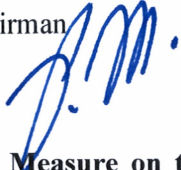


COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHAIRMAN
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Memorandum

TO: Nyasha Smith, Secretary to the Council

FROM: Phil Mendelson, Chairman 

DATE: January 29, 2026

RE: **Request to Place a Measure on the Agenda for the February 3, 2026 Legislative Meeting**

This memorandum is to request that the following measure be placed on the agenda for the February 3, 2026 Legislative Meeting:

▪ **Budget Enhancement Information Litigation Authorization Resolution of 2026**

For purposes of conducting performance oversight as part of the enactment of the Fiscal Year 2027 budget, Council committees asked Executive agencies to transmit copies of their Fiscal Year 2025 and 2026 budget enhancement requests. These requests, more commonly known as the agencies' "Form B" or "Form 2" requests, reflect District agencies' best assessments of their own budgetary needs, and therefore constitute information that would be critically helpful to the Council as it discharges its responsibilities as appropriator for the District. In response, the Office of Policy and Legislative Affairs circulated a memorandum on January 6, 2026 to all Deputy Mayors and agency heads stating that "As a matter of longstanding policy, the Executive does not publicly disclose or share agencies' budget formulation enhancement requests." The memorandum directs all Mayoral agencies to respond to Council committee requests for budget enhancements with the following language: "This request asks for information that is protected from disclosure by the deliberative process and executive privileges." Contrary to the Executive's assertion, however, neither of those privileges protects the agency budget requests at issue from disclosure to the Council.

First, to the extent that these budget enhancement requests might otherwise be protected by deliberative-process privilege, that privilege was abrogated when the Council enacted D.C. Official Code § 47-318.05a, which directs the Mayor and the Chief Financial Officer are required to transmit "Actual copies, not summaries, of all agency budget enhancement requests, including the 'Form B' for all District agencies..." to the Council with the proposed budget. Despite the plain text of the law, the Executive continues to decline to transmit budget enhancement requests to the Council. Second, there has already been litigation over this matter—*Terris, Pravlik & Millian, L.L.P. v. District of Columbia*, 336 A.3d 600 (D.C. 2025)—which the Executive lost. They lost in the trial court, and they lost in the Court of Appeals. The District of Columbia Court of Appeals expressly rejected the Executive's claims of executive privilege and affirmed the trial court's order directing the Executive to produce the Form Bs and other agency budget request documents referenced in the plaintiff's FOIA request. The plaintiff in that case, a nonprofit, has recently filed a motion against the Executive for contempt in Superior Court. To protect the Council's ability to be fully informed when adopting budgets, especially as we approach the Fiscal Year 2027 budget season, Council adoption of this authorization resolution is necessary.

A copy of the draft measure is attached. Please call me or Blaine Stum, Deputy Committee Director, if you have any questions at (202) 724-8092.

cc: All Councilmembers
Council Officers