercise we have identified areas where a 15% budget reduction may incur significant, near-term revenue loss.

Our **Revenue Division** uses tobacco prevention account funds to conduct diligent enforcement activities under the 1997 Master Settlement Agreement (MSA) between 46 states and tobacco manufacturers. These efforts are critical to ensuring that the state receives its full payments under the MSA. Further reductions to the already reduced staffing for this program (.25 investigator FTE) would increase the risk that Washington could be found not to have diligently enforced the MSA, resulting in a reduction of MSA funding from approximately \$140M to approximately \$31M – a loss of \$109 Million.

To achieve a 15% budget reduction, our **Bankruptcy and Collections (BCU) Division** would need to eliminate its only paralegal position and one legal secretary position, resulting in an inability to support the contractor bond collection program. Over the past two fiscal years the BCU collected \$4.5M for the three tax agencies from the contractor bond program, of which more than 50% supported State General Fund.

The **Medicaid Fraud Control Unit** is funded 75% by federal grants. A 15% cut would reduce funding of the civil and criminal programs by \$1.3M. This could compromise grant compliance and threaten federal funding.

The AGO also has a financial fraud prosecution program that benefits the Department of Labor & Industries, Department of Revenue, and Office of the Insurance Commissioner, recovering judgments for the state that are substantially greater than the costs of the program.

- **Advice and Defense in Complex Litigation Unit**

Attorneys and professional staff in this unit advise and represent various state agencies and officials in complex, high stakes matters. Examples include constructing and maintaining our state transportation system, include the Alaska Way Viaduct, the floating bridge, and other mega-projects in which the state is engaged. Other examples include the defense of an increasing number of class action lawsuits challenging changes or reductions in service or benefit programs – the potential costs of which are substantial. Major environmental and natural resource cases affect the health and well-being of our residents and our economy. Complex cases like these demand a strong legal defense that can only be provided with adequate staffing and resources.

A 15% reduction would require a substantial reduction in the number of attorneys and staff who defend the state in tort litigation. The consequence will be the assignment of an

unmanageable number of cases per attorney, more frequent assignment of high risk cases to less experienced attorneys, a diminished quality of defense, and higher settlements or payouts.

- **Crime and Public Safety**

The Attorney General's **Sexually Violent Predator Unit** litigates the civil confinement of sexually violent criminals in all counties except King. Through this program, dangerous sexual offenders are civilly confined after their prison sentences until it is determined their dangerousness has abated. The SVP laws can require litigating each offender's status as often as once a year. With more than 300 individuals now committed as sexually violent predators, the litigation burden is growing annually. Each attorney in the SVP unit already carries a 27% greater caseload than in 2007. If the unit is forced to cut personnel, it will have to decline cases, allowing potentially dangerous sex offenders to go free. In addition, if the unit's workload continues to increase without relief, the AGO's experienced prosecutors are more likely to move to city and county prosecutor's offices, which pay substantially more.

The AGO **Criminal Justice** prosecutors provide valuable backup and support for Washington's county prosecuting attorneys. County prosecutors refer cases to the AGO that involve potential conflicts of interest, such as accusations of malfeasance by a police officer or an elected official. The AGO also accepts cases, including murders and violent assaults, that would be too costly or complex for smaller counties to handle.

The **Homicide Investigation Tracking System** ("HITS") is used by law enforcement throughout the state to apprehend the most seriously violent criminal offenders. HITS currently receives about half the funding it did in 2008, and additional reductions would challenge its viability. For all these reasons, cutting the AGO's Criminal Justice operations will impair important law enforcement and public safety efforts throughout Washington.

- **Increased Expenses**

Under a 15% reduction scenario, several divisions report that a significant increase in the use of SAAGs would be necessary to keep up with existing and emerging legal defense needs. Our Torts Division is particularly vulnerable to an increase in use of SAAGs by client agencies given the significant resource exposure and unpredictable nature of its work. The **Transportation and Public Construction Division** foresees a constrained ability to defend against new contractor claims in the design/build process. As discussed above, contracting with private attorneys does not achieve any savings and actually increases costs to the state.

- **Other Impacts**

A 15% reduction to our **Ecology Division** would likely require the elimination of 7 positions including 3 AAGs. This would necessitate a significant reduction in the pursuit

of discretionary litigation as well as a reduction in the size of teams assigned to complex cases. Examples of affected projects include court actions seeking to require EPA to take over several different Clean Water Act responsibilities as well as preparations for settlement and/or litigation involving Hanford cleanup.

Our **Foreclosure Compliance Program (FCP)** has indicated that a 15% reduction would reduce its ability to intervene in disputes between borrowers and lenders, resulting in fewer homeowners obtaining relief from predatory lending or unfair mortgage servicing. Such a cut would reduce the number of wrongful foreclosure that FCP could help prevent or delay. Reductions to outreach activities will harm consumers who are struggling to hold on to their homes.

Because of the incredibly sensitive potential impacts and outcomes, adjustments to legal service resources must be very carefully analyzed and considered through a collaborative and inclusive process involving a wide range of stakeholders - public defenders, court officials, social service providers and client agencies, among others. While it has not been possible to engage in such processes over the past two months, my staff and I will work to ensure that when reductions are identified, they will be thoughtfully implemented.

While we understand the current budget crisis and recognize the constraints related to K-12 funding obligations, I remain concerned that further cuts may expose the state to hundreds of millions, perhaps billions, of dollars in additional liability and expenses.

OFFICE OF THE ATTORNEY GENERAL
2015-17 Biennial Budget Request
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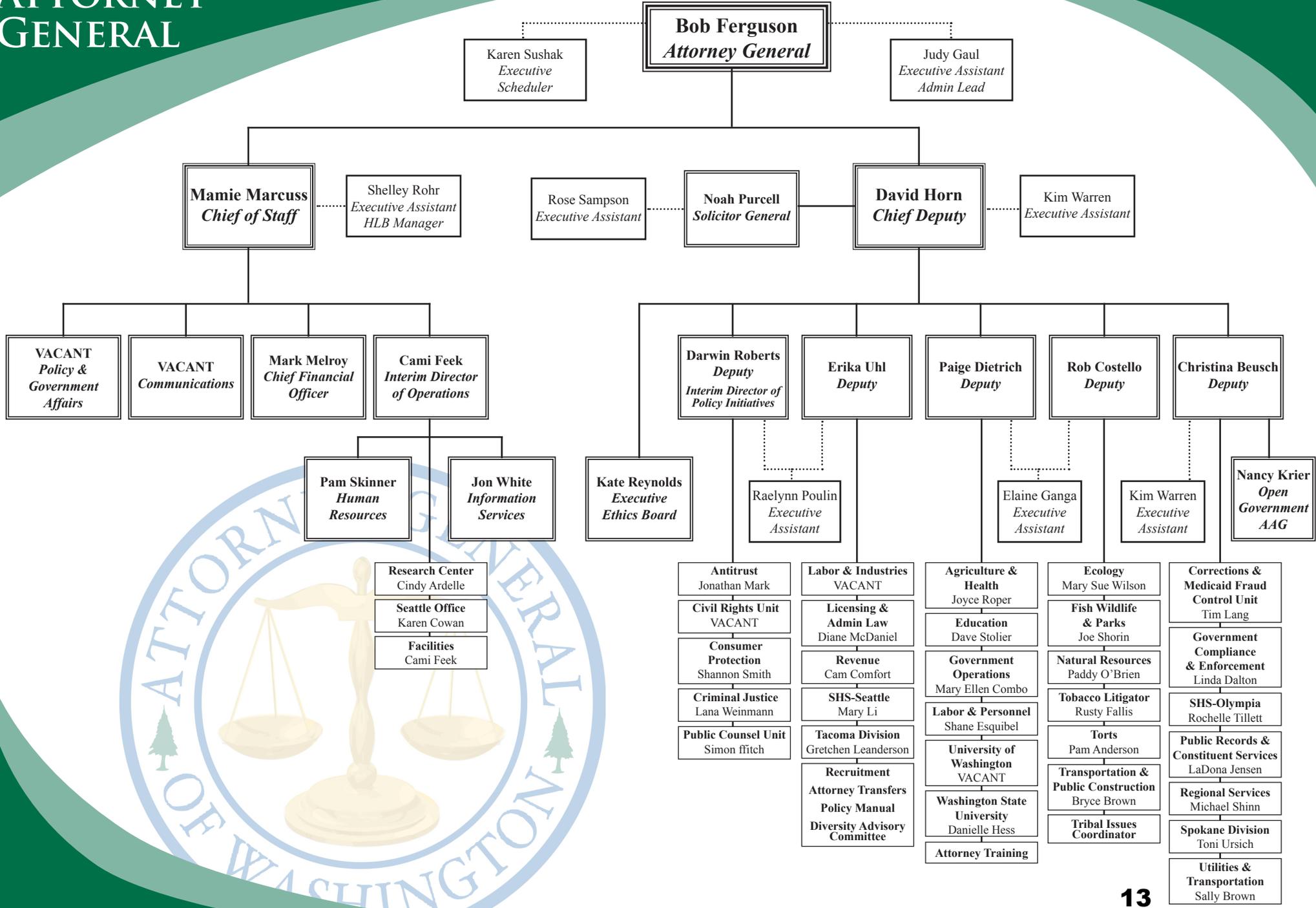
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TAB A

OVERVIEW



OFFICE OF THE ATTORNEY GENERAL



100 - Office of Attorney General

A001 Administration

Administrative functions of the AGO includes the Attorney General’s Core Leadership Team, the Solicitor General, executive support, financial services, human resources, IT services, and facilities staff. An administrative function of the AGO is the Solicitor General’s issuance of Attorney General Opinions, which answer questions from members of the state Legislature, state elected officials, appointed heads of state agencies, boards and commissions, and county prosecuting attorneys. AGO opinions clarify the interpretation of statutes and regulations when the meaning is in doubt.

Account	FY 2016	FY 2017	Biennial Total
FTE			
17L-6 Non-Appropriated	0.1	0.1	0.1
001-1 State	5.3	5.3	5.3
405-1 State	68.0	68.2	68.1
12F-6 Non-Appropriated	0.2	0.2	0.2
154-1 State	0.2	0.2	0.2
111-1 State	0.4	0.4	0.4
828-1 State	0.1	0.1	0.1
FTE Total	74.3	74.5	74.4
17L Foreclosure Fairness Account			
17L-6 Non-Appropriated	\$15,792	\$15,933	\$31,725
001 General Fund			
001-1 State	\$597,833	\$613,975	\$1,211,808
405 Legal Services Revolving Account			
405-1 State	\$7,498,925	\$7,527,541	\$15,026,466
12F Manufactured/Mobile Home Dispute Resolution Program Account			
12F-6 Non-Appropriated	\$21,009	\$20,351	\$41,360
154 New Motor Vehicle Arbitration Account			
154-1 State	\$23,641	\$23,970	\$47,611
111 Public Service Revolving Account			
111-1 State	\$49,773	\$49,820	\$99,593
828 Tobacco Prevention and Control Account			
828-1 State	\$6,392	\$6,448	\$12,840

Statewide Strategy: Provide data, information, and analysis to support decision-making

Expected Results

Administration provides the issuance of Attorney General opinions which answer questions from members of the state Legislature, state elected officials, appointed heads of state agencies, boards and commissions, and county prosecuting attorneys. These questions seek clarification relating to the interpretation of statutes and regulations when the meaning is in doubt.

000001 PM0001/ADM - Percentage of Mandatory Training Completed.			
Biennium	Period	Actual	Target
2011-13	Q8		
	Q7		100%
	Q6		
	Q5		
	Q4		
	Q3	97.57%	100%
	Q2		
	Q1		
Performance Measure Status: Draft			

A002 Civil Commitment of Sexually Violent Predators

The Sexually Violent Predator Unit (SVPU) protects the public by ensuring that the most dangerous and violent sexual predators in the state are detained, evaluated, and treated until they no longer meet Sexually Violent Predator (SVP) criteria. When a sexual offender is about to be released from confinement and appears to meet SVP criteria, the SVPU acts as the prosecuting agency to classify them as a SVP resulting in Civil commitment. Once committed, the SVPU oversees the extensive post-commitment responsibilities to ensure that SVPs are not being released before being rehabilitated. These responsibilities include appeals, annual reviews, less restrictive alternative placements, and re-commitment hearings and trials.

Account	FY 2016	FY 2017	Biennial Total
FTE			
001-1 State	26.5	26.5	26.5
001 General Fund			
001-1 State	\$5,496,943	\$5,644,554	\$11,141,497

Statewide Result Area: Healthy and Safe Communities

Statewide Strategy: Confine and rehabilitate offenders

Expected Results

The most dangerous and violent sexual predators in the state are detained, evaluated, and treated until they no longer constitute a threat. Consequently, fewer people are victimized, and the public is protected from those sex offenders who are most likely to reoffend.

002535 The most dangerous and violent sexual predators in the state are detained, evaluated, and treated until they no longer constitute a threat. Consequently, fewer people are victimized, and the public is protected from those sex offenders who are most likely to reoffend.				
Biennium	Period	Actual	Target Min	Target Max
2013-15	A3		14	17
	A2	10	14	17
Performance Measure Status: Approved				

000005 PM0002/SVP - Percentage of SVP Cases Resulting in Commitment.			
The higher the commitment rate, the more successful the SVP unit is in civilly committing dangerous sexual predators and thereby protecting the public from these offenders.			
Biennium	Period	Actual	Target
2011-13	A3	89%	
	A2	92%	
Performance Measure Status: Approved			

A003 Criminal Investigation and Prosecution

The Criminal Litigation Unit (CLU) investigates and prosecutes all levels of criminal cases when requested by the Governor or county prosecuting attorneys. The types of cases commonly handled by the CLU include homicide, sexual assault, multi-jurisdictional crime, white-collar crime, governmental corruption cases, environmental crimes, tax fraud cases on behalf of the Department of Revenue, licensing fraud on behalf of the Department of Licensing, insurance fraud on behalf of the Office of the Insurance Commissioner, and fraudulent workers’ compensation claims and wage and hour violations on behalf of the Department of Labor and Industries. The CLU assists local prosecutors when they have a conflict of interest or need additional resources for major prosecutions. The CLU occasionally assumes responsibility for the appellate review of a criminal case that were originally brought by a county prosecutor if the case involves fundamental issues affecting the public interest and the administration of justice.

Account	FY 2016	FY 2017	Biennial Total
FTE			
001-1 State	3.0	3.0	3.0
001 General Fund			
001-1 State	\$690,941	\$733,553	\$1,424,494

Statewide Result Area: Healthy and Safe Communities

Statewide Strategy: Enforce the law

Expected Results

When a county prosecutor has a conflict of interest or needs assistance for other reasons, there are competent, highly-skilled AGO prosecutors available to represent the county resulting in greater public protection. The AGO’s Criminal Litigation Unit (CLU) reviews important appeals and provides additional legal assistance upon request. The CLU also reviews and approves (or defends against) claims filed by persons claiming to have been wrongfully convicted and imprisoned. Crimes of fraud involving state agencies are properly investigated and prosecuted so that state agencies and other victims can recover their losses, and similar criminal activity against state agencies can be curtailed and deterred.

002536			
Where the county prosecutor has a conflict of interest or needs assistance for other reasons, there is a competent, highly-skilled prosecutor to represent the state, resulting in greater public protection. Crimes of fraud involving state agencies are properly investigated and prosecuted so that state agencies and other victims can recover their losses, and similar criminal activity against state agencies can be curtailed and deterred. The Criminal Litigation Unit reviews important appeals and provides additional legal assistance when requested. The CLU also reviews and approves (or defends against) claims filed by persons claiming to have been wrongfully convicted and imprisoned.			
Biennium	Period	Actual	Target
2013-15	Q8		23
	Q7		23
	Q6		23
	Q5		22
	Q4	21	23
	Q3	20	22
	Q2	22	23
	Q1	11	22
Performance Measure Status: Approved			

<p>000008 PM0003/CRI - This is a count of the number of requests for assistance and referrals to the unit from outside the AGO.</p> <p>The primary function of our unit is to provide trial and consulting assistance to local prosecutors.</p>				
Biennium	Period	Actual	Target	
2011-13	Q8	21	16	
	Q7	15	16	
	Q6	15	16	
	Q5	21	16	
	Q4	19	16	
	Q3	16	16	
	Q2	19	16	
	Q1	31	16	
Performance Measure Status: Approved				

A004 Enforcement of Anti-Trust Laws

The AGO’s Antitrust Division (ANT) division protects the residents of Washington State from price-fixing, illegal mergers, monopolization, and other illegal, anticompetitive activities. ANT holds entities accountable when they break the law and engage in unfair competition, and ensures that consumers benefit from a competitive marketplace. By enforcing antitrust laws, ANT ensures that businesses compete fairly with each other. ANT files enforcement actions, responds to consumer complaints, provides advice to state agencies, and provides consumer education and outreach. Through these efforts, ANT ensures that consumers’ problems are addressed, money overpaid due to illegal activity is recovered, illegal activity is prevented, and businesses are educated about their responsibilities under the antitrust laws.

Account	FY 2016	FY 2017	Biennial Total
FTE			
424-6 Non-Appropriated	7.0	7.0	7.0
424 Anti-Trust Revolving Account			
424-6 Non-Appropriated	\$1,100,735	\$1,066,183	\$2,166,918

Statewide Result Area: Prosperous Economy

Statewide Strategy: Regulate the economy to ensure fairness, security and efficiency

Expected Results

The AGO’s Antitrust Division (ANT) enforces antitrust laws, protects consumers from illegal and harmful practices, and ensures a fair, efficient, and competitive marketplace for businesses. ANT enforcement actions prevent monopolies, price-fixing, and illegal mergers, and recover money for injured consumers and state agencies. Through outreach efforts, ANT educates businesses in order to prevent antitrust violations and protects Washington consumers

000011 PM0004/ANT - Recoveries. We capture the efforts of AGO Antitrust staff who work to stop anticompetitive behavior and promote compliance with Antitrust laws. The measurement tells us the degree to which we recover monetary restitution for our consumers.

Biennium	Period	Actual	Target
2013-15	A3		\$700,000
	A2	\$2,000,000	\$700,000
2011-13	A3	\$125,000	
	A2	\$0	
Performance Measure Status: Approved			

A005 Enforcement of Consumer Protection Laws

The AGO’s Consumer Protection Division (CPR) protects Washington consumers from deception, scams, and abusive practices. CPR provides a fair marketplace through vigorous civil law enforcement of the Consumer Protection Act (CPA) including education and outreach to consumers. CPR’s Consumer Resource Center fields calls and complaints from consumers around the state, informally resolving complaints and recovering millions of dollars for consumers. CPR attorneys promote compliance with the CPA by obtaining injunctions and monetary judgments against violators including direct consumer restitution. CPR’s Foreclosure Compliance Program enforces the Foreclosure Fairness Act to help homeowners. CPR also houses the Lemon Law program which promotes timely and effective new motor vehicle warranty service through mandatory arbitration. CPR’s Manufactured House Dispute Resolution Unit fosters compliance with the Manufactured Housing Landlord Tenant Act.

Account	FY 2016	FY 2017	Biennial Total
FTE			
17L-6 Non-Appropriated	2.7	2.1	2.4
001-1 State	52.4	53.0	52.7
12F-6 Non-Appropriated	3.8	3.8	3.8
154-1 State	4.5	4.5	4.5
FTE Total	63.4	63.4	63.4
17L Foreclosure Fairness Account			
17L-6 Non-Appropriated	\$319,401	\$322,698	\$642,099
001 General Fund			
001-1 State	\$3,275,853	\$3,350,248	\$6,626,101
12F Manufactured/Mobile Home Dispute Resolution Program Account			
12F-6 Non-Appropriated	\$423,657	\$414,190	\$837,847
154 New Motor Vehicle Arbitration Account			
154-1 State	\$476,312	\$488,112	\$964,424

Statewide Result Area: Prosperous Economy

Statewide Strategy: Provide consumer protection

Expected Results

The AGO’s Consumer Protection Division’s (CPR) activities are expected to foster a fair, competitive and non-deceptive marketplace, prevent consumer harm, promote voluntary compliance with economic regulation by businesses, and resolve disputes between buyers and sellers in the marketplace. CPR is expected to recover a portion of operational costs through its litigation activity. CPR is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration, and foster compliance with the Manufactured Housing Landlord Tenant Act.

000014			
<p>The division's activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketplace. The division is also expected to recover a portion of the costs of its operation through its litigation activity. Finally, the Division is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration and foster compliance with the Manufactured Housing Landlord Tennant Act.</p>			
Biennium	Period	Actual	Target
2013-15	A3		\$2.15
	A2		\$2.15
2011-13	A3	\$5.39	
	A2	\$1.64	
Performance Measure Status: Approved			

002534			
<p>The division's activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketplace. The division is also expected to recover a portion of the costs of its operation through its litigation activity. Finally, the Division is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration and foster compliance with the Manufactured Housing Landlord Tennant Act.</p>			
Biennium	Period	Actual	Target
2013-15	A3		\$8,500,000
	A2	\$9,900,000	\$8,500,000
Performance Measure Status: Approved			

A006 Executive Ethics Board

The Executive Ethics Board (EEB) is an independent board with five members appointed by the Governor. The EEB promotes integrity, confidence, and public trust in state government through education, interpretation, and enforcement of the Ethics in compliance with the Public Service Act (Act). The AGO provides staff and administrative support for the EEB. EEB members meet on a regular basis to interpret the Act for all state agencies, provide advice to agencies regarding ethical issues, promulgate rules to implement the Act, and take enforcement action against state employees who violate the Act. EEB staff investigate complaints filed by public employees and citizens, provide ethics training to state agencies, and provide advice regarding ethics in the workplace. Ethics training enables state officers and employees to perform their public responsibilities and conduct the business of the state appropriately.

Account	FY 2016	FY 2017	Biennial Total
FTE			
405-1 State	3.2	3.2	3.2
405 Legal Services Revolving Account			
405-1 State	\$455,419	\$462,271	\$917,690

Statewide Result Area: Efficient, Effective and Accountable Government

Statewide Strategy: Support democratic processes and government accountability

Expected Results

The Executive Ethics Board investigates complaints filed by public employees and citizens regarding ethical violations established in the Public Service Act, and prosecutes cases to completion. By completing investigations and resolving cases in a timely manner, state agencies, state employees, and the public are better served, and public trust and confidence in state government increases.

000018 The Executive Ethics Board (EEB) promotes integrity, confidence, and public trust in state government through education, interpretation, and enforcement of the Ethics in Public Service Act (the Act). The Office of the Attorney General provides staff for the Board. Board members meet on a regular basis to interpret the Act for all state agencies, provide advice to agencies regarding ethical issues, promulgate rules to implement the Act, and take enforcement action against state employees who violate the Act. The Board staff investigates complaints filed by public employees and citizens, provides ethics training to all state agencies, and provides advice regarding ethics in the workplace to ensure that state officers and employees perform their public responsibilities with the highest ethical standards and conduct the business of the state to advance the public's interest and not use their position for personal gain or private advantage.

Biennium	Period	Actual	Target
2013-15	Q8		180
	Q7		180
	Q6		180
	Q5		180
	Q4	76	180
	Q3	114	180
	Q2	92	180
	Q1	167	180
2011-13	Q8	177	180
	Q4	206	180

Performance Measure Status: Approved

A007 Homicide Investigation Tracking System

The Homicide Investigation Tracking System (HITS) system provides assistance to law enforcement by providing them with greater access to information, advice, and assistance resulting in enhanced and speedier investigation of violent crimes. As a result, suspects are pursued more quickly leading to better public protections.

Account	FY 2016	FY 2017	Biennial Total
FTE			
001-1 State	4.7	4.7	4.7
001 General Fund			
001-1 State	\$558,126	\$556,473	\$1,114,599

Statewide Result Area: Healthy and Safe Communities

Statewide Strategy: Enforce the law

Expected Results

Homicide Investigation Tracking System (HITS) investigators and its data warehouse provide resources to local, state, and federal law enforcement agencies by giving them access to violent crime data and analyses across jurisdictions. The HITS unit provides law enforcement analysis of crime data related to murder, rape, and other serious offenses. The usefulness of the HITS system is directly affected by the quality and quantity of crime data entered into the system, and HITS investigators work closely with law enforcement to ensure all information is correctly captured. HITS provides direct investigative assistance, including case reviews and search results, to law enforcement agencies upon their request. As a result, violent offenders are identified and apprehended improving public safety and preventing crime.

000021 The Homicide Investigation Tracking System (HITS) investigators and its data warehouse provide resources to local, state, and federal law enforcement agencies by giving them access to violent crime data and analyses across jurisdictions. The HITS Unit provides law enforcement analysis of crime data related to murder, rape, and other serious offenses. The usefulness of the HITS system is directly affected by the quality and quantity of crime data entered into the system, and the HITS investigators work closely with law enforcement to ensure all information is correctly captured. The HITS Unit provides direct investigative assistance, including case reviews and search results, to law enforcement upon request. As a result, violent offenders are identified and apprehended, improving public safety and preventing crime.

Biennium	Period	Actual	Target
2013-15	Q8		254
	Q7		253
	Q6		253
	Q5		253
	Q4	185	254
	Q3	231	253
	Q2	243	253
	Q1	239	253
2011-13	Q8	230	225
	Q7	246	225
	Q6	232	225
	Q5	272	225
	Q4	236	225
	Q3	267	225
	Q2	283	225
	Q1	262	225
Performance Measure Status: Approved			

A008 Investigation and Defense of Tort Lawsuits

The AGO’s Torts Division protects taxpayers by providing high quality and effective legal defense to the state in tort claims and lawsuits. Torts improves government efficiency by measuring the speed with which lawsuits resolve, and measuring success in resolving cases through early resolution. Torts also tracks “zero-payout cases” and appellate outcomes. Torts maintains a high rate of case appeal litigation success.

Account	FY 2016	FY 2017	Biennial Total
405 Legal Services Revolving Account			
405-1 State	\$336,014	\$336,014	\$672,028

Statewide Result Area: Efficient, Effective and Accountable Government
Statewide Strategy: Provide data, information, and analysis to support decision-making

Expected Results

The AGO’s Torts Division protects taxpayers by vigorously defending tort claims and lawsuits against the state, state agencies, boards, commissions, and officers and employees acting within the scope of their employment. Torts consists of experienced litigators and trained legal professionals who provide high quality and efficient legal services to the state. Torts promotes government efficiency by employing concerted efforts to resolve claims and lawsuits at the earliest possible stages through the early resolution program, motions practice, direct negotiation and mediated settlement. Torts maintains a high rate of litigation success with many lawsuits dismissed with zero payout. Torts also maintains a high rate of case appeal litigation success.

002537 The Torts Division protects taxpayers by providing high quality and effective legal defense to the state in tort claims and lawsuits. The division improves government efficiency by measuring the speed with which lawsuits resolve, and measuring success in resolving cases through early resolution. The Torts Division also tracks “zero-payout cases” and appellate outcomes. The division maintains a high rate of Tort case appeal litigation success.

Biennium	Period	Actual	Target
2013-15	A3		50%
	A2	59%	50%

Performance Measure Status: Approved

000024 PM0008/TORTS - The percentage of Torts lawsuits which, when closed in a fiscal year with a payout, were resolved using early or informal resolution processes.

Biennium	Period	Actual	Target
2011-13	A3	32%	25%
	A2	21%	25%

Performance Measure Status: Approved

A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

The Medicaid Fraud Control Unit (MFCU) is federally mandated and 75% federally funded for this investigative and prosecutorial unit staffed by Attorneys, Auditors, Investigators, Paralegals and support personnel. MFCU’s mission is to protect patients and taxpayers through civil (including qui tam action) and criminal law enforcement. MFCU investigates and prosecutes fraud by health care providers that illegally divert Medicaid funds. These enforcement efforts curtail and deter similar criminal activity and lead to recoveries for the state and federal government. MFCU also prosecutes the abuse and neglect of residents in Medicaid-funded facilities. MFCU provides valuable assistance to local law enforcement in investigating and prosecuting crimes committed against vulnerable adults. MFCU helps coordinate the efforts of local vulnerable adult task forces, enforces the law, holds criminals accountable, increases public safety, deters fraud, and recovers money for the state. The addition of the Medicaid False Claims Act (FCA) in 2012 allows whistleblower qui tam actions. This increases MFCU’s capacity to aggressively combat fraud through civil and criminal means, benefits our state by expanding the AGO’s capacity to address fraud, neglect and abuse. This is essential as more Washingtonians become eligible for Medicaid under the Affordable Care Act, and as more people are entering the long-term care system.

Account	FY 2016	FY 2017	Biennial Total
FTE			
001-2 Federal	28.0	28.0	28.0
19A-1 State	9.5	9.5	9.5
FTE Total	37.5	37.5	37.5
001 General Fund			
001-2 Federal	\$2,322,474	\$2,313,435	\$4,635,909
001-Z Other	\$1,196,000	\$1,196,000	\$2,392,000
001 Account Total	\$3,518,474	\$3,509,435	\$7,027,909
19A Medicaid Fraud Penalty Account			
19A-1 State	\$1,360,648	\$1,359,269	\$2,719,917

Statewide Result Area: Healthy and Safe Communities

Statewide Strategy: Provide access to health care

Expected Results

Medicaid funds are returned to the State through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. The 2012 legislature created the False Claims Act (FCA) and the Medicaid Penalty Account (MPA) which is the state funding source for the AGO’s Medicaid Fraud Control Unit (MFCU), and for the Medicaid program integrity responsibilities managed by the Washington State Health Care Authority. Through MFCU’s civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA is returned to the State and placed into the MPA. This includes restitution, interest and penalties. The 2013 legislature authorized the Prescription Drug Monitoring Program, also funded from the MPA. Through MFCU’s criminal and non-false claims act civil efforts, additional money is returned to the State. These cases generally contain a restitution portion, and have generated interest. In these cases, the restitution recoveries are returned directly to the Medicaid program and not to the MPA. Any interest earned and recovered goes to the State General Fund.

000027 PM009/MFCU - Recoveries. The amount of money ordered recovered each fiscal year as a result of the work performed by the Medicaid Fraud Control Unit of the AGO.			
Biennium	Period	Actual	Target
2011-13	A3	\$13.29	
	A2	\$4.35	
Performance Measure Status: Approved			

002538 More Medicaid funds are returned to the State and made available through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. In particular, as part of the legislation creating the FCA, the 2012 legislature also created the Medicaid Penalty Account which is the state funding source for not only the MFCU, but also the Medicaid program integrity responsibilities managed by the Washington Health Care Authority. Thus, through MFCU's civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA's is returned to the State and placed into the Penalty Account. This includes restitution, interest and penalties. During the 2013 legislative session, the legislature also authorized the prescription drug monitoring program to be funded from the Penalty Account.			
Biennium	Period	Actual	Target
2013-15	A3		\$21,000,000
	A2	\$24,421,187.97	\$21,000,000
Performance Measure Status: Approved			

By providing high quality legal assistance and representation to Washington’s state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO offers excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.

Account	FY 2016	FY 2017	Biennial Total
FTE			
001-1 State	6.8	6.8	6.8
405-1 State	879.2	863.6	871.4
828-1 State	2.5	2.0	2.3
FTE Total	888.5	872.4	880.5
001 General Fund			
001-1 State	\$440,966	\$312,245	\$753,211
405 Legal Services Revolving Account			
405-1 State	\$101,981,500	\$101,180,621	\$203,162,121
828 Tobacco Prevention and Control Account			
828-1 State	\$129,395	\$129,358	\$258,753

Statewide Result Area: Efficient, Effective and Accountable Government

Statewide Strategy: Provide data, information, and analysis to support decision-making

Expected Results

The AGO provides legal advice and representation to nearly 200 state agencies, boards, and commissions and sustains about 25,000 open cases at all times. As legal counsel for the state, the AGO represents the state in litigation, and provides legal advice on personnel, contracts, public records, specialized program advice, and risk management. Program responsibilities supported by the AGO include state and federal benefit programs administered by state agencies, licensing and regulatory programs, agency custodial programs, higher education institutions, natural resources programs, capital construction and equipment acquisitions, state agency revenue and collection programs, and economic development and enterprise activities. The AGO protects taxpayer dollars by providing sound legal advice and risk management services to clients thus avoiding costly lawsuits. The AGO assists agencies with civil enforcement efforts – for example, working with the Department of Ecology to hold polluters accountable, the Department of Labor and Industries to promote fair labor practices, and Department of Social Health and Services to protect children and other vulnerable populations from abuse and neglect.

002539 By providing high quality legal assistance and representation to Washington’s state agencies, boards, and commission, the Office of the Attorney General improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the Attorney General’s Office save taxpayer dollars and promote the public interest, and ensure agencies are able to fulfill their essential missions. The Attorney General’s Office offers excellent, option-based legal advice to help the state promote the public good. In the litigation context, the office initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.

Biennium	Period	Actual	Target
2013-15	A3		25,000
	A2	24,256	25,000
Performance Measure Status: Approved			

000030 PM0010 - The number of litigation cases open at the end of each Fiscal Year.

Biennium	Period	Actual	Target
2011-13	A3	25,164	
	A2	24,597	
Performance Measure Status: Approved			

A011 Representing Ratepayers

The AGO’s Public Counsel Unit (PCU) represents residential and small business customers (ratepayers) of electric, natural gas, and telecommunications utilities regulated by the Washington Utilities & Transportation Commission (UTC). PCU advocates on behalf of customers in UTC cases involving utility rates, mergers, energy efficiency programs, service quality, and other policy matters. PCU investigates company requests and retains experts to analyze areas such as accounting, economics, finance, engineering, rate spread/rate design, and service quality. In a rate case or merger evidentiary hearings, PCU will cross-examine other parties’ expert witnesses, present its own witnesses, and file legal briefs. In addition to participating as a statutory party in major rate and merger cases, PCU may also present policy recommendations in UTC rulemakings or at bi-weekly UTC business meetings. PCU participates in technical policy and advisory groups, and may provide information to the Legislature and other policymakers.

Account	FY 2016	FY 2017	Biennial Total
FTE			
111-1 State	7.6	7.6	7.6
111 Public Service Revolving Account			
111-1 State	\$1,014,006	\$1,022,642	\$2,036,648

Statewide Result Area: Prosperous Economy

Statewide Strategy: Provide consumer protection

Expected Results

The AGO’s Public Counsel Unit (PCU) protects consumers and businesses by advocating fair, just, reasonable, and sufficient utility rates, and by ensuring that customers pay only for reasonable and cost-effective programs. PCU’s efforts have helped save consumers nearly \$100 million over the past four years and will continue to save Washingtonians money on utility rates.

002531 The Public Counsel protects consumers and businesses by advocating for fair, just, reasonable, and sufficient utility rates and by ensuring that customers pay only for reasonable and cost-effective programs.			
Biennium	Period	Actual	Target
2013-15	A3		\$20,000,000
	A2	\$39,000,000	\$20,000,000
Performance Measure Status: Approved			

A012 Victims Advocacy

The Washington Coalition of Crime Victim Advocates (WCCVA) provides training, certification and support to community-based victim service organizations. This training provides an overview of victim rights and the mandated pre-service core training for crime victim advocates before working professionally with victims of crime in Washington State. In addition, by maintaining web-based resources and ensuring the availability of an electronic distribution list for relevant crime victim advocacy issues and victim rights, WCCVA educates advocates, victims and the community relating to their rights and available services. WCCVA works to educate the public of the impact of crime to individuals and society in order to deter crimes and improve public and private efforts to prevent crimes.

Account	FY 2016	FY 2017	Biennial Total
001 General Fund			
001-1 State	\$391,851	\$391,926	\$783,777

Statewide Result Area: Healthy and Safe Communities

Statewide Strategy: Protect and support victims of crime

Expected Results

The AGO will support those who provide direct services to victims of crime, increase quality services for victims of crime in Washington State, protect victims' rights, enhance public awareness, and provide crime specific education opportunities for communities throughout our state. Consequently, Washingtonians will utilize the services necessary for recovery and lessen their chances for repeated victimization. Victims and victims' advocates will receive the support and services they need.

Grand Total

	FY 2016	FY 2017	Biennial Total
FTE's	1,115.7	1,099.8	1,107.8
GFS	\$11,452,513	\$11,602,974	\$23,055,487
Other	\$118,731,093	\$117,934,856	\$236,665,949
Total	\$130,183,606	\$129,537,830	\$259,721,436

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**Agency Performance Measure
Incremental Estimates for the Biennial Budget**

Agency: 100 Office of Attorney General Budget Period: 2015-17

Activity: A002 Civil Commitment of Sexually Violent Predators

Outcome Measures 002535 The most dangerous and violent sexual predators in the state are detained, evaluated, and treated until they no longer constitute a threat. Consequently, fewer people are victimized, and the public is protected from those sex offenders who are most likel

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

*Statewide Result Area: Improve the safety of people
Statewide Strategy: Confine and rehabilitate adult offenders*

Activity: A003 Criminal Investigation and Prosecution

Output Measures 002536 Where the county prosecutor has a conflict of interest or needs assistance for other reasons, there is a competent, highly-skilled prosecutor to represent the state, resulting in greater public protection. Crimes of fraud involving state agencies are p

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

*Statewide Result Area: Improve the safety of people and property
Statewide Strategy: Enforce the law*

Activity: A004 Enforcement of Anti-Trust Laws

M1 AN ANT Direct Lit Costs-PLACEHOLDER No measures linked to decision package

Output Measures 000011 PM0004/ANT - Recoveries. We capture the efforts of AGO Antitrust staff who work to stop anticompetitive behavior and promote compliance with Antitrust laws. The measurement tells us the degree to which we recover monetary restitution for our consumers.

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00
M2	AM	ANT Technical Correction	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

**Agency Performance Measure
Incremental Estimates for the Biennial Budget**

Agency: 100 Office of Attorney General Budget Period: 2015-17

Activity: A005 Consumer Protection

Output Measures 002534

The division's activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketp

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

*Statewide Result Area: Improve the economic vitality of businesses and individuals
Statewide strategy: Provide consumer protections, enforce the law*

Activity: A006 Executive Ethics Board

Outcome Measures 000018 The Executive Ethics Board (EEB) promotes integrity, confidence, and public trust in state government through education, interpretation, and enforcement of the Ethics in Public Service Act (the Act). The Office of the Attorney General provides staff for t

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00

*Statewide Result Area: Strengthen government's ability to achieve results efficiently and effectively
Statewide Strategy: Support democratic processes and government accountability*

Activity: A007 Homicide Investigation Tracking System

Outcome Measures 000021 The Homicide Investigation Tracking System (HITS) investigators and its data warehouse provide resources to local, state, and federal law enforcement agencies by giving them access to violent crime data and analyses across jurisdictions. The HITS Unit pro

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00

*Statewide Result Area: Improve the safety of people and property
Statewide Strategy: Enforce the law*

**Agency Performance Measure
Incremental Estimates for the Biennial Budget**

Agency: 100 Office of Attorney General Budget Period: 2015-17

Activity: A008 Investigation and Defense of Tort Lawsuits

Output Measures 002537 The Torts Division protects taxpayers by providing high quality and effective legal defense to the state in tort claims and lawsuits. The division improves government efficiency by measuring the speed with which lawsuits resolve, and measuring success in

			<u>FY 2016</u>	<u>FY 2017</u>
PL	AA	AAG Recruitment and Retention	0.00%	0.00%

Statewide Result Area: Strengthen the government's ability to achieve results efficiently and effectively
Statewide Strategy: Provide data, information and analysis to support decision-making.

Activity: A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

Outcome Measures 002538 More Medicaid funds are returned to the State and made available through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. In particular, as part of the legislation creating the FCA, the 2012 legislature also c

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00
M2	AI	Medicaid Fraud Direct Costs	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

Statewide Result Area: Improve the safety of people and property.
Statewide Strategy: Provide access to appropriate health care.

**Agency Performance Measure
Incremental Estimates for the Biennial Budget**

Agency: 100 Office of Attorney General Budget Period: 2015-17

Activity: A010 Legal Services to State Agencies

Outcome Measures 000030 PM0010 - The number of litigation cases open at the end of each Fiscal Year.

			<u>FY 2016</u>	<u>FY 2017</u>
M1	AE	Moore, et al. v. HCA Litigation	0.00	0.00

Outcome Measures 002539 By providing high quality legal assistance and representation to Washington's state agencies, boards, and commission, the Office of the Attorney General improves government services, increases government efficiency, and prevents costly lawsuits. The legal

			<u>FY 2016</u>	<u>FY 2017</u>
M1	AB	Permanency Initiative	0.00	0.00
M1	AC	Boldt Litigation	0.00	0.00
M1	AD	US DOL v. DSHS Litigation	0.00	0.00
M1	AJ	Tobacco Diligent Enforcement	0.00	0.00
M2	8L	Lease Rate Adjustments	0.00	0.00
M2	AF	University of WA Legal Services	0.00	0.00
M2	AG	CRJ Economic Crime Unit	0.00	0.00
M2	AH	DNR Legal Services	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

*Statewide Result Area: Strengthen government's ability to achieve results efficiently and effectively
Statewide Strategy: Provide data, information, and analysis to support decision making*

Activity: A011 Representing Ratepayers

Outcome Measures 002531 The Public Counsel protects consumers and businesses by advocating for fair, just, reasonable, and sufficient utility rates and by ensuring that customers pay only for reasonable and cost-effective programs.

			<u>FY 2016</u>	<u>FY 2017</u>
M2	8L	Lease Rate Adjustments	0.00	0.00
PL	AA	AAG Recruitment and Retention	0.00	0.00

*Statewide Result Area: Improve the economic vitality of businesses and individuals; Provide infrastructure for people and businesses
Statewide Strategy: Provide utility consumer protection regarding fair rates, practices, and programs. Support affordable, efficient, renewable, and safe energy.*

Activity: A012 Victims Advocacy

M1	AK	Wrongful Conviction Act	No measures linked to activity	
M1	AK	Wrongful Conviction Act	No measures linked to decision package	
M2	8L	Lease Rate Adjustments	No measures linked to activity	

Indirect Cost Allocation to Activities Description

- Not Applicable -

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STRATEGIC PLAN FOR 2013-2015

OFFICE OF THE ATTORNEY GENERAL 2013-2015

Mission

The Office of the Attorney General will provide excellent, independent, and ethical legal services to the State of Washington and protect the rights of its people.

Vision

The Office of the Attorney General will be the best public law office in the United States.

Values

All staff in the Office of the Attorney General are guided by the following core values:

1. We will deliver high quality legal services and remember that we serve the people of Washington.
2. We will conduct ourselves with integrity, professionalism, civility, and transparency.
3. We will promote a collegial and diverse workplace that values, respects, and supports our employees.

STRATEGIC PLAN FOR 2013-2015

Goals and Objectives

Goal 1: SERVE THE STATE – PROVIDE EXCELLENT, INDEPENDENT, AND ETHICAL LEGAL ADVICE AND REPRESENTATION TO OUR CLIENT THE STATE OF WASHINGTON.

1-1 Review office structure and practices to ensure provision of high quality legal services to the state in a timely and efficient manner.

1-1-1 *Salaries.* In order to retain legal expertise and assure consistent legal representation that serves the objectives of our client agencies, address attorney attrition issues through a compensation plan. (Core Leadership Team and Leadership Team) (Ongoing)

1-1-2 *Enhanced Agency Communication.* Work to ensure strong lines of communication both with clients and within the agency. Foster an environment where information flows freely and challenges and opportunities are identified and addressed at the earliest possible stages. (Leadership Team) (Ongoing)

1-1-3 *Continuous Improvement.* To ensure the continual improvement of the legal services we provide, foster an environment that encourages all employees and the organization as a whole to take every opportunity to learn and grow from successes as well as failures. (Leadership Team) (Ongoing)

1-1-4 *Efficient Agency Operations.* Continue to use LEAN governing principles and other operational tools to achieve operational savings in order to offset the effect of budget reductions and ensure resources are directed towards the core legal services and the highest priority activities. (Chief of Staff, deLeon, LEAN Oversight Committee, Information Services Division, Leadership Team) (Ongoing)

1-2 Review office litigation practices to ensure robust trial skills and practices are in place. Identify areas of improvement.

1-2-1 *Enhance litigation skills throughout the office.* Foster, develop and cultivate strong litigation skills in appropriate attorneys and legal support staff so as to further enhance the viability and value of a litigation option, and demonstrate a ready willingness to prepare cases for trial when the interests and direction of the client so require. Create advanced training opportunities and seek out co-counsel trial opportunities that will serve to further develop skills and readiness for trial. (Division Chiefs) (Ongoing)

STRATEGIC PLAN FOR 2013-2015

- 1-2-2 *Review critical events calendaring processes and internal litigation practices.* Division chiefs will review all critical events calendaring processes against office standards, with particular attention to electronic filing and service implications. These reviews are intended to make sure: division practices are current and effective, familiarity and accustomedness with current practices has not resulted in complacency, that there is a process in place for critical review and analysis of any date or deadline which is missed, and that changes and improvements are timely implemented. (Division Chiefs) (January 2014)
- 1-2-3 *Work with external stakeholders to improve litigation processes.* Continue to work formally and informally with the courts, bar associations and other stakeholders to increase efficient litigation practices and processes statewide. (Horn, Deputies) (Ongoing)
- 1-2-4 *Identify new ways to devote resources to the most complex cases.* Enhance existing methods for devoting additional resources to the most complex and high-stakes cases while also looking for new and creative ways to ensure that such cases receive the attention and staffing they deserve. (Costello, Marcuss, Financial Services) (January 2014)

1-3 Update performance measures to better assess successes and identify areas of improvement.

- 1-3-1 *Client survey.* Complete fourth electronic client satisfaction survey and compare data with results of 2005, 2008, and 2010 surveys. (Roberts, Leadership Team) (June 2014)
- 1-3-2 *Performance Management.* Continue to employ a performance management system within Department of Enterprise Services directives, using LEAN governing principles and the AGO attorney benchmarks. (Battan, Skinner) (Ongoing)
- 1-3-3 *Update performance measures.* Reexamine AGO performance measures for the agency and each division to ensure that measures are meaningful and actionable. (Marcuss) (June 2014)

1-4 Proactively engage in risk management efforts to reduce client and agency risk.

- 1-4-1 *Electronic discovery improvements and efficiencies.* In order to reduce risk and improve litigation practice, complete the evaluation and acquisition (as budget allows) of an eDiscovery tool to assist with records management for litigation and public disclosure. Building on experience using the eDiscovery tool, the Electronic

STRATEGIC PLAN FOR 2013-2015

Disclosure and Discovery (EDD) Committee will evaluate and provide guidance, if appropriate, on how that tool, and other appropriate state resources, can assist in standardizing the preservation, collection, review, and production of Electronically Stored Information (ESI), and assessing the cost and proportionality of discovery under court rules. (Shorin, EDD Committee, ISD, Beusch) (Ongoing, report to Operations Committee and CLT).

- 1-4-2 *Public records improvements and efficiencies.* Modify the AGO public records process as a result of the email migration to CTS and the potential acquisition of a e-discovery software tool to make the accurate production of records more efficient for AGO staff and the public. (PRCS, ISD, Beusch) (Ongoing, report to Operations Committee and CLT)
- 1-4-3 *Improve the handling of public records by state agencies and compliance with the open public meetings act.* Create and make available on-line training on the PRA and OPMA to increase awareness of and compliance with the requirements of open government laws. (Open Government Ombudsman) (December 2014)
- 1-4-4 *HIPAA/HITECH compliance and protection of data.* Due to increased obligations placed on the AGO as a “business associate” under HITECH, continue to implement the administrative, physical, and technical safeguards for protected health information recommended by the AGO HITECH Workgroup and approved by the Core Leadership Team. Ensure that staff are trained on AGO policies and practices for the protection of *all* protected data (AGO HITECH Workgroup, Divisions, Beusch) (Ongoing, reports to Operations Committee and CLT on training schedules)
- 1-4-5 *Implement revised conflict screening procedures and consider centralizing screening functions.* To ensure that our screening procedures are as robust and up-to-date as possible, implement new conflict screening procedures and a new screening questionnaire. Consider whether resources will allow creating a centralized conflict screening system. (Purcell, Bryce Brown) (December 2013)
- 1-4-6 *Risk Management.* Work with state agency clients and coordinate across divisions to identify and assess sources of potential risk and develop options to reduce and manage risk across state government. (Costello, Pam Anderson) (Ongoing)

1-5 Maintain Resources for Operation of Government in Emergency Situations.

STRATEGIC PLAN FOR 2013-2015

- 1-5-1 *Resources for operation of government in emergency situations.* Update, organize and distribute AGO resources for operation of government in emergency situations, including essential legal research, sample court pleadings and sample executive orders. (Marcuss, Feek) (Winter 2014)
- 1-5-2 *Budget shutdown contingency planning resource.* Put together a summary of legal advice and lessons learned from the state-wide contingency planning efforts that preceded adoption of the FY13-15 biennial budget to establish a lasting resource guide for the state. (Marcuss, Feek, Jeff Even, Paige Dietrich) (Winter 2014)

Goal 2: SERVE THE PEOPLE - PROTECT THE LEGAL RIGHTS OF THE PEOPLE OF THE STATE OF WASHINGTON.

2-1 Consumer Protection and Antitrust. Protect Washington State consumers and businesses by holding accountable those that violate the consumer protection laws of our state.

- 2-1-1 Proactively enforce state and federal consumer protection laws by investigating alleged unlawful activity and taking legal action when appropriate to compensate consumers and deter illegal activity and deceptive practices in the marketplace. (CP) (Ongoing)
- 2-1-2 Enforce state and federal antitrust laws by investigating alleged unlawful activity and taking legal action when appropriate to compensate consumers (including state agencies), deter illegal activity and level the playing field for all businesses. (AT) (Ongoing)
- 2-1-3 Educate consumers with a particular emphasis on vulnerable communities to ensure state residents are armed with the information they need to avoid scams, assert their consumer rights, and access resources to assist when they believe the law has been violated. (PAU, Policy, CP) (Ongoing)

2-2 Develop a language access policy that provides for expanded and equal access to AGO services for residents with limited English proficiency.

- 2-2-1 *Determine Need.* Determine the scope of need for language access resources for constituent contacts, constituent correspondence, and services provided by the Consumer Protection Division. (Kondo, Division Chiefs) (December 2013)
- 2-2-2 *Identify and Implement Solutions.* Identify cost-effective solutions for providing assistance to Washington residents who are limited English

STRATEGIC PLAN FOR 2013-2015

proficient and implement these solutions based on resource availability. (Kondo, Division Chiefs) (June 2014)

2-3 Civil Rights. Protect the civil rights of all Washingtonians and identify opportunities to expand and emphasize civil rights work.

2-3-1 *Identify appropriate cases for litigation to protect civil rights and deter violations.* Work with the Human Rights Commission (HRC) to better identify cases that should be referred to the AGO for litigation or where there is a pattern or practice of discrimination. Review discrimination complaints that come through the Consumer Resource Center, provide referrals to the HRC or informal complaint resolution as appropriate, and identify cases where further AGO action may be appropriate. (HRC Counsel, CP Division, Beusch, Kondo) (Ongoing)

2-3-2 *Utilize Consumer Protection authority to address civil rights violations.* Investigate Consumer Protection Act violations involving discrimination in a consumer setting and take legal action when appropriate. (CP Division, Kondo) (Ongoing)

2-3-3 *Educate Washington residents about their civil rights and avenues of recourse.* Produce a civil rights resource guide in consultation with the HRC to educate Washingtonians about their civil rights under state and federal law and the resources available if they believe their rights have been violated. Develop outreach efforts in collaboration with the HRC to provide education on civil rights and discrimination and deter violators. (Austin Hall, HRC Counsel, CP Division, Public Affairs, Beusch) (May 2014 for Resource Guide, Ongoing)

2-3-4 *Create a civil rights team.* Convene an internal team, including SGO staff, Consumer Protection staff, HRC counsel, and policy and communications staff, to identify and support opportunities for action on civil rights. (Austin Hall, HRC Counsel, CP Division, Public Affairs, Beusch) (Convene first team meeting by December 2013, Ongoing)

2-4 Veterans Affairs. Protect the legal rights of Washington State veterans, military personnel and their families through engagement, education, and enforcement.

2-4-1 *Engage the veteran and military communities to raise awareness about available resources and facilitate communication about the types of issues veterans and servicemembers face.* Establish a Veterans Outreach Specialist, publish a newsletter, convene a veterans summit, and ensure AGO presence at veterans focused events around the state. (Alley, MVAT) (Ongoing)

STRATEGIC PLAN FOR 2013-2015

- 2-4-2 *Educate veterans, military personnel, their families, and others about the legal protections and benefits available to veterans and servicemembers.* Maintain an AGO website devoted to veteran/servicemember issues; produce a veteran/servicemember resource guide about federal and state laws and benefits; implement internal practices that gives staff tools to refer veterans/servicemembers to the appropriate service providers and organizations; and contribute to the development of CLEs and trainings related to veteran/servicemember issues. (Alley, MVAT, PAU) (Ongoing)
- 2-4-3 *Enforce the legal protections and benefit entitlements of veterans, servicemembers, and their families.* Bring legal actions as appropriate to protect the rights and benefits of veterans/servicemembers under the office's authority, assist state agencies in protecting and advancing the rights and benefits of veterans/servicemembers, refer veterans/servicemembers to the appropriate enforcement agency or advocate. (Alley, MVAT) (Ongoing)
- 2-4-4 *Encourage the development and implementation of policies and practices that strengthen the support available to veterans, servicemembers, and their families.* Review internal AGO policies to ensure AGO is a supportive veteran/servicemember employer; identify legislative priorities and agency-request legislation related to veteran/servicemember issues; promote the establishment of veterans' treatment courts by offering guidance to local jurisdictions; and develop strategic partnerships to identify and pursue federal grants and other funding opportunities. (Alley, MVAT) (Ongoing)

2-5 Environmental Crimes Prosecution.

- 2-5-1 *Environmental Crimes.* Work with state and federal environmental/resource agencies, County Prosecuting Attorneys, and the U.S. Attorney's Offices to engage in targeted prosecutions of environmental crimes in order to protect the health of Washington communities and deter similar criminal behavior. (Roberts, Weinmann, Choate, Environmental Crimes Workgroup) (Ongoing as cases are developed.)
- 2-5-2 Develop background resources to make it easier for local prosecutors to pursue environmental crimes. (Environmental Crimes Workgroup) (August 2014)
- 2-5-3 Work with the legislature to explore the potential for dedicated state resources for environmental crimes investigations and prosecutions. (Webb) (2013–14 legislative session)

STRATEGIC PLAN FOR 2013-2015

2-5-4 *Educate stakeholders and the public about environmental crimes, consequences and how to report.* Develop an environmental crimes section on the AGO Website, publicize recent environmental crimes cases, and inform how to report. (PAU, Policy) (June 2014)

2-6 Wage Theft Prosecution.

2-6-1 Work with the Department of Labor and Industries to engage in targeted criminal prosecutions of individuals who have repeatedly violated wage and hour statutes. Prosecute and publicize cases involving multiple wage and hour violations to hold criminals accountable and deter similar criminal behavior. (Lopez, Weinmann, Tratnik, Milnor, Weber, Guthrie) (On going as cases are identified)

2-6-2 Work with the Department of Labor and Industries to develop a system and funding source to train investigators to build criminal wage theft cases. (Lopez, Weinmann, Tratnik, Milnor, Weber) (June 2014)

2-6-3 *Partner with Labor and Industries to educate stakeholders and the public about wage and hour violations, consequences and how to report.* Develop a wage and hour section on the AGO Website, publicize recent cases, and inform how to report. (PAU, Policy) (June 2014)

2-7 Public Safety. Advocate and advance initiatives that protect Washington families and promote public safety statewide.

2-7-1 *Combat human trafficking and the sexual exploitation of children.* Continue to be a statewide and national leader in the fight against human trafficking and child sexual exploitation through leadership of the statewide coordinating committee, leadership on the NAAG human trafficking committee; public education and media advocacy; and pursuit of legislative changes in Congress that would enable the prosecution of offenders. (Policy, PAU) (Ongoing)

2-7-2 *Foster strong partnerships with local and county prosecutors and law enforcement officers.* Support local prosecutors and law enforcement officers in their efforts to keep communities safe, including support for the HITS program, direct assistance from the criminal justice division, gang issues, and other strategic partnerships. (Roberts, Weinmann, Policy) (Ongoing)

2-7-3 *Keep our communities safe.* Advocate for changes in state laws related to sexually violent predators that would enhance public safety. (Webb) (2014 Legislative Session)

STRATEGIC PLAN FOR 2013-2015

2-7-4 *Keep the public informed about criminal prosecutions and SVP commitments.* Update AGO Website on SVP and criminal cases and regularly publicize appropriate information regarding criminal convictions and SVP commitments. (Weinmann, PAU, Policy) (Ongoing)

2-8 Pursue a legislative agenda that promotes the public interest and improves legal services for the state.

2-8-1 Advocate for policy changes in state law that improve protections for consumers, veterans, communities, and the environment. (Policy) (Ongoing)

2-8-2 Work with the legislature through the budget process to ensure that legal services for the state of Washington and its residents are adequately funded. (Marcuss, Financial Services, Policy) (Ongoing)

2-8-3 Advocate for changes in state law that enhance transparency and open government. (Policy, Open Government Ombudsman) (Ongoing)

2-8-4 *Publicize the legislative agenda and educate the public* through news conferences, editorial board visits, AGO Website, social media, and targeted op-eds designed to garner support. (PAU, Policy) (Ongoing)

2-9 Build strong relationships and strategic partnerships with other governments and organizations.

2-9-1 *State, Local, and Federal partnerships.* Maintain and foster partnerships with state agencies, local governments, and community organizations including building strong relationships with all three branches of state government –executive, legislative, and judiciary. (Leadership Team) (Ongoing)

2-9-2 *Work with tribal governments to develop joint solutions to public safety, environmental, and social issues.* Visit all 29 federally recognized tribes within Washington state to enhance communication and encourage collaboration between state and tribal governments. Develop internal resources related to tribal issues, including the establishment of a Tribal Law Workgroup, the creation of ACE site with significant legal, historical, and government-to-government resources, such as links to treaty and executive orders, AG opinions, and the Governor’s Office of Indian Affairs. (Costello) (Ongoing)

2-9-3 *Foster collaborative relationships with other states.* Foster and maintain collaborative relationships with other states through the National Association of Attorneys General (NAAG), National Attorneys General Training and Research Institute (NAGTRI), the

STRATEGIC PLAN FOR 2013-2015

Conference of Western Attorneys General (CWAG), and other relevant organizations to promote the legal, communications, and policy goals of Washington state. The office will provide necessary support and expertise to NAAG working groups and executive committees. (Horn, Marcuss, Battan, Policy) (Ongoing)

2-9-4 *Enhance and build new partnerships with non-profits and other organizations.* Build on existing partnerships with organizations such as AARP, Washington Association of Prosecuting Attorneys, Washington Association of Sheriffs and Police Chiefs and others while developing new relationships to help the AGO better serve the public and advance the legal and policy goals of the office. (Marcuss, Policy) (On-going)

2-10 Promote access to justice.

2-10-1 Encourage and support staff participation in appropriate *pro bono* activities that provide legal services and advocacy for persons who lack the resources to protect their legal rights or access the justice system. (Core Leadership Team, Division Chiefs) (Ongoing)

Goal 3: SERVE OUR EMPLOYEES – CREATE A POSITIVE WORK ENVIRONMENT THAT RECOGNIZES EMPLOYEES AS ITS MOST VALUABLE RESOURCE AND FOSTERS INTEGRITY, PROFESSIONALISM, CIVILITY, AND TRANSPARENCY.

3-1 Recruit and retain a high quality, high skilled, and highly effective workforce to meet the legal needs of the people and state of Washington.

3-1-1 *Address compensation gap.* Address the significant disparity in compensation between AGO and other Washington State public sector law offices which negatively affects morale, recruitment, and retention of staff. Identify AGO budget savings that can be reprioritized and directed towards addressing the salary disparity based on data and a sound financial plan. (Core Leadership Team and Leadership Team) (Ongoing)

3-2 Ensure employees have the skills, knowledge, and tools they need to be successful.

3-2-1 *Training and professional development.* Continue and support high quality training programs for professional staff and attorneys, and encourage and facilitate their attendance. (Leadership Team, HRO, Training Committee) (Ongoing)

STRATEGIC PLAN FOR 2013-2015

3-2-2 *Implement critical IT system upgrades to improve productivity.* Finalize relocation and modernization of AGO data center; work with CTS to migrate to the states hosted email service and complete data “clean up” and records management; implement network and Wi-Fi upgrades to increase network speeds and reliability; upgrade employees computers and law office software; implement instant messaging as part of the Unified Communication and Collaboration strategy office wide. (White) (June 2014)

3-3 Promote the health, safety, and well being of all employees in the workplace.

3-3-1 *Prepare for natural disasters and emergency situations.* Annually review and update AGO, Building, and Division Safety and Security and Continuity of Operations Plans. Regularly train and drill AGO employees to be prepared in case of natural disasters or emergency situations, including at least one major preparedness exercise per biennium to test resources, communications, and structures for agency continuity of operations in an emergency. (Feek) (June 2014)

3-3-2 *Sponsor wellness activities.* Encourage staff to participate in healthy workplace activities, leveraging the AGO’s designation as a Washington Wellness Worksite. (Marcuss, Renaud, Wellness Committee) (Ongoing)

3-3-3 *Encourage office camaraderie and enhance morale.* Encourage leaders and staff to participate in AGO social events and community service projects to increase team work and improve morale. (Leadership Team) (Ongoing)

3-4 Promote diversity, inclusiveness, and cultural competency throughout the organization.

3-4-1 *Diversity in hiring.* Enhance efforts to recruit a diverse workforce by participating in minority job fairs and conducting other diversity outreach as an office priority carried out at the highest levels of the organization. When not actively recruiting, continue to maintain the AGO profile at fairs and other diversity events by providing information about opportunities at the AGO. (Battan, Skinner, Uhl, Nakamura) (Report to Operations Committee annually)

3-4-2 *Organize a training event focused on diversity issues.* Organize a diversity training event that will give staff and attorneys an opportunity to learn about the dynamics of race, gender, culture, and ethnicity in our society and the ramifications for our office, our client agencies, and the citizens we serve. (Battan, Kondo, Uhl, Training Committee) (Spring 2014)

STRATEGIC PLAN FOR 2013-2015

3-4-3 *Institute a diversity plan for managers.* As part of the required diversity competency for all managers, develop a diversity plan for all managers in the agency to engage leadership throughout the organization in the promotion of diversity and cultural competency through self-awareness, mentorship, training and development, and professional growth opportunities. (Battan, Kondo, Leadership Team) (Spring 2014)

3-4-4 *Become a statewide leader in promoting diversity and cultural competency in the legal profession and justice system.* Develop a plan for how the AGO can promote diversity in the legal profession and ensure cultural competency in our interactions with the clients, consumers, and communities we serve. (Diversity Committee) (Spring 2014)

3-5 Minimize the impact of AGO operations on the natural environment.

3-5-1 *Carbon Reduction Initiative.* Develop and implement a carbon reduction strategy plan to meet emission reduction targets required by RCW 70.235.050. Report annually agency carbon emissions. (Feek) (Ongoing)

TAB B

RECOMMENDATION
SUMMARY



Recommendation Summary

(By Agency Priority)

Agency: **100 Office of Attorney General**

10:36:06AM

Version: **17 2015--17 Bien Request**

9/12/2014

Dollars in Thousands

	Annual Average FTEs	General Fund State	Other Funds	Total Funds
2013-15 Current Biennium Total	1,095.5	21,822	222,070	243,892
CL 15 Carry Forward Adjustment	(9.2)	(763)	1,396	633
Total Carry Forward Level	1,086.3	21,059	223,466	244,525
Percent Change from Current Biennium	(.8)%	(3.5)%	.6%	.3%
M1 AB Permanency Initiative	7.5		1,990	1,990
M1 AC Boldt Litigation	2.0		523	523
M1 AD US DOL v. DSHS Litigation	1.2		751	751
M1 AE Moore, et al. v. HCA Litigation	4.5		2,360	2,360
M1 AJ Tobacco Diligent Enforcement		1,174		1,174
M1 AK Wrongful Conviction Act		102		102
M1 AN ANT Direct Lit Costs-PLACEHOLDER				
Carry Forward plus Workload Changes	1,101.5	22,335	229,090	251,425
Percent Change from Current Biennium	.5%	2.4%	3.2%	3.1%
M2 AF University of WA Legal Services	3.0		992	992
M2 AG CRJ Economic Crime Unit	1.5		416	416
M2 AH DNR Legal Services	1.8		304	304
M2 AI Medicaid Fraud Direct Costs			142	142
M2 8L Lease Rate Adjustments		241	(335)	(94)
M2 AM ANT Technical Correction			(1,000)	(1,000)
Total Maintenance Level	1,107.8	22,576	229,609	252,185
Percent Change from Current Biennium	1.1%	3.5%	3.4%	3.4%
PL AA AAG Recruitment and Retention		479	7,057	7,536
Subtotal - Performance Level Changes		479	7,057	7,536
2015-17 Total Proposed Budget	1,107.8	23,055	236,666	259,721
Percent Change from Current Biennium	1.1%	5.7%	6.6%	6.5%

Recommendation Summary

(By Agency Priority)

Agency: 100 Office of Attorney General

10:36:06AM

Version: 17 2015--17 Bien Request

9/12/2014

Dollars in Thousands

Annual Average FTEs	General Fund State	Other Funds	Total Funds
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M1 AB Permanency Initiative

The Office of the Attorney General (AGO) requests \$1,330,000 and 5.0 Assistant Attorney General (AAG), 3.0 Paralegal (PL), and 2.0 Legal Assistant (LA2) in FY2016, and \$660,000 and 2.5 AAG, 1.5 PL and 1.0 LA2 in FY2017. This funding is to meet the caseload demands related to the state's termination of parental rights cases that achieve stability, safety, and permanent homes for foster children.

M1 AC Boldt Litigation

The Office of the Attorney General (AGO) requests \$271,000 and 1.0 Assistant Attorney General (AAG), 0.5 Paralegal (PL), and 0.5 Legal Assistant (LA) in FY2016, and \$252,000 in FY2017 to provide ongoing legal services relating to the State's appeal in U.S. v. Washington, Phase II of the Boldt Case (AKA the Culverts Case). The requested funding will also support ongoing implementation of a district court injunction that will continue to apply if the injunction is not reversed on appeal. The estimated cost of the district court's adverse decision to the State of Washington, and the associated injunction, exceeds \$2 billion dollars.

M1 AD US DOL v. DSHS Litigation

The Office of the Attorney General (AGO) requests \$751,000 and 2.3 FTEs in Fiscal Year (FY) 2016 to provide ongoing legal services for the AGO Labor and Personnel (LPD) division relating to United States Department of Labor (USDOL) v. Washington State Department of Social and Health Services (DSHS) litigation. The potential liability to the state of Washington in an adverse judgment could exceed \$100-million.

M1 AE Moore, et al. v. HCA Litigation

The Office of the Attorney General (AGO) requests \$ 1,180,000 and 1.5 Assistant Attorney General (AAG), 2.0 Paralegal (PL), and 1.0 Legal Assistant (LA) in FY2016 and FY2017, which includes \$700,000 per FY for direct costs. The AGO is working to protect client agencies and the citizens of the state from exposure to liability that may exceed \$150 million.

M1 AJ Tobacco Diligent Enforcement

The Office of the Attorney General (AGO) requests \$587,000 in FY2016 and \$587,000 in FY2017 to provide on-going legal services for the AGO Tobacco (TOB) unit's effort relating to the tobacco Master Settlement Agreement (MSA). The state benefits greatly from continued enforcement efforts of the AGO regarding Non-Participating Manufacturer (NPM) in the Tobacco Master Settlement.

M1 AK Wrongful Conviction Act

The Office of the Attorney General (AGO) requests \$102,000 in the 2015-17 biennium to provide new legal services for the AGO Criminal Litigation (CRI) division relating to wrongful convictions as enacted in 2013 ESHB 1341. This request is in addition to the \$100,000 (\$50,000 per FY) provided in the enacted 2013-15 biennial budget.

M1 AN ANT Direct Lit Costs-PLACEHOLDER

The Office of the Attorney General (AGO) provides this placeholder request for anticipated direct litigation costs for a pending antitrust matter. The AGO Antitrust (ANT) division brings lawsuits on behalf of state agencies and consumers for violations of state and federal antitrust laws. The strength of Washington's economy depends, in part, on a business environment free of unfair competition or collusive acts. The AGO is seeking funds to continue litigating State v. LG Electronics, et. al. (Cathode Ray Tube - CRTs), a significant price-fixing case filed in King County Superior Court.

M2 8L Lease Rate Adjustments

Recommendation Summary

(By Agency Priority)

Agency: 100 Office of Attorney General

10:36:06AM

Version: 17 2015--17 Bien Request

9/12/2014

Dollars in Thousands

Annual Average FTEs	General Fund State	Other Funds	Total Funds
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This request covers the expected increase and decrease in annual lease contracts that will come up for renewal in the 2015-2017 biennium. These requested increases are to continue leases in buildings around the state where the Office of the Attorney General (AGO) divisions are currently located and providing services to client agencies. This request also addresses cost for two new leases that the Department of Enterprise Services (DES) negotiates with landlords on behalf of the AGO. The AGO has little control over the increase in lease costs and this request does not duplicate any funding proposed in any other decision packages within the 2015-2017 biennium budget request. These facilities are all in our six-year lease facility plan.

M2 AF University of WA Legal Services

The Office of the Attorney General (AGO) requests \$496,000 and 3.0 Assistant Attorneys General (AAG) in Fiscal Year (FY) 2016 and FY2017. The additional FTEs will help the AGO meet the ever-expanding needs of the University of Washington (UW) and provide consistent advice that will minimize legal risks.

M2 AG CRJ Economic Crime Unit

The AGO requests \$416,000 and 1.0 Assistant Attorney General (AAG) and 0.5 Legal Assistant (LA2) in 2015-17 biennium to provide additional prosecution services for cases referred to the AGO by the Department of Labor and Industries (L&I).

M2 AH DNR Legal Services

The Attorney General's Office (AGO) requests \$152,000 and 0.75 Assistant Attorney General (AAG) and 1.0 Office Assistant (OA3) in Fiscal Year (FY) 2016 and FY2017 to support legal services needs of the Department of Natural Resources (DNR).

M2 AI Medicaid Fraud Direct Costs

The Office of the Attorney General (AGO) requests \$70,875 in Fiscal Year (FY) 2015 and FY2016 for the AGO Medicaid Fraud Control Unit (MFCU) to meet the 25% State match requirement to the Federal Grant administered by the Office of Inspector General (OIG), and to provide for new and ongoing litigation costs relating to the False Claims Act (FCA).

M2 AM ANT Technical Correction

The Office of the Attorney General (AGO) requests a technical correction to the Antitrust Revolving Account (ARA) Fiscal Year (FY) 2016 allotment as identified in the 2015-17 Carry-Forward Levels (CFL). The AGO requests \$1,000,000 be removed from the FY2016 CFL. This will align the AGO Antitrust (ANT) Division with projected expenditure levels.

PL AA AAG Recruitment and Retention

The Office of the Attorney General (AGO) requests \$7,536,000 in the 2015-17 biennium to provide sustained legal services for AGO client agencies. To ensure high quality legal services for the state, the AGO must address significant attorney recruitment and retention problems and stabilize our attorney workforce by addressing low attorney salaries.

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Recommendation Summary at Program Level

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TAB C

DECISION
PACKAGES



Agency Budget Request Decision Package Summary

(Lists only the agency Performance Level budget decision packages, in priority order)

Agency: 100 Office of Attorney General

9/11/2014
1:31:15PM

Budget Period: 2015-17

Decision Package	
Code	Decision Package Title
PL-AA	AAG Recruitment and Retention

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AA AAG Recruitment and Retention

Budget Period: 2015-17
Budget Level: PL - Performance Level

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$7,536,000 in the 2015-17 biennium to provide sustained legal services for AGO client agencies. To ensure high quality legal services for the state, the AGO must address significant attorney recruitment and retention problems and stabilize our attorney workforce by addressing low attorney salaries.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	239,606	239,606	479,212
001-2 General Fund - Basic Account-Federal	48,970	48,970	97,940
111-1 Public Service Revolving Account-State	10,092	10,092	20,184
19A-1 Medicaid Fraud Penalty Account-State	16,323	16,323	32,646
405-1 Legal Services Revolving Account-State	3,438,030	3,438,030	6,876,060
424-6 Anti-Trust Revolving Account-Non-Appropriat	14,979	14,979	29,958
Total Cost	3,768,000	3,768,000	7,536,000

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001 General Fund	0393 Health & Human Svc	48,970	48,970	97,940
405 Legal Serv Rev Acct	0420 Charges for Services	3,102,016	3,102,016	6,204,032
Total Revenue		3,150,986	3,150,986	6,301,972

Package Description:

The AGO requests \$7,536,000 in the 2015-17 biennium to provide sustained legal services for the AGO client agencies.

The AGO seeks to address significant recruitment and retention problems related to the salaries of its Assistant Attorneys General (AAG). AAG salaries remain significantly lower than our public sector peer law offices, including prosecuting attorneys offices and city attorney offices around the state. AAG salaries are often significantly lower than positions within our state agency clients that are often filled by AGO AAGs. These salary gaps continue to impair AAG recruitment and retention, and negative impact our ability to effectively serve the state.

When the AGO requested legislative support to address this substantial gap in the FY2014 session, we were losing AAGs at the rate of more than one per week. The legislature granted about 50% of the funds necessary to close the gap, and as a result the AGO provided salary increases in July 2014. Unfortunately the funds provided were not adequate to reduce our attrition rate. Since the AAG salaries

Agency: 100 Office of Attorney General
Decision Package Code/Title: AA AAG Recruitment and Retention

were increased effective July 1, we have continued to lose AAGs at the rate of two per week. The unmitigated turnover generates significant training and recruitment costs, impacts our clients, and creates challenges for the continued provision of high quality legal services.

We have considered many factors that might affect retention and recruitment, and taken every step we are able to identify to address our turnover rate. Following the expiration of the state employee salary freeze, the agency implemented internal spending reductions in order to reprioritize revenues towards closing a small portion of the salary gap with our public sector peers. We implemented the legislatively approved salary increases with a focus on AAGs in their first 6 years of employment, to lift starting salaries, address year to year compression issues, and focus on closing the gap in a consistent way. We have also closely considered our work environment and the job satisfaction of our AAGs. The statewide staff survey conducted by OFM in 2013 indicates that AGO employee job satisfaction continues to exceed the statewide average and that of similarly sized Agencies. AGO staff consistently rate the office higher than the state average on all the survey questions. The AGO is rated by staff at, or near the best in the state in all categories. However, when provided the opportunity to offer narrative feedback, salary was the primary area of concern, by a considerable margin.

To stabilize turnover, the AGO seeks to close the gap with our peer public sector law offices around the state and also with our state agency clients who recruit our AAGs. This recruitment and retention funding request will serve to close the continued salary gap at each level of AAG experience. All client agencies will be positively impacted and benefitted.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

AAG salaries are low compared to our public sector peers. A 2011 Comparator Chart for County/City averages is attached (See Attachment 1). This information was obtained from 12 county and city human resource departments via requests for salary data and information about the placement and progression of the attorneys who work for those entities. A comparison was then made to average AAG salaries at various experience levels. AGO salaries were lower than all 12 of these agencies at every experience level.

In September 2013, following our modest salary adjustments, we sampled six of the 12 entities (all counties in which our AAGs heavily practice: King, Pierce, Kitsap, Spokane, Snohomish and Thurston) to determine how our adjusted salaries compare. The updated data shows continued gaps because many counties continued to provide salary increases after 2011.

To address the retention and recruitment challenges described below, we request funding sufficient to bring AAG salaries to the average of public sector law offices in the state.

Retention:

At the time of the 2013 Supplemental Budget Request, AAG attrition annualized for 2013 was projected at 13%. Since July 2013, 81 AAGs have resigned, resulting in an annual attrition rate of more than 14%. This represents the loss of more than one AAG per week. Due to the number of years needed to grow and develop the knowledge and skills of an experienced AAG, merely filling a position does not achieve the same level of production for a considerable time. The constant turnover results in a crippling loss of efficiency because of the loss of established skills and knowledge.

Attrition is particularly high in some divisions where there is specialized demand for AAGs in certain areas of practice. For example, 41% of AAGs who represent the Department of Social and Health Services (DSHS) have left since July 2012. For the University of Washington Division, this number is 33%; for the Labor and Personnel Division, it is 41%; for the Government Compliance and Enforcement Division it is 29%. In addition, some government employers focus recruitment efforts on our AAGs. For example, Pierce County, King County, the City of Seattle, the City of Redmond and a number of our state agency clients hired AAGs in 2014.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AA AAG Recruitment and Retention

Recruitment:

Recruitment problems have manifested in several ways. First, the quality of the applicant pool for entry level AAG positions has diminished and our career services contacts in the law schools tell us that salary is a factor. Second, we have particularly challenging recruitment issues when hiring experienced or specialized AAGs. As a result, over time, there has been some degree of "substitution" of inexperience for experience within our AAG ranks.

There is hard evidence that supports this. In July 2012, 90 attorneys were in the 0-6 year range. By August 2014, that number had grown to 120. This has workload, training, and client risk implications.

By closing the salary gap as compared to our public sector peers, the AGO will reduce high AAG turnover and increase the depth of AAG applicants and the hiring pool. It is expected that there will be favorable impacts on our state agency clients and Washington residents through: (1) a reduction in the need to repeatedly train new AAGs; (2) preservation of institutional knowledge and experience and; (3) bolstering the depth of our AAG ranks necessary to take on complex cases and issues and ameliorate high dollar, high stakes legal matters.

The AGO plays a key role in the effective implementation and defense of the decisions of the Legislature, Governor, and state agencies. However, the Legal Services Revolving Account (LSRA) is approaching a tipping point whereby the resources provided are insufficient for the AGO to continue fulfilling its role to the detriment of clients and the public in which the AGO serves. No further internal cuts can be made without significantly impacting legal services.

The following are some examples of undesirable results we expect to reduce:

Social service program and budget cut litigation:

Over the past several years, the Governor and Legislature have proposed and adopted multiple cuts to various social service programs. Many of those cuts prompted immediate class action legal challenges that were defended by the AGO. The cumulative impact of these multiple cases on the state budget was millions of dollars a month, totalling well over \$100,000,000 in the course of a biennium. With the budgetary challenges posed in the coming years by school funding and other legal mandates, there may be new state funding cuts that will generate litigation.

Additionally, the AGO is currently defending lawsuits alleging that certain social service programs are legally inadequate, such as services to children in foster care, foster parent reimbursement levels, and mental health services for children. Tens of millions of dollars, as a conservative estimate, are at stake in those cases. Generally, plaintiffs are represented by several counsel, and a team of AAGs headed by experienced counsel is required to defend the state. Numerous highly experienced AAGs have retired. Senior AAGs who have gained the institutional knowledge of these programs have accepted, or are actively considering employment elsewhere because of the lack of funding in the LSRA for compensation comparable to other public lawyers. The high turnover in the mid-range experience levels is resulting in a growing void in program knowledge and legal experience. The AGO will not be able to rebuild this expertise if it cannot provide salaries comparable to other public law offices. The success that the AGO has had in defending state programs and preserving state funding cannot continue if the AGO cannot retain its knowledgeable AAGs.

Medicaid and health care reform:

An AAG in the AGO with significant depth of knowledge in the Medicaid program and Medicaid law advises DSHS and the Health Care Authority on Medicaid reimbursement and compliance issues. This same AAG often briefs legislative staff on cases and legislation that may impact the budget. With the advent of health care reform, the importance of developing and retaining knowledge in this field is essential. This AAG, like other AAGs, makes substantially less than the average for his public sector peers. Other AAGs who are developing expertise in this area have a similar gap in compensation. It takes time to develop expertise in this complex area of law. If the AGO loses this expertise, the state may be forced to rely on more expensive private attorneys appointed as Special Assistant Attorneys General (SAAG).

Agency: 100 Office of Attorney General
Decision Package Code/Title: AA AAG Recruitment and Retention

Protecting children and achieving permanency:

The AGO has an essential role in protecting children, and there are approximately 100 AAGs across the state who handle child dependency and parental termination cases. These AAGs advocate for the best interest of the child in trial and appellate courts. They provide training to social workers and advice to the Children's Administration.

To illustrate the staffing challenges caused by retention issues, in one AGO office of seven juvenile litigation AAGs, only two have more than 1 1/2 years of experience, with two of those being new hires with no experience. The AAGs who have left this section have done so because of salary issues, particularly in light of the demands of the work. Less experienced AAGs cannot handle the same caseload as the more experienced AAGs. Additionally, courts have expressed the view that having a single attorney on a child's case assists the system in providing better outcomes and in children reaching permanency sooner. A high turnover rate in representation is the antithesis to that goal. In short, turnover slows down the permanency system, driving up costs of foster care while children await permanency.

DSHS has federal obligations tied to federal funding to achieve permanency for children. This cannot be done without sufficient AAGs to handle the dependency and termination caseloads. Backlogs in termination cases have developed as DSHS refers more matters in order to comply with federal timeframes, and the AGO is working with DSHS to reduce the backlogs. However, if the AGO cannot retain a sufficient number of AAGs long enough to develop the expertise to handle the growing caseloads, the turnover cycle will undermine these efforts.

Mental illness and protecting the public:

The impact of mental illness on society has become an issue of great public concern, particularly as instances of crimes and gun violence have been linked to a perpetrator suffering a mental illness. AAGs are on the front lines of this public concern. They represent the state in civil commitment proceedings and advise DSHS on the legal parameters of the state's authority in this arena. However, retention challenges are impacting this work as well. For example, in one of our offices, of the six AAGs who work on general mental health issues and litigation, three AAGs have less than two years' experience.

Financial soundness for institutions and state government and protection of investors:

The Office of the Insurance Commissioner, Department of Financial Institutions, Department of Retirement Services, State Investment Board, Department of Revenue and the State Treasurer all require legal counsel involving a sophisticated knowledge of highly complex financial and regulatory schemes. Many of these client agencies are funded by regulatory fees or trust funds and have asked the AGO why we cannot pay higher salaries in order to retain the expertise they need.

Criminal Justice:

AAGs doing criminal prosecutions and those working in the AGO's Sexually Violent Predator Unit make substantially less than comparable attorneys in county prosecutor offices. As a result, the AGO has great difficulty recruiting for these positions, which are critical to protecting the public from criminals and sexually violent predators.

Torts Division:

AAGs in our Torts Division represent and defend the state in all lawsuits alleging tortious conduct by any state agency, official or employee. Over the last 20 years, Torts has managed an average active caseload of 546 cases ranging in value from tens of thousands of dollars to tens of millions of dollars per case. Trial experience and expertise is essential to the successful defense of these tort lawsuits. The AGO must be able to retain its trial lawyers long enough to train and develop the expertise necessary for AAGs to handle high-value, high-exposure cases. On the team that represents DSHS in torts suits, three attorneys have left recently for higher salaries, with one of them going to the Pierce County Prosecutor's Office. Only one of the six attorneys on that team was on the DSHS team in September 2013. A judge hearing one of the DSHS tort suits commented in court, after having to grant a continuance because a case had to be reassigned to another AAG, that these cases are complicated and cannot easily be transferred among attorneys. Torts has had similar challenges finding qualified replacements on the employment and Department of Transportation teams. It takes longer to recruit qualified candidates needed for these jobs when salaries are not on par with other public sector lawyers. The following examples demonstrate the types of outcomes the state can expect to achieve by providing the AGO with the resources needed to recruit

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and retain high quality attorneys for the state:

Gainsharing and UCOLA:

These cases dealt with two pension enhancements enacted by the Legislature in the mid-1990's ("gain-sharing" and "UCOLA"). In enacting both, the Legislature said that the enhancements could be terminated at any time. When the Legislature terminated both enhancements due to fiscal constraints and the Great Recession, state employee unions and public employees sued, claiming a permanent right to receive these enhancements under Washington case law. The trial courts in both cases agreed with the employees. Through the representation of a team of AAGs assigned to the Department of Retirement Services and from the Solicitor General's Office, these decisions avoided projected costs of more than \$10 billion to Washington taxpayers over the next 25 years.

Hanford:

The AGO won a case before the U.S. Court of Appeals in the District of Columbia, requiring the Nuclear Regulatory Commission to move forward with the licensing application to build the nuclear waste repository at Yucca Mountain. The ruling helps ensure that Washington State will have a permanent disposal facility for the high-level radioactive waste at Hanford. This case was handled by an AAG with significant experience and expertise. Other AAGs are working to ensure the clean-up of the Hanford Nuclear Reservation proceeds in a timely manner consistent with the Tri-Party Agreement and Consent Decree in order to protect the residents of Central Washington and the integrity of the Columbia River. These efforts are possible only if the AGO continues its ability to retain AAGs with institutional knowledge and subject-matter experience.

Tobacco:

The AGO won a major arbitration decision, ensuring \$14.8 million in withheld tobacco settlement funds from 2003 will come to Washington State, and preventing these dollars from being withheld in perpetuity. Many states were involved in similar litigation with the parties of the Tobacco Master Settlement. Many states settled for less money or received an unfavorable judgment in the arbitration. Of those states that were successful, many relied on expensive outside counsel. Washington State was able to utilize talented AAGs to handle this litigation. Success in these complex, high-stakes legal efforts are only possible if the AGO has the ability to retain AAGs with institutional knowledge and subject-matter experience.

Performance Measure Detail

Activity: A002 Civil Commitment of Sexually Violent Predators

Incremental Changes
FY 2016 **FY 2017**

Outcome Measures

002535	The most dangerous and violent sexual predators in the state are detained, evaluated, and treated until they no longer constitute a threat. Consequently, fewer people are victimized, and the public is protected from those sex offenders who are most likely to reoffend.	0.00	0.00
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Activity: A003 Criminal Investigation and Prosecution

Incremental Changes
FY 2016 **FY 2017**

Output Measures

Agency: 100 Office of Attorney General
Decision Package Code/Title: AA AAG Recruitment and Retention

002536	0.00		0.00
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Where the county prosecutor has a conflict of interest or needs assistance for other reasons, there is a competent, highly-skilled prosecutor to represent the state, resulting in greater public protection. Crimes of fraud involving state agencies are properly investigated and prosecuted so that state agencies and other victims can recover their losses, and similar criminal activity against state agencies can be curtailed and deterred. The Criminal Litigation Unit reviews important appeals and provides additional legal assistance when requested. The CLU also reviews and approves (or defends against) claims filed by persons claiming to have been wrongfully convicted and imprisoned.

Activity: A004 Enforcement of Anti-Trust Laws

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Output Measures

000011			
PM0004/ANT - Recoveries. We capture the efforts of AGO Antitrust staff who work to stop anticompetitive behavior and promote compliance with Antitrust laws. The measurement tells us the degree to which we recover monetary restitution for our consumers.	\$0.00		\$0.00

Activity: A005 Consumer Protection

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Output Measures

002534			
	\$0.00		\$0.00

The division’s activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketplace. The division is also expected to recover a portion of the costs of its operation through its litigation activity. Finally, the Division is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration and foster compliance with the Manufactured Housing Landlord Tenant Act.

Activity: A008 Investigation and Defense of Tort Lawsuits

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Output Measures

002537			
The Torts Division protects taxpayers by providing high quality and effective legal defense to the state in tort claims and lawsuits. The division improves government efficiency by measuring the speed with which lawsuits resolve, and measuring success in resolving cases through early resolution. The Torts Division also tracks “zero-payout cases” and appellate outcomes. The division maintains a high rate of Tort case appeal litigation success.	0.00%		0.00%

Activity: A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Outcome Measures

Agency: 100 Office of Attorney General
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002538	More Medicaid funds are returned to the State and made available through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. In particular, as part of the legislation creating the FCA, the 2012 legislature also created the Medicaid Penalty Account which is the state funding source for not only the MFCU, but also the Medicaid program integrity responsibilities managed by the Washington Health Care Authority. Thus, through MFCU's civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA's is returned to the State and placed into the Penalty Account. This includes restitution, interest and penalties. During the 2013 legislative session, the legislature also authorized the prescription drug monitoring program to be funded from the Penalty Account.	\$0.00	\$0.00
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Activity: A010 Legal Services to State Agencies

		<u>Incremental Changes</u>	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Activity: A011 Representing Ratepayers

		<u>Incremental Changes</u>	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002531	The Public Counsel protects consumers and businesses by advocating for fair, just, reasonable, and sufficient utility rates and by ensuring that customers pay only for reasonable and cost-effective programs.	\$0.00	\$0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal #1 of the AGO Strategic Plan-"Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

1-1 Review office structure and practices to ensure provision of high quality legal services to the state in a timely and efficient manner.

1-1.1 Salaries. In order to retain legal expertise and assure consistent legal representation that serves the objectives of our client agencies, address attorney attrition issues through a compensation plan.

Goal #2 of the AGO Strategic Plan-"Serve the people - Protect the legal rights of the people of the state of Washington.

Goal #3 of the AGO Strategic Plan-"Serve our Employees - Create a positive work environment that recognizes employees as its most valuable resource and fosters integrity, professionalism, civility and transparency.

3-1 Recruit and retain a high quality, high skilled, and highly effective workforce to meet the legal needs of the people and State of Washington.

3-1-1 Address the compensation gap. Address the significant disparity in compensation between AGO and other Washington State public sector law offices which negatively affects morale, recruitment, and retention of staff. Identify AGO budget savings that can be reprioritized and directed towards addressing the salary disparity based on data and a sound financial plan.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

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1: This request supports the following Results Washington Goals:

Goal 1: World Class Education - All Washingtonians have access to education that prepares them to transition to elementary, middle, high school, postsecondary, career and lifelong learning opportunities.

Goal 2: Prosperous Economy - Fostering an economy where businesses, workers and communities thrive in every corner of our state.

Goal 3: Sustainable energy and a clean environment - Building a legacy of resource stewardship for the next generation of Washingtonians. . Additional LSRA billing authority for the AGO and funding for client agencies will result in clients being able to sustain current AAG representation and state-wide environmental programs at the intended level.

Goal 4: Healthy and safe communities - Fostering the health of Washingtonians from a healthy start to safe and supported future. This request sustains AGO Medicaid Fraud AAGs and promotes integrity in the Medicaid program, both in civil and criminal enforcement.

Goal 5: Effective, Efficient and Accountable Government - Fostering a Lean culture that drives accountability and results for the people of Washington. This request aligns the actual costs of increased legal services with the funding available client agencies for sustaining current AAG representation. This request clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

2: This request supports the following Governor's Priorities.

Budget:

State agencies to operate more effectively and efficiently, within available resources.
Protect vital services to seniors, children and disabled individuals.

This request is to fund essential operational costs in support of reducing the AAG compensation gap in divisions across the state. Funding this request will allow the AGO to sustain legal services to state agencies and programs, improve AAG retention within the AGO, and to take the next step in working to equalize the variance between civilian sector Attorneys' and AGO AAGs of equal experience levels.

What are the other important connections or impacts related to this proposal?

We assume client agencies support this request with appropriate funding. There is unsustainable turbulence in AAG staffing relating to the retention of operational knowledge levels. New AAGs sustain a learning curve to achieve proficiency in client programs and litigation. Retaining AAGs and slowing down the agency exiting practices of AAGs will sustain experience and benefit client agencies and the state.

The request directly relates to legal matters since the AGO represents the state in all legalities.

What alternatives were explored by the agency, and why was this alternative chosen?

In August 2013, the AGO implemented internal budget reductions to capture approximately \$5.6 million of LSRA revenue that was reprioritized internally to fund modest AAG salary increases. These reductions involve the elimination of some positions and aggressive vacancy management, with direct impacts on the AGO's ability to deliver timely legal services. As such, we are unable to repeat these one-time reductions in order to capture additional funds.

What are the consequences of adopting or not adopting this package?

Not adopting this request will result in continued AAG turnover and the associated loss of needed experience and recruitment

Agency: 100 Office of Attorney General
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problems. Associated costs and concerns will not be addressed.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

This request is designed to close the salary gap with other public sector law firms in Washington State. Closing the gap will allow the AGO to recruit and retain well qualified candidates, thereby significantly increasing the capacity to provide high value legal services to the State.

The salary gap is defined as the difference between the average AAG salary and the average salary of a sampling of 12 public sector law firms in the state. The public sector law firms surveyed include a mix of cities and counties with attorneys who practice in the same locations as AGO offices.

The data for the 12 public sector law firms was taken in 2011. To update for 2013, we solicited recent salary information from our public sector counterparts in six counties in which the AGO heavily practice: (King, Pierce, Kitsap, Spokane, Snohomish and Thurston). Given the new data, the 2011 average salaries were adjusted to account for increases given in these six counties. Specifically, the average increase for attorneys in those counties since 2011 was determined to be about 2.4 percent, which further increased the salary gap with the AGO.

Therefore, the final cost of closing the gap is the difference between the AGO current average salaries and the updated public sector averages. This cost is about \$7,536,000 for the biennium.

Attachment 2 addresses client agency funding requirements which support this request.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are on-going and will carry forward into future biennia.

The total anticipated carry forward levels should be \$7,536,000 for the biennium.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	3,228,789	3,228,789	6,457,578
B Employee Benefits	539,211	539,211	1,078,422
Total Objects	3,768,000	3,768,000	7,536,000

AGO/County-City Average Salary Comparisons (AGO Salaries are pre TSR)

Org	Entry	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	20+
Clark	53,508			61,920		75,060					88,980					91,272						118,764
City of Everett	55,140	63,780		65,676	70,638									101,192							107,616	
King	56,331					84,928					96,391					105,175					111,915	
Kitsap	54,350					73,278					82,472											
City of Olympia											94,730	104,222										
Pierce	58,354					77,264					95,577					107,433						123,846
City of Seattle	65,579			68,014	68,014	78,281					91,245					96,930					104,127	
Snohomish County ¹	57,312					69,665					88,912					98,026						
City of Spokane	68,068					80,471					94,502											
Spokane County	53,088					63,928	67,202			78,063	82,060	86,262				88,930		98,271				
Thurston County	59,220					70,620					88,008					104,117			114,432			
City of Vancouver	59,700			62,268		69,960					99,420								99,420			99,420
County / City Average ²	58,240					74,345					90,287					98,840					107,886	114,010
AGO Average ²	52,500 ³					55,658 ⁴					68,546 ⁵					79,384 ⁶					92,154 ⁷	99,542 ⁸

NOTES:

- 1 - Represents an average within the experience range.
- 2 - Snohomish County gives different salaries for the same experience levels depending on criminal or civil assignment, and also based on merit. Numbers listed here are the lower salaries.
- 3 - (5,740/ 10% gap with benchmark)
- 4 - (18,687/ 25% gap with benchmark)
- 5 - (21,741/24% gap with benchmark)
- 6 - (19,456/19% gap with benchmark)
- 7 - (15,732/15% gap with benchmark)
- 8 - (14,468/ 13% gap with benchmark)

Cost By Client - Legal Services Revolving Fund Only
LSRF CLIENTS including Torts

Row Labels	Annual Cost by Client	Biennial Cost by Client
011-House of Representatives	73	147
012-Senate, Washington State	37	74
014-Audit & Review Committee, Joint Legislative	123	246
035-State Actuary, Office of	533	1,065
038-Legislative Service Center	35	70
040-Code Reviser's Office	41	81
045-Supreme Court	3,739	7,478
048-Court of Appeals	568	1,136
050-Judicial Conduct, Commission on	112	225
055-Office of the Courts, Administrative	812	1,623
056-Public Defense, Office of	326	652
075-Governor's Office	883	1,766
080-Lt. Governor, Office of	13	27
082-Public Disclosure Commission	5,079	10,159
085-Sec of State, Office of	10,491	20,982
087-Asian American Affairs Commission	31	63
090-State Treasurer's Office	7,553	15,107
095-State Auditor's Office	7,857	15,714
099-Sal for Elected Officials, Wa Citizen's Comm on	84	168
102-Financial Institutions, Dept of	18,700	37,399
103-Commerce, Dept of	13,135	26,270
105-OFM	8,691	17,383
107-Health Care Authority	4,218	8,436
110-Administrative Hearings, Office of	1,127	2,255
116-Lottery Commission, Wa State	1,330	2,660
117-Gambling Commission, Wa State	6,666	13,331
118-Hispanic Affairs, Commission on	35	70
119-African-American Affairs, Commission on	37	74
120-Human Rights Commission	6,914	13,827
124-Retirement Systems, Dept of	26,484	52,969
126-State Investment Board	8,523	17,046
135-Innovate Washington	991	1,983
140-Revenue, Dept of	69,908	139,817
141-Economic Crimes Unit, Dept of Revenue	11,128	22,256
142-Tax Appeals, Board of	125	250
147-Minority/Women's Bus. Enterprises, Office of	7,511	15,021
160-Insurance Commissioner's Office	13,717	27,434
163-Consolidated Technology Services	2,204	4,408
165-Accountancy, State Board of	1,933	3,867
179-Department of Enterprise Services	21,242	42,484
185-Horse Racing Commission	1,294	2,588
190-Insurance Appeals Board, Industrial	1,574	3,148
195-Liquor Control Board	47,203	94,405
205-Pilotage Commissioners, Board of	1,796	3,591
215-Utilities & Transportation Commission	29,058	58,117
220-Vol Firefighters, Board of	1,750	3,500

15-17 Biennial Budget Request

Row Labels	Annual Cost by Client	Biennial Cost by Client
225-State Patrol, Washington	23,676	47,352
227-Criminal Justice Training Commission	6,382	12,765
228-Traffic Safety Commission, Wa	177	354
235-Labor & Industries	579,299	1,158,598
236-L&I - BCU	10,196	20,391
240-Licensing, Dept of	53,839	107,678
245-Military Department	7,730	15,461
275-Public Employment Relations Commission	1,323	2,646
300-Social & Health Services, Dept of	1,012,100	2,024,199
303-Health, Dept of	143,647	287,294
305-Veterans Affairs, Dept of	1,786	3,571
310-Corrections, Dept of	119,658	239,316
315-Serv for Blind, Dept of	162	324
340-Student Achievement Council	593	1,186
350-Superintendent of Public Instruction	29,376	58,751
351-Blind, School for the	1,113	2,225
353-Childhood Deafness and Hearing Loss, WA St Center	1,398	2,796
354-Workforce Training & Education Coord. Board	776	1,553
355-Archaeology and Historic Preservation, Office of	3,406	6,812
357-Dept of Early Learning	21,646	43,292
359-Charter School Commission	1,641	3,282
360-Univ of Washington	113,871	227,741
365-Wash St University	39,081	78,162
370-Eastern Washington University	10,066	20,133
375-Central Washington University	9,401	18,802
376-Evergreen State College	6,080	12,159
380-Western Washington University	13,826	27,652
387-Arts Commission, Wa State	1,171	2,343
390-Historical Society, Wa State	1,092	2,184
395-E Wa State Historical Society	64	129
405-Transportation, Dept of	120,377	240,753
406-County Road Administration Board	597	1,194
407-Trans Improvement Board	225	450
410-Transportation Commission	472	944
411-Freight Mobility Strategic Investment Board	203	405
461-Ecology, Dept of	166,150	332,300
462-Pollution Liability Insurance Agency	656	1,312
465-Parks and Recreation Commission	13,196	26,392
467-Recreation and Conservation Office	1,031	2,061
468-Environmental and Land Use Hearings Office	1,047	2,093
471-Conservation Commission, Wash St	1,472	2,944
477-Fish & Wildlife, Dept of	53,242	106,484
478-Puget Sound Partnership	770	1,541
490-Natural Resources, Dept of	81,217	162,434
495-Agriculture, Dept of	14,779	29,558
540-Employ Security Department	27,127	54,254
699-Comm & Tech Colleges, State Bd	59,207	118,415
Torts - DES Office of Risk Management	336,014	672,028
Grand Total	3,438,042	6,876,084

Agency: 100 Office of Attorney General
Decision Package Code/Title: AB Permanency Initiative
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$1,330,000 and 5.0 Assistant Attorney General (AAG), 3.0 Paralegal (PL), and 2.0 Legal Assistant (LA2) in FY2016, and \$660,000 and 2.5 AAG, 1.5 PL and 1.0 LA2 in FY2017. This funding is to meet the caseload demands related to the state's termination of parental rights cases that achieve stability, safety, and permanent homes for foster children.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		1,330,000	660,000	1,990,000
Total Cost		1,330,000	660,000	1,990,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		10.0	5.0	7.5
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	1,330,000	660,000	1,990,000
Total Revenue		1,330,000	660,000	1,990,000

Package Description:

The AGO requests \$1,330,000 and 5.0 AAG, 3.0 PL, and 2.0 LA2 for FY2016, and \$660,000 and 2.5 AAG, 1.5 PL and 1.0 LA2 in FY2017. This total includes \$50,000 in FY2016 and \$20,000 in FY2017 for direct litigation costs.

The AGO requires resources to meet the caseload demands related to the state's termination of parental rights cases that achieve stability, safety, and permanent homes for foster children. Specifically, we request to carry funding forward to maintain the temporary resources to fully address the spike in new parental termination cases. The additional caseload continues to be processed from the Department of Social and Health Services (DSHS) permanency initiative, and the related work is expected to conclude by December 2016.

In 2013, DSHS planned a permanency initiative to ensure compliance with federal laws requiring the timely permanency for children in foster care. DSHS identified a backlog of cases in which children had been in out-of-home care longer than 15 months without moving to permanency (eg: adoption, guardianship, third-party custody, or return home). To move through this backlog, DSHS expected to refer an additional 433 cases over a six-month period of time, above the normal level of referrals. The AGO received one-time funding of \$2.4 million for the temporary increase in staffing to handle that spike in caseload as it works its way through discovery, trial and appeal. About half of the expected additional referrals have been received through June 2014, though DSHS still expects to refer them.

As a result of the slower than expected pace of referrals, the AGO does not expect to utilize the full \$2.4 million appropriation in the current biennium. Much of the additional caseload will still be in process during the next biennium, so the temporary resources are required an additional 18 months.

In FY2013, the AGO received 1,523 total referrals. In FY2012, the AGO received a total of 1,504 referrals. This is an average of 1,514 (1,513.5) referrals. In FY2014, during which DSHS started its permanency initiative, there were 1,807 referrals representing an increase of 293 over the previous average. In April 2014, DSHS provided an updated number of 2,070 as the estimate of the number of referrals that they expect to process as part of the permanency initiative. This indicates that as many as 263 additional permanency initiative referrals may be made. If those referrals are completed within the following year, the estimated 18-month period for completion of discovery, trial and appeal in each case will continue well into the 2015-17 biennium.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Under the Federal Adoption and Safe Families Act, states must ensure timely permanency for foster children by filing a termination petition at least 15 months from when the child was removed from home, unless there is a compelling reason not to do so in individual cases. States that do not comply with this requirement may be financially penalized.

As a result of the most recent federal audit of DSHS' compliance with federal child welfare laws, DSHS committed to improve its performance on achieving timely permanency for foster children. When children do not achieve timely permanency and remain in foster care, there are ongoing costs to the state. DSHS costs include the continued expense of foster care and meeting the children's needs, as well as the expense of providing reunification services to families, family visitation, and staff resources to meet the children's needs. AGO costs include the cost of hearings at least twice a year as well as various contested motion hearings.

The AGO expects its performance of the timely filing of termination petitions to be positively impacted by this request. DSHS performance outcomes that may be impacted are those related to timely permanency for foster children. If DSHS' backlog of termination cases is resolved, this is likely to free more foster children for permanency through adoption which could also decrease DSHS' case worker caseloads and further enable these workers to accomplish other work in a timely manner.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1. This request supports the following Results Washington Goals:

Goal 4: Healthy & Safe Communities

Protection & Prevention

2.1 Decrease the rate of children with founded allegations of child abuse and/or neglect from 4.52 to 4.10 by 06/30/2015.

2.1b Decrease percentage of children in Division of Children and Family Services out-of-home placement 5 years or more from

5.7% to 5.5% by 06/30/2015.

Goal 5: Effective, Efficient and Accountable Government
Customer Satisfaction and Confidence

- 1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.
- 1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of legal services with the funding available to DSHS for sustaining the current workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

2. This request supports the following Governor's Priorities:

Budget:

- State agencies to operate more effectively and efficiently, within available resources.
- Protect vital services to seniors, children and disabled individuals.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and DSHS funding to the projected level of legal services needed. This funding will eliminate the need for DSHS to continue reprioritizing current programs and efforts to fund their legal services needs.

What are the other important connections or impacts related to this proposal?

DSHS supports this request. The goal of the DSHS permanency initiative will not be achieved if the AGO does not have the staff resources to file termination petitions on cases referred and to process them through trial and appeal. The ongoing impacts to the system of this spike in cases will include impacts to defense counsel caseloads, as indigent parents are entitled to court-appointed counsel in termination proceedings. However, when permanency is not achieved and dependency cases continue, the court and defense counsel resources are impacted as well, as there are review hearings twice a year as well as other motion hearings.

What alternatives were explored by the agency, and why was this alternative chosen?

DSHS examined whether it could use Children's Administration Program funds to pay for an interagency agreement to cover the one-time costs of its permanency initiative, but they are unable to identify funds which could be committed to this purpose.

What are the consequences of adopting or not adopting this package?

Not funding this request will result in a lack of funding necessary to address the increase in referrals from DSHS resulting in the development of a severe case backlog in the AGO. It will cause delay in children moving in a timely fashion from higher-cost foster care to permanency. It will also increase the risk of loss of federal funding due to non-compliance with federal law.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

DSHS will be billed for legal services provided by AGO staff across the state.

\$50,000 of direct litigation costs is required in FY2016, and \$20,000 in FY2017. It is anticipated that the direct costs associated with the additional cases, on top of regular workload, will be incurred during the 18 month timeframe subsequent to when the cases are initially referred to the AGO. An unknown factor is whether the court system has the ability to absorb and schedule the necessary hearings.

Direct litigation costs are needed for expert witnesses, travel and court costs.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

If the remaining referrals are all received in FY2015, it is anticipated that costs will be one-time and will not carry forward.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	740,058	367,900	1,107,958
B Employee Benefits	213,660	106,058	319,718
C Professional Svc Contracts	50,000	20,000	70,000
E Goods\Other Services	293,282	149,642	442,924
G Travel	12,000	6,000	18,000
J Capital Outlays	21,000	10,400	31,400
Total Objects	1,330,000	660,000	1,990,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AC Boldt Litigation
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$271,000 and 1.0 Assistant Attorney General (AAG), 0.5 Paralegal (PL), and 0.5 Legal Assistant (LA) in FY2016, and \$252,000 in FY2017 to provide ongoing legal services relating to the State's appeal in U.S. v. Washington, Phase II of the Boldt Case (AKA the Culverts Case). The requested funding will also support ongoing implementation of a district court injunction that will continue to apply if the injunction is not reversed on appeal. The estimated cost of the district court's adverse decision to the State of Washington, and the associated injunction, exceeds \$2 billion dollars.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		271,000	252,000	523,000
Total Cost		271,000	252,000	523,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		2.0	2.0	2.0
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	271,000	252,000	523,000
Total Revenue		271,000	252,000	523,000

Package Description:

The AGO requests \$271,000 and 1.0 AAG, 0.5 PL, and 0.5 LA in FY2016, and \$252,000 in FY2017 to fund ongoing litigation of the State's appeal in the U.S. v. Washington, Phase II of the Boldt case, and to fund legal support for implementing a permanent injunction issued against the State by the District Court. The funds requested include \$25,000 in FY2016 and \$5,000 in FY2017 for direct litigation costs

Background:

In January 2001, Indian Tribes with treaty fishing rights in Western Washington, along with the United States, filed a lawsuit asking a federal court to declare that the treaty "right of taking fish" "imposes a duty upon the State of Washington to refrain from diminishing, through the construction or maintenance of culverts under State-owned roads and highways, the number of fish that would otherwise return to or pass through the tribes' usual and accustomed fishing grounds and stations." They alleged the State has violated such a duty and asked the court to order the State to fix all its culverts within five years of judgment.

On August 22, 2007, the court granted summary judgment in the plaintiffs' favor. The court held the treaty right of taking fish requires the State to refrain from building or operating culverts under State-maintained roads that hinder fish passage and thereby diminish the number of fish that would otherwise be available for tribal harvest. The court declared the State currently owns and operates culverts violating this duty.

Following extensive but unsuccessful settlement efforts including the use of a court-appointed mediator, the court conducted a trial on the remedy in October 2009 and heard closing arguments in June 2010. After trial, we asked the court to reconsider its prior summary judgment against the State. On March 29, 2013, the court issued a 35-page written decision in which it reaffirmed its prior judgment against the State. The court simultaneously issued a Permanent Injunction Regarding Culvert Correction, in which it imposed an ambitious schedule for the State to remedy salmon barrier culverts under State-owned roads. The injunction required the agencies, within six months, to prepare a list of known salmon barrier culverts existing as of the date of the injunction. It required the Washington State Department of Transportation (WSDOT) to remedy the barrier culverts on the list that would yield 200 linear meters of upstream habitat, within 17 years, and to correct WSDOT's other barrier culverts on the list at the end of their useful lives. It required the Department of Natural Resources (DNR), Department of Fish and Wildlife (DFW), and Parks and Recreation (Parks) to correct all of their salmon barrier culverts on the list by October 31, 2016. It required all the agencies to remedy newly discovered barriers within a reasonable period of time. It also imposed additional requirements for maintenance and for consultation with the Tribes.

The estimated cost of the relief granted by the court exceeds \$2 billion dollars. This case represents a legal precedent that may arguably result in significant State liability in other contexts.

Current:

The State appealed the ruling to the Ninth Circuit Court of Appeals. Briefing is now complete, and we expect the court will schedule oral argument during FY2015. However, the timing of oral argument, and the timing of any decision are uncertain. Once the court issues its decision, legal resources will be needed to analyze the opinion and its implications, and the options available to the State. Further, one or more parties may request en banc (full court) review by the 9th Circuit, may petition for certiorari by the United States Supreme Court, or may initiate another round of settlement negotiations. It is also possible that the decision could result in a remand. Any of these developments would require significant legal resources to protect the State's interests.

Simultaneous with prosecuting its appeal, the State is working diligently to comply with the injunction, the terms of which apply during the appeal. As long as the injunction remains in effect, the affected State agencies will likely require significant legal advice. Moreover, the district court continues to have active jurisdiction over the injunction, and follow-up motion practice is likely as issues arise with implementation.

It is critical that the State allocate sufficient resources to both implement the court-ordered injunction and vigorously pursue the appeal of the court's decision. It is not possible to provide legal services for this case by reprioritizing within existing client agency budgets without significant adverse impacts on the five primary state agencies. This would require the reduction or elimination of legal services from their already-constrained budgets, increase the likelihood of other legal issues arising in other programs, and increase the potential for accelerated capital costs for culvert replacement.

Funding this request will allow the AGO to continue to provide legal services relating to the culverts litigation, including compliance with the federal court injunction and prosecuting the State's appeal of the court's decision.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request is for funding that is critical to the continued defence of the State's interests in the appeal and ongoing implementation of the injunction in the Boldt Case. The outcome of this case will have major fiscal implications for the State and has the potential to create a long-lasting precedent imposing very significant treaty rights and financial duties on the State in other contexts. The cost of complying with the injunction under the facts of this specific case alone exceeds \$2 billion dollars. This request will also help ensure that the AGO has sufficient resources to continue advising WSDOT, DOE, DNR, WDFW, and Parks to ensure that they comply with the federal court injunction during the pendency of the appeal, and to evaluate options for responding to a decision by the 9th Circuit.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes
FY 2016 FY 2017

Outcome Measures

000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00
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Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports Goal #1 of the AGO Strategic Plan-"Serve the state - Provide excellent legal advice and representation to our client, the State of Washington."

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: Based on transportation funding constraints, losing this case has implications for the State's ability to execute the following Results Washington Goals:

Goal 2: Prosperous economy - Sustainable, Efficient Infrastructure.

3.1 Maintain infrastructure assets at 2012 baseline condition levels

3.2 Increase the percentage of Washingtonians using alternative transportation commute methods to 33% by 2015.

Goal 3: Sustainable energy & a clean environment

Clean Transportation

1.1 Reduce transportation related greenhouse gas emissions from 44.9 mmt/year (projected 2020) to 37.5 mmt/year (1990) by 2020

Goal 5: Effective, Efficient and Accountable Government - Fostering a Lean culture that drives accountability and results for the people of Washington. This request aligns the actual costs of current legal services with the funding available to client agencies while sustaining the current workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

2: Funding this request provides the state with the legal services necessary to defend and implement Boldt litigation which has significant financial exposure. Based on transportation funding constraints, losing this case has implications for the State's ability to execute the following Governor's priorities:

Economy:

Increase the speed of Washington Commerce.

Energy and Climate:

Clean transportation

Clean technology

Budget:

State agencies to operate more effectively and efficiently, within available resources.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and client agency funding which is aligned with the current level of legal services needs. This funding will eliminate the need for client agencies to reprioritize current programs and efforts to fund their legal services needs.

What are the other important connections or impacts related to this proposal?

The State has no option but to comply with the injunction during the pendency of the appeal and beyond, unless it is overturned by the appellate court. It is uncertain when a Ninth Circuit decision will be obtained in the case, but it is likely to occur during the 2015-17 biennium. One or more parties may seek further judicial review, including certiorari by the United States Supreme Court. Additionally, the decision by the 9th Circuit may result in re-initiation of settlement discussions or remand to the district court. In any event, significant legal resources will be required to protect the State's interests.

What alternatives were explored by the agency, and why was this alternative chosen?

State policy makers and the AGO made extensive and repeated, yet unsuccessful, efforts to settle this case before and during the litigation. Given the significant financial and policy implications of the district court's decision, there is no reasonable alternative than to vigorously defend the State. Given the pendency of the district court's injunction and the likelihood that it will be years before there is a final resolution of this matter, there is no reasonable alternative to implementing the injunction during the pendency of the litigation.

What are the consequences of adopting or not adopting this package?

Not funding this request will result in the State being short of the legal resources needed to prosecute the State's appeal of the district court's decision, and to ensure that it complies with the federal court injunction during the pendency of the appeal. Failure to adequately fund the AGO in regard to this case will compromise our case on appeal, and will put the State at risk of failing to comply with the injunction, which itself could result in even more restrictive measures by the district court.

What is the relationship, if any, to the state's capital budget?

None for the AGO.

Capital funds may be used to correct some of the blocking culverts. Actual fund sources will be determined by client agencies and the legislature.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

This package will fund 1.0 AAG, 0.5 PL, and 0.5 LA for litigation and implementation. This request also provides \$30,000 for direct litigation costs including filing fees, services, travel, and copying costs. Of this amount, \$25,000 is projected for FY2016 on the assumption that any request for en banc review by the 9th Circuit or petition for certiorari by the United States Supreme Court would occur in FY2016. For FY2017, \$5,000 is requested for direct litigation costs.

Funding will be split among five affected agencies based on culvert ownership, agency involvement with regulatory issues, and agency missions. It is assumed this request will be distributed to the participating affected agencies using the following percentages, consistent with prior appropriations:

- 45% WSDOT total for FY2016: \$121,950; FY2017: \$113,400
- 35% DNR total for FY2016: \$94,850; FY2017: \$88,200
- 13% WDFW total for FY2016: \$35,230; FY2017: \$32,760
- 5% Department of Ecology (DOE) total for FY2016: \$13,550; FY2017: \$12,600
- 2% Parks total for FY2016: \$5,420; FY2017: \$5,040.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

All appropriations for this matter are considered one-time costs. Costs will continue until the case is resolved.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	141,594	141,594	283,188
B Employee Benefits	40,809	40,809	81,618
C Professional Svc Contracts	25,000	5,000	30,000
E Goods\Other Services	51,347	58,347	109,694
G Travel	2,250	2,250	4,500
J Capital Outlays	10,000	4,000	14,000
Total Objects	271,000	252,000	523,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AD US DOL v. DSHS Litigation
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$751,000 and 2.3 FTEs in Fiscal Year (FY) 2016 to provide ongoing legal services for the AGO Labor and Personnel (LPD) division relating to United States Department of Labor (USDOL) v. Washington State Department of Social and Health Services (DSHS) litigation. The potential liability to the state of Washington in an adverse judgment could exceed \$100-million.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		751,000	0	751,000
Total Cost		751,000		751,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		2.3	.0	1.2
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	751,000		751,000
Total Revenue		751,000		751,000

Package Description:

The AGO requests \$751,000 and 0.2 Assistant Attorney General (AAG), 2.0 Paralegal and 0.1 Legal Assistant in FY2016, which includes \$535,000 for direct litigation costs associated with USDOL v. DSHS litigation. The potential liability to the state of Washington in an adverse judgment could exceed \$100-million (which includes uncompensated overtime and double damages) because the USDOL maintains that damages continue to accrue as the case proceeds.

The USDOL filed this enforcement action against DSHS in 2008 for alleged violations of the overtime and recordkeeping requirements of the Fair Labor Standards Act (FLSA). In April 2010, Judge Benjamin Settle of US District Court for the Western District of Washington granted summary judgment to DSHS, ruling that the social workers are exempt from the overtime requirements of the FLSA. However, in August 2011, the Ninth Circuit reversed the District Court's grant of summary judgment and remanded for trial. DSHS' petition for rehearing was denied in 2012 and the case returned to the District Court, but the USDOL filed a Petition for Writ of Mandamus in the Ninth Circuit regarding a discovery issue. The Ninth Circuit granted the writ of mandamus in April 2014 and denied DSHS's petition for rehearing in July 2014. The case will now be set for trial in District Court once again.

This request is for funding to support motions in advance of trial, trial preparations, expert consultants and trial costs. It is anticipated that trial will take place in late calendar year 2015.

This is a specialized area of the law, and defending this case will require legal work by an AAG with expertise in wage & hour law and

a Special Assistant Attorney General (SAAG) with expertise in defending enforcement actions by the USDOL.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request funds the continued defense in this major dispute which will determine if social workers are owed additional wages for uncompensated overtime work performed in violation of the FLSA. The outcome of this case will have major fiscal implications for the state and could create a long-lasting precedent.

The AGO will perform essential legal services to prevail in this litigation, including discovery, filing dispositive motions, taking and defending depositions, interviewing and preparing potential witnesses for trial and conducting the trial. The AGO is working to protect DSHS and the citizens of the state from exposure to liability that could exceed \$100-million.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
	Outcome Measures		
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: If DSHS loses, the potential loss of over \$100,000,000 in funding would negatively affect and may have future implications for the following Results Washington Goals:

Goal 4: Healthy & Safe Communities

- 1.1 Decrease the infant mortality rate for children under 1 year old from 5.1 per 1,000 births in 2012 to 4.4 per 1,000 births by 2016.
- 1.2.Y.a. Increase the percent of children (19 to 35 months) receiving all recommend vaccinations from 65.2% in 2012 to 72.6% by 2016.
- 2.1 Decrease rate of children with founded allegations of child abuse and/or neglect from 4.52 to 4.10 by 06/30/2015.

Goal 5: Effective, Efficient and Accountable Government

Customer Satisfaction and Confidence

- 1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.
- 1.3 Increase/maintain timely delivery for state services .

This request aligns the actual costs of legal services with the funding available to DSHS for sustaining the current workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

2. If the Department of Social & Health Services loses, the potential loss of over \$100,000,000 in funding would negatively affect and may have future implications for the following Governor's Priorities:

Budget:

Protect vital services to seniors, children and disabled individuals
State agencies to operate more effectively and efficiently, within available resources.

Health:

Pay for quality instead of quantity.

With the state being released from the potential liability of \$100-million, state resources can be directed towards these efforts.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and DSHS funding which is aligned with the current level of legal services needs. This funding will eliminate the need for DSHS to reprioritize current programs and efforts to fund their legal services needs.

What are the other important connections or impacts related to this proposal?

The AGO has no option but to defend this lawsuit. Settlement is always a possibility, but settlement talks have not been successful. USDOL's last settlement demand was made on April 20, 2010 for the sum of \$15,000,000, which the state was not in a financial position to accept. After the settlement conference, the state prevailed on summary judgment. The judgment was reversed on appeal and USDOL indicated that any settlement amount will now exceed \$15,000,000. OFM's position has continued to be that the state cannot afford these proposed settlement levels.

This case is limited to DSHS Children's Administration social workers.

It is important to note that this request is for a continuation of litigation that has been going on since 2008.

What alternatives were explored by the agency, and why was this alternative chosen?

Although settlement is always being explored as a possibility, the AGO has no choice but to defend this lawsuit. Given the potential impact on DSHS of adverse rulings in this case, there is no reasonable alternative than to defend the state.

There are no statutory, regulatory, or other changes or negotiation possibilities that would reduce the costs of this legal defense. There is no alternative source of funding.

What are the consequences of adopting or not adopting this package?

Not funding this request will limit resources necessary to defend the state from an adverse judgment with potential exposure as high as \$100 million. A lack of funding will result in an inability to support motions to narrow and limit issues, and to fund a robust defense in trial.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Direct litigation costs totalling \$535,000 include SAAG fees and expenses, exhibit preparation and their duplication for the plaintiffs and the court, and for the daily transcripts prepared by the court reporter.

We assume SAAG costs based upon 1,500 hours of services at an average of \$350 an hour, plus costs.

We assume \$5,000 for the preparation and duplication of trial exhibits.

We assume \$5,000 for daily transcripts.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are one-time and will not carry forward.

At present, this case has not been scheduled for trial. Given past experience with this court, we anticipate trial will be set in late 2015. However, further delays cannot be ruled out and it is possible that trial will not be set until 2016. Costs in this request are for the purpose of trying this lawsuit. Regardless of the outcome of the trial, there will be another appeal to the Ninth Circuit and additional funds will be needed for future appeals.

DSHS supports this budget request and has a mirror request in their budget submittal.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	139,765		139,765
B Employee Benefits	42,869		42,869
C Professional Svc Contracts	535,000		535,000
E Goods\Other Services	18,566		18,566
G Travel	3,300		3,300
J Capital Outlays	11,500		11,500
Total Objects	751,000		751,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AE Moore, et al. v. HCA Litigation

Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$ 1,180,000 and 1.5 Assistant Attorney General (AAG), 2.0 Paralegal (PL), and 1.0 Legal Assistant (LA) in FY2016 and FY2017, which includes \$700,000 per FY for direct costs. The AGO is working to protect client agencies and the citizens of the state from exposure to liability that may exceed \$150 million.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>	
405-1 Legal Services Revolving Account-State	1,180,000	1,180,000	2,360,000	
Total Cost	1,180,000	1,180,000	2,360,000	
Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>	
FTEs	4.5	4.5	4.5	
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	1,180,000	1,180,000	2,360,000
Total Revenue		1,180,000	1,180,000	2,360,000

Package Description:

The AGO requests \$ 1,180,000 and 1.5 AAG, 2.0 PL, and 1.0 LA in FY2016 and FY2017. This includes \$700,000 per FY for direct costs. Legal services are required for continued legal services related to a major class action lawsuit against HCA entitled Moore, et al. v. Health Care Authority and a second major class action lawsuit against HCA entitled Moore II v. Health Care Authority. Moore II presents similar theories to the Moore I litigation.

Background:

The first case was filed in 2006. Plaintiffs claim the State failed to provide statutorily mandated health benefits to non-full-time state employees who worked at least half-time over certain periods of time (e.g., over nine months for "career-seasonal" employees). The plaintiffs' case asserts two legal claims: 1) that the State breached its statutory duty to provide these benefits; and 2) that the class members are third party beneficiaries of the written contracts that the Health Care Authority (HCA) signs each year with health care providers to supply benefits to eligible workers and the alleged breach is the failure to provide the benefits.

In June 2007, the court certified the breach of statute claim for liability purposes only. Over the course of the next two and one-half years in a series of summary judgment motions, the court found the State should have averaged hours, did not and, as a result, failed to provide health benefits to a large group of part-time employees. In December 2011, the court certified a damages class on the breach of statute claim. The measure of damages remains in dispute. The plaintiffs are seeking a measure based on the value of premiums and the State seeks a measure based substantially on whether any uninsured expenses were actually incurred. In March 2013, the

Agency: 100 Office of Attorney General
Decision Package Code/Title: AE Moore, et al. v. HCA Litigation

Court of Appeals (Division One) accepted discretionary review at the State's request of the trial court's decision on the issue of the measure of damages for failure to provide health benefits and on plaintiffs' motion for transfer. The Supreme Court accepted direct review in February 2014.

Current:

On August 21, 2014 the Supreme Court issued a decision rejecting the measure of damages proposed by the State and substantially accepting plaintiff's theories of damages. The economic impact of that decision is still being assessed. The decision did not change the scope of the potential class members. While the decision likely increased the risk of damages that the plaintiffs may eventually recover, the decision should not impact the anticipated costs of preparing the defense of the State.

A second action (Moore II) was filed in June 2013 which is a continuation of Moore's 2006 class action lawsuit alleging that the State breached its statutory and contractual duties and misclassified employees to deny health benefits to certain part-time workers, thereby engaging in unfair practices under RCW 49.44.160 and .170. Plaintiffs seek unspecified compensatory damages, declaratory relief, injunctive relief, and attorneys' fees and costs. Trial in Moore II is scheduled for September 28, 2015.

The AGO anticipates the detailed auditing of employee hours across numerous State agencies will continue and will actually increase, since the filing of Moore II will require similar auditing for additional classes of employees. This is an extremely labor intensive process, but cannot be avoided due to the requirement to generate accurate lists of employees who may be properly considered to be class members. The amounts of data are so massive and nuanced that outside data management expertise is necessary and will continue to be critical over the next biennium.

The first few years of the case were spent responding to the plaintiffs' massive discovery requests and litigating the issue of class certification of the breach of statute claim, as well as the State's liability on that claim. Recent years have focused on various legal issues including certification of the breach of contract claim (granted in 2011). In addition, the State has needed the assistance of outside experts in order to produce discovery, devise methods of using the electronic data to identify potential class members, provide written notices to those class members, provide expert advice on the unique legal issues associated with class actions and provide expert opinions on other issues such as the measure of damage. Through the close of FY2014, all costs incurred by the AGO (both direct and indirect) during the litigation of this matter total over \$7,156,000. This total will increase substantially due to the filing of Moore II.

Although the HCA is the primary named defendant because of its role as the administrator of benefits for state employees, plaintiffs' claims focus on the practice of over 62 state agencies and all seven higher education agencies. Plaintiffs seek unspecified compensatory damages, declaratory relief, injunctive relief, and attorneys' fees and costs. The HCA's budget for all legal services is inadequate to support the costs of this lawsuit.

The desired result of this request is to allow the State to continue to defend itself and prepare for trial of the disputed issues. Simultaneously, diligently preparing defences will allow the State to be in a position to participate in settlement negotiations from an informed position. With possible repercussions totalling approximately \$150 million, the continued funding of an effective litigation team in the 2015-2017 biennium is imperative to put the State in the best position possible to defend the merits of the case and/or negotiate a reasonable settlement.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Agency: 100 Office of Attorney General
Decision Package Code/Title: AE Moore, et al. v. HCA Litigation

This request is for funding for the continued defense of this major dispute. The demands of the litigation are not optional for the State since we must defend the claims that have been filed. The outcome of these cases will have major fiscal implications for the state and could create a long-lasting precedent.

The AGO will perform essential legal services with the goal of prevailing in the trial courts and courts of appeal. The AGO is working to protect client agencies and the citizens of the state to exposure of liability that may exceed \$150 million. The AGO has identified the resources necessary for a proper defense of the State, including the use of outside expertise when those resources do not exist within State government.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes
FY 2016 FY 2017

Outcome Measures

000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00
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Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports following AGO Strategic Plan Goals:
Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

- 1: This request supports the following Results Washington Goals:
- Goal 5: Effective, Efficient and Accountable Government
- Customer Satisfaction and Confidence
- 1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.
- 1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of current legal services with the funding available to HCA while sustaining the current workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

The plaintiffs' claims focus not only on the HCA but also on the practice of over 62 state agencies and all seven higher education agencies. Therefore, if the State loses this case, the fiscal impact and implications are expected to negatively affect the following Results Washington Goals:

Goal 1: World-Class Education
Access - All Washingtonians have access to education that prepares them to transition to elementary, middle, high school, postsecondary, career and lifelong learning opportunities.

Success - Washington's public schools provide innovative, high-quality opportunities and tools for every student to attain 21st century skills to succeed in school, job, career and community.

Agency: 100 Office of Attorney General
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Goal 2: Prosperous Economy

Business Vitality - Washington is a great place to grow your business.

Thriving Washingtonians - Washington is THE place to work.

Sustainable, Efficient Infrastructure - Washington's infrastructure meets tomorrow's needs.

Goal 3: Sustainable Energy and a Clean Environment

Sustainable and Clean Energy - Reduce our greenhouse gas emissions.

Healthy Fish and Wildlife - Protect and restore Washington's wildlife.

Clean and Restored Environment - Keep our land, water and air clean.

Working and Natural Lands - Use our lands responsibly.

Goal 4: Healthy and Safe Communities

Healthy People - Provide access to good medical care to improve people's lives.

Safe People - Help keep people safe in their homes, on their jobs and in their communities.

Supported People - Help the most vulnerable people become independent and self-sufficient.

What are the other important connections or impacts related to this proposal?

These legal matters affect over 62 state agencies. The stakeholders include, but are not limited to HCA, all state institutions of higher education including the University of Washington and Washington State University, as well as other state agencies that utilize non-full-time employees (e.g., the Department of Social and Health Services, Washington State Department of Transportation, Department of Natural Resources, etc.). The defense of these cases has broad stakeholder participation and approval.

2: This request supports the following Governor's Priorities:

Budget

This request allows state agencies to operate more effectively and efficiently, within available resources.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and HCA funding which is aligned with the current level of legal services needs. This funding will eliminate the need for HCA to reprioritize current programs and efforts to fund their legal services needs.

Funding this request provides the state with the legal services necessary to defend and implement Moore litigation which has significant financial exposure.

The plaintiffs' claims focus not only on the HCA but also on the practice of over 62 state agencies and all seven higher education agencies. Therefore, if the State loses this case, the fiscal impact and implications are expected to negatively affect the following Governor's Priorities:

Budget:

Agency: 100 Office of Attorney General**Decision Package Code/Title: AE Moore, et al. v. HCA Litigation**

Make significant and targeted investments in education to meet our constitutional obligations under the McCleary decision.
 Promote policies and opportunities to grow jobs.
 Prepare Washington for a vibrant, thriving economy.
 Protect vital services to seniors, children and disabled individuals.

Economy:

Ensure our businesses have the world-class workforce they need.
 Encourage innovation and entrepreneurship.
 Increase the speed of Washington commerce.

Education:

Create more innovation schools for students around Washington.
 End the unacceptably high number of students who drop out of high school.
 Eliminate the persistent opportunity gaps that have kept too many children from achieving their full potential.
 Make sure all students graduate from high school prepared with 21st century skills.

Energy and Climate:

Clean transportation

What are the other important connections or impacts related to this proposal?

These legal matters affect over 62 state agencies. The stakeholders include, but are not limited to HCA, all state institutions of higher education including the University of Washington and Washington State University, as well as other state agencies that utilize non-full-time employees (e.g., the Department of Social and Health Services, Washington State Department of Transportation, Department of Natural Resources). The defense of these cases has broad stakeholder participation and approval.

What alternatives were explored by the agency, and why was this alternative chosen?

Early resolution was attempted but was unsuccessful. The parties have continued to periodically explore settlement but have been unable to reach agreement. These cases must be defended vigorously because of the large potential damages that might be awarded. Another opportunity to negotiate a settlement should arise now that the Supreme Court has issued a ruling, although at this point, the State is likely to be confronted with a much higher demand based on the methodology proposed by the plaintiffs. Short of settlement, there is no viable alternative to defending these cases.

What are the consequences of adopting or not adopting this package?

If not funded, the State's ability to adequately defend these class actions will be seriously compromised. The cases carry potential exposure of approximately \$150 million.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Agency: 100 Office of Attorney General
Decision Package Code/Title: AE Moore, et al. v. HCA Litigation

The AGO has several years of experience defending Moore I and this experience was used as the basis to determine the expected staff resources and direct costs necessary to fund the defense of Moore II.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Costs are expected to be one-time until the cases are resolved through court action or settlement.

HCA supports this budget request.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	296,358	296,358	592,716
B Employee Benefits	87,906	87,906	175,812
C Professional Svc Contracts	700,000	700,000	1,400,000
E Goods\Other Services	81,486	81,486	162,972
G Travel	5,250	5,250	10,500
J Capital Outlays	9,000	9,000	18,000
Total Objects	1,180,000	1,180,000	2,360,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AF University of WA Legal Services
Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$496,000 and 3.0 Assistant Attorneys General (AAG) in Fiscal Year (FY) 2016 and FY2017. The additional FTEs will help the AGO meet the ever-expanding needs of the University of Washington (UW) and provide consistent advice that will minimize legal risks.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		496,000	496,000	992,000
Total Cost		496,000	496,000	992,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		3.0	3.0	3.0
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	496,000	496,000	992,000
Total Revenue		496,000	496,000	992,000

Package Description:

The AGO requests \$496,000 and 3.0 AAG FTE in FY 2016 and 2017. The additional FTEs will help meet the ever-expanding needs of the UW, and provide consistent advice that will minimize legal risks.

This request is for funding that is critical to support legal services to the UW and reduce escalating costs associated with retaining Special Assistant Attorneys General (SAAGs) (private counsel on contract). The University of Washington is an extraordinarily large and complex entity, with nearly 50,000 students, more than 25,000 employees, several hospitals and an even larger health care entity, a Division I athletics program, and sixteen colleges and schools. In fiscal year 2013, the UW contracted for \$1.2 billion in federally sponsored research, launched 17 start-up companies based on UW research, managed millions of dollars in licensing programs, and funded more than 282 specialized research centers. The UW investment office also manages the University's several billion dollar endowment fund which requires significant tax analysis and review of investment instruments. The legal issues addressed by the Attorney General's UW Division are diverse and complex.

The AGO UW Division is staffed by 15 attorneys and 10 professional staff. Although the size and scope of the UW enterprise has grown dramatically, the number of attorneys supporting the UW has not kept pace. In fact, it has not increased since 2007. As a result, the ratio of AGO UW Division attorneys to University employees is 15 to 25,000 or 1 AAG for every 1,666 employees. This ratio is significantly smaller than those observed in other agencies across the state. Several examples are Department of Social and Health Services: 1 AAG for every 135 FTEs; Washington State Department of Transportation: 1 AAG for every 500 FTEs; and Department of Corrections: 1 AAG for every 450 FTEs. The low staffing levels combined with the complexity and sheer volume of the legal work

has required the use of far more expensive SAAGs, sometimes even for work that does not require special expertise. With the addition of three AAGs, the division will be able to retain more of the legal work and achieve substantial savings.

The AGO UW Division AAGs are divided into three teams: Healthcare, Employment and General Practice. The AGO is seeking an attorney for each team, based upon workloads, interviews with UW administrators and AGO UW Division staff, and the use of SAAG contracts. One theme we heard consistently in every meeting with members of the AGO UW Division and UW administration was that the AGO UW Division is too small. There simply are not enough attorneys to complete the amount of legal work the University requires. Even when the AGO UW Division is able to handle the work requested, it often takes longer than administrators would like because of the number of competing demands on our attorneys. We did not hear anyone suggest that the current attorneys are not working hard enough or could realistically do more. To the contrary, every member of the UW administration we spoke with recognized that the attorneys and staff in the AGO UW Division work extremely hard, and that the AGO UW Division is currently too small to meet the University's needs. Inadequate staffing in the AGO UW Division leads to a number of problems, including client frustration, employee morale problems, inability of attorneys to spend the time necessary to develop expertise on new issues, and a resulting reliance on private counsel (SAAGs) who incur a substantially increased unit cost.

The state and federal laws the University is required to comply with expand nearly every day. For a list of compliance laws and regulations from the federal government, refer to the Higher Education Compliance Alliance website: <http://www.higheredcompliance.org/matrix/>. One example of a federal law that has recently expanded in its application and scrutiny is Title IX. The University has hired outside consultants and SAAGs to help with this compliance area. Additional attorneys in the AGO UW Division will diminish the need for outside assistance and can facilitate greater proactive compliance with Title IX.

UW Medicine provides primary and specialty medical care to the region and owns or operates Harborview Medical Center, Northwest Hospital & Medical Center, Valley Medical Center, University of Washington Medical Center, a network of nine UW Neighborhood Clinics that provide primary care and secondary care, the physician practice UW Physicians, the UW School of Medicine and Airlift Northwest. In addition, UW Medicine shares in the ownership and governance of Children's University Medical Group and Seattle Cancer Care Alliance, a partnership among UW Medicine, Fred Hutchinson Cancer Research Center and Seattle Children's. There are many legal issues that are important to maintaining this regional asset, one of which is navigating the intricacies of the Affordable Care Act. As the importance and complexity of health care has grown, the number of AAGs supporting UW Medicine has not.

UW Advancement, a fundraising program that institutionalizes advancement at the academic core, is another area that continues to grow at the University. This program requires additional legal support for gift transactions that involve stock transfers, corporate matching gifts, planned gifts through trusts and estates and gifts of real estate.

The university campuses in Tacoma and Bothell continue to grow. UW Bothell has increased its enrollment by nearly 75% since 2009 (from 2,429 student FTEs in 2009 to 4,216 student FTEs in 2013). UW Tacoma also had more than 4,000 students in the 2013-2014 academic year. The AGO UW Division has not grown to accommodate the needs of these newer campuses.

The prevalence of legal issues related to students has also dramatically increased. For example, the scope of the student conduct code was expanded to cover some off campus conduct; the Clery Act (federal law that requires colleges and universities across the United States to disclose information about crime on and around their campuses) has been revised and expanded, creating a very complex reporting structure with an increased likelihood of sanctions for non-compliance; and the SafeCampus Program at the University has been expanded, requiring greater input from AGO UW Division attorneys.

With an expanding workforce, the legal issues related to employment and human resources have also increased. The number of University human resource consultants has multiplied and consequently the number of clients seeking legal advice on both staff and faculty employment issues has significantly increased.

The UW's sponsorship programs, trademarks and licensing program, and Center for Commercialization (C4C) have also been growing and clearly need additional legal support.

In requesting additional AAGs, we still recognize a continuing need for the expertise of SAAGs to handle, for instance, patent and other intellectual property issues, but plan to reduce use of SAAGs hired simply because the existing AAGs do not have time to do the work. We also propose to retain SAAGs more frequently as consultants rather than reassigning entire projects or cases to a private firm. One concern we heard repeatedly from both administrators and our attorneys was that SAAGs hired directly for complex work often lack our attorneys' knowledge of the University and familiarity with higher education. In many cases it would be far more efficient and likely result in better advice for such questions to be handled by the AGO UW Division, in consultation with SAAGs as

needed.

Attracting highly qualified attorneys at current AGO salaries is also an area of concern. The AGO salaries are still not competitive with other state and local government employers. The AGO continues to attempt to address this concern through other parts of our biennial budget request.

To ensure timely and effective legal services to UW, and reduce the use of private counsel, it is critical to provide adequate attorney staffing to this division of the AGO.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request is for funding that is critical to the continued legal representation of UW. We need additional staff resources to respond to litigation deadlines and client advice needs to represent UW in a timely manner. Approval of this request will result in a long lasting positive fiscal impact for the state of Washington.

The AGO UW Division is staffed by 15 attorneys and 10 professional staff. As stated above, the size and scope of the UW enterprise has grown dramatically while the number of attorneys supporting the UW has not kept pace. In fact, staff levels have not increased since 2007. The complexity and sheer volume of the legal work has required the use of far more expensive SAAGs, sometimes even for work that does not require special expertise. With the addition of three AAGs, the AGO UW Division will be able to retain more of the legal work and achieve substantial savings.

There simply are not enough attorneys to complete the amount of legal work the University requires. Inadequate staffing in the AGO UW Division leads to a number of problems, including client frustration, employee morale problems, inability of attorneys to spend the time necessary to develop expertise on new issues, and a resulting reliance on private counsel (SAAGs) who incur a substantially increased unit cost. The addition of three AAGs would revitalize the AGO UW Division, substantially increase the capacity to address the legal services needs of a large and complex institution, and decrease reliance on higher cost private counsel.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
	Outcome Measures		
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request is essential to support the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

I: This request supports the following Results Washington Goals:

Goal 1: World Class Education -Expecting every child to receive a world-class education that prepares him or her for a healthy and productive life, including success in a job or career, in the community and as a lifelong learner.

Access: All Washingtonians have access to education that prepares them to transition to elementary, middle, high school, postsecondary, career and lifelong learning opportunities:

1.3 Increase the percentage of population enrolled in certificate, credential, apprenticeship and degree programs from 13% in 2012 to 24.8% in 2023.

Success: Washington's public schools provide innovative, high-quality opportunities and tools for every student to attain 21st century skills to succeed in school, job, career and community.

2.3 Increase attainment of certificates, credentials, apprenticeships and degrees from 72,000 to 149,000 by 2023.

Goal 2: Prosperous Economy - Fostering an innovative economy where businesses, workers and communities thrive in every corner of our state.

Business Vitality: Washington is a great place to grow your business:

1.1 Increase state real GDP from \$325 billion in 2012 to \$351 billion by 2015.

1.2 Increase gross business income (GBI) from \$646 billion in 2012 to \$749 billion by 2015.

Thriving Washingtonians: Washington is THE place to work:

2.1 Increase the number of jobs in state by 150,000 by 2015.

2.2 Increase the average earnings of Washington workers from \$52,000 in 2012 to \$56,000 by 2015.

Quality of Life: Washington is a great place to live.

Goal 3: Sustainable Energy and a Clean Environment - Building a legacy of resource stewardship for the next generation of Washingtonians.

Sustainable and Clean Energy: Reduce our greenhouse gas emissions:

Healthy Fish and Wildlife: Protect and restore Washington's wildlife.

Clean and Restored Environment: Keep our land, water and air clean.

Working and Natural Lands: Use our lands responsibly.

Goal 4: Healthy and Safe Communities - Fostering the health of Washingtonians from a healthy start to safe and supported future.

Healthy People: Provide access to good medical care to improve people's lives:

1.1 Decrease the infant mortality rate for children under 1 year old from 5.1 per 1,000 in 2012 to 4.4 per 1,000 births by 2016.

1.2 Decrease the percentage of adults reporting fair or poor health from 15% in 2011 to 14% by 2017.

Safe People: Help keep people safe in their homes, on their jobs and in their communities.

2.1 Decrease rate of children with founded allegations of child abuse and/or neglect from 4.52 to 4.1 by 06/30/2015.

2.2 Decrease incidents of foodborne illnesses by 5% from the 2012 baseline by 2020.

Goal 5: Effective, Efficient and Accountable Government

Customer Satisfaction and Confidence:

1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.

1.3 Increase/maintain timely delivery for state services.

This request aligns costs of increased legal services UW for sustaining the increased workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

2: This request supports the following Governor's Priorities:

Budget:

This request helps the UW to operate more effectively and efficiently, within available resources.

Prepare Washington for a vibrant, thriving economy.

Education:

Focusing our resources and efforts on proven ways to help students succeed.

Health Care:

Addressing the costs of health care is essential to making health care more affordable for more people. This also helps businesses remain competitive and restores our state's ability to fund other priorities.

What are the other important connections or impacts related to this proposal?

Escalating SAAG costs associated with AAG workload and division understaffing were highlighted when we reviewed division staffing levels and workloads following the recent retirement of the UW Division Chief.

What alternatives were explored by the agency, and why was this alternative chosen?

The retirement of the UW Division Chief in June 2014 prompted the AGO to carefully assess how legal services are provided to the UW, whether any changes are needed, and what can be done to ensure that the UW is receiving the highest quality legal services possible in an efficient manner. Our conclusions are based on conversations with every member of the AGO UW Division and multiple conversations with administrators throughout the UW. Growth of the University, complexity of legal issues and defense of lawsuits are not within the AGO's control. Accordingly, UW must either be represented by the AGO or SAAGs, or suffer the detriments of delay in legal services and increased risks. This proposal is more cost effective.

What are the consequences of adopting or not adopting this package?

Funding this request would enable the AGO to hire 3.0 AAGs, improving legal services to the UW, and reduce legal services costs.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

It is assumed the incremental legal support staff necessary to support the addition of 3.0 AAG positions will not be funded through the Legal Services Revolving Account. The UW currently pays for their existing legal support staff directly. Therefore, the cost calculations in this package exclude the typical allowance for legal support.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

Object Detail	FY 2016	FY 2017	Total
A Salaries And Wages	272,916	272,916	545,832
B Employee Benefits	71,865	71,865	143,730
E Goods\Other Services	131,719	140,719	272,438
G Travel	4,500	4,500	9,000
J Capital Outlays	15,000	6,000	21,000
Total Objects	496,000	496,000	992,000

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AG CRJ Economic Crime Unit

Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The AGO requests \$416,000 and 1.0 Assistant Attorney General (AAG) and 0.5 Legal Assistant (LA2) in 2015-17 biennium to provide additional prosecution services for cases referred to the AGO by the Department of Labor and Industries (L&I).

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State	208,000	208,000	416,000
Total Cost	208,000	208,000	416,000

Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs	1.5	1.5	1.5

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	208,000	208,000	416,000
Total Revenue		208,000	208,000	416,000

Package Description:

The AGO requests \$416,000 and 1.0 AAG and 0.5 LA2 in 2015-17 biennium, which includes \$5,000 per FY for direct costs, to provide additional prosecution services for cases referred to the AGO by L&I.

Adding a special investigations unit to L&I will generate significantly more prosecution referrals to the AGO. The AGO will need to provide legal advice on the criminal prosecution processes and company-wide investigations, as well as represent the state in court on criminal charges resulting from these investigations.

The AGO's Criminal Justice (CRJ) division's Economic Crimes Unit (ECU) has been productive for L&I. Prosecutions and timed media releases are a major tool used to provide deterrent impact to worker's compensation fraud and other types of underground economy fraud. L&I requested additional funding to create a Special Investigations Unit to help protect vulnerable workers and law-abiding employers by expanding its efforts to hold intentional violators accountable. Under this proposal, L&I would reassign six existing positions and request 10 additional positions to create a special-investigations unit that will:

*Investigate and develop cases for criminal prosecution related to labor and safety laws, including wage and hour laws, workers' compensation, safety and health, construction compliance and prevailing wage.

*Assess and collect unpaid wages through company-wide investigations.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AG CRJ Economic Crime Unit

*Identify and recover money from medical providers who inappropriately bill the workers' compensation system.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

We anticipated this L&I special unit will increase the number of criminal referrals to the AGO's CRJ ECU by approximately 33%. ECU currently employs 2.0 AAG and 1.0 Paralegal dedicated to referrals from L&I.

This program, as currently funded, has prosecuted cases state-wide in a multitude of business areas. The past two FY's data on recoveries generated by the CRJ's L&I prosecutions demonstrates a significant return on investment (ROI) realized through prosecutions of L&I criminal cases.

In FY2013, AGO prosecutions generated \$581,513 in restitution orders following conviction. \$158,018 of this total was paid to L&I prior to sentencing in those cases, with the remainder collected over time following the imposition of sentence. The cost to pursue these cases for the fiscal year was \$518,493 representing an ROI of 12.2%.

In FY2014, AGO prosecutions generated \$650,487 in restitution orders following conviction. \$129,830 of that was paid to L&I prior to sentencing. The cost to pursue these cases for the fiscal year was \$475,607 representing an ROI of 36.8%.

While the direct ROI is notable, it does not begin to fully capture the true impact of this program. The deterrent impact from publicizing the successful prosecutions can't be quantified, but has a significant impact on reducing fraud existing in the system.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
	Outcome Measures		
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Goal 2: Serve the people - Protect the legal rights of the people of the State of Washington.

2-6 Wage Theft Prosecution

2-6-1 Work with the Department of Labor and Industries to engage in targeted criminal prosecutions of the individuals who have repeatedly violated wage and hour statutes. Prosecute and publicize cases involving multiple wage and hour violations to hold criminals accountable and deter similar criminal behaviour.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AG CRJ Economic Crime Unit

2-6-2 Work with the Department of Labor and Industries to develop a system and funding source to train investigators to build criminal wage theft cases.

2-6-3 Partner with the Department of Labor and Industries to educate stakeholders and the public about wage and hour violations, consequences and how to report. Develop a wage and hour section on the AGO Website, publicize recent cases, and inform how to report.

Does this DP provide essential support to one or more of the Governor’s Results Washington priorities?

1: This request supports the following Results Washington Goals:

Goal 2: Prosperous Economy:

- 1.1 Increase state real GDP from \$325 billion in 2012 to \$351 billion by 2015.
- 1.2 Increase gross business income (GBI) from \$646 billion in 2012 to \$749 billion by 2015.
- 2.1 Increase the number of jobs in the state.

Goal 5: Effective, Efficient and Accountable Government:

- 1.1 Increase/maintain customer service satisfaction with accuracy, timeliness and respectfulness.
- 1.3. Increase/maintain timely delivery for state services.

2: This request supports the following Governor's Priorities:

Budget: This request allows state agencies to operate more effectively and efficiently, within available resources.
Promote policies and opportunities to grow jobs.
Prepare Washington for a vibrant, thriving economy.

Government Reform:

Streamline state government with a focus on growing private sector jobs.

Health Care:

Pay for quality instead of quantity.

This request is to provide AGO Legal Services Revolving Account (LSRA) billing authority and L&I funding aligned with the anticipated level of legal services needs.

What are the other important connections or impacts related to this proposal?

This program supports legitimate businesses in Washington State by leveling the playing field - ensuring that those who abide by the law are not penalized by having to compete against those who steal public money to unlawfully enhance their competitive position.

What alternatives were explored by the agency, and why was this alternative chosen?

The decision to do nothing will result in repeated and egregious violations continuing to occur with little chance of prosecution. Redirecting current prosecution resources from workers' compensation will negatively impact and reduce successful outcomes for workers' compensation.

What are the consequences of adopting or not adopting this package?

Stakeholders will not receive legal relief as their concerns are addressed relating to:

Agency: 100 Office of Attorney General
Decision Package Code/Title: AG CRJ Economic Crime Unit

- *Unfair competition against businesses that are operating illegally.
- *Workers getting paid what they've earned.
- *Protection of state worker's compensation funding and enforcement of inappropriate billing to medical providers.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

We assume \$5,000 per FY for direct litigation costs for witness fees and court costs.

There is potential for a need of additional office space and information technology if legal services needs are greater than assumed in this request. These costs are not included in this request.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

L&I supports this budget request and is including a request in their budget submittal (Detective Units).

These costs are ongoing and will carry forward into future biennia

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	115,460	115,460	230,920
B Employee Benefits	32,237	32,237	64,474
C Professional Svc Contracts	5,000	5,000	10,000
E Goods\Other Services	50,803	50,803	101,606
G Travel	1,500	1,500	3,000
J Capital Outlays	3,000	3,000	6,000
Total Objects	208,000	208,000	416,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AH DNR Legal Services

Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Attorney General's Office (AGO) requests \$152,000 and 0.75 Assistant Attorney General (AAG) and 1.0 Office Assistant (OA3) in Fiscal Year (FY) 2016 and FY2017 to support legal services needs of the Department of Natural Resources (DNR).

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>	
405-1 Legal Services Revolving Account-State	152,000	152,000	304,000	
Total Cost	152,000	152,000	304,000	
Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>	
FTEs	1.8	1.8	1.8	
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	152,000	152,000	304,000
Total Revenue		152,000	152,000	304,000

Package Description:

The AGO requests \$152,000 and 0.75 AAG and 1.0 OA3 in FY2016 and FY2017 to support the legal services needs of DNR.

DNR has increased its demand for legal services related to management of state trust lands, contracts, leases, and transactional documents. DNR is also experiencing an increase in complex litigation in its Fire Cost Recovery program in part because of increase fire suppression costs. We need additional staffing resources to support DNR's legal services needs. We may substitute Paralegal (PL) staffing instead of AAG resources if that better addresses the legal services need.

The AGO currently provides client advice and litigation support to DNR in its land management activities. DNR's activities include timber sales, as well as purchases, sales, exchanges, and leases of forest lands, commercial properties, and agricultural lands. DNR also has several major trust land initiatives in process. These include updating its long term conservation strategy for marbled murrelets under its federal Endangered Species Act Habitat Conservation Plan and development of a new sustainable harvest calculation required by statute. DNR is experiencing increased client advice and litigation needs related to these land management activities. There is an increase in both the complexity of legal issues and the amount of litigation. This does not appear to be an isolated event, but is a reflection of more public focus on natural resource issues.

DNR is also experiencing heightened scrutiny and an increase in public records issues because of the State Route 530 landslide in Snohomish County and an increase in contentious litigation in its Fire Cost Recovery program. These trends are likely to continue.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AH DNR Legal Services

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

We need additional staff resources to respond to litigation deadlines and client advice needs to represent DNR in a timely manner. Because of the State's fiduciary duty related to the trust lands, we need to have adequate capacity to handle trust legal services needs. The land management activities of DNR generate significant income for the state, and increased resources can result in more efficient, effective delivery of legal services. The Fire Cost Recovery Program results in recovery of DNR costs in fighting negligently started forest fires. With increased fires, and more complex litigation, we need additional resources to adequately staff these matters.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request is essential to support the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: This request supports the following Results Washington Goals:

Goal 3: Sustainable energy and a clean environment - Building a legacy of resource stewardship for the next generation of Washingtonians.

Additional LSRA billing authority for the AGO and funding for DNR legal services will result in DNR being able to sustain their statewide environmental programs at the intended level. DNR is currently required to reprioritize funding intended for existing programs to pay for these additional legal services.

Goal 5: Effective, Efficient and Accountable Government - Fostering a Lean culture that drives accountability and results for the people of Washington.

This request aligns the actual costs of increased legal services with the funding available to DNR for sustaining the increased workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AH DNR Legal Services

2: This request supports the following Governor's Priorities:

Budget:

Operate more effectively and efficiently, within available resources.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and DNR funding which is aligned with the current level of legal services needs. This funding will eliminate the need for DNR to reprioritize current programs and efforts to fund their legal services needs.

What are the other important connections or impacts related to this proposal?

Trust beneficiaries (public schools, universities and other state institutions, and counties) benefit from having adequate legal resources to support trust management activities.

What alternatives were explored by the agency, and why was this alternative chosen?

We have attempted to prioritize our work consistent with client objectives and have sought extensions in litigation in the hopes that the increase workload was transitory. However, the increased workload is ongoing and handling it with existing staff is not sustainable.

Obtaining the legal services of a Special Assistant Attorney General is a much more expensive alternative when compared with this modest increase in staff with in the division. Additionally, outside counsel often lacks the unique expertise necessary to address DNR legal issues.

What are the consequences of adopting or not adopting this package?

Not funding this request will not allow us to adequately provide legal services to DNR, particularly with respect to protecting trust assets and recovering fire costs. A failure to address the need for increased staffing could result in missed litigation deadlines, delays in recovering or protecting trust assets or trust monies owed, or unacceptable delay in non-litigation driven client advice. We also would have reduced ability to assist DNR with public record and risk management. If the staffing issue is not addressed, it could result in lower moral and increased turnover.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

\$152,000 for 0.75 AAG, 1.0 OA3 and associated goods and services.

Some legal services associated with this request may be accomplished by PL staff resulting in savings.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

Agency: **100 Office of Attorney General**Decision Package Code/Title: **AH DNR Legal Services**

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	101,697	101,697	203,394
B Employee Benefits	31,800	31,800	63,600
E Goods\Other Services	13,878	13,878	27,756
G Travel	1,125	1,125	2,250
J Capital Outlays	3,500	3,500	7,000
Total Objects	152,000	152,000	304,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AI Medicaid Fraud Direct Costs

Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$70,875 in Fiscal Year (FY) 2015 and FY2016 for the AGO Medicaid Fraud Control Unit (MFCU) to meet the 25% State match requirement to the Federal Grant administered by the Office of Inspector General (OIG), and to provide for new and ongoing litigation costs relating to the False Claims Act (FCA).

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
19A-1 Medicaid Fraud Penalty Account-State	70,875	70,875	141,750
Total Cost	70,875	70,875	141,750

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
19AMedicaid Fraud Pen A	0420 Charges for Services	70,875	70,875	141,750
Total Revenue		70,875	70,875	141,750

Package Description:

The AGO requests \$70,875 in FY2015 and FY2016 to provide for the AGO MFCU to meet the 25% State match requirement to the Federal Grant administered by the OIG, and to provide for new and ongoing litigation costs relating to the FCA.

Fully funding pending FCA litigation most effectively advances MFCU's mission to recover money for the Medicaid system and deter fraud abuse and neglect.

Having adequate AAG staff and bringing FCA actions is at the core of MFCU's mission. We are directed to recover money stolen by fraud against Medicaid and to deter abuse and neglect of Medicaid clients.

This request is to fully fund the state 25% match to the federal grant (75% match) requested from the OIG for the Federal Fiscal Year (FFY) 2016 (October 1, 2015 - September 30, 2016) and FFY2017 (October 1, 2016- September 30, 2017). We will have confirmation of our OIG FFY budget by mid-September. If approved, we will have access to \$283,500 in federal dollars for litigation costs provided that we can obtain the state 25% match (\$70,875). Access to the federal dollars is conditioned on approval of this supplemental request. This request is for costs of pending in-court Civil False Claims litigation particularly in the areas of depositions, expert witness costs and litigation support.

A 2015 Supplemental Budget request has been submitted for the same totals covering FFY2015 (October 1, 2014 - September 30,

Agency: 100 Office of Attorney General
Decision Package Code/Title: AI Medicaid Fraud Direct Costs

2015)

This request directly supports MFCU enforcement of the FCA by funding unanticipated litigation costs in two pending in-court cases. These cases involve millions of dollars in potential damages and penalties.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request is for funding necessary for the continuation and successful prosecution of two major FCA cases pending in court. The outcome of these cases will have fiscal implications for the state and could create a long-lasting precedent which would deter future fraud directed at the state's Medicaid system.

This request will prevent the loss of revenue to the state's Medicaid Fraud Penalty Account (MFPA), while the recovery of funds will be deposited into the MFPA.

This litigation will result in the recovery of damages and penalties, and promote general deterrence and increased voluntary compliance with the laws by Medicaid providers.

Performance Measure Detail

Activity: A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

Incremental Changes
FY 2016 **FY 2017**

Outcome Measures

002538	More Medicaid funds are returned to the State and made available through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. In particular, as part of the legislation creating the FCA, the 2012 legislature also created the Medicaid Penalty Account which is the state funding source for not only the MFCU, but also the Medicaid program integrity responsibilities managed by the Washington Health Care Authority. Thus, through MFCU's civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA's is returned to the State and placed into the Penalty Account. This includes restitution, interest and penalties. During the 2013 legislative session, the legislature also authorized the prescription drug monitoring program to be funded from the Penalty Account.	\$0.00	\$0.00
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Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AI Medicaid Fraud Direct Costs

Goal 2: Serve the people. Protect the legal rights of the people of the State of Washington.

Does this DP provide essential support to one or more of the Governor’s Results Washington priorities?

1: This request supports the following Results Washington Goals:

Goal 4: Healthy and Safe Communities

- 1.3 Decrease rate of uninsured in state from 15% to 6% by 2017.
- 1.3.b. Meet or exceed Medicaid expansion enrolment target of 300,000 by 2016.

This request promotes integrity in Medicaid providers resulting in access to improved medical care while supporting the elderly and most vulnerable residents of the state.

Goal 5: Effective, Efficient and Accountable Government
Customer Satisfaction and Confidence

- 1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.
- 1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of current MFCU services with the funding available to the AGO in sustaining the current workload. This request clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

This request will provide AGO Medicaid Fraud Penalty Account (MFPA) funding and justify a 75% increase in Federal General Funds. These funding increases will align the AGO MFCU with the correct level of legal services needs. This funding will eliminate the need for the AGO to reprioritize current programs and efforts to fund MFCU activities.

2: This request supports the following Governor's Priorities:

Budget:

- This request helps the AGO to operate more effectively and efficiently, within available resources.
- Protect vital services to seniors, children and disabled individuals.

Health Care:

- Continue to enrol families in affordable insurance plans and Apple Health.
- Pay for quality instead of quantity.

This request is for funding to be used in litigation in Medicaid Fraud lawsuits. Continued enforcement of Medicaid fraud infractions will reduce improper billing and increase services provided to Medicaid patients statewide.

What are the other important connections or impacts related to this proposal?

The funding sought in this proposal will fund expert review, consultation and testimony in support of damage theories in two filed FCA cases and pay for extraordinary litigation costs, specifically depositions.

What alternatives were explored by the agency, and why was this alternative chosen?

The MFCU did consider alternatives to litigation as part of the filing decisions. Once the commitment to litigate was made, the options narrow to pursuing it or dismissing the case.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AI Medicaid Fraud Direct Costs

What are the consequences of adopting or not adopting this package?

Funding will promote successful prosecution of two revenue generating FCA cases.

Additional Medicaid funds will be returned to the State and made available through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. In particular, as part of the legislation creating the FCA, the 2012 legislature also created the Medicaid Penalty Account which is the state funding source for not only the MFCU, but also the Medicaid program integrity responsibilities managed by the Washington Health Care Authority. Thus, through MFCU's civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA's is returned to the State and placed into the Penalty Account. This includes restitution, interest and penalties. During the 2013 legislative session, the legislature also authorized the Prescription Drug Monitoring program to be funded from the Penalty Account.

Through MFCU's criminal and non-false claims act civil efforts, more money is also returned to the State, because those cases also generally contain a restitution portion, and generate or have generated interest. In these cases, the restitution recoveries are returned directly to the Medicaid program and not to the Penalty Account; any interest earned and recovered goes to the state general fund.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

\$70,875 in additional direct litigation costs per FY will aid in recovery of damages and penalties exceeding \$1-million dollars.

We assume \$15,000 per FY will be spent on deposition costs.

We assume \$54,000 per FY will be spent on expert witnesses: 216 hours at \$250 per hour.

We assume \$1,875 per FY will be spent on document processing and an electronic discovery vendor.

This supplemental request will fund deposition costs, expert witness costs and litigation support for the successful resolution of pending in-court Civil False Claims cases.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

We anticipate that OIG will support this budget request and MFCU has a mirror request in their OIG Grant Federal budget submittal for FFY2015.

These costs are ongoing and will carry forward into future biennia as we become fully staffed, and assign full civil litigation loads with new FCA in-state cases. We will build these increased litigation costs into future budgets based on our experience, litigation capacity and better anticipation of our needs.

Agency: **100 Office of Attorney General**

Decision Package Code/Title: **AI Medicaid Fraud Direct Costs**

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
C Professional Svc Contracts	54,000	54,000	108,000
E Goods\Other Services	16,875	16,875	33,750
Total Objects	70,875	70,875	141,750

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AJ Tobacco Diligent Enforcement

Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$587,000 in FY2016 and \$587,000 in FY2017 to provide on-going legal services for the AGO Tobacco (TOB) unit's effort relating to the tobacco Master Settlement Agreement (MSA). The state benefits greatly from continued enforcement efforts of the AGO regarding Non-Participating Manufacturer (NPM) in the Tobacco Master Settlement.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	587,000	587,000	1,174,000
Total Cost	587,000	587,000	1,174,000

Package Description:

The AGO requests \$587,000 in FY2016 and \$587,000 in FY2017, which includes \$268,000 per FY for direct litigation costs. These resources will be used to prepare for the next NPM adjustment arbitration under the tobacco MSA (for sales year 2004), and for MSA public health enforcement.

Previous appropriations were for arbitration of the 2003 NPM Adjustment dispute that took eight years to resolve. The 2004 NPM Adjustment arbitration preparations have already begun.

Over the last several biennia, TOB has been staffed with 1.0 AAG. Additional legal services have been provided by other AGO divisions whose primary purpose is to represent other state agencies. Their clients are not billed for TOB related work as these costs are paid GF-S TOB funds. All the afore described costs are included in this request and will allow TOB to sustain this practice. As such, the AGO does not require additional FTE authorization levels, and these are omitted from this request.

The 2003 NPM Adjustment (i.e., the amount of money that the MSA tobacco companies were seeking in the form of reductions in payments that they make to the states) was approximately \$1.2 billion. Because Washington prevailed in its arbitration, it did not suffer a reduction in its 2014 MSA payment based upon the 2003 dispute.

However, the continued receipt of the full amount of Washington's annual MSA payments is contingent on prevailing in the on-going arbitrations in which the Participating Manufacturers (PM) are expected to challenge Washington's enforcement of certain laws against NPMs. To the extent that funding does not continue for these litigation efforts, the State could lose settlement funds for 2004 and subsequent years. These costs are on-going for years to come.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AJ Tobacco Diligent Enforcement

The 2015-17 preliminary CFL reflects the Tobacco MSA funding (\$563,000 per FY) as one-time funding. Restoring these funds and removing them from future CFL adjustments will position TOB for a greater level of success.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request for funding is critical to the continued defense of this major dispute, the essence of which for the state is sustaining its MSA entitlements. The outcome of this case will have major fiscal implications for the state and could create a long-lasting precedent.

The AGO will perform essential legal services to prevail in this appeal. The AGO is working to protect residents of Washington State from exposure to liability. The worst case scenario can cumulatively exceed a billion dollars for all years in dispute.

Approval of this request will enable the AGO to prepare and present the strongest case possible and thereby maximize the opportunity for a favorable result in the arbitration. In 2014, Washington State received approximately \$165 million under the MSA.

Approximately 71% of MSA money, or roughly \$117 million is available to the legislature to fund various programs in state government.

The results of the arbitrations of on-going NPM Adjustment disputes have enormous financial implications for all MSA states, including Washington, that have not settled their disputes with the PMs. Decisions in a given arbitration may set precedent for subsequent arbitrations. Thus, the ability to put on a strong case has both immediate and long-term financial implications for the state.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
	Outcome Measures		
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: The anticipated annual MSA payment of over \$100 million is available to support all of the Governor's Results Washington Priorities. Losing this case has implications for the State's ability to execute all of the Results Washington Goals.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AJ Tobacco Diligent Enforcement

Goal 1: World Class Education

Goal 2: Prosperous Economy

Goal 3: Sustainable Energy and a Clean Environment

Goal 4: Healthy and Safe Communities:

Healthy People - Provide access to good medical care to improve people's lives.

Healthy Babies: 1.1 Decrease the infant mortality rate for children under 1 year old from 5.1 per 1,000 births in 2012 to 4.4 per 1,000 births by 2016.

Healthy Youth and Adults

1.2: Decrease the percentage of adults reporting fair or poor health from 15% in 2011 to 14% by 2017.

1.2.Y.d: Decrease the percentage of 10th graders who report smoking cigarettes in the past 30 days from 10% in 2012 to 9% by 2017.

1.2.A.e: Decrease percentage of adults who smoke cigarettes from 17% in 2011 to 15% by 2017.

1.2.A.e.1: Decrease percentage of persons who smoke cigarettes among low education (high school or less education) from 26% in 2011 to 23% by 2016, and pregnant women from 9% to 8% by 2016.

Safe People - Help keep people safe in their homes, on their jobs and in their communities.

Supported People - Help the most vulnerable people become independent and self-sufficient.

Goal 5: Effective, Efficient and Accountable Government

Customer Satisfaction

1.1 Increase/maintain customer service satisfaction with accuracy, timeliness and respectfulness.

Customer Confidence

1.3. Increase/maintain timely delivery for state services from X to X by 20XX (June 2014)

Washington State's FY2014 Supplement Operating Budget (ESSB 6002) identifies over \$170,000,000 of Tobacco Settlement Account transfers to the State's General Fund Account, the Education Legacy Trust Account, and the Life Sciences Discovery Fund.

2: The projected annual MSA payments are available to support all of the Governor's priorities: Budget, Economy, Education, Government Reform, and Health Care.

This request supports the effort to maintain or increase the revenues received from the tobacco Master Settlement Agreement.

What are the other important connections or impacts related to this proposal?

An unfavorable result in the arbitration(s) could result in a reduction of more than \$100 million in future MSA payments to the state, and potentially set a precedent that could result in payment reductions cumulatively exceeding a billion dollars for all years in dispute (calendar year 2004 and subsequent).

What alternatives were explored by the agency, and why was this alternative chosen?

Because of the potential impact of adverse rulings in these cases, there is no reasonable alternative than vigorously defend the state. Revenues generated will exceed the expenses by a monumental proportion.

What are the consequences of adopting or not adopting this package?

It is assumed that funding this request will result on a return of investment of more than 100:1 for every dollar spent by the AGO. This investment, and funding for MSA settlements, is good for the state.

What is the relationship, if any, to the state's capital budget?

Agency: 100 Office of Attorney General
Decision Package Code/Title: AJ Tobacco Diligent Enforcement

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Direct expenditures of approximately \$268,000 per FY are expected. This includes expert witness and consultant services, data and document management services, and direct hearing-related services such as videographer and court reporter services.

We assume division support of 1.25 Assistant Attorney General and 0.75 Paralegal which is included in this request. AGO Divisions will not bill their clients for TOB workload.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

Washington State and the PMs have attempted to negotiate a settlement of the pending disputes that would alleviate the need for future NPM Adjustment arbitrations under the MSA. However, thus far those negotiations have been unsuccessful. Thus, it is necessary to fund the continued staffing of the pending arbitration of the 2004 NPM Adjustment dispute.

These costs are on-going and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	183,260	183,260	366,520
B Employee Benefits	52,908	52,908	105,816
C Professional Svc Contracts	268,000	268,000	536,000
E Goods\Other Services	66,832	74,632	141,464
G Travel	3,000	3,000	6,000
J Capital Outlays	13,000	5,200	18,200
Total Objects	587,000	587,000	1,174,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AK Wrongful Conviction Act

Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$102,000 in the 2015-17 biennium to provide new legal services for the AGO Criminal Litigation (CRI) division relating to wrongful convictions as enacted in 2013 ESHB 1341. This request is in addition to the \$100,000 (\$50,000 per FY) provided in the enacted 2013-15 biennial budget.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	51,000	51,000	102,000
Total Cost	51,000	51,000	102,000

Package Description:

The AGO requests \$102,000 in the 2015-17 biennium to provide new legal services for the AGO Criminal Litigation (CRI) division relating to wrongful convictions as enacted in 2013 ESHB 1341.

This request is in addition to the \$100,000 (\$50,000 per FY) provided in the enacted 2013-15 biennial budget. We assume the FTE were only partially funded, and this request is to cover the cost of current legal service usage.

Section 6 of ESHB 1341 provides that upon the request of a claimant, the court shall refer the claimant to the Department of Corrections (DOC) or the Department of Social and Health Services (DSHS) for counselling on the ability to enter into a structured settlement agreement, and where to obtain free or low-cost legal and financial aid if the claimant is not already represented. Section 6(11) provides that the claimant or the Attorney General's Office (AGO) may initiate or agree to a claim with a structured settlement. Section 6(12) provides details to ensure the claimant has an adequate understanding of a structured settlement agreement before it is approved by the court.

New legal services are required as a result of the enactment of ESHB 1341 and funding is required for the provision of these services by the AGO. There is no client agency to bill for these services.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AK Wrongful Conviction Act

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request provides funding for the new legal services required by ESHB 1341. The outcome of cases and claims filed under this new law will have major fiscal implications for the state and could create a long-lasting precedent for future cases and claims.

The AGO will perform essential legal services to review all cases and claims filed under the Wrongful Conviction Act, and either approve settlements resulting in significant monetary awards against the state, or litigate and defend against such monetary awards against the state, when appropriate. The AGO is working to protect the state and the citizens of the state to exposure from liability that exceeds \$50,000 per year of the incarceration, plus other financial awards in every case and claim filed under this new law.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes
FY 2016 **FY 2017**

Outcome Measures

000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00
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Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: This request supports the following Results Washington Goals:

Goal 5: Effective, Efficient and Accountable Government

Customer Satisfaction and Confidence

1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.

1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of legal services with the funding available to sustain current workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

If the State loses these types of cases the settlements will likely be paid from the State's General Fund. Because education, health, and social and health services comprise over 80% of the General Fund, these settlements are expected to affect the following Results Washington Goals:

Goal 1: World-Class Education

Access - All Washingtonians have access to education that prepares them to transition to elementary, middle, high school,

Agency: 100 Office of Attorney General
Decision Package Code/Title: AK Wrongful Conviction Act

postsecondary, career and lifelong learning opportunities.

Success - Washington's public schools provide innovative, high-quality opportunities and tools for every student to attain 21st century skills to succeed in school, job, career and community.

Goal 4: Healthy and Safe Communities

Healthy People - Provide access to good medical care to improve people's lives.

Safe People - Help keep people safe in their homes, on their jobs and in their communities.

Supported People - Help the most vulnerable people become independent and self sufficient.

2: This request supports the following Governor's Priorities:

Budget:

This request allows state agencies to operate more effectively and efficiently, within available resources.

This request will provide State General Funds for the projected level of legal services needed. This funding will eliminate the need for the AGO to reprioritize current programs and efforts to fund their legal services needs.

If the State loses these types of cases the settlements will likely be paid from the State's General Fund. Because education, health, and social and health services comprise over 80% of the General Fund, these settlements are expected to affect the following Governor's Priorities:

Education:

- Create more innovation schools for students around Washington.
- Encourage continuous improvement of our educators and administrators.
- End the unacceptably high number of students who drop out of high school.
- Eliminate the persistent opportunity gaps that have kept too many children from achieving their full potential.
- Make sure all students graduate from high school prepared with 21st century skills.

Health Care:

- Continue to enrol families in affordable insurance plans and Apple Health.
- Pay for quality instead of quantity.
- Make health care costs transparent so families and businesses know the cost and quality of the care they buy.
- Integrate mental health care and medical care to treat the whole person.
- Engage communities in identifying local health problems and assist them in bring all state and local resources to bear on them.
- Curb state employee costs by improving health and focusing on primary and preventive care.
- Stabilize rural emergency services and primary care funding.

What are the other important connections or impacts related to this proposal?

The AGO has no option but provide legal services for wrongful conviction claims made against the State of Washington.

What alternatives were explored by the agency, and why was this alternative chosen?

There is no reasonable alternative than to vigorously defend the state.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AK Wrongful Conviction Act

There are no statutory, regulatory, or other changes or negotiation possibilities that would reduce the costs of this legal defense. There is no alternative source of income, or appropriate client to bill for these legal services.

What are the consequences of adopting or not adopting this package?

Not funding this request will place the AGO in a situation where we will have to cut and reprioritize legal services which have already been funded. Adequate funding for legal services associated with the Wrongful Conviction Act will also result in inadequate representation of the state's interests and protection of the citizens of the state from exposure to liability for underserving Wrongful Conviction Act claimants.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

The enacted 2013-15 budget provided 1.5 FTE and \$50,000 per FY for wrongfully convicted claims. We assume the FTE previously provided are partially funded, and this request is for the balance of the funding necessary to pay for current legal service usage. The balance of the funding requested is the net of current costs less the \$50,000 per fiscal year already provided.

Current AGO Assumptions for 1341 ESHB-PL:

1. Legal services associated with the enactment of this bill started July 1, 2013.
2. The last six months of legal services usage data (Mar to Aug 2014) justifies 0.5 AAG and 0.3 LA2. This FTE level reflects that the majority of cases have not reached litigation stage. The costs of this decision package are based on the current legal services usage data.
3. Once the Wrongful Conviction program is fully implemented, we assume 1.0 AAG, 0.5 PL and 0.5 LA2 will be necessary to handle 15 cases per year.
4. We assume there will be direct litigation costs of litigation, including depositions, witness fees, travel, and potentially expert witness fees. These costs are not included in this request due to a current lack of data, and the AGO will request sufficient funding once cost data are available.
5. Fifteen claims were filed with the AGO in the first fiscal year after enactment of the bill. Only two of those claims have been resolved: one in a summary judgement against the state; and one conceded by the state. We assume at least 15 claims will be filed each year through FY2016. It is not possible to predict the number of claims that will be filed after that time, and we assume the results from litigation of cases in the first three years will heavily influence the number of future claims.
6. We assume the number of meritorious claims will be few. However, the number of claims asserted and the number of cases the AGO will have to defend is difficult to estimate, but may be significant. This may be the case in the first several years of post-enactment when the courts will not have had the opportunity to interpret key provisions of the new law, and claimants may wrongly believe they

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have meritorious claims.

7. We assume that limiting claims to those involving "significant new exculpatory information" (i.e., consistent with actual innocence) is designed to reduce the number of successful claims. However, this legislation could still be read to allow claims based on new information supporting dismissal for legal error; not actual innocence due to the definition of "actually innocent" requiring a finding that the claimant did not engage in any illegal conduct alleged in the charging documents. While Address cases are specifically excluded, other cases reversed or dismissed based on a changed interpretation of the law as occurred in the Address cases could result in successful claims.

8. We assume the intermediate burden of proof required for successful claims of actual innocence, which is clear and convincing evidence, will render some claims subject to summary resolution, thereby reducing defense costs as to those claims.

9. The Wrongful Conviction Act authorizes claims for convictions reversed before the effective date of the law without limitation to time. We assume there will be a substantial number of claims filed initially, within the three year limitation period following enactment.

10. We assume there will be a sustained requirement of legal staff for future wrongful conviction claims and defense.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	29,365	29,365	58,730
B Employee Benefits	8,060	8,060	16,120
E Goods\Other Services	11,325	12,450	23,775
G Travel	375	375	750
J Capital Outlays	1,875	750	2,625
Total Objects	51,000	51,000	102,000

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Agency: 100 Office of Attorney General
Decision Package Code/Title: 8L Lease Rate Adjustments

Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

This request covers the expected increase and decrease in annual lease contracts that will come up for renewal in the 2015-2017 biennium. These requested increases are to continue leases in buildings around the state where the Office of the Attorney General (AGO) divisions are currently located and providing services to client agencies. This request also addresses cost for two new leases that the Department of Enterprise Services (DES) negotiates with landlords on behalf of the AGO. The AGO has little control over the increase in lease costs and this request does not duplicate any funding proposed in any other decision packages within the 2015-2017 biennium budget request. These facilities are all in our six-year lease facility plan.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	92,907	148,368	241,275
001-2 General Fund - Basic Account-Federal	(87,496)	(96,535)	(184,031)
111-1 Public Service Revolving Account-State	(5,313)	2,370	(2,943)
12F-6 Man/Mobile Home Dispute Resolution-Non-Ap	(2,334)	1,541	(793)
154-1 New Motor Vehicle Arbitration Acct-State	(3,047)	2,082	(965)
17L-6 Foreclosure Fairness Account-Non-Appropriate	(807)	(369)	(1,176)
19A-1 Medicaid Fraud Penalty Account-State	76,450	75,071	151,521
405-1 Legal Services Revolving Account-State	(279,172)	3,417	(275,755)
424-6 Anti-Trust Revolving Account-Non-Appropriat	(14,244)	(5,796)	(20,040)
828-1 Tobacco Prevention/Control Account-State	(213)	(194)	(407)
Total Cost	(223,269)	129,955	(93,314)

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001 General Fund	0393 Health & Human Svc	(87,496)	(96,535)	(184,031)
405 Legal Serv Rev Acct	0420 Charges for Services	(279,172)	3,417	(275,755)
Total Revenue		(366,668)	(93,118)	(459,786)

Package Description:

This request covers the expected increase and decrease in annual lease contracts that will come up for renewal in the 2015-17 biennium as well as contractually scheduled rate increases. Each expiring lease is anticipated to increase per guidance from DES. DES negotiates the lease costs with landlords on behalf of the AGO. The AGO has little control over the increase in lease costs and this request does not duplicate any funding proposed in any other decision packages within the 2013-2015 biennium budget request. These

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Decision Package Code/Title: 8L Lease Rate Adjustments

facilities are all in our six-year lease facility plan.

These requested increases are to continue occupancy in buildings around the state where AGO divisions are currently located to provide services to client agencies and Washington State consumers. There are two new leases affecting costs this biennium: Capitol Court has been vacated and staff moved to a more cost efficient location in Tumwater; the current Wenatchee lease will expire in FY2015 as a new location has been contracted.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT1.pdf' for AGO cost projections.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT2.pdf' for AGO Client agency impacts.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT3.pdf' for the OFM requested spreadsheet from the 2013-13 Operating and Capitol Budget Instructions.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT4.pdf' for utility cost assumptions included in this request.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request is necessary to allow the AGO to continue providing legal services to its client agencies.

Performance Measure Detail

Activity: A002 Civil Commitment of Sexually Violent Predators

Incremental Changes
FY 2016 FY 2017

Outcome Measures

002535 The most dangerous and violent sexual predators in the state are detained, evaluated, and treated until they no longer constitute a threat. Consequently, fewer people are victimized, and the public is protected from those sex offenders who are most likely to reoffend.

0.00 0.00

Activity: A003 Criminal Investigation and Prosecution

Incremental Changes
FY 2016 FY 2017

Output Measures

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Decision Package Code/Title: 8L Lease Rate Adjustments

002536	0.00	0.00
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Where the county prosecutor has a conflict of interest or needs assistance for other reasons, there is a competent, highly-skilled prosecutor to represent the state, resulting in greater public protection. Crimes of fraud involving state agencies are properly investigated and prosecuted so that state agencies and other victims can recover their losses, and similar criminal activity against state agencies can be curtailed and deterred. The Criminal Litigation Unit reviews important appeals and provides additional legal assistance when requested. The CLU also reviews and approves (or defends against) claims filed by persons claiming to have been wrongfully convicted and imprisoned.

Activity: A004 Enforcement of Anti-Trust Laws

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Output Measures

000011 PM0004/ANT - Recoveries. We capture the efforts of AGO Antitrust staff who work to stop anticompetitive behavior and promote compliance with Antitrust laws. The measurement tells us the degree to which we recover monetary restitution for our consumers.	\$0.00	\$0.00
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Activity: A005 Consumer Protection

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Output Measures

002534	\$0.00	\$0.00
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The division's activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketplace. The division is also expected to recover a portion of the costs of its operation through its litigation activity. Finally, the Division is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration and foster compliance with the Manufactured Housing Landlord Tenant Act.

Activity: A006 Executive Ethics Board

Incremental Changes	
<u>FY 2016</u>	<u>FY 2017</u>

Outcome Measures

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000018	The Executive Ethics Board (EEB) promotes integrity, confidence, and public trust in state government through education, interpretation, and enforcement of the Ethics in Public Service Act (the Act). The Office of the Attorney General provides staff for the Board. Board members meet on a regular basis to interpret the Act for all state agencies, provide advice to agencies regarding ethical issues, promulgate rules to implement the Act, and take enforcement action against state employees who violate the Act. The Board staff investigates complaints filed by public employees and citizens, provides ethics training to all state agencies, and provides advice regarding ethics in the workplace to ensure that state officers and employees perform their public responsibilities with the highest ethical standards and conduct the business of the state to advance the public’s interest and not use their position for personal gain or private advantage.	0.00	0.00
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Activity: A007 Homicide Investigation Tracking System

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
000021	The Homicide Investigation Tracking System (HITS) investigators and its data warehouse provide resources to local, state, and federal law enforcement agencies by giving them access to violent crime data and analyses across jurisdictions. The HITS Unit provides law enforcement analysis of crime data related to murder, rape, and other serious offenses. The usefulness of the HITS system is directly affected by the quality and quantity of crime data entered into the system, and the HITS investigators work closely with law enforcement to ensure all information is correctly captured. The HITS Unit provides direct investigative assistance, including case reviews and search results, to law enforcement upon request. As a result, violent offenders are identified and apprehended, improving public safety and preventing crime.	0.00	0.00

Activity: A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002538	More Medicaid funds are returned to the State and made available through appropriation to combat fraud, provide Medicaid services, and monitor prescription drug abuse. In particular, as part of the legislation creating the FCA, the 2012 legislature also created the Medicaid Penalty Account which is the state funding source for not only the MFCU, but also the Medicaid program integrity responsibilities managed by the Washington Health Care Authority. Thus, through MFCU’s civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA’s is returned to the State and placed into the Penalty Account. This includes restitution, interest and penalties. During the 2013 legislative session, the legislature also authorized the prescription drug monitoring program to be funded from the Penalty Account.	\$0.00	\$0.00

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		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Activity: A010 Legal Services to State Agencies			
Outcome Measures			
000030	PM0010 - The number of litigation cases open at the end of each Fiscal Year.	0.00	0.00
Activity: A011 Representing Ratepayers			
Outcome Measures			
002531	The Public Counsel protects consumers and businesses by advocating for fair, just, reasonable, and sufficient utility rates and by ensuring that customers pay only for reasonable and cost-effective programs.	\$0.00	\$0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: This package supports the following Results Washington Goals:

Goal 5: Effective, Efficient and Accountable Government
Customer Satisfaction and Confidence

- 1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.
- 1.3 Increase/maintain timely delivery for state services.

Resource Stewardship

- 2.2 Reduce the statewide energy use index of state facilities from 120 kBtu to 106 kBtu/square foot /year by 2015.

This request aligns the actual cost of AGO facility leases with funding to sustain the current workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

2: This request supports the following Governor's Priorities:

Budget:

Step up Lean management so state agencies operate more effectively and efficiently, within available resources.

Energy & Climate:

- Energy efficiency.
- State government operations.

Government Reform:

Empower state employees to find efficiencies through greater use of Lean Management.

This request is for allocations for essential operational costs of AGO facility leases across the state. Funding this request will allow the

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AGO to sustain the current level of legal services to state agencies and programs, and align allocations with facility expenditures.

What are the other important connections or impacts related to this proposal?

The increasing cost of leased space is an unavoidable cost that must be incurred for the AGO to provide legal services to its client agencies. If funds originally intended for legal service costs must be diverted to pay for unfunded lease costs, the result would be a reduced level of legal advice and other legal services. This will increase agency risk and could lead to avoidable legal issues.

What alternatives were explored by the agency, and why was this alternative chosen?

The AGO is obligated to pay lease costs negotiated by DES. There is no viable alternative for leased facilities.

What are the consequences of adopting or not adopting this package?

Finding this request provides resources necessary to protect the state from adverse judgements.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

HLB rates are not included in this request. DES has stated that they will bill the AGO for lease space in accordance with the Central Service Model allocation.

Leases Closed:

Capitol Court has been vacated. Capitol Court staff have relocated to the Tumwater-ISD lease.

The current Wenatchee office will be vacated in October 2014. Staff have relocated to another facility, entitled "Wenatchee-New lease".

Facility rate percentage increases have been determined using DES's model for anticipated increases:

- Bellingham - 14%
- Kent and Port Orchard - 4.3%
- Kitsap County Juvenile Courthouse. - 0%
- Seattle - 9.5%
- Yakima - 12%

The following sites have scheduled lease rate increases which are written into the existing contractual lease agreement:

Tacoma

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Tumwater

Torts lease expenditures have been deducted from this request as it is expected that these costs will be negotiated in the updated DES Risk Management Interagency Agreement. Torts lease costs to be absorbed in the 2015-17 biennium total \$67,107.

Sublease revenue has been factored to reduce the lease rates included in this request. Subleases include:

Tumwater - Tumwater Coffee Cart
Tumwater Warehouse-FST - WDFW. We assume this sublease will be renewed.

The lease costs vary by building which impacts the AGO division costs differently. Subsequently, the impact to client agencies is not a straight percentage.

See attached:

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT1.pdf' for AGO cost projections.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT2.pdf' for AGO Client agency impacts.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT3.pdf' for the OFM requested spreadsheet from the 2013-13 Operating and Capitol Budget Instructions.

See '15-17 DP_LeaseRateAdjustmentsATTACHMENT4.pdf' for utility cost assumptions included in this request.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The increased costs for leases are expected to be ongoing. These are contractual obligations.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
E Goods\Other Services	(223,269)	129,955	(93,314)

AGO Facilities	2013-15 Biennial Budget Request Projected Costs			2015-17 Biennial Budget Request Projected Costs			2015-17 Budget Request (Adjusted with utility costs, sub-lease reductions, and removal of Tort IAA Costs)		
	FY2014	FY2015	2013-15	FY2016	FY2017	2015-17	FY2016	FY2017	2015-17
BELLINGHAM	148,140	150,332	298,472	150,048	150,048	300,096	1,908	(284)	1,624
BRISTOL COURT	1,088,356	1,094,880	2,183,236	894,165	875,916	1,770,081	(187,531)	(213,244)	(400,775)
CAPITOL COURT	474,121	474,121	948,242	0	0	0	(474,121)	(474,121)	(948,242)
EVERETT	317,526	317,532	635,058	317,532	346,495	664,027	6	28,094	28,100
KENNEWICK	136,400	148,800	285,200	148,800	148,800	297,600	11,276	847	12,123
KENT	2,736	2,736	5,472	2,759	2,844	5,603	23	108	131
KITSAP COUNTY JUVENILE COU	2,400	2,400	4,800	2,400	2,400	4,800	0	0	0
PORT ANGELES	66,840	66,840	133,680	66,839	66,839	133,678	0	0	0
PORT ORCHARD	1,680	1,680	3,360	1,543	1,565	3,108	(137)	(115)	(252)
SEATTLE	3,312,530	3,312,530	6,625,060	3,312,552	3,615,624	6,928,176	1,074	267,007	268,081
SPOKANE	509,004	545,284	1,054,288	506,124	506,124	1,012,248	(1,133)	(32,639)	(33,772)
TACOMA	1,013,174	1,013,174	2,026,348	1,136,074	1,148,556	2,284,630	106,172	116,781	222,953
TUMWATER	3,233,180	3,233,180	6,466,360	3,233,172	3,421,766	6,654,938	(248)	158,219	157,971
TUMWATER - FOS	173,778	193,170	366,948	183,612	183,612	367,224	4,295	(14,746)	(10,451)
TUMWATER - ISD	0	0	0	185,161	185,161	370,322	185,161	185,161	370,322
VANCOUVER	210,972	227,469	438,441	222,252	222,252	444,504	14,757	(2,000)	12,757
WENATCHEE - Old Lease	70,548	75,260	145,808	0	0	0	(70,548)	(75,260)	(145,808)
WENATCHEE - New Lease			0	72,053	72,053	144,106	72,053	72,053	144,106
YAKIMA	99,790	99,790	199,580	110,770	111,768	222,538	111,376	111,965	223,341
Agency Overhead	0	0	0	0	0	0	2,348	2,129	4,477
TOTAL OF REQUEST	10,861,175	10,959,178	21,820,353	10,545,856	11,061,823	21,607,679	(223,269)	129,955	(93,314)

Assumptions

1. HLB rates are not included in this request. DES has stated that they will bill the AGO for lease space in accordance with the Central Service Model allocation.
2. Capitol Court has been vacated. Capitol Court staff have relocated to the Tumwater-ISD lease.
3. The current Wenatchee office will be vacated in October 2014. Staff have relocated to the Wenatchee-New lease.
4. We assume a 14% increase in lease contract in Bellingham. Negotiation is taking place as the current lease expires March 2015.
5. OFM assumes a 9.95% increase for the unnegotiated lease contract at the Everett office.
6. OFM assumes a 4.3% increase for the unnegotiated lease contracts in Kent and Port Orchard.
7. OFM assumes a no increase for the unnegotiated lease contract at the Kitsap County Juvenile Courthouse.
8. OFM assumes a 9.95% increase for the unnegotiated lease contract in Seattle.
9. OFM assumed a 12% increase for the unnegotiated lease contract in Yakima.
10. Torts lease rates have been subtracted from this request. All Tort costs are billed through an interagency agreement with DES.
11. Sublease receipts from the Tumwater Coffee Cart (Tumwater) and WDFW (Tumwater-FOS) have been subtracted from this request.
12. Medicaid Fraud lease rate adjustments to be funded with General Fund-Federal allocations have been deducted from this request.
13. Utility variance has is included in this request.

Rent Increase for Legal Services (405) for the 2015-17 Biennium

Client Agency	Number	Division	FY2016	FY2017	2015-17 Totals
011 House (GOV See %)	011	GOV	-	-	-
011 House (LPD See %)	011	LPD	(8)	-	(8)
012 Senate	012	GOV	(4)	-	(4)
013 Joint Transportation Committee	013	N/A	-	-	-
014 JLARC	014	GCE	(12)	-	(12)
020 LEAP	020	N/A	-	-	-
035 Actuary	035	GOV	(46)	1	(45)
038 Joint Leg Systems	038	GOV	(3)	-	(3)
040 Statute Law/Code Reviser	040	GOV	(3)	-	(3)
045 Supreme Court	045	COM	(128)	2	(126)
046 Law Library	046	N/A	-	-	-
048 Court of Appeals	048	COM	(20)	-	(20)
050 Judicial Conduct	050	LAL	(17)	-	(17)
055 Admin-Courts (COM See %)	055	COM	(12)	-	(12)
055 Admin-Courts (GCE See %)	055	GCE	(29)	-	(29)
055 Admin-Courts (LAL See %)	055	LAL	(10)	-	(10)
055 Admin-Courts (LPD See %)	055	LPD	(12)	-	(12)
055 Admin-Courts (TPC See %)	055	TPC	-	-	-
055 Admin-Courts (SGO Set Amount)	055	SGO	-	-	-
056 Public Defense	056	COM	(11)	-	(11)
057 Office of Civil Legal Aid	057	N/A	-	-	-
075 Governor (COR See %)	075	COR	(101)	1	(100)
075 Governor (LPD See %)	075	LPD	-	-	-
080 Lt.Gov	080	COR	(2)	-	(2)
082 PDC (GCE See %)	082	GCE	(489)	6	(483)
082 PDC (LPD See %)	082	LPD	(8)	-	(8)
082 PDC (SGO Set Amount)	082	SGO	-	-	-
085 Sec State (COM See %)	085	COM	(67)	1	(66)
085 Sec State (GOV See %)	085	GOV	(728)	9	(719)
085 Sec State (LPD See %)	085	LPD	(23)	-	(23)
085 Sec State (SGO See %)	085	SGO	-	-	-
085 Sec State (COR Set Amount)	085	COR	-	-	-
086 Indian Affairs	086	N/A	-	-	-
087 AsianAmAffairs	087	GOV	(3)	-	(3)
090 Treasurer	090	GOV	(659)	8	(651)
095 Auditors (GCE See %)	095	GCE	(790)	9	(781)
095 Auditors (LPD See %)	095	LPD	(6)	-	(6)
099 Comm - Salaries	099	GOV	(7)	-	(7)
100 AG	100	N/A	-	-	-
101 Caseload	101	N/A	-	-	-
102 Financial Inst. (GCE See %)	102	GCE	(1,872)	23	(1,849)
102 Financial Inst. (LPD See %)	102	LPD	(7)	-	(7)
103 Commerce (AHD See %)	103	AHD	(747)	9	(738)
103 Commerce (GOV See %)	103	GOV	(351)	4	(347)
103 Commerce (LPD See %)	103	LPD	-	-	-
104 Forecast Council	104	N/A	-	-	-
105 OFM (GOV See %)	105	GOV	(315)	4	(311)
105 OFM (LPD See %)	105	LPD	(523)	6	(517)
107 HCA (AHD See %)	107	AHD	-	-	-
107 HCA (SHO See %)	107	SHO	(447)	6	(441)
107 HCA (LPD See %)	107	LPD	(39)	1	(38)
107 HCA (COM Set Amount)	107	COM	-	-	-
110 Admin Hearings (GOV See %)	110	GOV	(34)	-	(34)
110 Admin Hearings (LPD See %)	110	LPD	(80)	1	(79)
116 Lottery (GCE See %)	116	GCE	(40)	-	(40)
116 Lottery (LAL See %)	116	LAL	(121)	1	(120)
116 Lottery (LPD See %)	116	LPD	(8)	-	(8)
117 Gambling (GCE See %)	117	GCE	(662)	8	(654)
117 Gambling (LPD See %)	117	LPD	(11)	-	(11)

Rent Increase for Legal Services (405) for the 2015-17 Biennium

Client Agency	Number	Division	FY2016	FY2017	2015-17 Totals
118 Hispanic Affairs	118	GOV	(3)	-	(3)
119 African Amer Affairs	119	GOV	(3)	-	(3)
120 Human Rights (GCE See %)	120	GCE	(686)	8	(678)
120 Human Rights (LPD See %)	120	LPD	(8)	-	(8)
124 DRS (GOV See %)	124	GOV	(2,210)	29	(2,181)
124 DRS (LPD See %)	124	LPD	(17)	-	(17)
126 SIB	126	GOV	(744)	9	(735)
135 Innovate Washington	135	SPO	(80)	1	(79)
140 Revenue (BCU See %)	140	BCU	(1,324)	16	(1,308)
140 Revenue (LPD See %)	140	LPD	(159)	2	(157)
140 Revenue (REV See %)	140	REV	(4,949)	61	(4,888)
140 Revenue (SGO Set Amount)	140	SGO	-	-	-
140 Revenue (CRJ See %)	141	CRJ	(629)	8	(621)
142 Tax Appeals	142	GOV	(11)	-	(11)
144 Municipal Research Council	144	N/A	-	-	-
147 OMWBE (GCE See %)	147	GCE	(681)	8	(673)
147 OMWBE (LPD See %)	147	LPD	(62)	1	(61)
160 Insurance (GCE See %)	160	GCE	(777)	9	(768)
160 Insurance (LPD See %)	160	LPD	(33)	-	(33)
160 Insurance	160	CRJ	(313)	4	(309)
163 CTS (GOV See %)	163	GOV	(142)	2	(140)
163 CTS (LPD See %)	163	LPD	(24)	-	(24)
165 Accountancy	165	LAL	(308)	3	(305)
167 Death Investig	167	N/A	-	-	-
179 DES (GOV See %)	179	GOV	(1,776)	20	(1,756)
179 DES (LPD See %)	179	LPD	(158)	2	(156)
185 Horse Racing	185	GCE	(131)	2	(129)
190 Ind Ins.Appeals (GOV See %)	190	GOV	(138)	2	(136)
190 Ind Ins.Appeals (LPD See %)	190	LPD	-	-	-
195 Liquor Control (GCE See %)	195	GCE	(1,714)	21	(1,693)
195 Liquor Control (COM)	195	COM	(420)	5	(415)
195 Liquor Control (LAL See %)	195	LAL	(2,090)	26	(2,064)
195 Liquor Control (LPD See %)	195	LPD	(203)	3	(200)
205 Pilotage	205	TPC	(151)	2	(149)
215 WA UTC (LPD See %)	215	LPD	(19)	-	(19)
215 WA UTC (UTC See %)	215	UTC	(3,445)	43	(3,402)
215 WA UTC (See %)	215	N/A	-	-	-
220 Volunteer Firefighters	220	GOV	(153)	2	(151)
225 WSP (CRJ See %)	225	CRJ	(784)	9	(775)
225 WSP (GCE See %)	225	GCE	(448)	5	(443)
225 WSP (LPD See %)	225	LPD	(674)	7	(667)
225 WSP (SGO Set Amount)	225	SGO	-	-	-
227 CrimJ Training (CRJ See %)	227	CRJ	(274)	3	(271)
227 CrimJ Training (GCE See %)	227	GCE	(147)	2	(145)
227 CrimJ Training (LNI See %)	227	LNI	-	-	-
227 CrimJ Training (LPD See %)	227	LPD	(7)	-	(7)
228 Traffic Safety	228	TPC	(15)	-	(15)
235 L&I (CRJ See %)	235	CRJ	(1,265)	16	(1,249)
235 L&I (LNI See %)	235	LNI	(34,520)	413	(34,107)
235 L&I (LPD See %)	235	LPD	(159)	2	(157)
235 L&I (RSD See %)	235	RSD	(5,649)	73	(5,576)
235 L&I (SPO See %)	235	SPO	(5,364)	69	(5,295)
235 L&I (TAC See %)	235	TAC	(7,438)	96	(7,342)
235 L&I (SGO Set Amount)	235	SGO	-	-	-
236 L&I (BCU See %)	236	BCU	(983)	13	(970)
240 Licensing (LAL See %)	240	LAL	(5,561)	67	(5,494)
240 Licensing (LPD See %)	240	LPD	(81)	1	(80)
240 Licensing (RSD See %)	240	RSD	(493)	6	(487)
240 Licensing (SPO See %)	240	SPO	(327)	4	(323)

Rent Increase for Legal Services (405) for the 2015-17 Biennium

Client Agency	Number	Division	FY2016	FY2017	2015-17 Totals
240 Licensing (TAC See %)	240	TAC	(377)	5	(372)
245 Military (GOV See %)	245	GOV	(661)	8	(653)
245 Military (LPD See %)	245	LPD	(19)	-	(19)
275 Pub Employ Relations	275	GOV	(116)	1	(115)
300 DSHS (BCU See %)	300	BCU	(82)	1	(81)
300 DSHS (COM See %)	300	COM	(469)	6	(463)
300 DSHS (LPD See %)	300	LPD	(3,437)	71	(3,366)
300 DSHS (RSD See %)	300	RSD	(25,530)	314	(25,216)
300 DSHS (SHO See %)	300	SHO	(28,094)	348	(27,746)
300 DSHS (SHS See %)	300	SHS	(14,849)	185	(14,664)
300 DSHS (SPO See %)	300	SPO	(8,593)	106	(8,487)
300 DSHS (TAC See %)	300	TAC	(12,309)	147	(12,162)
300 DSHS (SGO Set Amount)	300	SGO	-	-	-
303 Health (AHD See %)	303	AHD	(6,782)	83	(6,699)
303 Health (GCE See %)	303	GCE	(6,059)	72	(5,987)
303 Health (LPD See %)	303	LPD	89	(29)	60
303 Health (COM Set Amount)	303	COM	-	-	-
303 Health (SGO Set Amount)	303	SGO	-	-	-
305 VA (SHO See %)	305	SHO	(177)	2	(175)
305 VA (LPD See %)	305	LPD	(40)	-	(40)
310 DOC (COR See %)	310	COR	(9,875)	122	(9,753)
310 DOC (LPD See %)	310	LPD	(2,000)	25	(1,975)
310 DOC (SPO See %)	310	SPO	(1,204)	15	(1,189)
310 DOC (SGO Set Amount)	310	SGO	-	-	-
315 Serv-Blind (SHO See %)	315	SHO	(10)	-	(10)
315 Serv-Blind (LPD See %)	315	LPD	(9)	-	(9)
341 Law Enforcement & Fire Fighters Plan2 Re	341	N/A	-	-	-
340 Student Achievement Council	340	EDU	(42)	1	(41)
350 OSPI (EDU See %)	350	EDU	(2,057)	25	(2,032)
350 OSPI (LPD See %)	350	LPD	(42)	1	(41)
351 School-Blind (RSD See %)	351	RSD	(98)	1	(97)
351 School-Blind (LPD See %)	351	LPD	-	-	-
353 School-Deaf (RSD See %)	353	RSD	(117)	1	(116)
353 School-Deaf (LPD See %)	353	LPD	(7)	-	(7)
354 Workforce TECB (EDU See %)	354	EDU	(56)	1	(55)
354 Workforce TECB (LPD See %)	354	LPD	-	-	-
355 DHAP	355	AHD	(276)	3	(273)
357 DEL (EDU See %)	357	EDU	(407)	5	(402)
357 DEL (LPD See %)	357	LPD	(146)	2	(144)
357 DEL (RSD See %)	357	RSD	(618)	8	(610)
357 DEL (SHO See %)	357	SHO	-	-	-
357 DEL (SHS See %)	357	SHS	(319)	4	(315)
357 DEL (SPO See %)	357	SPO	(169)	2	(167)
357 DEL (TAC See %)	357	TAC	(168)	2	(166)
359 Charter Schools Commission	359	EDU	(1)	-	(1)
360 UW (UOW See %)	360	UOW	(6,379)	78	(6,301)
369 UW (TORTS See %)	369	UOW Torts	(405)	5	(400)
365 WSU (WSU See %)	365	WSU	(2,317)	28	(2,289)
365 WSU (LPD See %)	365	LPD	(237)	3	(234)
370 EWU (SPO See %)	370	SPO	(668)	8	(660)
370 EWU (LPD See %)	370	LPD	(192)	2	(190)
375 CWU (EDU See %)	375	EDU	(571)	7	(564)
375 CWU (LPD See %)	375	LPD	(142)	2	(140)
376 Evergreen (EDU See %)	376	EDU	(359)	4	(355)
376 Evergreen (LPD See %)	376	LPD	(107)	1	(106)
380 WWU (RSD See %)	380	RSD	(1,178)	15	(1,163)
380 WWU (LPD See %)	380	LPD	(34)	-	(34)
387 Arts	387	GOV	(102)	1	(101)
390 Historical Soc. (GOV See %)	390	GOV	(95)	1	(94)

Rent Increase for Legal Services (405) for the 2015-17 Biennium

Client Agency	Number	Division	FY2016	FY2017	2015-17 Totals
390 Historical Soc. (LPD See %)	390	LPD	-	-	-
395 EWaHistorical	395	SPO	(5)	-	(5)
405 DOT (COM See %)	405	COM	(101)	1	(100)
405 DOT (LPD See %)	405	LPD	(1,584)	19	(1,565)
405 DOT (SPO See %)	405	SPO	(616)	7	(609)
405 DOT (TPC See %)	405	TPC	(8,018)	98	(7,920)
405 DOT (Boldt Set Amount)	405	Boldt	-	-	-
405 DOT (SGO Set Amount)	405	SGO	-	-	-
406 CRAB	406	TPC	(50)	1	(49)
407 TIB	407	TPC	(19)	-	(19)
410 Trans.Comm.	410	TPC	(40)	-	(40)
411 Freight Mobility Strategic Investment	411	GOV	(18)	-	(18)
460 Columbia River	460	LAL	-	-	-
461 Ecology (ECY See %)	461	ECY	(13,406)	165	(13,241)
461 Ecology (LPD See %)	461	LPD	(73)	1	(72)
461 Ecology (Boldt Set Amount)	461	Boldt	-	-	-
462 Pollution Liability (ECY See %)	462	ECY	(39)	-	(39)
462 Pollution Liability (LPD See %)	462	LPD	(20)	-	(20)
465 Parks (LPD See %)	465	LPD	(86)	1	(85)
465 Parks (FWP See %)	465	FWP	(965)	12	(953)
465 Parks (Boldt Set Amount)	465	Boldt	-	-	-
467 Outdoor Rec (IAC) (GOV See %)	467	GOV	(91)	1	(90)
467 Outdoor Rec (IAC) (LPD See %)	467	LPD	-	-	-
468 EnviroHear	468	LAL	(147)	2	(145)
471 Conservation	471	ECY	(119)	1	(118)
477 Fish&Wildlife (FWP See %)	477	FWP	(3,874)	47	(3,827)
477 Fish&Wildlife (LPD See %)	477	LPD	(228)	3	(225)
477 Fish&Wildlife (Boldt Set Amount)	477	Boldt	-	-	-
478 Puget Sound Partnership (ECY See %)	478	ECY	(58)	1	(57)
478 Puget Sound Partnership (LPD See %)	478	LPD	(6)	-	(6)
490 Nat.Resources (RES See %)	490	RES	(6,304)	76	(6,228)
490 Nat.Resources (LPD See %)	490	LPD	(100)	1	(99)
490 Nat.Resources (Boldt Set Amount)	490	Boldt	-	-	-
495 Agriculture (AHD See %)	495	AHD	(1,179)	15	(1,164)
495 Agriculture (LPD See %)	495	LPD	(22)	-	(22)
540 ESD (BCU See %)	540	BCU	(376)	5	(371)
540 ESD (LAL See %)	540	LAL	(2,182)	26	(2,156)
540 ESD (LPD See %)	540	LPD	(126)	2	(124)
540 ESD (RSD See %)	540	RSD	(176)	2	(174)
540 ESD (SPO See %)	540	SPO	(240)	3	(237)
540 ESD (TAC See %)	540	TAC	(161)	2	(159)
540 ESD (SGO Set Amount)	540	SGO	-	-	-
699 SBCTC (EDU See %)	699	EDU	(2,635)	32	(2,603)
699 SBCTC (LPD See %)	699	LPD	(397)	5	(392)
699 SBCTC (RSD See %)	699	RSD	(1,224)	15	(1,209)
699 SBCTC (SPO See %)	699	SPO	(370)	5	(365)
TOTAL			(279,172)	3,417	(275,755)

BELLINGHAM			ADDRESS:	103 E. Holly Street, (Suites 301, 302, 303, 305, 308, 309, 310, 316, 320), Bellingham, WA 98015			
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	8,111	04/01/10	03/31/15	\$ 150,332	12.39%	\$ 300,107	\$ -
SERVICES INCLUDED IN LEASE:			Insurance, storm water, sewer, garbage, maintenance and repairs, natural gas, electricity, elevator, window washing (interior and exterior), landscape & irrigation, restroom supplies and light bulb replacement, janitorial services.				
RELEVANT NOTES:			Initial proposal for new lease from landlord assumes a new lease payment of \$12,504-46 per month beginning April 2015.				

BRISTOL COURT			ADDRESS:	2425 Bristol Court SW			
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	54,744	08/01/10	07/31/15	\$ 1,094,880	-19.00%	\$ 1,770,056	\$ -
SERVICES INCLUDED IN LEASE:			Includes water, sewer, garbage, electricity, natural gas, janitorial services, and restroom supplies.				
RELEVANT NOTES:			The negotiated rate for a new lease is \$72,992 per month for the remainder of the lease (September 2015 through July 2020).				

CAPITOL COURT			ADDRESS:	1110 Capitol Way S., Olympia, WA			
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Close	16,862	NA	NA	\$ 474,121			
SERVICES INCLUDED IN LEASE:							
RELEVANT NOTES:			DES did not generate a lease agreement and the AGO had occupied the facility since July 1, 2011 without an agreement. The AGO vacated the facility on July 1, 2014.				

EVERETT			ADDRESS:	3501 Colby Ave, Suite 100A, Everett, WA 98201			
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	14,433	08/01/11	07/31/16	\$ 317,532	9.95%	\$ 664,013	\$ -
SERVICES INCLUDED IN LEASE:			Includes taxes, assessments, insurance, storm water, maintenance and repairs.				
RELEVANT NOTES:			OFM Assumed a 9.95% increase in lease rates.				

HIGHWAY LICENSE BUILDING			ADDRESS:		1125 Washington SE, Olympia, WA		
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Close	72,639	NA	NA	\$ 932,708			
SERVICES INCLUDED IN LEASE:							
RELEVANT NOTES:			Beginning June 30, 2013, DES began billing for the facility based on Central Services Model allocations.				

KENNEWICK			ADDRESS:		8127 E. Klamath Court, Bldg 6, Suite A, Kennewick, WA 99336		
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Sustain	5,189	03/01/14	02/28/19	\$ 148,800	NA	\$ 297,600	\$ -
SERVICES INCLUDED IN LEASE:			Includes taxes, assessments, insurance, storm water, exterior window washing, landscape & irrigation, maintenance and repairs.				
RELEVANT NOTES:			Current lease agreement is from March 2009 through Feb 2019.				

KENT			ADDRESS:		401 4th Ave N, Room 1261, Kent, WA 98032		
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	190	04/01/14	03/31/16	\$ 2,736	4.30%	\$ 5,607	\$ -
SERVICES INCLUDED IN LEASE:			Full service lease.				
RELEVANT NOTES:			OFM Assumed a 4.3% increase in lease rates.				

Kitsap County Juvenile Court			ADDRESS:		1338 SE Old Clifton Road, Port Orchard, WA, 98367		
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	140	04/01/13	03/31/15	\$ 2,400	0.00%	\$ 4,800	\$ -
SERVICES INCLUDED IN LEASE:			Full service lease.				
RELEVANT NOTES:			OFM Assumed a no increase in lease rates.				

PORT ANGELES			ADDRESS:		115 E. Railroad, Suite 306, Port Angeles, WA 98362		
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Sustain	3,052	08/01/12	07/01/17	\$ 66,840	NA	\$ 133,678	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, garbage, maintenance and repair, natural gas, electricity, janitorial services and restroom supplies, elevator, landscape				
RELEVANT NOTES:			Current lease agreement is from August 2012 through July 2017.				

PORT ORCHARD			ADDRESS: 614 Division Street, Port Orchard, WA 98366				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	140	11/01/13	11/01/15	\$ 1,680	4.30%	\$ 3,108	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, garbage, maintenance and repair, natural gas, electricity, janitorial services and restroom supplies, elevator, landscape				
RELEVANT NOTES:			OFM Assumed a 4.3% increase in lease rates,				

SEATTLE			ADDRESS: 800 5th Ave, Seattle, WA 98104				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Renew	118,390	12/31/07	06/30/17	\$ 3,312,530	9.15%	\$ 6,928,182	\$ -
SERVICES INCLUDED IN LEASE:			Full service lease.				
RELEVANT NOTES:			OFM Assumed a 9.15% increase in lease rates.				

SPOKANE			ADDRESS: W. 1116 & 1124 Riverside Ave, Spokane, WA 98201				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Sustain	28,009	11/01/14	10/31/19	\$ 545,284	0.00%	\$ 1,012,245	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, garbage, maintenance and repair, natural gas, electricity, janitorial services and restroom supplies, elevator, landscape				
RELEVANT NOTES:			Current lease agreement is from November 2014 through October 2019.				

TACOMA			ADDRESS: 1250 Pacific Ave, Tacoma, WA 98402				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Change	32,768	08/01/10	07/01/20	\$ 1,013,174	13.00%	\$ 2,284,639	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, garbage, maintenance and repair, natural gas, electricity, janitorial services and restroom supplies, elevator, landscape				
RELEVANT NOTES:			In August 2015, rates increase from \$83,231.20 to \$95,713.40.				

TUMWATER			ADDRESS: 7141 & 7153 Cleanwater Lane, Tumwater, WA 98501				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Change	148,311	12/01/06	11/30/21	\$ 3,233,180	9.10%	\$ 6,654,962	\$ -
SERVICES INCLUDED IN LEASE:			Maintenance and repair.				
RELEVANT NOTES:			In December 2016, rates increase from \$269,431.65 to \$296,374.80				

TUMWATER WAREHOUSE-FOS			ADDRESS: 818 79th Ave, Unit C, Olympia, WA 98501				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Sustain	17,142	01/01/15	06/30/19	\$ 193,170	0.00%	\$ 367,225	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, maintenance and repair, landscape and irrigation, and lightbulbs				
RELEVANT NOTES:			Current lease agreement is from January 2015 through June 2019.				

TUMWATER WAREHOUSE-ISD			ADDRESS: 818 79th Ave, Unit A, B & D, Olympia, WA 98512				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
New	12,494	07/01/14	06/30/19	\$ -	0.00%	\$ 370,322	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, maintenance and repair, landscape and irrigation, and lightbulbs				
RELEVANT NOTES:			AGO's ISD Division moved from Capitol Court to the Tumwater Warehouse on July 1, 2014. The current lease is from July 2014 through June 2019.				

VANCOUVER			ADDRESS: 1220 Main Street, Suite 510, Vancouver, WA 98660				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Sustain	9,172	04/01/14	03/31/19	\$ 227,469	0.00%	\$ 444,514	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, garbage, maintenance and repair, natural gas, electricity, elevator, exterior & interior window washing, landscape and irrigation, janitorial service with supplies and lightbulbs.				
RELEVANT NOTES:			Current lease is from April 2014 through March 2019.				

WENATCHEE - Old			ADDRESS: 18. S. Mission, Suite 300, Wenatchee, WA 98801				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
Close	4,541	11/01/09	10/31/14	\$ 75,260	0.00%	\$ -	\$ -
SERVICES INCLUDED IN LEASE:			Taxes and assessments, insurance, storm water, water, sewer, garbage, maintenance and repair, natural gas, electricity, elevator, exterior & interior window washing, landscape and irrigation, janitorial service with supplies and lightbulbs.				
RELEVANT NOTES:			The AGO vacated this location November 2014.				

WENATCHEE - NEW			ADDRESS:				
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
New	3,695	11/01/14	10/31/16	NA	NA	\$ 144,105	\$ -
SERVICES INCLUDED IN LEASE:			Water, sewer, garbage, natural gas, electricity, janitorial services & supplies.				
RELEVANT NOTES:			The new negotiated rate is \$6,004.38 per month.				

YAKIMA			ADDRESS:	<i>1433 Lakeside Court, Suite 102, Yakima, WA 98902</i>			
ACTION	SQUARE FEET	LEASE START DATE	LEASE END DATE	FY2015 FUNDED LEVEL	RENEWAL INCREASE %	PROJECTED 2015-17 NEED	REQUESTED 1-TIME COSTS
<i>Renew</i>	<i>5,870</i>	<i>08/01/05</i>	<i>6/31/2015</i>	<i>\$ 99,790</i>	<i>12.00%</i>	<i>\$ 222,532</i>	<i>\$ -</i>
SERVICES INCLUDED IN LEASE:			<i>Taxes and assessments, insurance, storm water, landscape and irrigation, water, sewer, garbage, maintenance and repair.</i>				
RELEVANT NOTES:			<i>OFM Assumed a 12% increase in lease rates.</i>				

FY2015		FY2014		FY2013		FY2012		2013-15		2011-13		VARIANCE	
ASSUMPTIONS		EXPENDITURES		EXPENDITURES		EXPENDITURES		AGO BIEN PROJECTION		EXPENDITURES			
Electric	264,235	Electric	264,235	Electric	257,092	Electric	266,715	Electric	528,470	Electric	523,806	Electric	4,664
Gas	10,461	Gas	10,461	Gas	8,734	Gas	9,054	Gas	20,922	Gas	17,788	Gas	3,134
SUB-TOTAL	274,696	SUB-TOTAL	274,696	SUB-TOTAL	265,826	SUB-TOTAL	275,769	SUB-TOTAL	549,392	SUB-TOTAL	541,594	SUB-TOTAL	7,798

FY2015		FY2014		FY2013		FY2012		2013-15		2011-13		VARIANCE	
Bristol Court	FY2015 TOTAL	Bristol Court	FY2014 TOTAL	Bristol Court	FY2013 TOTAL	Bristol Court	FY2012 TOTAL	Bristol Court	2013-15	Bristol Court	2011-13	Bristol Court	VARIANCE
Electric	81,238	Electric	81,238	Electric	77,953	Electric	76,864	Electric	162,475	Electric	154,817	Electric	7,659
Gas	1,374	Gas	1,374	Gas	866	Gas	1,185	Gas	2,748	Gas	2,051	Gas	697
SUB-TOTAL	82,612	SUB-TOTAL	82,612	SUB-TOTAL	78,819	SUB-TOTAL	78,048	SUB-TOTAL	165,223	SUB-TOTAL	156,867	SUB-TOTAL	8,356

FY2015		FY2014		FY2013		FY2012		2013-15		2011-13		VARIANCE	
Kennewick	FY2015 TOTAL	Kennewick	FY2014 TOTAL	Kennewick	FY2013 TOTAL	Kennewick	FY2012 TOTAL	Kennewick	2013-15	Kennewick	2011-13	Kennewick	VARIANCE
Electric	4,397	Electric	4,397	Electric	3,939	Electric	4,510	Electric	8,794	Electric	8,449	Electric	346
Gas	1,624	Gas	1,624	Gas	1,162	Gas	1,663	Gas	3,247	Gas	2,825	Gas	422
SUB-TOTAL	6,021	SUB-TOTAL	6,021	SUB-TOTAL	5,100	SUB-TOTAL	6,173	SUB-TOTAL	12,041	SUB-TOTAL	11,273	SUB-TOTAL	768

FY2015		FY2014		FY2013		FY2012		2013-15		2011-13		VARIANCE	
Tumwater	FY2015 TOTAL	Tumwater	FY2014 TOTAL	Tumwater	FY2013 TOTAL	Tumwater	FY2012 TOTAL	Tumwater	2013-15	Tumwater	2011-13	Tumwater	VARIANCE
Electric	162,035	Electric	162,035	Electric	158,749	Electric	168,622	Electric	324,070	Electric	327,371	Electric	(3,301)
Gas	2,484	Gas	2,484	Gas	2,741	Gas	2,566	Gas	4,968	Gas	5,307	Gas	(339)
SUB-TOTAL	164,519	SUB-TOTAL	164,519	SUB-TOTAL	161,490	SUB-TOTAL	171,188	SUB-TOTAL	329,038	SUB-TOTAL	332,678	SUB-TOTAL	(3,640)

FY2015		FY2014		FY2013		FY2012		2013-15		2011-13		VARIANCE	
Tum Warehouse	FY2015 TOTAL	Tum Warehouse	FY2014 TOTAL	Tum Warehouse	FY2013 TOTAL	Tum Warehouse	FY2012 TOTAL	Tum Warehouse	2013-15	Tum Warehouse	2011-13	Tum Warehouse	VARIANCE
Electric	9,677	Electric	9,677	Electric	9,172	Electric	9,727	Electric	19,354	Electric	18,899	Electric	456
Gas	3,190	Gas	3,190	Gas	2,767	Gas	2,563	Gas	6,380	Gas	5,330	Gas	1,050
SUB-TOTAL	12,867	SUB-TOTAL	12,867	SUB-TOTAL	11,939	SUB-TOTAL	12,290	SUB-TOTAL	25,734	SUB-TOTAL	24,229	SUB-TOTAL	1,505

FY2015		FY2014		FY2013		FY2012		2013-15		2011-13		VARIANCE	
Yakima	FY2015 TOTAL	Yakima	FY2014 TOTAL	Yakima	FY2013 TOTAL	Yakima	FY2012 TOTAL	Yakima	2013-15	Yakima	2011-13	Yakima	VARIANCE
Electric	6,888	Electric	6,888	Electric	7,279	Electric	6,992	Electric	13,776	Electric	14,271	Electric	(495)
Gas	1,789	Gas	1,789	Gas	1,198	Gas	1,077	Gas	3,579	Gas	2,275	Gas	1,304
SUB-TOTAL	8,678	SUB-TOTAL	8,678	SUB-TOTAL	8,477	SUB-TOTAL	8,069	SUB-TOTAL	17,355	SUB-TOTAL	16,546	SUB-TOTAL	809

Agency: 100 Office of Attorney General
Decision Package Code/Title: AM ANT Technical Correction

Budget Period: 2015-17
Budget Level: M2 - Inflation and Other Rate Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests a technical correction to the Antitrust Revolving Account (ARA) Fiscal Year (FY) 2016 allotment as identified in the 2015-17 Carry-Forward Levels (CFL). The AGO requests \$1,000,000 be removed from the FY2016 CFL. This will align the AGO Antitrust (ANT) Division with projected expenditure levels.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
424-6 Anti-Trust Revolving Account-Non-Appropriat	(1,000,000)	0	(1,000,000)
Total Cost	(1,000,000)		(1,000,000)

Package Description:

The AGO requests a technical correction to the ARA FY2016 allotment as identified in the 2015-17 CFL. The AGO requests the reversal of Step 07 (Remove Anti-Trust Balance Cut) of the CFL, which has resulted in an increased allocation amount of \$1,000,000.

Removing Step 07 from the CFL will align the AGO ANT division with projected expenditure levels. This correction will result in the ANT Division having an appropriate allotment for projected expenditures in FY2016 and in each FY thereafter.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request will return \$1,000,000 to the state of Washington for re-allocation to other statewide programs and agencies.

This request will not affect the current functions of the AGO ANT Division

Agency: 100 Office of Attorney General

Decision Package Code/Title: AM ANT Technical Correction

Performance Measure Detail

Activity: A004 Enforcement of Anti-Trust Laws

	Incremental Changes
	<u>FY 2016</u> <u>FY 2017</u>

Output Measures

000011	PM0004/ANT - Recoveries. We capture the efforts of AGO Antitrust staff who work to stop anticompetitive behavior and promote compliance with Antitrust laws. The measurement tells us the degree to which we recover monetary restitution for our consumers.	\$0.00	\$0.00
--------	--	--------	--------

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal #1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

1.1 Review office structure and practices to ensure provision of high quality legal services to the state in a timely and efficient manner.

1-1-4 Efficient Agency Operations.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: This request supports the following Results Washington Goals.

Goal 2: Prosperous Economy - Fostering an economy where businesses, workers and communities thrive in every corner of our state.

Goal 5: Effective, Efficient and Accountable Government - Fostering a Lean culture that drives accountability and results for the people of Washington.

2: This request supports the Governor's Budget Priorities.

State agencies operate more effectively and efficiently, within available resources.

This request removes ARA CFL funding as a technical correction.

What are the other important connections or impacts related to this proposal?

The Attorney General (AG) is the primary enforcer of the state's antitrust laws. Proper funding already exists to allow the AG to discharge his duties under the law.

What alternatives were explored by the agency, and why was this alternative chosen?

The AGO ANT Division did not consider other alternatives. Not implementing this request will result in the AGO ANT Division being over-allocated by \$1,000,000 in FY2016.

What are the consequences of adopting or not adopting this package?

Not adopting this request in ANT overfunding and a lack of funding on other state agencies, programs and efforts.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AM ANT Technical Correction

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Eliminating the \$1,000,000 in CFL for FY 2016 identified in this request would reduce the AGO's allocation to \$1,100,000. This is appropriate funding for Antitrust enforcement.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
C Professional Svc Contracts	(1,000,000)		(1,000,000)

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Agency: 100 Office of Attorney General
Decision Package Code/Title: AN ANT Direct Lit Costs-PLACEHOLDER

Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) provides this placeholder request for anticipated direct litigation costs for a pending antitrust matter. The AGO Antitrust (ANT) division brings lawsuits on behalf of state agencies and consumers for violations of state and federal antitrust laws. The strength of Washington's economy depends, in part, on a business environment free of unfair competition or collusive acts. The AGO is seeking funds to continue litigating State v. LG Electronics, et. al. (Cathode Ray Tube - CRTs), a significant price-fixing case filed in King County Superior Court.

Fiscal Detail

Operating Expenditures	<u>Total</u>
Total Cost	

Package Description:

This is a placeholder request for anticipated direct litigation costs for a pending antitrust matter. ANT brings lawsuits on behalf of state agencies and consumers for violations of state and federal antitrust laws. The strength of Washington's economy depends, in part, on a business environment free of unfair competition or collusive acts. The AGO is seeking funds to continue litigating State v. LG Electronics, et. al. (CRTs), a significant price-fixing case filed in King County Superior Court.

Antitrust cases take several years to litigate and are among the most complex and expensive types of litigation to pursue. In particular, ANT must have adequate funding for its direct litigation costs, which includes costs for experts, depositions and discovery. Assuming the AGO prevails at trial or through settlement, the Antitrust Revolving Account (Account 424-6) (ARA) would be replenished.

This case seeks millions of dollars in damages and restitution for state agencies and consumers, respectively. The defendants are global companies that engaged in a price-fixing conspiracy over the course of several years. Although a private class action has settled with several of these defendants for significant amounts, Washington was not part of those settlements because our state law provides that private parties can not represent indirect purchasers, and we therefore filed our own case on behalf of our agencies and consumers in our state court.

Although we are working with other states that have filed similar actions in their own courts and expect to share certain costs with them, we anticipate a significant level of direct litigation expenses. The litigation is hotly contested, which drives up expenses even further.

Agency: 100 Office of Attorney General
Decision Package Code/Title: AN ANT Direct Lit Costs-PLACEHOLDER

We are approaching this request as a placeholder because the action is currently stayed pending appeals of dispositive issues in the court of appeals, and we anticipate eventual appeals to at least the State Supreme Court. Although difficult to predict, given the appeal status and issues, it is unlikely the stay will be lifted until the latter half of FY2016. And we can project scenarios where it would not be lifted until FY2017. Assuming the case is not dismissed after resolution of all appeals and the stay is lifted during the 2015-2017 biennium, the AGO (Antitrust Division) anticipates requesting \$475,000 for direct litigation costs for this matter in account 424, Antitrust Revolving Account.

We anticipate the following types of direct litigation costs:

1. Experts: In our cases, the state is the plaintiff and has the burden of proving liability and damages. Depending on when the stay is lifted in this case, for the 2015-2017 biennium, we anticipate that the CRTs case will require at least \$400,000. We anticipate needing two experts for this case; one for liability and one for damages. Given the case's current posture, we have not yet engaged any experts and do not have specific rates and hours to present. Expenditure assumption details are presented in a later section.

Since it is difficult to predict when the stay will be lifted, it is possible these expenses will be incurred toward the end 2015-17 or even in the following biennium.

2. Discovery costs: We anticipate spending at least \$50,000 for depositions for use at trials. This includes appearance fees, transcript costs and travel. This amount also includes costs of processing and producing defensive discovery documents from state agencies.

3. Translation fees: This case involves firms headquartered primarily in Asia. Many of the relevant documents were written in Korean, Chinese or Japanese. We anticipate translation fees for both cases at \$25,000.

The AGO contact for this request is Brendan VanderVelde, Budget Manager, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The AGO is working to protect client agencies and the citizens of the state, and to recover damages and restitution for them from defendants who violated the law.

If successful at trial, ANT expects to recover millions of dollars for Washington's agencies and consumers. ANT will also recover its costs and attorneys' fees and replenish the revolving fund.

Performance Measure Detail

Activity: A004 Enforcement of Anti-Trust Laws **Incremental Changes**

No measures submitted for package

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Agency: 100 Office of Attorney General
Decision Package Code/Title: AN ANT Direct Lit Costs-PLACEHOLDER

Goal 2: Serve the People - Protect the legal rights of the People of the State of Washington.

2-1 Consumer Protection and Antitrust. Protect Washington State consumers and businesses by holding accountable those that violate the consumer protection laws of our state.

2-1-2 Enforce state and federal antitrust laws by investigating alleged unlawful activity and taking legal action when appropriate to compensate consumers (including state agencies), deter illegal activity and level the playing field for all businesses.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

1: Losing this case has implications for the State's ability to execute the following Results Washington Goals:

Goal 2: Prosperous Economy

Business Vitality

1.1 Increase state real GDP from \$325 billion in 2012 to \$351 billion by 2015.

1.2.a. Increase gross business income (GBI) in these sectors from 2012 to 2015: clean energy, agriculture, military, aerospace, life sciences, information and communication technology, maritime, advanced manufacturing.

Thriving Washingtonians

2.1. Increase the number of jobs in state by 150,000 by 2015.

2.2. Increase the average earnings of Washington workers from \$52,000 in 2012 to \$56,000 by 2015.

AGO ANT efforts enforce fair business practices and stabilize the economy for consumers. Compliance with state antitrust laws is good for the economy and the citizens who spend money on electronics.

Goal 5: Effective, Efficient and Accountable Government

Customer Satisfaction and Confidence

1.1 Increase/maintain customer service satisfaction with accuracy, timeliness, and respectfulness.

1.3 Increase/maintain timely delivery for state services.

2. Governor Inslee's top priority is to create an economic climate where innovation and entrepreneurship can continue to thrive and create good-paying jobs in every corner of our state.

This request supports the following Governor's Priorities:

Budget:

Promote policies and opportunities to grow jobs.

Prepare Washington for a vibrant, thriving economy.

This request will provide AGO Antitrust Revolving Account (ARA) funding which is aligned with the current level of legal services needs.

A projected recovery exceeding \$1 million is anticipated, and would support all of the Governor's priorities. Such recoveries would reduce a need for alternative means of state revenue, and can benefit the Economy, Education, Government Reform and Health Care.

What are the other important connections or impacts related to this proposal?

Agency: 100 Office of Attorney General
Decision Package Code/Title: AN ANT Direct Lit Costs-PLACEHOLDER

This request is case driven.

What alternatives were explored by the agency, and why was this alternative chosen?

An alternative would be to request an allotment from the State General Fund.

Dropping this case is not in the best interest of the state of Washington, the citizens of the state, or free enterprise.

Increased funding is requested because cases must be adequately prosecuted in order for us to achieve good settlements and/or success at trial.

Other states have filed similar actions. As the litigation continues, opportunities may arise to share certain costs with these states.

What are the consequences of adopting or not adopting this package?

ANT will continue to discharge its responsibilities and recover money.

Due to funding cuts in recent biennia, AGO activity has decreased to the point where only the most egregious harm is addressed. The ability to litigate this case will result in a reversal of a downward cycle and we will be able to recover costs and fees which is the ANT division's only source of funding. Consumers and state agencies, as well as businesses competing fairly, will have adequate law enforcement protection.

ANT has historically recovered more money for the state and its agencies and consumers than it has expended. Over the last 5 biennia, the average recovery for AGO ANT and consumers has been \$13,600,000, with another \$1,300,000 (ANT fund recoveries) in costs and fees.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Direct litigation costs assumptions include:

Expert Witnesses: \$400,000.

1. Damage experts will bill 400 hours at \$400 per hour totalling \$160,000.
2. Liability experts will bill 300 hours at \$800 per hour totalling \$240,000.

Discovery costs: \$50,000.

Translation fees: \$25,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AN ANT Direct Lit Costs-PLACEHOLDER

Direct costs will enable the Division to:

1. Retain adequate consulting and testifying experts for complex antitrust litigation;
2. Allow for necessary deposition costs including fees, transcripts, and travel; and
3. Allow for printed discovery costs to provide copies of state agency records to the defendants as part of the discovery process.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These are one-time costs that will not carry over to future biennia. We will re-evaluate each FY to determine whether the status of the case requires an increase in funding for direct costs. If we find ourselves with only multistate cases and shared expenses in the next budget cycle, we will expect our costs to be lower.

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TAB D

REVENUES



State of Washington

Summarized Revenue by Account and Source

Budget Period: 2015-17

9/12/2014

Dollars in thousands

11:02AM

100 - Office of Attorney General

Agency Level

17 - 2015--17 Bien Request

Supporting Text Included

	Maintenance Level		Performance Level		Biennium Totals		Total
	FY2016	FY2017	FY2016	FY2017	FY2016	FY2017	
001 - General Fund							
0393 - Health & Human Svc - F	3,557	3,557					
8L - Lease Rate Adjustments	(87)	(97)					
AA - AAG Recruitment and Retention			49	49			
Total - 0393 - Health & Human Svc - F	3,470	3,460	49	49	3,519	3,509	7,028
001 - General Fund - Federal	3,470	3,460	49	49	3,519	3,509	7,028
Total - 001 - General Fund	3,470	3,460	49	49	3,519	3,509	7,028
12F - Man/Mobile Dispute							
Total - 0299 - Other Licenses Permi - S	447	433			447	433	880
12F - Man/Mobile Dispute - State	447	433			447	433	880
Total - 12F - Man/Mobile Dispute	447	433			447	433	880
19A - Medicaid Fraud Pen A							
AI - Medicaid Fraud Direct Costs	71	71					
Total - 0420 - Charges for Services - S	71	71			71	71	142
19A - Medicaid Fraud Pen A - State	71	71			71	71	142
Total - 19A - Medicaid Fraud Pen A	71	71			71	71	142
405 - Legal Serv Rev Acct							
0420 - Charges for Services - S	102,725	103,117					
8L - Lease Rate Adjustments	(279)	3					
AA - AAG Recruitment and Retention			3,102	3,102			
AB - Permanency Initiative	1,330	660					
AC - Boldt Litigation	271	252					

State of Washington

Summarized Revenue by Account and Source

Budget Period: 2015-17

9/12/2014

Dollars in thousands

11:02AM

100 - Office of Attorney General

Agency Level

17 - 2015--17 Bien Request

Supporting Text Included

	Maintenance Level		Performance Level		Biennium Totals		Total
	FY2016	FY2017	FY2016	FY2017	FY2016	FY2017	
405 - Legal Serv Rev Acct							
AD - US DOL v. DSHS Litigation	751						
AE - Moore, et al. v. HCA Litigation	1,180	1,180					
AF - University of WA Legal Services	496	496					
AG - CRJ Economic Crime Unit	208	208					
AH - DNR Legal Services	152	152					
Total - 0420 - Charges for Services - S	106,834	106,068	3,102	3,102	109,936	109,170	219,106
405 - Legal Serv Rev Acct - State	106,834	106,068	3,102	3,102	109,936	109,170	219,106
Total - 405 - Legal Serv Rev Acct	106,834	106,068	3,102	3,102	109,936	109,170	219,106
424 - Anti-Trust Revolving							
Total - 0420 - Charges for Services - S	1,100	1,100			1,100	1,100	2,200
424 - Anti-Trust Revolving - State	1,100	1,100			1,100	1,100	2,200
Total - 424 - Anti-Trust Revolving	1,100	1,100			1,100	1,100	2,200
100 - Office of Attorney General - State	108,452	107,672	3,102	3,102	111,554	110,774	222,328
100 - Office of Attorney General - Federal	3,470	3,460	49	49	3,519	3,509	7,028
Total - 100 - Office of Attorney General	111,922	111,132	3,151	3,151	115,073	114,283	229,356

8L - Lease Rate Adjustments

This request covers the expected increase and decrease in annual lease contracts that will come up for renewal in the 2015-2017 biennium. These requested increases are to continue leases in buildings around the state where the Office of the Attorney General (AGO) divisions are currently located and providing services to client agencies. This request also addresses cost for two new leases that the Department of Enterprise Services (DES) negotiates with landlords on behalf of the AGO. The AGO has little control over the increase in lease costs and this request does not duplicate any funding proposed in any other decision packages within the 2015-2017 biennium budget request. These facilities are all in our six-year lease facility plan.

State of Washington

Summarized Revenue by Account and Source

Budget Period: 2015-17

9/12/2014

Dollars in thousands

11:02AM

100 - Office of Attorney General

Agency Level

17 - 2015--17 Bien Request

Supporting Text Included

AA - AAG Recruitment and Retention

The Office of the Attorney General (AGO) requests \$7,536,000 in the 2015-17 biennium to provide sustained legal services for AGO client agencies. To ensure high quality legal services for the state, the AGO must address significant attorney recruitment and retention problems and stabilize our attorney workforce by addressing low attorney salaries.

AB - Permanency Initiative

The Office of the Attorney General (AGO) requests \$1,330,000 and 5.0 Assistant Attorney General (AAG), 3.0 Paralegal (PL), and 2.0 Legal Assistant (LA2) in FY2016, and \$660,000 and 2.5 AAG, 1.5 PL and 1.0 LA2 in FY2017. This funding is to meet the caseload demands related to the state's termination of parental rights cases that achieve stability, safety, and permanent homes for foster children.

AC - Boldt Litigation

The Office of the Attorney General (AGO) requests \$271,000 and 1.0 Assistant Attorney General (AAG), 0.5 Paralegal (PL), and 0.5 Legal Assistant (LA) in FY2016, and \$252,000 in FY2017 to provide ongoing legal services relating to the State's appeal in U.S. v. Washington, Phase II of the Boldt Case (AKA the Culverts Case). The requested funding will also support ongoing implementation of a district court injunction that will continue to apply if the injunction is not reversed on appeal. The estimated cost of the district court's adverse decision to the State of Washington, and the associated injunction, exceeds \$2 billion dollars.

AD - US DOL v. DSHS Litigation

The Office of the Attorney General (AGO) requests \$751,000 and 2.3 FTEs in Fiscal Year (FY) 2016 to provide ongoing legal services for the AGO Labor and Personnel (LPD) division relating to United States Department of Labor (USDOL) v. Washington State Department of Social and Health Services (DSHS) litigation. The potential liability to the state of Washington in an adverse judgment could exceed \$100-million.

AE - Moore, et al. v. HCA Litigation

The Office of the Attorney General (AGO) requests \$ 1,180,000 and 1.5 Assistant Attorney General (AAG), 2.0 Paralegal (PL), and 1.0 Legal Assistant (LA) in FY2016 and FY2017, which includes \$700,000 per FY for direct costs. The AGO is working to protect client agencies and the citizens of the state from exposure to liability that may exceed \$150 million.

AF - University of WA Legal Services

The Office of the Attorney General (AGO) requests \$496,000 and 3.0 Assistant Attorneys General (AAG) in Fiscal Year (FY) 2016 and FY2017. The additional FTEs will help the AGO meet the ever-expanding needs of the University of Washington (UW) and provide consistent advice that will minimize legal risks.

AG - CRJ Economic Crime Unit

The AGO requests \$416,000 and 1.0 Assistant Attorney General (AAG) and 0.5 Legal Assistant (LA2) in 2015-17 biennium to provide additional prosecution services for cases referred to the AGO by the Department of Labor and Industries (L&I).

AH - DNR Legal Services

The Attorney General's Office (AGO) requests \$152,000 and 0.75 Assistant Attorney General (AAG) and 1.0 Office Assistant (OA3) in Fiscal Year (FY) 2016 and FY2017 to support legal services needs of the Department of Natural Resources (DNR).

AI - Medicaid Fraud Direct Costs

State of Washington

Summarized Revenue by Account and Source

Budget Period: 2015-17

9/12/2014

Dollars in thousands

11:02AM

100 - Office of Attorney General

Agency Level

17 - 2015--17 Bien Request

Supporting Text Included

The Office of the Attorney General (AGO) requests \$70,875 in Fiscal Year (FY) 2015 and FY2016 for the AGO Medicaid Fraud Control Unit (MFCU) to meet the 25% State match requirement to the Federal Grant administered by the Office of Inspector General (OIG), and to provide for new and ongoing litigation costs relating to the False Claims Act (FCA).

Proposed Fee Changes

- Not Applicable -

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State of Washington
Working Capital Reserve

Budget Period: 2015-17
Agency: 100 Office of Attorney General
Version: 17 2015--17 Bien Request

09/11/2014

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Page: 1

		FUND ADMINISTRATOR AGENCY ONLY	FUND ADMINISTRATOR AGENCY ONLY
		RECOMMENDED ENDING FUND BALANCE	RECOMMENDED ENDING FUND BALANCE
FUND	FUND TITLE	Current Biennium	Ensuing Biennium
12F	Man/Mobile Home Dispute Resolution	220,000	230,000
154	New Motor Vehicle Arbitration Acct	230,000	250,000
405	Legal Services Revolving Account	20,000,000	21,000,000
424	Anti-Trust Revolving Account	270,000	290,000

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Revenue Transfer Reconciliation Statement

- Not Applicable -

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Code	Title
100	Office of the Attorney General

2015-2017 Federal Funding Estimates Summary

Date: September 11, 2014

CFDA NO.* Agency Total	Federal Fiscal Year	State Fiscal Year	State Match Amounts
Agency Total			
FY 2014	3,910,000	3,910,000	1,303,333
FY 2015	3,910,000	3,910,000	1,303,333
FY 2016	3,823,000	3,823,000	1,274,333
FY 2017	3,813,000	3,813,000	1,271,000
93.775 Health and Human Services			
FY 2014	3,910,000	3,910,000	1,303,333
FY 2015	3,910,000	3,910,000	1,303,333
FY 2016	3,823,000	3,823,000	1,274,333
FY 2017	3,813,000	3,813,000	1,271,000
Activity # A009 - Investigation and Prosecution of Medicaid Fraud and Resident Abuse			

* Catalog of Federal Domestic Assistance

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Additional Federal Receipts Reporting Requirements

- Not Applicable -

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Non-Budgeted Local Fund Summary

- Not Applicable -

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Puget Sound Action Agenda Expenditures

- Not Applicable -

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JLARC Audit Responses

- Not Applicable -

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TAB E

INFORMATION
TECHNOLOGY



Information Technology &
Extraordinary Risk Management
Decision Packages are not included in the
AGO's 2015-17 Budget Request

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Appendix A-5


ELECTRONIC SUBMITTAL CONFIRMATION FORM

Agency Number: 100Agency Name: Office of the Attorney General

Agencies are required to provide electronic access to each decision package in their budget request as part of the submittal process. Confirm Option 1 or 2 below:

Option 1:

- This agency posts all decision packages for our 2015-17 budget request to our public facing website at the following URL:

URL: http://www.atg.wa.gov/Budget.aspx

Option 2:

- This agency does not post decision packages and has forwarded copies via e-mail to OFM.Budget@ofm.wa.gov.

These decision packages conform to our agency's ADA accessibility compliance policy.

Agency Contact: Brendan VanderVeldeContact Phone: (360) 586 2104Contact E-mail: BrendanV@atg.wa.govDate: 9-12-14

This form is available at: Budget Forms.

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ADDITIONAL
INFORMATION



OFFICE OF THE ATTORNEY GENERAL
 Central Service Fund Split UPDATE

Agy	Agency	OFM Pgm	Leg Pgm	Spgm	Account	AppT ype	Fund	Operating	Transpo	General	Auditor	Facilities & Services Only	OAH	AttGen
100	AGO				405	1	Legal Serv Rev Acct - State	Operating		89.54%				
100	AGO				001	1	General Fund - State	Operating		9.03%				
100	AGO				111	1	Public Srvc Revlv - State	Operating		0.63%				
100	AGO				12F	6	Man/Mobile Home Dispute	Operating		0.26%				
100	AGO				154	1	New Motor Veh Arbitration	Operating		0.28%				
100	AGO				17L	6	Foreclosure Fairness	Operating		0.18%				
100	AGO				828	1	Tobacco Prevention	Operating		0.08%				

Agency wide administrative overhead costs are distributed to available fund sources based on actual expenditures, so that those funds pay their share of costs in a fair and consistent way. This reflects a broadening of the approach utilized in prior years, where fewer fund sources paid the majority of agency wide overhead costs.

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Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

7141 Cleanwater Dr SW • PO Box 40107 • Olympia WA 98504-0107

2015-17 Biennial Budget Proposal Enterprise Risk Management Update

The Attorney General Office's (AGO) goal is to achieve strategic objectives on time. Three major risks that can adversely affect this goal are identified. For each risk, there are a number of initiatives and activities, either completed or underway, designed to mitigate these concerns.

1. The threat of cyber security (or network attacks) is an issue that exists for all of state government. Earlier this year a client agency was essentially shut down for over a week as a result of such an attack. In an effort to educate employees, the AGO has established mandatory Information Technology Security Awareness training that staff take annually. In addition, the AGO has policies addressing the Information Technology Security Policy, Internet Services Use Policy, Electronic Mail Policy and Mobile Device Policy. These policies work collectively to provide agency awareness, and to promote security, data integrity, and data privacy within the AGO. The AGO also works collaboratively with the Office of the Chief Information Officer and the Consolidated Technology Services to meet all security standards, and to prepare for attacks.

2. A potential for a data breach of Health Insurance Portability and Accountability Act (HIPAA), or Personal Health Information (PHI), is a risk that could result in civil and criminal penalties. In 2010, the AGO established a HIPAA Workgroup that developed policies and practices addressing how the agency will handle PHI to assure compliance with the Health Information Technology for Economic and Clinical Health (HITECH) Act. This group created the HIPAA Medical and Information Security and Privacy Policy to ensure administrative, technical and physical safeguards are in place to secure the confidentiality of PHI. Each division within the agency is responsible for developing standards and practices specific to divisional needs in support of the agency policies and programs to safeguard PHI. Divisions are also required to train employees, volunteers and contractors in the PHI practices and procedures. AGO employees are required to take HIPAA/HITECH training and annual IT Security Awareness training. The AGO conducted a risk assessment in 2011 and is in the process of conducting another assessment to measure the success of current safeguards. We continue to promote education and best practices to ensure there is no inadvertent data breach.

3. Business interruption due to natural disaster or other threats is a risk that can pose a significant impact to the agency's ability to meet strategic objectives. To mitigate that risk, the AGO actively participates in the statewide Interagency Continuity of Operations (COOP) Committee formed under Governor Inslee's Executive Order 13-02. The AGO developed an agency COOP plan, updates it to keep it current, and tests the AGO COOP Plan at regular intervals to ensure we are positioned to resume operations as quickly as possible in the event of a disruption. Each AGO division has a COOP plan that addresses their division-specific considerations for their client(s) and division staff. This program includes a system that automatically updates key documents and syncs them to COOP flash drives of critical personnel, and a rapid notification system that facilitates communication with employees. The AGO continues to adopt best practices and participates in a collaborative statewide approach to continuity planning.

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