

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Mayor's Office of Legal Counsel**



**Responses to Fiscal Year 2018-2019
Performance Oversight Questions**

**Ronald R. Ross
Director, Mayor's Office of Legal Counsel**

Submission to

**Committee on Government Operations
Council of the District of Columbia
The Honorable Brandon T. Todd, Chairperson**

February 5, 2019

John A. Wilson Building
1350 Pennsylvania Ave. NW
Washington, DC 20004

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

**Mayor's Office of Legal Counsel
FY18-19 Performance Oversight Questions
Committee on Government Operations
Councilmember Brandon T. Todd (Ward 4), Chair**

1. Please provide the legislative history for the creation of the Office, which includes the following information:

a. The legislative vehicle by which the Office was created (Mayor's Order, Resolution, or Statute).

The Mayor's Office of Legal Counsel ("MOLC") was established by section 101(a) of D.C. Law 20-60, the Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013 ("D.C. Law 20-60"), effective October 23, 2013, codified at D.C. Official Code § 1-608.51(a).

b. What powers the Office has been delegated through Mayor's Order.

None.

c. The legislative vehicle by which the Director was appointed (Mayor's Order, Resolution, Statute).

Director Ross was appointed by Mayor's Order 2018-033, effective March 16, 2018.

2. Please explain the mission of your Office.

The mission of the MOLC is to provide legal advice and support to the Mayor, the City Administrator, the offices of the various Deputy Mayors, the District government agencies, and agency counsel. Pursuant to section 101(b)(1) of D.C. Law 20-60 (D.C. Official Code § 1-608.51a(b)(1)), the MOLC's organic statute:

The purposes of the Mayor's Office of Legal Counsel shall include:

(A) Coordinating the hiring, compensation, training, and resolution of significant personnel-related issues for subordinate agency counsel in conjunction with agency directors;

(B) Providing legal and policy advice to the Mayor and executive branch;

(C) Resolving interagency legal issues for the Mayor;

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

- (D) Overseeing the representation of agencies in investigative matters before the executive branch of the federal government, Congress, or the Council of the District of Columbia; and
- (E) Supervising outside counsel in matters where the Office of the Attorney General is recused or otherwise not available.

3. **Please provide a complete, up-to-date organizational chart for each division within the office, including an explanation of the roles and responsibilities for each division and subdivision.**

See Exhibit 1.

a. **Please provide a list of all employees (name and title) for each subdivision and the number of vacant positions.**

List of Employees

Ronald R. Ross – Director
Ebony M. Scott – Deputy Director
Gregory Evans – Associate Director
Bijan Hughes – Staff Attorney
John Marsh – Staff Attorney
Jared Evans – Special Assistant
Nana Agyemang - Beverly Perry Law Fellow
Nicole Reese – General Counsel

Vacant Positions

Associate Director (1)
Chief of Staff (1)

b. **Please provide a narrative explanation of any organizational changes made during the previous year.**

There were no organizational changes made during the previous year.

4. **Please provide a complete position listing for your office for fiscal year 2019 to date, including the following information. See below table.**

- a. **Name of employee.**
- b. **Title of position.**
- c. **Grade, series, and step of position.**
- d. **Date employee began.**
- e. **Salary and fringe benefits.**
- f. **Job status (continuing, term, temporary or contract).**

Title	Name	Hire Date	Grade	Step	Salary	Fringe 18.5%	Status
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MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

Beverly Perry Fellow	Agyemang,Nana Yaa S	5/16/2018	LS-12	1	\$ 73,906.00	\$ 13,672.61	Term
Deputy Director	Scott,Ebony Michelle	10/9/2012	LX-3	N/A	\$ 162,317.70	\$ 30,028.77	Continuing
Director	Ross,Ronald Raymond	1/12/2015	XS-11	N/A	\$ 195,500.00	\$ 36,167.50	Continuing
Special Assistant	Evans,Ronnie Jared	2/23/2015	XS-5	N/A	\$ 89,274.74	\$ 16,515.83	Continuing
Associate Director	Evans,Gregory Michael	3/17/2008	XS-8	N/A	\$ 145,508.10	\$ 26,919.00	Continuing
Staff Attorney	Hughes,Bijan T	3/13/2015	XS-7	N/A	\$ 102,801.21	\$ 19,018.22	Continuing
Staff Attorney	Marsh,John A	3/13/2015	XS-7	N/A	\$ 102,801.21	\$ 19,018.22	Continuing
Gen Counsel	Reece, Nicole M.	9/17/2018	LX-8	N/A	\$ 145,508.10	\$ 26,919.00	Continuing

5. Does the office conduct annual performance evaluations of all its employees? If so, who conducts such evaluations? What steps are taken to ensure that all office employees are meeting individual job requirements?

As one of the smaller agencies in the District government, the MOLC manages internal performance of individual job requirements through close and daily interactions between the Director, Deputy Director, and staff. The Director is responsible for the monitoring of agency employee performance and has conducted annual performance reviews for all staff for the 2017-18 fiscal year.

6. Please provide a list of employees detailed to, or from your office. Provide the reason for the detail, the detailed employee’s date of detail, and the detailed employee’s projected date of return.

- Bijan Hughes, Staff Attorney, was detailed to the Department of Behavioral Health (DBH) from May 1, 2018 through September 21, 2018.
- John Marsh, Staff Attorney, was detailed to DBH from September 25, 2018 through February 1, 2019.

Both staff attorneys were detailed to assist DBH’s Interim General Counsel, who required additional legal staff to support the work of the agency’s Office of General Counsel while the General Counsel was deployed overseas in fulfillment of a military service obligation. Additionally, our Beverly Perry Law Fellow, Nana Agyemang, assists Betsy Cavendish in the execution of her duties as General Counsel to the Executive Office of the Mayor. Finally, Nicole Reese was hired to serve as General Counsel to the now reorganized Office of the Deputy Mayor for Greater Economic Opportunity. Ms. Reese is currently supporting the Workforce Investment Council and the District of Columbia Department of Human Resources. We anticipate that she will be detailed on a long-term basis or permanently reassigned during the fiscal year.

7. Please provide the Committee with:

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

- a. **A list of all employees who receive cellphones, personal digital assistants, or similar communications devices at the Office's expense.**

All MOLC staff receive government-issued cellphones to respond to high-priority matters, or office needs, when away from the office. For a complete list of employees, see the response to question 3a.

- b. **A list of all vehicles owned, leased, or otherwise used by the Office and to whom the vehicle is assigned.**

The MOLC does not own or lease any vehicles. We do make use of the transport vans maintained by the Executive Office of the Mayor's Support Services team, for the purposes of traveling to work-related meetings or events outside of the Wilson Building.

- c. **A list of employee bonuses or special award pay granted in FY18 and FY19, to date.**

None.

- d. **A list of travel expenses itemized by employee.**

- FY18 - Former Associate Director, Melissa Tucker, attended the Annual Conference of Council on Government Ethics Laws December 3, 2017 – December 6, 2017. The expenses totaled \$2,071.

- e. **A list of the total overtime and workman's compensation payments paid in FY18 and FY19 to date.**

None.

8. **Please provide a chart showing your office's approved budget and actual spending, by division, for FY18 and FY19 to date. In addition, please describe any variance between fiscal year appropriations and actual expenditures.**

See chart below. Additionally, please note that in FY18, the original budget was revised when reprogramming actions reduced the MOLC's budget amounts for Personnel Services and Non-Personnel Services. As noted in question 9 below, \$257,000 was reprogrammed out of the MOLC to support other agencies.

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

	FY 18 Budget	FY 18 Revised Budget	FY 18 Actual	FY 18 Variance	FY 19 Budget	FY 19 Actual 1/31/19	Comments
Personnel Services	\$1,483,263.00	\$1,295,263.00	\$1,303,595.00	\$ (8,332.00)	\$1,558,851.00	\$434,369.00	Actual expenditures for personnel services were less than anticipated due to salary lapse.
Non-Personnel Services	\$51,205.00	\$82,205.00	\$23,111.00	\$59,094.00	\$74,654.00	\$1,519.00	Actual expenditures for goods and services were less than anticipated.
TOTAL	\$1,634,468.00	\$1,377,468.00	\$1,326,706.00	\$50,763.00	\$1,633,505.00	\$435,888.00	Overall, agency was within the budget for FY 2018
	Private Donation						
Personnel Services	\$20,000.00	\$20,000.00	\$20,000.00				Private donation from Georgetown University Law Center to subsidize funding for the Beverly Perry Law Fellow in FY 2018

9. **Please list any reprogramming, in or out, which occurred in FY18 or FY19 to date. For each reprogramming, please list the total amount of the reprogramming, the original purposes for which the funds were dedicated, and the reprogrammed use of funds.**

Reprogramming in FY18:

- \$69,000 from the MOLC to DCHR to support the Capital City Fellows and District Leadership Programs.
- \$188,000 from the MOLC to Deputy Mayor for Education to support Out of School Time Grants.

Reprogramming in FY19:

None to date.

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

- 10. Please provide a complete accounting for all intra-District transfers received by or transferred from the office during FY18 or FY19 to date.**

In FY18, the MOLC transferred \$7,000 to the Executive Office of the Mayor for support services to MOLC staff, and \$827 to the Office of the Chief Technology Officer for Office 365 expenses. The MOLC did not receive any intra-district transfers. To date, the MOLC has not transferred any funds in FY19. However, we anticipate that we will again transfer \$7,000 to the Office of the Mayor for support services before the end of the fiscal year.

- 11. Please identify any special purpose revenue accounts maintained by, used by, or available for use by your office during FY18 or FY19 to date. For each account, please list the following:**

- a. The revenue source name and code.**
- b. The source of funding.**
- c. A description of the program that generates the funds.**
- d. The amount of funds generated by each source or program in FY19 and FY19 to date.**
- e. Expenditures of funds, including the purpose of each expenditure, for FY18 and FY19 to date.**

The MOLC has no special purpose revenue accounts.

- 12. Did the Office participate in any ethics trainings in FY 2018 and FY 2019 to date?**

Yes. The MOLC's attorneys also regularly attend continuing legal education and ethics trainings that are organized by our office, the Office of the Attorney General, the Office of Human Rights, and other agencies, for the benefit of agency counsel.

- 13. Please provide a list of types and dates of training/information sessions the Office has planned for FY19.**

To date, the MOLC has conducted the following trainings in FY19:

- 10/11/18: Hearing Officers
- 10/22/18: Practicing Before the Office of Administrative Hearings
- 10/30/18: Equal Employment Opportunity
- 11/8/18: Americans with Disabilities Act and the D.C. Family Medical Leave Act
- 11/14/18: Conducting Investigations
- 1/29/19: Preventing and Addressing Sexual Harassment (postponed to 3/20/19 due to inclement weather)

Further, the MOLC has scheduled the following upcoming trainings:

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

- 2/12/19: Procurement Process/Government Contracts
- 2/28/19: District Privacy and Confidentiality Laws
- 3/6/19: Advanced Legal Writing
- 3/26/19: Best Practices for Successfully Appearing Before the Office of Human Rights

Additional trainings will be scheduled throughout the balance of FY19.

14. What are the top challenges the Office is presently facing?

The MOLC engages in the resolution of complex legal questions and conflicts of a sensitive and confidential nature. This includes Congressional and Council information requests, Freedom of Information Act (“FOIA”) appeals, complaints filed against District agencies, and the development of new policy initiatives. We continue to seek out subjects and subject matter experts for legal trainings to ensure that agency general counsel have sufficient continuing legal education training opportunities.

15. What areas (e.g., financial training, procedural training, etc.) do you think the Office needs assistance with?

The MOLC is confident that our partnerships with other offices, such as the Executive Office of the Mayor’s Support Services team, the Department of General Services’ property management staff, and our agency fiscal officer assigned from the Office of the Chief Financial Officer, are sufficiently strong to allow us to continue to provide high quality legal advice and trainings.

16. Please provide a complete list of the Office’s current programs, community events, and initiatives. Include a brief description and general time frame for each item.

The MOLC generally provides legal and policy advice to the Mayor and the executive branch on an as-needed basis, including counsel in connection with Council and Congressional inquiries and investigations. We also organize continuing legal education training sessions for agency attorneys, and oversee performance evaluations for agency attorneys, as well as hiring and disciplinary matters concerning agency attorneys. The MOLC also resolves appeals from FOIA decisions and compiles the annual FOIA report required by D.C. Official Code § 2-538.

17. What has the Office done in the past year to make the activities of the Office more transparent to the public? In addition, please identify ways in which the activities of the Office and information retained by the Office could be made more transparent.

By its nature and organic statute, much of the MOLC’s activity is privileged and confidential. However, where the office has the opportunity to increase transparency for non-confidential matters, it has done so. The MOLC has taken steps to improve upon the

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

transparency of its FOIA-related work by consulting with open government advocates on the annual FOIA report and with respect to recommendations concerning best practices.

18. What collaborations, initiatives, or programs have been successful in FY18 and FY19 to date? Why were they successful?

In FY18, the MOLC conducted twelve (12) continuing legal education training sessions, including sessions on sexual harassment, effective negotiations and settlement, practicing before the Office of Administrative Hearings, and the District of Columbia Freedom of Information Act.

In FY19, the MOLC has continued to strive to provide high-quality legal advice to the Mayor and executive agencies on a myriad of confidential matters. This work has been successful thanks to the dedication and hard work of our talented attorneys.

Additionally, the MOLC has already hosted several legal trainings for agency counsel this fiscal year. Our training sessions have received high marks from the attendees, who complete anonymous surveys regarding each session. The MOLC works closely with presenters from a variety of agencies, as well as outside experts, to ensure that we have subject matter experts providing useful and accurate education for agency counsel. Our collaborations with other agencies have proven fruitful. To date, we have hosted the following legal trainings during FY19:

- 10/11/18: Hearing Officers
- 10/22/18: Practicing Before the Office of Administrative Hearings
- 10/30/18: Equal Employment Opportunity
- 11/8/18: Americans with Disabilities Act and the D.C. Family Medical Leave Act
- 11/14/18: Conducting Investigations
- 1/29/19: Preventing and Addressing Sexual Harassment (postponed to 3/20/19 due to inclement weather)

The following upcoming training sessions have been scheduled for FY19:

- 2/2/19: Procurement Process/Government Contracts
- 2/28/19: District Privacy and Confidentiality Laws
- 3/6/19: Advanced Legal Writing
- 3/26/19: Best Practices for Successfully Appearing Before the Office of Human Rights

In addition to these continuing legal education training sessions, the MOLC holds meetings with agency general counsel and deputy general counsel, the agendas of which include training and management issues specific to supervisory attorneys.

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

Lastly, in FY18, the MOLC created a task force to ensure that Mayor's Order 2017-313 on Sexual Harassment, effective December 18, 2017, is fully and properly implemented. The task force is comprised of members from the MOLC, the Department of Human Resources (DCHR), the Office of Human Rights (OHR), and the Executive Office of the Mayor (EOM). The task force has been working diligently to: (1) ensure that agency investigations are thorough and timely; (2) provide guidance and training to agency general counsel and sexual harassment officers; and (3) ensure that District guidance and training on the Mayor's Order is consistent.

19. How does the Office solicit feedback from customers? Please describe.

Please see below.

a. What has the Office learned from this feedback?

The MOLC's clients are internal government officers and agencies, rather than District residents. The Director engages agency directors and senior District government personnel to solicit feedback on the effectiveness of the MOLC's legal support. In addition, our training evaluation forms have helped us better organize our training sessions to maximize the benefit for our agency attorneys. For example, we urge presenters to incorporate handouts or, at a minimum, visual aids in their presentations. Our sessions typically receive high marks.

b. How has the Office changed its practices as a result of such feedback?

See answer to 19a. Additionally, we regularly hold trainings on topics which have been specifically requested by agency counsel on our evaluation forms.

20. Please provide a list of all studies, research papers, and analyses ("studies") the Office requested, prepared, or contracted for FY18 and FY19 to date. Please state the status and purpose of each study.

The MOLC has not requested or contracted for any studies from outside entities.

21. How many community based grants were awarded in FY 2018?

The MOLC has not awarded any community-based grants.

22. How many community-based grants have been or will be awarded in FY 2019?

The MOLC has no plans to award community-based grants.

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

23. Please list each contract, procurement, lease, and grant (contract) awarded or entered into by your office during FY 2018 – FY 2019 to date. For each contract, please provide the following information where applicable.

- a. The nature of the contracting party.**
- b. The nature of the contract, including the end product or service.**
- c. The dollar amount of the contract, including the budgeted amount and the amount actually spent.**
- d. The term of the contract.**
- e. Whether the contract was competitively bid or not.**
- f. Funding source.**

The MOLC has not entered into any contracts, leases, or grants. The office's only procurements in FY18 and FY19 to date were relatively small P-Card transactions for office supplies and equipment, Lexis services, and printer/copier maintenance.

24. Did the Office conduct oversight of the organization to which it awards grants to ensure funds are used as intended? If so, how many oversights?

The MOLC does not award any grants.

25. Of the organizations that received a community-based grant in FY 2018, how many also received community based grants in FY 2017?

The MOLC does not award any grants.

26. Please describe how an organization is selected to receive a community based grant.

The MOLC does not award any grants.

27. Did the Office receive any grants in FY 2018? If so, what was the source and duration of the grant(s), and what was it used to accomplish?

The MOLC did not receive any grants in FY18.

28. Has the Office sought any grant opportunities in FY 2019?

No.

29. Does the Office ever request internal or external audits to be conducted on the operation of your office as a precautionary tool?

No. The MOLC meets on a monthly basis with our agency fiscal officer to ensure there are no fiscal irregularities.

MOLC FY18-19 Performance Oversight Responses to Committee on Government Operations

30. What are the Office's goals going forward in FY2019?

The MOLC's priorities align with its statutory purposes: the delivery of high-quality legal services to the Mayor and executive agencies, and the coordination of personnel-related issues for subordinate agency counsel in conjunction with agency directors. The MOLC stands ready to respond to Congressional, Council, or other investigations on behalf of District agencies. We will continue to focus on the dynamic legal needs of our clients, on providing high-quality legal training for agency counsel, and on addressing discrete attorney personnel matters as they arise. Additionally, the MOLC will also continue to issue sound, well-researched, FOIA appeals decisions in a timely manner.