



# OFFICE OF COUNTY COUNSEL

## PERFORMANCE CLACKAMAS STRATEGIC PLAN

DATE APPROVED:

DATE EFFECTIVE: JULY 1, 2020

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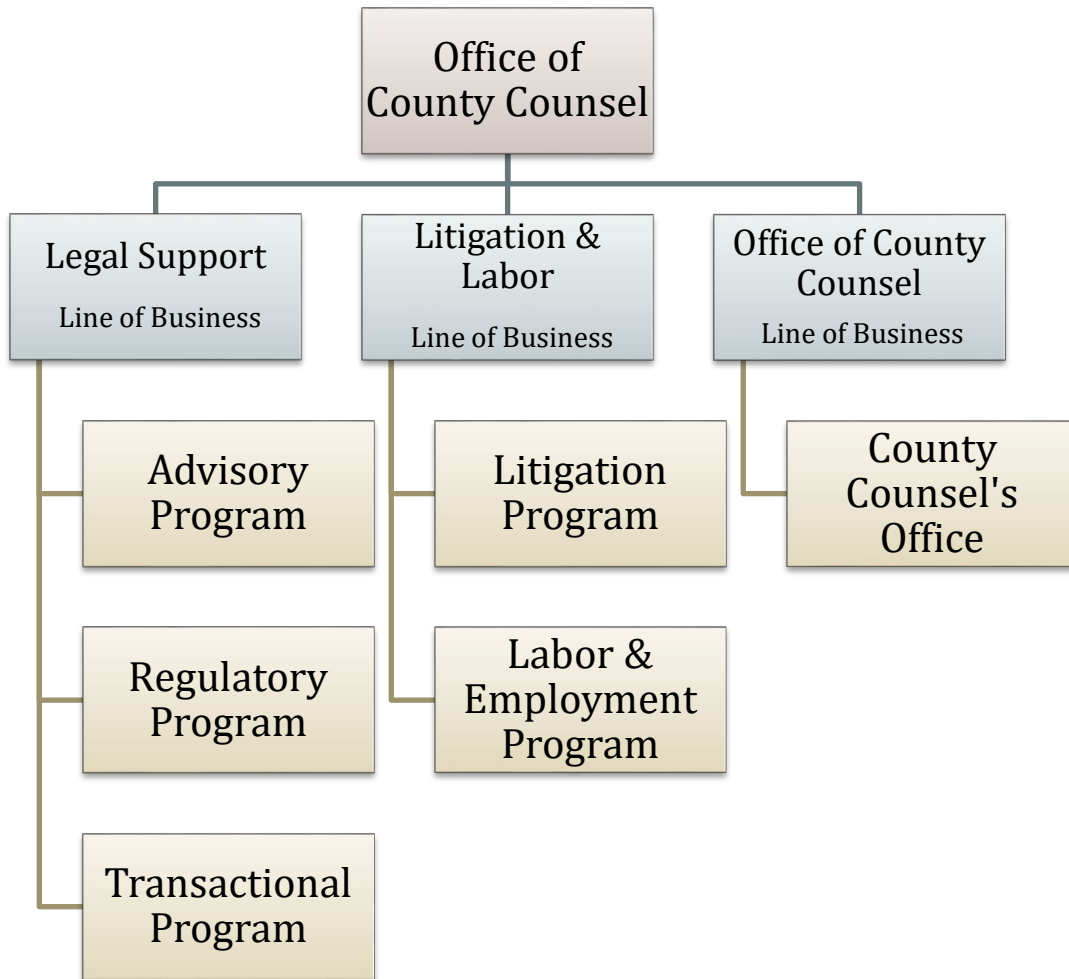
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## Introduction

The Office of County Counsel has a staff of twelve full time positions and one part-time position organized around three areas of services – Legal Support, Litigation and Labor, and County Counsel, which provide legal advice and legal services, including contract review, policy and ordinance development, and legal representation, to Clackamas County, and its elected officials, departments, employees and special districts to enable them to achieve their objectives.

Stephen L. Madkour  
Clackamas County Counsel  
July 1, 2020

Department Structure



- 3 Lines of Business
- 5 Programs
- 13 staff (12 FT, 1 PT)

## **MISSION STATEMENT**

The Mission of the Office of County Counsel is to provide comprehensive legal services easily accessible to Clackamas County, and its elected officials, departments and special districts so they can effectively implement their policy objectives, achieve success for their operations, and minimize risk and adverse results.

## Issue Statements

1. The continued growth of the County population and economy, combined with the parallel growth in the demand for services from County departments, will create a predictable increase in the demand for legal services, which if not addressed, will result in:
  - Decreased accessibility to legal services for County departments and the Board of County Commissioners
  - Decreased delivery of legal services
  - Significantly increased costs for outside counsel
  
2. The continued escalation of labor and employment litigation, combined with increasingly sophisticated employment claims brought by attorneys focused on public sector employers, will, if not addressed, result in:
  - Decreased accessibility to legal services for County departments and the Board of County Commissioners
  - Increased exposure to adverse outcomes and legal penalties for the County
  - Significantly increased costs for outside counsel
  
3. Increases in the complexity of transactions and litigation in specific areas such as large scale construction, data security, cable franchise and telecom, pay-equity legislation, privacy issues, inter-jurisdictional negotiations with federal and state entities, coupled with a corresponding demand for specialized resources in those areas, will, if not addressed, result in:
  - Increased expense to the County to retain outside counsel
  - Decreased accessibility and delayed responses to legal queries from County departments and the Board of County Commissioners
  - Increased risk of liability for non-compliance with federal and state requirements, which could result in sanctions or litigation
  - Unfavorable terms shifting more risk to the County
  - Increased exposure to adverse outcomes and legal penalties for the County

- Decreased accessibility to legal services and delayed responses to legal queries from County departments and the Board of County Commissioners
  - Potential failure to seek legal advice which increases risk to the County
4. Initially it would appear that the advent of software resources to support law office functionality, including document production, increases productivity. However, it is also creating a significant opportunity cost in that our attorneys are spending time on support staff tasks that would be better put toward litigation, advice and other legal services for departments, which, if not addressed, will result in:
- Reduced efficiencies and increased costs to deliver legal services
  - Lack of internal coordination of processes
  - Decreased accessibility and delayed responses to legal queries from County departments and the Board of County Commissioners

## Strategic Results

1. By 2020, the County and its elected officials, departments and special districts will have confident, convenient access to responsive, supportive, successful, and solution-oriented legal services in the Office of County Counsel, as evidenced by:
  - 90% of contracts receive initial review by County Counsel within 14 business days of receipt (Issue # 1)
  - 90% of clients receive an initial response from County Counsel to requests for advice within 7 business days (Issue # 1)
  - Beginning in 2020, the Office of County Counsel will have individual meetings annually with all department heads to discuss the demand for legal services, measures of confidence, and convenient access to legal services (Issue #1)
  - 90% of directors, managers or supervisors will receive post-event debriefing from County Counsel for cases in which verdicts or settlements exceed \$50,000. (Issue # 1 and #2)
  - The Office of County Counsel will provide a minimum of 3 training sessions per year to departments on key or emerging legal issues (Issue #1 and #2)
  - 100% of all legal service agreements, including for outside representation, are approved and reviewed by County Counsel (Issue # 3)
  
2. By 2022, the County, and its elected officials, departments and special districts shall receive in-house expertise and capacity for handling the increasingly complex and emerging legal issues faced by the County, such as cable franchise and telecom issues, emerging technology issues, complex transactional events, pay equity legislation impacts, and emerging labor and employment issues, as evidenced by:
  - 80% of County Counsel staff will attend educational programs on emerging legal issues. (Issue # 2 and #3)



## Lines of Business

### **LEGAL SUPPORT LINE OF BUSINESS**

The purpose of the Legal Support Line of Business is to provide easy-to-access, easy-to-understand advisory, regulatory and transactional services to the County, its elected officials, departments and special districts so they can make well-advised, timely, legally informed decisions, and keep the delivery of services to the public moving.

#### ***Key Results***

- 90% of clients receive an initial response from County Counsel to requests for advice within 7 business days (Strategic Result #1)
- 90% of contracts receive initial review by County Counsel within 14 business days of receipt. (Strategic Result #1)
- Provide strategies and consultations within 30 days from the date the Office of County Counsel is aware of a change in law or regulations impacting a department

#### **1. ADVISORY PROGRAM**

The purpose of the Advisory Program is to provide advice, consultation, and training services to the County, and its elected officials, departments and special districts so they can make legally informed decisions and deliver services to their customers.

### **PERFORMANCE MEASURES**

#### ***Strategic Results***

- 90% clients receive an initial response from County Counsel to requests for advice within 7 business days (Strategic Result #1)

#### ***Outputs***

# Legal Consultations provided

### **SERVICES**

Legal Advice and Consultations  
Formal Consultation Meetings

Formal Legal Opinions  
Legal Training Sessions

## **2. REGULATORY PROGRAM**

The purpose of the Regulatory Program is to provide research, consultation, strategy, negotiation, technical, regulatory, implantation compliance, and enforcement services to the County, and its elected officials, departments and special districts, so they can implement their technical goals and objectives and conduct their operations in a manner that comports with local, state, and federal regulations and laws.

### **PERFORMANCE MEASURES**

#### ***Results***

- Provide strategies and consultations within 30 days from the date the Office of County Counsel is aware of a change in law or regulations impacting a department

#### ***Outputs***

# Regulatory consultations provided

#### ***Demand***

# Regulatory consultations expected

### **SERVICES**

Draft Ordinances  
Draft Regulations  
Organizational Consultations  
Regulatory Agency Appearances  
Regulatory Agency Issues  
Regulatory Agency Representations  
Regulatory Commentaries  
Regulatory Consultations  
Regulatory Interpretations

### 3. TRANSACTIONAL PROGRAM

The purpose of the Transactional Services Program is to provide strategic drafting, review, and negotiation services for contracts, memorandums of understanding<sup>1</sup> (“MOU”), partnerships, and Intergovernmental Agreements<sup>2</sup> (“IGA”) to the County, and its elected officials, departments and special districts so they can make well-advised, timely, legally informed decisions, manage and minimize risk, and keep the delivery of services to the public moving.

#### PERFORMANCE MEASURES

##### *Strategic Results*

- 90% of contracts receive initial review by County Counsel within 14 days of receipt (Strategic Result #1)
- 100% of all legal service agreements, including for outside representation, are approved and reviewed by County Counsel (Strategic Result #1)

##### *Outputs*

# Contract, IGA, MOU reviews and approvals provided

# Hours spent on review of contracts, IGAs, and MOUs

##### *Demand*

# Contract, IGA, and MOU reviews and approvals expected

#### SERVICES

Alternatives Consultations

Contract, IGA, and MOU drafts, reviews, and approvals

Contract Templates

Financial Document Reviews

Purchasing Consultations

Transactional Negotiations

County-wide Trainings on public contracting and contract signing authority

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<sup>1</sup> An MOU is typically a nonbinding expression of intent to coordinate efforts.

<sup>2</sup> An IGA is an agreement between public agencies specifically authorized by Oregon Revised Statutes Chapter 190.

## **LITIGATION AND LABOR LINE OF BUSINESS**

The purpose of the Litigation and Labor Line of Business is to provide advice and representation at trial, mediation or other arenas, to the County, and its elected officials, departments and special districts, so they can manage and minimize risk, be represented in lawsuits, and appropriately administer labor and employment laws.

### **Key Results**

- 90% of directors, managers or supervisors will receive post-event debriefing from County Counsel for cases in which verdicts or settlements exceed \$50,000 (Strategic Result #1)

### **1. LITIGATION PROGRAM**

The purpose of the Litigation Program is to provide the full complement of representation and comprehensive legal services to County officers, elected officials, departments and special districts so they can operate with little disruption and minimal financial impact from litigation.

## **PERFORMANCE MEASURES**

### **Results**

- % of matters resolved through early resolution

### **Outputs**

- # Cases managed
- # Claims managed
- # Tort claims and accident reports reviewed
- # Trainings provided

### **Demand**

- # Cases expected
- # Claims expected

## **SERVICES**

- Representation at hearings, mediation, arbitration, trials and appeals
- Cases Prosecuted and Defended
- Claim Investigations

Client Briefings  
Client Coaching Sessions  
Consultations  
Negotiated Settlements  
Negotiation Sessions  
Tort Claims and Accident Report Reviews  
Board and Client Representative Briefings  
Post-event training sessions

## **2. LABOR AND EMPLOYMENT PROGRAM**

The purpose of the Labor and Employment Program is to provide consultation, advice, representation, and negotiation services to Clackamas County officers, elected officials, departments and special districts to ensure appropriate administration and implementation of labor and employment laws, regulations, ordinances, County Code, and County policies.

### **PERFORMANCE MEASURES**

#### ***Results***

- Favorable outcomes for cases, as evidenced by:  
% Grievance arbitrations found in the County's favor
- # Trainings on emerging labor and employment issues

#### ***Outputs***

# Grievance arbitration representations  
# Trainings provided

### **SERVICES**

Labor Arbitrations  
ADA Complaint and Compliance Reviews  
Employment Agreements  
  
Employment Hearings Appearances  
Employment Law Training Sessions  
Employment Policy Drafts and Reviews

Employment Settlements  
Federal and State Administrative Agency Representation  
Internal Personnel Investigations  
Labor and Employment Consultations  
Labor Negotiations and Consultations  
Employee Discipline Consultations

## **OFFICE OF THE COUNTY COUNSEL LINE OF BUSINESS**

The purpose of the Office of the County Counsel Line of Business is to provide leadership, oversight, and legal consultation services to the County, and its elected officials, departments and special districts, so they can effectively implement their policy objectives, achieve success for County operations, and minimize risk and adverse results for the County.

### ***Key Results***

- Beginning in 2020, the Office of County Counsel will have individual meetings annually with all department heads to discuss the demand for legal services, measures of confidence, and convenient access to legal services (Strategic Result #1)

### **1. COUNTY COUNSEL'S OFFICE PROGRAM**

The purpose of the County Counsel's Office Program is to provide leadership, oversight, and legal consultation services to the County, and its elected officials, departments and special districts, so they can effectively implement their policy objectives, achieve success for County operations, and minimize risk and adverse results for the County.

### ***Results***

- The Board of County Commissioners and County Administration will receive information about County Counsel's key result performance measures on a quarterly basis
- % Strategic and Operational Results for the Office of County Counsel achieved
- 80% of County Counsel staff will attend educational programs on emerging legal issues. (Strategic Result #2)

## ***Outputs***

- # Legal opinions provided
- # Public records requests and responses
- # Trainings and presentations provided internally and externally
- # Board hearings and meetings attended

## ***Demand***

- # Legal opinions expected
- # Public records requests and responses expected

## ***Services***

- Board and Elected Official Advice and Consultations
- Board Briefings
- Client Department Consultations
- Code Updates
- County Administration Consultations
- County Counsel Policies
- Formal and Informal Legal Opinions
- Performance Reports
- Policy Recommendations
- Public Presentations
- Special District Consultations
- Staff Evaluations
- Annual Budget Preparation and Presentations
- Trainings and Presentations

## MFR Glossary

To help participants and observers better understand this work program, definitions of a number of key words and phrases used throughout the process are listed below.

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**Customer:** An individual or group of individuals whose best interests are served by, or who receives or uses, the services that the department delivers and who experiences the intended benefit.

**Issues:** A circumstance that will have a major impact on the customers served by the department.

**Issue Statements:** A statement that summarizes the issues and trends that will have a major impact on the customers served by the department over the next 2-5 years. The statement has two parts: 1) describes the issue or trend and how it is increasing, decreasing or continuing, and 2) describes how that trend, if the status quo continues unabated, is projected to impact customers and the department over the next 2-5 years.

**Key Result Measures:** A set of performance measures contained within each line of business comprised of one result measure from each of the programs in that line of business.

**Lines of Business (LOB):** A set of programs that have a common purpose or result. LOBs create the business profile of the department; they express in terms of broad result areas the particular mix of services that the organization is offering to the public in order to achieve its mission.

**Managing for Results:** An entire organization, its management system, its staff and the organizational culture (beliefs, behavior and language) are focused on achieving results for the customer.

**Mission Statement:** A clear, concise statement of purpose for the entire department, focused on the broad, yet distinct, results the department will achieve for its customers.

**Performance Measures:** A balanced "family of measures" that includes at least one of the following:



*Result:* Measures the degree to which customers experience the expected benefit, as a consequence of having received the services that the department delivers.

*Output:* Measures the amount of service provided or number of units produced or processed.

*Demand:* Total units of a service expected to be demanded, requested or required by the customer.

*Efficiency:* Expenditure/cost per output or result.

**Program:** A set of services that have a common purpose or result.

**Program Purpose Statement:** Clear, concise and results-oriented statement bringing together the name, the service provided the customer and the result customers are expected to experience.

**Services:** Tangible and intangible "things" or deliverables that the program provides to customers.

**Strategic Result:** The significant results the department must accomplish over the next 2-5 years to proactively respond to the critical trends, issues and challenges on the horizon.

## Organization / Contact Information

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