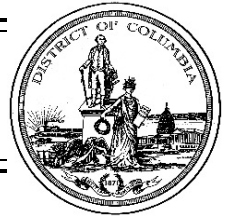

OFFICE OF AT-LARGE COUNCILMEMBER ANITA BONDS
CHAIR, COMMITTEE ON EXECUTIVE ADMINISTRATION & LABOR



January 3, 2024

Mr. Eugene A. Adams, Director
Mayor's Office of Legal Counsel
1350 Pennsylvania Ave NW Suite 407
Washington, DC 20004

Dear Director Adams:

The annual performance hearing for the Mayor's Office of Legal Counsel is scheduled for **Wednesday, January 24, 2024, beginning at 9:30 AM**. The hearing will begin with public testimony and followed by government witness(es). Please plan to arrive in time to listen to the entirety of the public testimony presented with respect to the agency. Pursuant to Council rule 522(a), we ask all executive witness(es) to submit their hearing testimony 48 hours in advance of their performance oversight hearing.

As a reminder, the Council has the authority to create, abolish, or organize any office, agency, department, or instrumentality of the government of the District and to define the powers, duties, and responsibilities of any such office, agency, department, or instrumentality¹. The Council also adopts the annual budget for the District of Columbia government². As such, the performance oversight process is not only mandatory, but necessary to maintain our government.

Written pre-hearing questions for your agency are attached. Please provide **five hard copies** of your responses as well as electronic versions in Microsoft Word and PDF format **by no later than 5:00 PM on Wednesday, January 17, 2024**, one week before the hearing date.

Please note that the If you feel that I could use additional information outside the scope of the attached questions, please feel free to include an additional written statement. If your office requires any clarification of the attached questions, please contact Aimellia Siemson, Senior Advisor and Counsel, at 202-724-8171 or asiemson@dccouncil.gov. Thank you in advance for your timely and comprehensive response.

Sincerely,

A handwritten signature in black ink, appearing to read "ANB".

Anita Bonds
At-Large Councilmember
Chairperson, Committee on Executive Administration and Labor

¹ D.C. Code § 1-204.04(b)

² D.C. Code § 1-204.46(a)

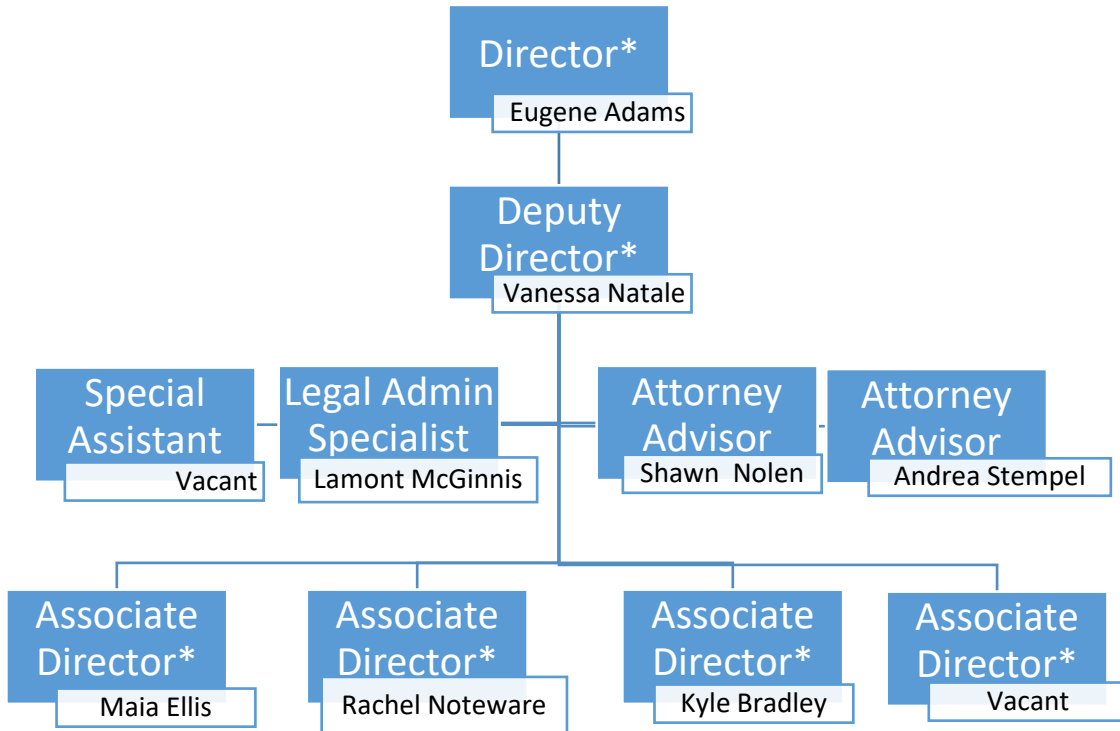
Mayor's Office of Legal Counsel

MOLC FY 2024 PERFORMANCE OVERSIGHT QUESTIONS

I. STANDARD QUESTIONS

1. Please provide a current organizational chart for the agency, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel and note the date that the information was collected on the chart.

Each senior role is denoted by an asterisk. This information was collected on January 22, 2024 and is current up to the date of this response.



Mayor's Office of Legal Counsel

- a. Please provide the number of divisions or bureaus within your agency, the number of staff in each division, the lead personnel of each division and their contact information, and the lead personnel's tenure in that division.

The Mayor's Office of Legal Counsel (MOLC) does not have specific divisions or bureaus but works as a single entity. It is the legal arm of the Mayor's side of the "divided" Executive that was created when the city's AG position became elective in 2015. Its primary responsibilities are to provide legal advice and support the Mayor, her senior staff, including Deputy Mayors, agency directors of the subordinate executive agencies, directly and through oversight of more than forty agency General Counsel offices.

These duties include but are not limited to:

1. Interfacing with the Office of the Attorney General for the District of Columbia (OAG) on litigation matters and other issues that require coordination between the Executive Office of the Mayor (EOM), her subordinate agencies and the elected Attorney General;
2. Working closely with the Office of Risk Management (ORM) to reduce avoidable operational, legal and financial exposure for the District of Columbia government;
3. Resolving interagency legal issues on behalf of the Mayor;
4. 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
5. Supervising outside counsel in matters where OAG is recused from a matter or is otherwise not available.
6. Coordinating the hiring, compensation, and training of agency counsel and general counsel offices

The MOLC also adjudicates administrative appeals of the District of Columbia Freedom of Information Act (DC FOIA) decisions made by District government agencies on behalf of the Mayor and tracks reported allegations of sexual harassment claims made by city employees. The Agency also oversees the legal review of donations made to District government agencies.

However, to carry out the responsibilities enumerated above and elsewhere in our responses, each of the three Associate Directors in the MOLC has a portfolio of subordinate agencies for which they are primarily responsible as the primary point of contact. The Associate Directors then report relevant issues, challenges, and actions to the MOLC Director and Deputy Director.

Mayor's Office of Legal Counsel

- b. Please provide an explanation of the roles and responsibilities of each division and subdivision.

See the response to subpart a of this question.

- c. Please provide a narrative explanation of any changes to the organizational chart made during the previous year.

There have been two changes to the organizational chart since the MOLC's last Performance Oversight Hearing. First, the vacant Chief of Staff position was reclassified to a supervisory attorney advisor position, with the aim of permanently hiring to continue to make accelerated inroads into the FOIA backlog and to improve timeliness. In May 2023, the MOLC filled the newly created supervisory attorney advisor position. Second, in December 2023, the MOLC lost its Legal Administrative Specialist, who after graduating law school and passing the bar exam accepted a judicial clerkship to begin her career as an attorney. In January 2024, the MOLC hired a new Legal Administrative Specialist.

2. Please provide a current Schedule A for the agency which identifies each position by program and activity, with the employee's title/position, salary, fringe benefits, residency status, and length of time with the agency. Please note the date that the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please separate salary and fringe and indicate whether the position must be filled to comply with federal or local law.

Please see the Schedule A attached, which was collected on January 23, 2024. All positions are continuing. No positions at the MOLC must be filled to comply with local or federal law.

3. Please list all employees detailed to or from your agency. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee's projected date of return.

The are no employees detailed to or from the MOLC.

4. Please provide the Committee with:
 - a. A list of all employees who received or retained cellphones, personal digital assistants, or similar communications devices at agency expense in FY23 and Q1 of FY24;

Please see the Schedule A attached to Question 2 of this section. Each employee is assigned a cell phone. Additionally, former employee Legal Administrative

Mayor's Office of Legal Counsel

Assistant Giavana White had a cell phone in FY23, which was returned to the agency upon her resignation in December 2023.

- b. A list of monthly costs for cell phones, tablets, and laptops;

There are no monthly costs for cell phones, tablets and laptops because the MOLC pays for these electronics in full at the time of purchase.

- c. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned in FY23 and Q1 of FY24;

The MOLC did not own, lease or otherwise use any vehicles during the relevant period.

- d. A list of travel expenses, arranged by employee for FY23 and Q1 of FY24, including the justification for travel; and

The MOLC had no such expenses during the relevant period.

- e. A list of the total workers' compensation payments paid in FY23 and Q1 of FY24, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.

The MOLC made no workers' compensation payments during the relevant period.

5. For FY23 and Q1 of FY24, please list all intra-District transfers to or from the agency.

Please see the Response to Section I, Question 7.

6. For FY23 and Q1 of FY24, please identify any special purpose revenue funds maintained by, used by, or available for use by the agency. For each fund identified, provide:

- 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;
- e. Expenditures of funds, including the purpose of each expenditure; and
- f. The current fund balance.

The MOLC did not maintain, use, or have available any special purpose revenue funds during the relevant time.

7. Please list all memoranda of understanding ("MOU") entered into by your agency during FY23 and Q1 of FY24, as well as any MOU currently in force. For each, indicate the date on which the MOU was entered and the termination date.

Mayor's Office of Legal Counsel

Seller Agency	Buyer Agency	Amount	Good or Service	Beginning Date	Termination Date	Current Status
DCHR	MOLC	\$12,791.10	Executive Leadership Program ("ELP")	Signed on 9/25/23	June 2024	Currently in force. Training provided from October 2023 to June 2024
EOM	MOLC	\$8,000	Support services such as credentialing, employee onboarding, procurement, etc.	Signed on 10/18/23	September 30, 2024	Currently in force. MOLC enters into this MOU annually.

8. Please provide a table showing your agency's Council-approved original budget, revised budget (after reprogrammings, etc.), and actual spending, by program and activity, for FY21, FY22, FY23 and Q1 of FY24.
 - a. For each program and activity, please include total budget and break down the budget by funding source (federal, local, special purpose revenue, or intra-district funds).
 - b. Include any over- or under-spending. Explain any variances between fiscal year appropriations and actual expenditures for FY23 and Q1 of FY24 for each program and activity code.
 - c. Attach the cost allocation plans for FY23 and FY24.
 - d. In FY23 and Q1 of FY24, did the agency have any federal funds that lapsed? If so, please provide a full accounting, including amounts, fund sources (e.g. grant name), and reason the funds were not fully expended.

Please see the budget tables attached.

9. Please provide as an attachment a chart showing the agency's overall Grants, Contracts, and Reprogramming received during FY23 and Q1 of FY24. Please breakdown into the following:
 - a. Name and amount of federal source of funding agency and program, broken down in percentage (%) and dollar amount (\$);
 - b. Name and amount of local source of funding agency and program, broken down in percentage (%) and dollar amount (\$);

Mayor's Office of Legal Counsel

- c. Identify whether each funding source is recurring or one-time;
- d. Identify whether the contract was competitively bid or sole-source; and
- e. Indicate the receiving agency and amount of funding for funds moved out of the agency.

The MOLC received no Grants, Contracts, or Reprogramming during the relevant time.

10. Please provide a copy of required Small Business Enterprise (SBE) Report for FY23.

MOLC does not have a SBE Report for FY23 because the reporting period has not expired as the time to submit exceptions to DSLBD has not yet passed. However, preliminary estimates show that the MOLC fell approximately \$7,000 short of its SBE FY23 spending target but is confident that its exceptions for the shortfall will be accepted by DSLBD, thus bringing the MOLC into compliance with its yet to be finalized SBE spending target for FY23.

11. Please provide the following information regarding capital projects:
 - a. A list of all capital projects in the financial plan.
 - b. For FY21, FY22, FY23, and Q1 of FY24 an update on all capital projects under the agency's purview, including a status report on each project, the timeframe for project completion, the amount budgeted, actual dollars spent, and any remaining balances, to date.
 - c. An update on all capital projects planned for FY24, FY25, FY26, FY27, and FY28.
 - d. A description of whether the capital projects begun, in progress, or concluded in FY21, FY22, FY23, or Q1 of FY24, had an impact on the operating budget of the agency. If so, please provide an accounting of such impact.

The MOLC had no capital project during the relevant periods.

12. Please list all lawsuits pending and resolved, that name the agency as a party, during FY23 and Q1 of FY24. Identify the case name and number, claim and status.

The MOLC was not named as a party to any lawsuits, pending or resolved, during the relevant period.

13. Please describe the agency's procedure for handling allegations of workplace harassment during FY23 and Q1 of FY24. Indicate the following:
 - a. Date of offense;
 - b. Whether the parties report to the same supervisor;
 - c. The findings of substantiation or non-substantiation;
 - d. What official action was taken; and
 - e. Identify the deciding official in each case.

Mayor's Office of Legal Counsel

For FY23 and Q1 of FY24, MOLC did not receive any allegations of workplace harassment by or against any of the Office's employees. Moreover, the MOLC only serves as clearinghouse for allegations of workplace sexual harassment and findings of sexual harassment investigations. does not collect any information on complaints of other types of workplace harassment.

14. Please describe the agency's handling of sexual harassment claims received during FY23 and Q1 of FY24. Indicate the following:
- Date of offense;
 - Whether the parties report to the same supervisor;
 - The findings of substantiation or non-substantiation;
 - What official action was taken;
 - Identify the investigating official or Sexual Harassment Officer (SHO) for each claim; and
 - The date the report was forwarded to the Mayor's Office of Legal Counsel.

During FY23 and Q1 of FY24 to date, the MOLC did not receive any allegations of sexual harassment committed by or against any of its employees. In accordance with the Mayor's Order on Sexual Harassment, all District agencies must report sexual harassment claims, investigations, and written notification of findings and conclusions to the MOLC. The MOLC is available to provide advice to general counsels on sexual harassment related issues in collaboration with DCHR.

15. Please list and describe all investigations, audits, studies, or reports by other entities regarding the work of the agency or conduct of agency employees during FY23 and Q1 of FY24.

The Council passed the D.C. Act 25-202, the Sexual Harassment Investigation Review Emergency Act of 2023, enacted on July 31, 2023, requiring the Office of the Inspector General ("OIG") to "hire and direct independent counsel to...[r]eview investigations [conducted by MOLC] of complaints of sexual harassment and violations of Mayor's Order 2017-313...against the Deputy Mayor for Planning and Economic Development and Chief of Staff to the Mayor as of January 1, 2023...." Accordingly, OIG notified this Office on January 19, 2024, that it retained Arnold & Porter Kaye Scholer LLP to conduct review MOLC's investigations to the two workplace claims of sexual harassment made against the former Deputy Mayor and Chief of Staff. As of the date of this response, the law firm has yet to issue a report of its review of the aforementioned investigations.

16. Provide a list of all publications, brochures and pamphlets prepared by or for the agency during FY23 and Q1 of FY24.

During the relevant time period, the MOLC published approximately 85 D.C. FOIA Appeal Decisions with the D,C, Office of Documents. See Attachment – Standard Question No. 16.

Mayor’s Office of Legal Counsel

17. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or contracted for during FY23 and Q1 of FY24. Please state the status and purpose of each. Please submit a hard copy to the Committee if the study, research paper, report, or analysis is complete.

The MOLC neither prepared nor contracted any studies, research papers, or analyses during FY23 and Q1 of FY24. However, during FY23, the MOLC prepared two investigative reports related to sexual harassment complaints made against the former Deputy Mayor and Chief of Staff in FY23. Because these reports and their exhibits contain sensitive personnel information that would be an unwarranted invasion of the personal privacy of the complainants, alleged harasser, and witnesses, as well as the Mayor’s Order 2017-313 provision prohibiting the dissemination of confidential information received during the course of this investigation, the MOLC cannot provide this committee with copies of these reports. However, while not reports *per se*, the MOLC published two public summaries of its confidential investigative reports. Please see the attached summaries.

For statutory reports, please see the response to Question 23 of this section.

18. Please provide a copy of the agency’s FY23 performance plan. Please explain which performance plan objectives are completed in FY23 and whether they were completed on time and within budget. If they were not, please provide an explanation.

The MOLC did not have an agency performance plan for FY23.

19. Please provide a copy of your agency’s approved FY24 performance plan as submitted to the Office of the City Administrator, including approved goals, objectives, timelines, planned program and projects, anticipated FTE allocation and expenditure, and metric outcomes to be analyzed.

The MOLC does not have an agency performance plan for FY24.

20. Please provide the number of FOIA requests for FY23 and Q1 of FY24, that were submitted to your agency. Include the number granted, partially granted, denied, and pending. In addition, please provide the average response time, the estimated number of FTEs required to process requests, the estimated number of hours spent responding to these requests, and the cost of compliance.

FY23 MOLC FOIA Requests					
Number of FOIA Requests Received in FY23	Number of FY23 FOIA Requests Granted	Number of FY23 FOIA Requests Partially Granted	Number of FY23 FOIA Requests Denied	Number of FY 23 FOIA Requests With Other Disposition	Number of FY23 FOIA Requests Pending on 1/22/24

Mayor's Office of Legal Counsel

62	1	5	5	52	0
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FY24 MOLC FOIA Requests to Date					
Number of FOIA Requests Received in FY24	Number of FY23 FOIA Requests Granted	Number of FY23 FOIA Requests Partially Granted	Number of FY23 FOIA Requests Denied	Number of FY 23 FOIA Requests With Other Disposition	Number of FY23 FOIA Requests Pending on 1/22/24
4	1	1	0	2	0

Median Response Time	2 days
Estimated Number of FTEs Required to Process Requests	1
Estimated Number of Hours Spent Responding to Requests	Not tracked
Cost of Compliance	Not tracked

21. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement. Please note if the agency is currently in bargaining and its anticipated completion.

The MOLC has no collective bargaining agreements currently in effect for its employees. However, MOLC represents management in implementing and ensuring compliance with the collective bargaining agreements governing unionized attorneys (AFGE Local 1403).

22. If there are any boards or commissions associated with your agency, please provide a chart listing the names, confirmation dates, terms, wards of residence, and attendance of each member. Include any vacancies. Please also attach agendas and minutes of each board or commission meeting in FY23 and Q1 of FY24, if minutes were prepared. Please inform the Committee if the board or commission did not convene during any month.

There are no boards or commissions associated with the MOLC.

23. Please list all reports or reporting currently required of the agency in the District of Columbia Code or Municipal Regulations. Indicate the following:

- a. Report due date;
- b. If the agency complied;
- c. Date of actual transmittal; and
- d. To which entity the reports were filed.

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Pursuant to D.C. Code § 2-538, on or before February 1 of each year, the MOLC is required to provide a D.C. FOIA Report and a summary of the D.C. FOIA Appeals received and processed by the agency to the Office of the Secretary. The D.C. FOIA Appeals summary was provided to the Office of the Secretary on January 16, 2024 and the D.C. FOIA Report was provided on January 17, 2024.

24. Please provide a list of any additional training or continuing education opportunities made available to agency employees. For each additional training or continuing education program, please provide the subject of the training, the names of the trainers, and the number of agency employees that were trained.

The MOLC's attorneys attend legal and ethics trainings that are organized by our office, the Office of the Attorney General, the Board of Ethics and Government Accountability, the Department of Human Resources, and other agencies for the benefit of agency counsel.

25. Does the agency conduct annual performance evaluations of all its employees? Who conducts such evaluations? What steps are taken to ensure that all agency employees are meeting individual job requirements?

The MOLC had not, historically, conducted annual performance evaluations for its employees. However, at last year's performance oversight hearing, the MOLC Director committed to preparing these during his tenure and is, as of this reporting, working on those evaluations. Completing these will take more time than anticipated because of some staff turnover, both departures and new arrivals. Additionally, the MOLC recently completed its review of the agency attorney evaluations it is responsible for. Finally, the MOLC is considering changes to the review process and the evaluation form itself because of questions raised by agency GCs and their unionized staff.

In addition to these considerations, the Director and Deputy Director continue to manage employee performance and ensure employees are meeting individual job requirements via daily interactions, real time constructive feedback, weekly team meetings and the substantive review of employee deliverables.

Finally, the MOLC is fortunate to have a small group smart, highly motivated individuals, all of whom take pride in their work and proactively report their progress on assignments.

26. Please include a chart of FY23 employee evaluation rating showing the employee's job title, duties/responsibilities, classification grade, salary, date of employment, and FY22 evaluation rating. Also identify if the employee has been separated from the agency during FY23 or Q1 of FY24.

Mayor's Office of Legal Counsel

Please see previous response immediately above.

27. Please provide a list of programs, initiatives, activities conducted by the agency to comply with a Racial Equity Lens objective.

As a legal agency, the MOLC is also responsible for setting an appropriate example for other parts of the government. We practice our values, whether it be racial, gender, or any other types of equality in our everyday interactions—amongst ourselves and with outside entities and individuals. The MOLC works very hard to make sure its staff interacts professionally, collegially, and equitably with one another, members of the public and their fellow District employees both inside and outside of the MOLC.

Beyond its own internal practices, the MOLC as a legal agency services and supports the Executive Offices of the Mayor (“EOM”) and the Legal Service staff at the agencies subordinate to the Mayor. It ensures that there is fairness in all aspects of its oversight duties—regardless of race, gender, sexual orientation and ethnicity—starting with employment opportunities, chances for advancement, equitable work distribution, equal opportunities for training, participation in government-sponsored activities that may be desirable, and interpersonal contact/interaction with high-ranking city officials.

A substantial part of the MOLC’s responsibility in its of overseeing subordinate agencies’ legal offices and in working with EOM is to give advice, identify legal issues/problems of all kinds for the government, and address the challenges caused by these legal issues/problems. In doing so, the MOLC supports the racial, gender, ethnicity-related and economic goals of District government for its residents, businesses, and visitors. The MOLC can and does ensure that our laws, including those aimed at racial equity, are applied and enforced in the ways intended—that contributes to the city’s priorities in this area. The MOLC advances these goals by simply discharging its duties in a fair, responsive, and professional manner. The MOLC can and does ensure that our laws are applied and enforced in the ways intended—that contributes to the city’s priorities in this area.

28. Please provide a chart of agency programs conducted during FY23. Include the following:
- a. Initiation date;
 - b. Number and grade of FTEs assigned;
 - c. Program manager;
 - d. Total budget expenditure for the program (e.g. FTE salaries, materials, etc.); and
 - e. Outcomes from implementation (e.g. policy changes, program continuation, public support comments, etc.)

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The MOLC has no programs. Please see the response to Section I, Question 1(a) for further explanation.

29. Please provide a chart showing the agency's program priorities for FY23 and FY24. Include the following:
- Staffing numbers;
 - Expenditure;
 - Community outreach activities; and
 - Measurable outcomes or metrics associated for each priority.

Please see the response to Section I, Question 28.

30. Please provide a copy of the agency's FY23 Performance Accountability Report of strategic objectives, indicate if key performance indicators were met, and with which other government agency was the report filed.

The MOLC did not have an FY23 Performance Accountability Report. However, all objectives and duties set forth in response to Section I, Question 1 were met in FY23.

II. AGENCY-SPECIFIC QUESTIONS

1. Please provide an overview of the roles and responsibilities of the MOLC and its direct reporting structure.

Please see the Responses to Section I, Question 1 and to Section II, Question 3. The Director reports directly to the Mayor. The Deputy Director reports to the Director. All other employees at the MOLC report directly to the Deputy Director. While that is the formal direct reporting structure, much of the MOLC's day to day work is collaborative within the agency and so all employees routinely work together weekly if not almost daily.

2. Please explain the MOLC's role of "working closely with the Office of Risk Management to reduce avoidable operational, legal, and financial exposure for the District of Columbia government", pursuant to the list of duties listed on your website.

The Office of Risk Management ("ORM") is charged with overseeing the District's Settlement and Judgment Fund. As such, it has knowledge and insight into legal settlements and judgments that are paid out of the Fund on agencies' behalf. The MOLC in its oversight role of agency counsel is aware of and advises, as appropriate and necessary, on substantial litigation facing the agencies. Because of this unique bird's eye view that both agencies have, which the agencies' generals counsel do not have by the nature of their duties—being

Mayor's Office of Legal Counsel

tasked with managing only their respective agency's legal needs—the MOLC and ORM, from time to time, discuss any patterns or trends in litigation with an eye towards minimizing the District's liability.

3. Please provide a description of the work of your office in each of the categories below, and the number of matters in each category your office handled in FY23 and Q1 of FY24.
 - a. Coordinating the hiring, compensation, training, and resolution of significant personnel- related issues for subordinate agency counsel in conjunction with agency directors;

Upon request, the MOLC assists subordinate agencies with personnel matters related to the employment, discipline, evaluation, and general working conditions of the agency general counsel offices. These activities include reviewing application materials, interviewing lawyers for hire, advising agency directors, and assisting with decisions related to the terms and conditions of their employment. Additionally, the MOLC aids agencies by offering guidance on how to handle specific personnel matters relating to attorney work, employment status, discipline and/or their interactions with others.

As a practical matter, agency counsel is aware of the attendant processes and the role of the MOLC and will often seek the MOLC's involvement, thereby providing consistency amongst general counsel offices regarding personnel matters.

Additionally, the MOLC has worked to standardize many of these processes, particularly in the areas of hiring and promotion so that agency counsel are treated as fairly as possible across the agencies. Interviews and selections are now made with the appropriate Associate Director's involvement and ultimate sign-off. Templates and policies for managing discipline are shared to facilitate consistency across the subordinate agencies, hopefully, to minimize successful challenges and/or litigation that might arise from these disciplinary or other personnel actions.

- b. Providing legal and policy advice to the Mayor and executive branch;

The MOLC always remains readily available to support the Mayor and the executive branch. The MOLC's advising responsibilities are broad and vary greatly based upon the specific client and matter or issue being addressed. Some aspects of this responsibility are standardized, while others are ad hoc or situational. Advising on

Mayor's Office of Legal Counsel

the proper interpretation or application of the law is a practical example of one of the ways the MOLC supports this mission. For example, in FY21, the MOLC advised on vaccine mandates for COVID-19, the Mayor's authority over the DC National Guard, informational responses to requests from the federal government arising from Black Lives Matter (BLM) disturbances and other civil unrest including the insurrection on January 6th, 2021, some important contractual matters and on major litigation impacting the city.

Some of the more informal responsibilities include advising on various personnel matters, "troubleshooting" on specific issues or questions that have legal and operational components and responding to constituent inquiries that are legal in nature. The size and scope of these matters varies, but the paramount duty is to be as responsive, accurate and helpful as possible. The fundamental goal here is to support the Executive legally and present the government in an overall positive light.

c. Resolving interagency legal issues for the Mayor;

The MOLC views this duty as often related to subpart (b) above: if there are contradictory or conflicting policy views (with legal underpinnings or consequences), competing legal interpretations or agency or operational practices that are illegal, wrong or impractical, the MOLC will make all efforts to resolve the disagreement in a way that benefits the whole government and its leadership.

This responsibility extends to proactively address and reconcile differences between subordinate agencies and/or the OAG where disagreements regarding advice or procedures can occasionally arise. The MOLC ensures the process for all these interactions include professionalism, little prejudice of the situation, repeated opportunities to discuss, consideration of all aspects of the matter at issue, and a resolution in the best interest of the government. Last year, for example, the MOLC resolved several "disputes" between agencies about whose role/responsibility it was to manage or perform certain functions. In some of these instances, it became clear that the "disputes" were not substantive and were occasioned by resource and staffing shortages or court-imposed pressures.

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- 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

The MOLC seeks to be an aggressive and willing partner/participant in these investigations and inquiries. Depending on its nature, the MOLC's assistance can be advice-giving, witness preparation, communications with the investigators, drafting response letters and a small host of other related efforts. However, certain investigations and inquiries are more important than others and may require more MOLC involvement. Regardless of the level of involvement, the MOLC approaches all situations helpfully and does not presume to inject itself without a clear understanding of client needs.

For example, in the aftermath of BLM, impeachment proceedings against the former President and the events of January 6th, the US Congress and other federal entities undertook several inquiring into the events and the city's role in them. These inquiries created FOIA and other requests for information that was sensitive or otherwise protected or protectible. The MOLC interfaced with Congressional staff, reviewed materials, and advised on the feasibility or releasing or withholding them.

- e. Supervising outside counsel in matters where the Office of the Attorney General is recused from a matter or otherwise not available.

The MOLC is usually directly involved in arranging for and overseeing the work of outside counsel in those situations where he/she may be needed. The MOLC initially serves as the conduit between the EOM (including the subordinate agencies) and OAG to establish the need for outside counsel by arranging for a conflict check and handling any inquiries from the requesting office.

The requesting office or agency will usually be the subject matter expert on what kind of outside counsel is needed, but the MOLC will aid in the identification of a suitable candidate or candidates, negotiation of an appropriate service agreement, and engagement with the individual or firm.

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Finally, the MOLC can and will advise on what deliverables should be anticipated and can also provide a preliminary assessment on the quality of those deliverables, particularly with the legal issues.

As discussed in prior oversight responses, in FY22, there were about 4 matters that required the MOLC to discuss with/engage outside counsel for because of 1) OAG's abrupt and public recusal from handling Department of Corrections matters that arose from the MOU the city entered with the US Marshal Service (despite the AG having been directly involved in the negotiation of that MOU) and 2) the OAG's pronouncement that, in the exercise its "public interest" responsibility, it might take positions on affordable housing zoning matters that were adverse to the Mayor's.

The second eventuality did not occur but remains a possibility because the new AG has not taken a formal position to the contrary and has expressed interest in a private property matter that is pending before the BZA. The MOLC must remain prepared to seek outside counsel in these and other situations when the need arises. In fact, the MOLC would take a view that the applicable law, regulations and Mayor's Orders need to make these processes and the related reasons for them clearer and easier to undertake.

The MOLC did advise on a number of matters pertaining to the responsibilities of the Department of Forensic Science (DFS) and its obligations to local prosecutors and other stakeholders, particularly after its loss of accreditation last summer.

f. Addressing DC FOIA Appeals.

Please see responses to Section I Question 1(a) and Section II Question 4. In FY23 the MOLC issued 464 FOIA Appeal decisions. As of January 24, 2024, the MOLC has issued 53 FOIA Appeal decisions in FY24.

g. Please specify the approximate number of hours devoted to the categories above (a-f).

Given the nature of the work the MOLC performs and how it is received, it is very difficult to quantify the amounts of time spent on each area, particularly because each Associate Director's workload is different, as is how they allocate their time.

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The MOLC does not maintain timesheets comparable to billing records in the private sector, so all it can provide would be the estimates of (the time usages) each of the Associate Directors which would vary from week to week due to prioritization based on that week.

There are certain time-consuming constants however, like DC FOIA Appeals the MOLC is charged with addressing; other "constants" are more seasonal or intermittent, such as agency counsel evaluation reviews, maintaining records of reported instances of sexual harassment among city employees, and the review of settlement authority memoranda from the agencies and OAG.

The MOLC has realized that time was regularly spent on personnel matters at the subordinate agencies, involving lawyers and program staff (usually in a litigation posture), evaluations and, for a time and CBA negotiations with the subordinate agency lawyers..

4. Please provide details on the process of a FOIA Appeal. Include the following:
 - a. Procedures from beginning to end

Appeals come to the MOLC via email, FOIAXpress, or regular mail. Each appeal is screened to ensure it contains (1) a statement of appeal; (2) a copy of the original request; (3) a copy of any denial letter issued by the agency; and (4) the contact information for the requestor. Once an appeal has been properly filed, the MOLC contacts the relevant agency's FOIA officer and the appellant to give the agency notice of the appeal and to inform the appellant that his/her appeal is being processed. At that time, the MOLC also asks the agency to provide a response to the appeal, explaining the agency's actions. After the agency has had a reasonable opportunity to respond, the MOLC proceeds to adjudicate the appeal and provide a decision to the requestor.

- b. Timeline for a decision

Agencies typically must provide a response to the appeal within 5 business days, and the MOLC must issue a decision within 10 business days. See D.C. Official Code § 2-537(a); 1 DCMR §§ 412.5, 412.7.

- c. Statutory requirements for processing appeals

See response immediately above regarding statutory timelines.

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If the Executive determines that a public record may not be withheld, a directive may be given to the agency to produce the record immediately. See D.C. Official Code § 2-537(a)(2).

- d. Limitations on the types of appeals accepted, if any

There are no limitations on the types of DC FOIA appeals accepted. However, the appeal of FOIA requests submitted to the MOLC are referred to the Office of the Secretary as a conflict of interest and the Office of the Attorney General internally handles the appeal of the FOIA requests it receives.

5. Please provide a list of all FOIA requests in FY23 and Q1 of FY24, that were submitted to your agency. Please list the requests by agency subject matter. For each, please indicate:

- a. When the agency received it

Please see the FOIA chart attached.

- b. When the agency responded

Please see the FOIA chart attached.

- c. Whether it is a congressional inquiry

The MOLC has not received any congressional inquiries during the relevant timeframe.

- d. Whether there are any outstanding appeals. If yes, what are the reasons for those pending cases?

As of January 29, 2024, there are currently no pending appeals of FOIA requests submitted to the MOLC.

To the extent this question is requesting the number of administrative appeals of agency decisions pending adjudication at the MOLC, as of January 23, 2024 there are approximately 15.

- e. Whether there have been any denials of FOIA appeals. If yes, for what reason(s)?

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To the extent this question is referencing administrative appeals of agency decisions pending adjudication at the MOLC, appeals have been denied for various reasons including but not limited to:

- An agency’s search for responsive records was found to be adequate;
- The requested records were properly withheld by the agency because they are exempt from disclosure under the provisions of D.C. Official Code §2-534;
- The appeal was moot based on a subsequent agency action; and
- The appeal failed to state a basis or otherwise had a procedural defect.

6. Please describe the process that the MOLC takes when advising an agency.

There are several ways the MOLC can or will consult with an agency. The two primary methods of consultation are described below:

- If the Agency asks for assistance, the MOLC will identify the appropriate person to respond, and that individual will do so promptly on behalf of the Agency. The contact is memorialized and discussed internally, and the needed assistance is provided, depending on the requirements of the situation and assuming the MOLC is the appropriate entity to provide that assistance.
- In those instances where the MOLC reaches out first, the process is the same, except the MOLC, as the initiating party, will either provide the assistance requested or advise the agency on the matter/issue that generated the consultation.

In addition to the Director and Deputy Director of the MOLC, there are currently three highly skilled Associate Directors who have direct oversight over a cluster of subordinate agencies. These Associate Directors are usually the first points of contact for the agencies they service. Because the MOLC is a small agency with a clear mandate, it is usually easy to identify an issue or a problem, discuss it internally, and then fashion the needed response and follow-up if necessary.

7. Please provide a brief description of all congressional inquiries reviewed by your office in FY23 and Q1 of FY24, and the role of your office in responding.

The MOLC did not review any congressional inquires during that time period.

8. Please list all trainings that the MOLC has held in FY20, FY21, FY22, FY23, and Q1 of FY24?

	FY20	FY21	FY22	FY23	FY24 Q1
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Number of MOLC Legal Trainings	10	11	1	4	1
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- a. Who are the participants of these trainings?

The participants of these trainings consist of District of Columbia General Counsels, Deputy General Counsels, and attorneys from city government agencies. Attendance also includes the MOLC team members and the trainer or subject matter expert for the training.

- b. What does a MOLC-run legal training session involve?

The MOLC-run trainings involve the presentation of a pre-selected legal topic by a skilled trainer and/or subject-matter expert. At the start of each training, the MOLC leadership welcomes attendees, provides the overall mission of the training, and introduces the trainer. The trainer usually presents from a PowerPoint they've created for the training and provides any reference materials for attendees to view throughout the training. Depending on the preference of the trainer, questions from attendees are fielded by the MOLC staff or by the trainer. Upon the completion of the trainer's presentation, the MOLC staff provide closing remarks and circulate an evaluation form to attendees to solicit any feedback regarding the training and suggestions for future training topics.

- c. What steps has MOLC taken to increase the number of trainings offered?

The MOLC is taking more efforts to collaborate with agency general counsels to plan and identify new legal training topics and to ensure that the trainings being offered are addressing legal matters that are most concerning and pressing to agency counsel.

9. Please describe the relationship, if any, between the MOLC and the following:

- a. Executive agencies

As required by its establishing statute, the MOLC assists subordinate agencies with personnel matters related to the employment, discipline, evaluation, and general working conditions of the agency general counsel offices. These activities include reviewing application materials, interviewing lawyers for

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hire, advising agency directors, and assisting with decisions related to the terms and conditions of their employment. Additionally, the MOLC aids agencies by offering guidance on how to handle specific personnel matters relating to attorney work, employment status, discipline and/or their interactions with others.

As a practical matter, agency counsel is aware of the attendant processes and the role of the MOLC and will often seek the MOLC's involvement, thereby providing consistency amongst general counsel offices regarding personnel matters.

The MOLC worked to standardize many of these processes, particularly in the areas of hiring and promotion so that agency counsel are treated as fairly as possible across the agencies. Interviews and selections are now made with the appropriate Associate Director's involvement and ultimate sign-off. Templates and policies for managing discipline are shared to facilitate consistency across the subordinate agencies, hopefully, to minimize successful challenges and/or litigation that might arise from these disciplinary or other personnel actions.

In addition to assisting with personnel actions, the MOLC always remains readily available to provide legal and policy advice to subordinate executive branch agencies. The MOLC's advising responsibilities are broad and vary greatly based upon the specific client and matter or issue being addressed, including litigation and settlement matters. Some aspects of this responsibility are standardized, while others are ad hoc or situational. Advising on the proper interpretation or application of the law is a practical example of one of the ways the MOLC supports this mission.

A subset of the MOLC's duty to provide legal and policy advice to subordinate executive agencies includes resolving interagency legal issues for the Executive where there are contradictory or conflicting policy views (with legal underpinnings or consequences), competing legal interpretations or agency or operational practices that are illegal, wrong, or impractical. Here, the MOLC will make all efforts to resolve the disagreement in a way that benefits the whole government and its leadership. This responsibility extends to proactively address and reconcile differences between subordinate agencies and/or the OAG where disagreements regarding advice or procedures can occasionally arise. The MOLC ensures the process for all these interactions include professionalism, little prejudgment of the situation,

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repeated opportunities to discuss, consideration of all aspects of the matter at issue, and a resolution in the best interest of the government.

b. The DC Council

The MOLC does not have a formal working relationship with the Council of the District of Columbia, in part, because that body has its own group of legal advisors. However, there are matters of importance to the entire government where collaborations and consultations may be necessary—in those instances, the MOLC is always happy to participate where that involvement does not conflict with its ethical, legal and operational priorities.

Additionally, MOLC staff often maintain personal/professional relationships with some Councilmembers and Council staffers that may create opportunities for discussions and others exchanges of ideas that, collectively, further government priorities.

Finally, there are instances where MOLC staff can—and may—more readily obtain information, answer questions or provide hypothetical advice to a Councilmember or staffer that does not cross an ethical or political divide, and where the Mayor and the Council have been historically comfortable with such exchanges or have specifically authorized them.

c. Office of the Attorney General

The MOLC enjoys a robust, collegial, and collaborative relationship with the legal service providers that we are aware of and with whom we interact on a regular basis. While the relationships are generally informal, we meet with these organizations or individuals in different circumstances to address their broad or specific concerns whenever we can.

Our service to these entities, including law firms of various sizes and solo practitioners - sometimes facilitated by prior governmental interactions or even our professional relationships - is part of the MOLC's overarching responsibilities as we've reported before.

We routinely commit to being as responsive and as helpful as we can be to solve specific problems, address legal concerns and, in

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some cases, to be the conduits for information or messages to other parts of the government when that is appropriate.

d. The DC Judicial System

Presently, the MOLC is a member of the Interagency Detention Workgroup which consists of other partners from U.S. District Court for D.C., U.S. DOJ, Legal Aid, U.S. Marshal's Service, OAG, DC Department of Corrections (DOC), and the Federal Bureau of Prisons. The primary focus of this workgroup is to address the concerns from the November 2021 U.S. Marshal's Report regarding the conditions of confinement at the DOC and to discuss the corrective actions taken by DOC thus far.

e. Other legal industries

The MOLC enjoys a robust, collegial, and collaborative relationship with the legal service providers that we are aware of and with whom we interact on a regular basis. While the relationships are generally informal, we meet with these organizations or individuals in different circumstances to address their broad or specific concerns whenever we can.

Our service to these entities, including law firms of various sizes and solo practitioners - sometimes facilitated by prior governmental interactions or even our professional relationships - is part of the MOLC's overarching responsibilities as we've reported before.

We routinely commit to being as responsive and as helpful as we can be to solve specific problems, address legal concerns and, in some cases, to be the conduits for information or messages to other parts of the government when that is appropriate.

10. What role does the MOLC have in public donations to the District agencies? Please outline the processes of receiving donations from the initial step to its completion, including:

- a. Monetary minimums and maximums
- b. Types of donations accepted
- c. Disbursement of donated funds or goods

The MOLC provides a legal sufficiency review of all donation applications submitted to subordinate agencies for goods or services, pursuant to Mayor's

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Memorandum 2015-001. This review ensures that each donation will be used for the purposes for which it was solicited and is consistent with applicable laws .

MOLC reviews both in-kind and financial donations made to executive agencies. If the MOLC does not approve the application, the process cannot proceed. If the application is approved, a donation agreement is signed by the receiving agency and the donor. The MOLC is not involved in this process unless a revision is made to the standard donation agreement, in which case the MOLC must approve the agreement. The MOLC is not involved in the process of disbursing the donation goods. In FY23 and FY24 as of January 25, 2024, the MOLC deemed approximately 555 donations legally sufficient.

11. What is the process for District government attorney employees to provide pro-bono services? Please distinguish between services provided that are work-related and services provided in the attorney's free time.

In 2021, the MOLC has set forth a Pro Bono Policy that encourages Executive Legal Service employees to provide pro bono legal or professional services. Further, employees interested in offering pro bono services must proactively assess whether a conflict of interest would arise or appear to arise from their representation of a potential client in accordance to the policy and applicable District and federal statutes and regulations. The policy sets forth that a conflict of interest is presumed to exist if the activity will: 1) conflict with, or appear to conflict with, the fair, impartial, and objective performance of the employee's official duties and responsibilities; 2) result in, or create the appearance of using public office for private gain, giving preferential treatment on behalf of the District to any person impeding government efficiency or economy, losing complete independence or impartiality of making a government decision outside official channels, or adversely affecting the confidence of the public in the integrity of the District government; 3) permit any person to capitalize on the employee's official title or position; 4) impair the efficient operation of the District government; 5) interfere with the employee's ability to perform the employee's duties and/or responsibilities; or 6) violate ethical standards of behavior of law.

Moreover, on August 16, 2022, the Pro Bono Legal Representation Expansion Amendment Act of 2022 became effective now allowing District government employees to provide pro bono legal representation in proceedings before any District of Columbia court, District of Columbia agency, federal, court, or federal agency where there is no conflict of interest and in affiliation with a covered entity. Specifically, District government employees can provide such representation if: 1) the matter does not involve a claim against the District of Columbia; 2) the District of Columbia, or in a criminal proceeding, the United States, is not a party; 3) the District of Columbia does not have direct or substantial interest in the matter; 4) the employee has not participated personally

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and substantially in the matter as an employee; 5) the representation is expressly authorized by the employee's personal authority pursuant to established procedures; 6) the representation does not violate federal or District law or any applicable rules of professional conduct; and 7) the employee is acting- in the employee's personal capacity; not receiving compensation for the legal representation; and providing the legal representation in affiliation with a covered organization.

Notwithstanding the above, an employee may provide legal representation without compensation: to another District employee who is the subject of a personnel action; or for their parent, spouse, domestic partner, or child, or for any estate for which the employee serves as a guardian, executor, administrator trustee, or other personal fiduciary. An employee may also represent themselves before the District of Columbia.

The MOLC Pro Bono Policy advises that attorneys should seek pro bono opportunities that can be accomplished on their own time, either after work or on weekends, or otherwise require only de minimis use of government time and resources or by arrangement with their supervisor and using leave or a flexible working schedule.

Before engaging in pro bono services, an Executive Legal Service employee must submit a Pro Bono Request Form to their supervisor for review and approval of the pro bono legal services. If the attorney's supervisor is unsure whether a proposed pro bono service would create a conflict of interest with the employee's work, the employee should then submit the Pro Bono Request form to MOLC for its review.

III. DISTRICT-WIDE INITIATIVES

a. Racial Equity and Social Justice

12. Please list three opportunity areas, programs, or initiatives that the MOLC may facilitate to address racial inequity.

The MOLC will continue to facilitate racial equity in its duties as described in Section I, Question 27.

13. Please discuss one operational data point and one performance data point where you already collect race information or could collect such information.

The MOLC does not collect racial data but continues to promote racial equity as described in Section I, Question 27.

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14. In considering a racially equitable District of Columbia, please discuss the three ways that the MOLC would reflect such achievement.

The MOLC continues to do its part in making the District more racially equitable within the bounds inherent to its duties as described in its response to Section I, Question 27.

b. Harassment and Workplace Culture

15. Please discuss how the MOLC handles harassment claims, such as sexual harassment, retaliation, bullying.

As detailed below MOLC has not received any complaints of workplace harassment. However, any complaints of workplace sexual harassment and workplace bullying will be handled in accordance with Mayor's Order 2023-131, Updated District Government Sexual Harassment Policy, Guidance, and Procedures, and DCHR Issuance 2019-8, Maintaining A Healthy Workplace: Anti-Bullying Policy, respectively. Concerning allegations of retaliation in response to an employee opposing sexual harassment or participating in a sexual harassment investigation or the EEO process, Mayor's Order 2023-131 expressly provides that these claims are outside of the scope of agency SHOs and instructs individuals to file a complaint with an EEO counselor. Notwithstanding these workplace investigatory processes, MOLC employees may avail themselves of the formal EEO process to report allegations of discrimination and retaliation.

16. How many complaints of harassment has the MOLC received in FY23 and Q1 of FY24? Please provide breakdown of the following:
1. Number of complaints
 2. Types of harassment (sexual harassment, retaliation, bullying, etc.)
 3. Resolutions of each complaint (settlement, transfers, separation, etc.)

The MOLC received no complaints of harassment against it or its employees during the relevant period.

17. Please describe the process that the MOLC takes in sexual harassment-related matters. Please provide a breakdown of the agency's role in the following:
- a. Training and education;

Mayor's Order 2023-313 established the Sexual Harassment Task Force comprised of several Executive agencies and offices, including MOLC, to provide guidance, issue recommendations, and develop policy to fulfill the intent of the Order. Moreover, the Task Force must provide recommended

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updates to the trainings for SHOs and General Counsels, as well as at least recommendations for four other discrete areas, by May 1, 2024.

b. Investigations;

In FY23, the MOLC investigated allegations of sexual harassment by a former Deputy Mayor in the place of the Office of the City Administrator. However, typically, MOLC is not involved in agency workplace investigations of sexual harassment. Mayor's Order 2023-131 requires an agency to provide MOLC with notification of the receipt of a sexual harassment complaint and with a copy of the summary written notification of the investigation's findings and conclusions. Additionally, agency counsel may seek legal guidance from MOLC on any issues that arise during the course of the investigation.

c. Hiring or designation of Sexual Harassment Officers (SHO); and

The MOLC plays no role in the designation of the SHOs for each Deputy Mayor's Office and each agency. In fact, Mayor's Order 2023-131 requires each Deputy Mayor's Office and each agency to designate a primary SHO, as well as an alternate. Moreover, each SHO must be registered with the Office of Human Rights pursuant to Section 2 of the Sexual Harassment Data Collection and Reporting Act of 2022, effective September 21, 2022 (D.C. Law 24-171; D.C. Official Code § 1-546.01).

d. Other personnel matters

To the extent this question is asking about other non-sexual harassment personnel matters that may be raised or uncovered in the course of a sexual harassment matter, the agency involved would handle those other allegations of non-sexual personnel misconduct under the appropriate law, rule, regulation, and/or policy. For example, an allegation of bullying would be handled according to DCHR Issuance 2019-8, Maintaining A Healthy Workplace: Anti-Bullying Policy.

MOLC plays a limited role in other personnel matters when agencies consult with the MOLC on disciplinary matters involving attorneys and to the extent that the MOLC serves as a resource for General Counsels on other personnel-related issues. Otherwise, the MOLC has not received any allegations of sexual harassment or other types of workplace misconduct, such as bullying, by a MOLC employee.

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18. Please discuss any changes or improvements made in the MOLC workplace culture in FY23 and Q1 of FY24, and any plans for future improvements.

The MOLC has not made any changes to its workplace culture in the relevant period and does not anticipate making any future changes, in short, because none are needed at this time. The MOLC is a small agency comprised of a seasoned team of 8 talented professionals. While everyone has their own assignments and responsibilities in addition to some team assignments, our work environment is nonetheless collaborative. For instance, the Associate Directors are assigned their own unique portfolio of agencies' offices of general counsel but check in with each other to ensure consistency and to spot emerging trends. This open-door policy is not unique to the Associate Directors but extends to all the staff. Because of its uniquely small FTE count, all employees may directly reach out to any other employee in a way that is not always possible in larger agencies who must adhere to a traditional chain of command to prevent overwhelming the senior leadership. MOLC's direct, open door practice not only encourages frank and frequent communication where all are encouraged to share their opinions, insights, experiences, complaints and questions, but it also allows the MOLC to be nimble in addressing issues and trends as they arise. While sometimes overused or thrown out casually, the MOLC is truly a collegial workplace. With that said, all MOLC employees are encouraged to voice any changes and improvements they wish to see. If any are received, they will be discussed, considered and implemented to the extent possible and needed.

c. Public Safety

19. Please describe how the MOLC plans to take an active role in improving public safety for the city.

While the MOLC is neither a public facing agency nor sits within the public safety and justice cluster it nonetheless oversees and supports the offices of general counsel at the agencies subordinate to the Mayor, which includes those whose agency missions focus on various aspects of public safety. Therefore, by design, the MOLC does not have an active role in improving public safety. It does, however, have some tangential impact from time to time through the discharge of its duties. For example, in the adjudication of FOIA appeals the MOLC improves public safety by ensuring that investigations or enforcement proceedings are not compromised by the release of sensitive information while balancing government transparency. Also, in adjudicating FOIA appeals the MOLC ensures that citizens' privacy is not invaded when information and documents are released by ensuring their personally identifiable information is not released, which helps to deter revictimization and vigilante justice, in addition to protecting their privacy. Lastly, the MOLC provides legal advice to the Mayor and her Executive Offices, which

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may sometimes include public safety initiatives and responses. The MOLC's legal advice is always geared towards increasing public safety to the extent that the issues being addressed impact or otherwise involve public safety.