
**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
FISCAL YEAR 2014 COMMITTEE BUDGET REPORT**



TO: Members of the Council of the District of Columbia

FROM: Chairman Phil Mendelson
Committee of the Whole 

DATE: May 9, 2013

SUBJECT: Report and Recommendations of the Committee of the Whole on the
Fiscal Year 2014 Budget and Corresponding Budget Support Act

The Committee of the Whole, having conducted hearings and received testimony on the Mayor's proposed fiscal year 2014 operating and capital budgets for the agencies under its purview, reports its recommendations for consideration by members for inclusion in the Fiscal Year 2014 Budget. The Committee also comments on several sections in the Fiscal Year 2014 Budget Request Act of 2013, the Fiscal Year 2014 Budget Support Act of 2013, and makes its own proposals.

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Council Budget Director Certification:

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Date: 05/20/13

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INTRODUCTION

Introduction to this Report

The following presents the Council of the District of Columbia Committee of the Whole's recommendations regarding funding allocations for the fiscal year 2014 budget for the agencies under the Committee's purview. In addition, the Committee comments on policy priorities and makes a number of suggested legislative changes related to the budget. The Committee recommends the Council include these changes in the District's overall fiscal year 2014 budget.

Committee of the Whole, Overview

The Committee of the Whole ("Committee") is currently one of eleven standing committees of the Council. The Committee is responsible for the annual budget, and additions or supplements to the budget; coordinating the Council's relationships with the Congress and the Federal executive branch; monitoring the progress of Council legislation through Congress; monitoring the status of original legislative proposals in Congress that may affect the District, the Council, or its legislation; amendments to the District Charter; Council appointments to Boards and Commissions; public-space naming; street and alley acquisition and closing; reapportionment and realignment of the political subdivisions of the District; Council administration and personnel; the scheduling of all matters for consideration by the Council in the legislative meeting; legislative matters related to the District as a political entity, including voting rights and statehood; grants management; government procurement; coordinating the Council's

relationships with appropriate regional, state, and national associations and organizations; labor relations; coordinating the Council's relationship with regional authorities and other regional bodies and organizations not specifically assigned to other committees; truancy (jointly with the Committee on Education); District employees' retirement; the development of the comprehensive plan and other matters pertaining to land use; matters related to statehood and self-determination for the District; revision and codification of Title 49 of the D.C. Official Code; public education matters exclusively concerning the University of the District of Columbia or the Community College of the District of Columbia; international business and affairs; and other matters assigned to it by the Council's Rules or by the Chairman.¹

The Chairman of the Council is the Chairman of the Committee of the Whole and its members include all members of the Council. In addition to its oversight and legislative responsibilities, the Committee reviews all measures reported from other committees for completeness of the record, legal sufficiency, and adherence to rules regarding fiscal impact. The District agencies that come under the purview of the Committee are as follows:

- Council of the District of Columbia;
- District of Columbia Auditor;
- Board of Zoning Adjustment;

¹ See Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 20, Rule 231(a) (Jan. 8, 2013).

- Commemorative Works Committee;
- Community College of the District of Columbia;
- Community College Transition to Independence Advisory Board;
- Contract Appeals Board;
- District of Columbia Retirement Board;
- District of Columbia Statehood Commission;
- District of Columbia Statehood Compact Commission;
- Historic Preservation Review Board;
- Labor/Management Partnership Council;
- Office of Budget and Planning;
- Office of Contracting and Procurement;
- Office of Labor Relations and Collective Bargaining;
- Office of Planning;
- Office of Zoning;
- Statehood Delegation Fund Commission;
- Tax Revision Commission;
- Tobacco Settlement Financing Corporation;
- Tobacco Settlement Trust Fund Board of Trustees;
- University of the District of Columbia; and
- Zoning Commission of the District of Columbia.

In addition to the above, the following entities are under the Committee's purview, but are not part of the District government, and the Committee's jurisdiction is therefore limited:

- Metropolitan Washington Airports Authority;²
- Metropolitan Washington Council of Governments;³ and
- National Capital Planning Commission.⁴

The Committee is charged with oversight over the performance and annual operating and capital budgets of the agencies listed. In total, the Committee oversees approximately 20 agencies that, in the Mayor's proposed budget for fiscal year 2014, comprise a total budget of over \$1.3 billion in gross funds (\$1.264 billion in general funds) and approximately 1,510 full-time equivalents (FTEs) (gross funds).⁵

² The Metropolitan Washington Airports Authority has jurisdiction and power conferred by the District and the Commonwealth of Virginia, and is governed by a Board which includes several members appointed by the District. However, the Authority receives no direct funds from the District.

³ The Metropolitan Washington Council of Governments is not part of the District government, however the District does transfer funds in the form of dues, as described later in this report.

⁴ The NCPC is an independent federal executive branch agency that operates under federal laws and authorities pertaining to the District, but receives no direct funds from the District.

⁵ These figures are taken from the FY 2014 budget books and combine the budget and FTE amounts in chapters under the purview of the Committee.

Mayor's FY 2014 Budget Proposal

On March 28, 2013, Mayor Vincent C. Gray submitted to the Council of the District of Columbia a proposed Fiscal Year 2014 Budget and Financial Plan proposal entitled "Investing for Tomorrow," which allocates resources for programs and services for the upcoming fiscal year. How funds are allocated represent the Administration's policy priorities.

The Mayor's budget proposal for fiscal year 2014 provides for a gross funds budget of \$12.07 billion (with local funds comprising \$6.3 billion, or 52.2 percent, of the total budget). This represents an increase of \$707.4 million, or 6.2 percent, over the fiscal year 2013 approved gross budget of \$11.4 billion. The proposed budget supports 32,596 FTEs, an increase of 18.8, or 0.1 percent, from the fiscal year 2013 approved level.⁶

In transmitting the Mayor's budget proposal to the Council, the District's Chief Financial Officer noted "solid revenue gains achieved in FY 2012, and anticipate[d] continued solid growth in the District's population."⁷ However, he cautions about the continued threats related to federal sequestration and "[f]inancial ripple effects from the ongoing European debt crisis, disruptions to oil supplies from the Middle East, or a downturn in the still fragile economy..."⁸

⁶ Letter from Natwar M. Gandhi, Chief Financial Officer, Office of the Chief Financial Officer, to The Honorable Vincent C. Gray, Mayor of the District of Columbia, Re: Transmittal Letter, at 4 (Mar. 28, 2013).

⁷ *Id.* at 1.

⁸ *Id.* at 2.

The Mayor's transmittal letter for the fiscal year 2014 budget highlights the District's rapidly growing economy with more private sector jobs and lower unemployment.⁹ In turn, the proposal urges investments through the following key strategies: (1) growing and diversifying the District's economy; (2) educating children and preparing the workforce for the new economy; and (3) improving the quality of life for all residents.¹⁰

As outlined by the Mayor, the strategic investments in areas under the purview of the Committee include the following:

- *One City Fund*: \$15 in million funding allocated to a new District-wide grant program to support nonprofits; and
- *District employees' compensation*: An increase of \$91.9 million (local funds) to support pay increases for District employees.¹¹

The overarching budget package proposed to the Council includes two corresponding legislative measures: Bill 20-198, the Fiscal Year 2014 Budget Request Act of 2013 (BRA); and Bill 20-199, the Fiscal Year 2014 Budget Support Act of 2013 (BSA). The legislative changes that comprise the latter document, the BSA, are necessary to implement the proposed budget plan. Of the numerous changes offered in the BSA, three subtitles were referred by the Chairman of the Council to the Committee for comment. They are:

⁹ Letter from Mayor Vincent C. Gray, to the Honorable Phil Mendelson, Chairman, Council of the District of Columbia, Re: Transmittal Letter, 1 (Mar. 28, 2013).

¹⁰ *Id.*

¹¹ *Id.*

- *One City Fund Establishment Act of 2013* (Title I, Subtitle B);
- *Automated Traffic Enforcement Enhancement Amendment Act of 2013* (Title III, Subtitle C); and
- *Subject to Appropriations Repealers Amendment Act of 2013* (Title VII, Subtitle A).

The Committee provides comments and recommendations on these subtitles, and also recommends additional subtitles, beginning on page 102 of this report.

Committee Review of Budget Proposal

In order to review the Mayor’s budget proposal, determine the wants and needs of each agency under its jurisdiction, and provide the public with an opportunity to comment, the Committee held budget hearings for each of the agencies under its purview as shown in the table below.

The Committee received in excess of 16 hours of testimony, from both government

and public witnesses. The Committee also received written statements. Typical of Council committee budget reports, testimony and written statements are made a part of the record but are not attached to the report.

In fulfilling its prescribed oversight role for the fiscal year 2014 budget, the Committee has been pleased with the cooperation of the Executive and individual agencies in gathering and accessing information about the proposal. In nearly all formal requests for information and responses to pre- and post-hearing questions, agencies provided information in a timely manner.

However, the Executive branch was uncooperative in providing requested “Form Bs” for agencies that had sought enhancements (funding increases) during the formulation of their budget. The Committee considers these forms essential to understanding the needs of an agency and the adequacy of the budget. Moreover,

Table 1: Committee of the Whole Fiscal Year 2014 Budget Oversight Hearing Schedule	
Thursday, April 11, 2013 at 11:00 a.m. in the Council Chamber	
- Metropolitan Washington Council of Governments	- Office of Budget and Planning
- Office of Labor Relations and Collective Bargaining	- Council of the District of Columbia
Friday, April 12, 2013 at 12:00 p.m. in Hearing Room 412	
- Office of Zoning	- Office of Planning
Thursday, April 18, 2013 at 10:00 a.m. in Hearing Room 412	
- District of Columbia Retirement Board	- Office of Contracting and Procurement
- Contract Appeals Board	- One City Fund
Friday, April 19, 2013 at 1:00 p.m. in the Council Chamber	
- District of Columbia Auditor	- University of the District of Columbia
- University of the District of Columbia	Community College

these forms are public documents pursuant to D.C. Code § 47-318.05a.

During Council Period 19 the Committee did not have in its jurisdiction the budgets for several of the larger agencies now under its purview, notably the Office of Contracting and Procurement, the Office of Planning, and the University of the District of Columbia.

Because of this, the Committee has listened to extensive testimony from the public and agency heads to better understand the operations and needs of the various agencies. In this report, the Committee provides analysis of the budget requests, shares its concerns, and offers budget policy recommendations.

With respect to the overall budget process, the Committee also makes several suggestions, as follows, to continue to improve the budget and the budget process for future cycles beyond improvements that have been made in the recent past.

First, the Committee is eager to see the Chief Financial Officer continue to improve the quality and transparency of the budget process. One important aspect of this will be the work the CFO's office has undertaken to acquire more modern information systems to improve budget formulation and execution. Because the Office of Budget and Planning is under the purview of the Committee of the Whole, this issue is articulated further under that chapter later in this report.

As has been articulated in the past, more can be done to improve the quality and descriptiveness of the budget books. Major

policy shifts are often described in a brief sentence. Learning about policy initiatives proposed by the Mayor is a major component of the budget hearing process, and additional information is necessary to enable the Council and the public to understand these proposals.

The District's six-year Capital Improvement Plan (CIP) is embodied in its own volume of the budget books: volume 6. Progress has been made over the past few budget cycles to make it easier for the Council and the public to understand what is occurring with capital projects. This is an area of the budget where the District invests billions of dollars in real estate and infrastructure. The CIP is large and complicated, and so the efforts to improve transparency in this area are welcome. The Council should continue to conduct rigorous oversight over the capital budget. To that end, it is vital that agencies have a thorough understanding of the capital projects under their purview and provide sufficient details to oversight committees during the budget process.

Second, as the Council conducts a series of performance hearings in the weeks leading up to the release of the Mayor's budget, one important aspect is the review of performance plans, which are included as part of the budget books. This information is important for the Council's consideration of how an agency is performing, and what additional resources it may or may not need to align with its mission.

The Committee notes that in some cases, performance measures completely change from one fiscal year to the next (e.g., for Office of Contracting and Procurement: four

out of the five measures in the fiscal year 2013 procurement plan for the procurement division are completely different from the 2012 plan).¹² This minimizes their value as an accountability tool.

In other cases, performance measures do not adequately reflect the reality of an agency's operations, or are simply not strong enough. For example, the Office of Zoning has an indicator for "percent of zoning certifications completed within 2 weeks," when in reality, the Office issues zoning certifications on average within three days of request.

If the Council and the public cannot see whether agencies are meeting their stated goals by constantly changing the playing field, no one can be sure whether the dollars we are budgeting are being spent in an efficient and effective manner in which results are being achieved. Further, the performance measures should reflect the best that the agency can or ought to be. Dumbed-down measures are not useful.

In the same vein, there is room for greater transparency—in the form of better, or greater, description—in the agency chapters of the proposed budget books. Understanding the difficulty of compiling such a large document, and the havoc that occurs when last minute changes are made, there is still benefit in going into greater detail in the description of proposed changes. This serves as a basis for the Council, and the public, to evaluate changes from existing funding levels.

¹² See, e.g., FISCAL YEAR 2013 PERFORMANCE ACCOUNTABILITY PLAN, OFFICE OF CONTRACTING AND PROCUREMENT, PROCUREMENT DIVISION (Feb. 2012), available at <http://oca.dc.gov/node/160652>

This is particularly true with regard to policy priorities proposed by the Mayor. Where funding is being redirected to a new program or service, the Council and the public need a clear depiction of why—why it is important, why that level of funding is needed, and why other alternatives don't meet the need. To be sure, some of this is fleshed out during the Council's budget hearings, but greater detail on the front end, encapsulated in the budget books, provides transparency to these decisions and allows for better evaluation.

The Committee reiterates that the Executive and the Office of the Chief Financial Officer have been tremendous resources to Council committees and its Budget Office. The preceding observations are made to continue to improve how the budget process can become even more transparent in a continued spirit of collaboration between the Council and the Executive.

Summary

Having thoroughly reviewed the Mayor's fiscal year 2014 budget proposal, the Committee believes that the recommendations contained herein provide each agency under its purview with the funds necessary to fulfill its core mission, and represent the policy priorities that best serve the people of the District of Columbia.

As such, the Committee presents its recommendations for the District of Columbia's fiscal year 2014 budget and the corresponding Budget Support Act.

SUMMARY TABLES

AGENCY OPERATING BUDGET SUMMARY TABLE

(dollars in thousands)

Agency	FY 2012 Actual	FY 2013 Approved	FY 2014 Mayor	FY 2014 Committee	Committee Change	Percent Change
Council of the District of Columbia (AB)						
Local Funds	18,542	21,007	20,957	21,107	150	0.7%
Intra-District	0	89	70	70	0	0.0%
Gross Funds	18,542	21,096	21,027	21,177	150	0.7%
Office of the District of Columbia Auditor (AC)						
Local Funds	3,361	3,951	4,276	4,276	0	0.0%
Intra-District	0	325	325	325	0	0.0%
Gross Funds	3,361	4,276	4,601	4,601	0	0.0%
Office of Labor Relations and Collective Bargaining (AE)						
Local Funds	1,218	1,370	1,235	1,317	82	6.6%
Intra-District	251	288	336	336	0	0.0%
Gross Funds	1,469	1,658	1,571	1,653	82	5.2%
Office of Contracting and Procurement (PO)						
Local Funds	11,222	8,971	11,964	11,964	0	0.0%
Intra-District	17,016	0	0	0	0	0.0%
Gross Funds	28,238	8,971	11,964	11,964	0	0.0%
Contract Appeals Board (AF)						
Local Funds	835	1,051	1,059	1,059	0	0.0%
Gross Funds	835	1,051	1,059	1,059	0	0.0%
Metropolitan Washington Council of Governments (EA)						
Local Funds	396	408	428	428	0	0.0%
Gross Funds	396	408	428	428	0	0.0%
One City Fund (EF)						
Local Funds	0	0	15,000	15,000	0	0.0%
Gross Funds	0	0	15,000	15,000	0	0.0%
Tax Revision Commission (PM)						
Local Funds	0	0	200	200	0	0.0%
Gross Funds	0	0	200	200	0	0.0%

Committee of the Whole
Summary Tables: Agency Operating Budget

Office of Budget and Planning (AT)						
Local Funds	4,883	5,818	5,874	5,874	0	0.0%
Gross Funds	4,883	5,818	5,874	5,874	0	0.0%
Office of Planning (BD)						
Local Funds	6,111	6,559	6,531	6,531	0	0.0%
Special Purpose	79	30	50	50	0	0.0%
Federal Funds	739	758	757	757	0	0.0%
Private Funds	250	0	0	0	0	0.0%
Intra-District	796	0	0	0	0	0.0%
Gross Funds	7,975	7,347	7,338	7,338	0	0.0%
Office of Zoning (BJ)						
Local Funds	2,521	2,596	2,628	2,628	0	0.0%
Intra-District	19	24	24	24	0	0.0%
Gross Funds	2,540	2,620	2,652	2,652	0	0.0%
District of Columbia Retirement Board (DY)						
Special Purpose	0	30,338	30,338	30,338	0	0.0%
Gross Funds	0	30,338	30,338	30,338	0	0.0%
Police Officers' and Fire Fighters' Retirement System (FD)						
Local Funds	116,700	96,314	110,766	110,766	0	0.0%
Gross Funds	116,700	96,314	110,766	110,766	0	0.0%
Teachers' Retirement System (GX)						
Local Funds	3,000	6,407	31,636	31,636	0	0.0%
Gross Funds	3,000	6,407	31,636	31,636	0	0.0%
University of the District of Columbia (GF)						
Local Funds	(5)	64,955	66,691	66,691	0	0.0%
Special Purpose	58	50,221	53,157	53,157	0	0.0%
Federal Funds	(2)	51,048	31,527	19,527	(12,000)	-38.1%
Private Funds	0	3,047	2,476	2,476	0	0.0%
Gross Funds	51	169,271	153,851	141,851	(12,000)	-7.8%
University of the District of Columbia Subsidy Account (CG)						
Local Funds	67,362	64,955	66,691	66,691	0	0.0%
Gross Funds	67,362	64,955	66,691	66,691	0	0.0%

Committee of the Whole
Summary Tables: Agency Operating Budget

Debt Service - Repayment of Loans and Interest (DS)						
Local Funds	409,855	462,877	518,066	518,066	0	0.0%
Special Purpose	4,372	4,547	4,728	4,728	0	0.0%
Federal Funds	20,157	0	0	0	0	0.0%
Gross Funds	434,384	467,424	522,794	522,794	0	0.0%
Debt Service - Short Term Borrowing (ZA)						
Local Funds	2,572	4,390	5,000	5,000	0	0.0%
Gross Funds	2,572	4,390	5,000	5,000	0	0.0%
Debt Service - Certificates of Participation (CP)						
Local Funds	32,233	32,542	24,619	24,619	0	0.0%
Gross Funds	32,233	32,542	24,619	24,619	0	0.0%
Debt Service - Issuance Costs (ZB)						
Local Funds	4,348	6,000	6,000	6,000	0	0.0%
Gross Funds	4,348	6,000	6,000	6,000	0	0.0%
Debt Service - Schools Modernization Fund (SM)						
Local Funds	8,621	8,626	11,863	11,863	0	0.0%
Gross Funds	8,621	8,626	11,863	11,863	0	0.0%
Debt Service - Repayment of Revenue Bonds (DT)						
Dedicated Taxes	5,574	8,222	7,824	7,824	0	0.0%
Gross Funds	5,574	8,222	7,824	7,824	0	0.0%
John A. Wilson Building Fund (ZZ)						
Local Funds	3,458	4,193	4,494	4,494	0	0.0%
Gross Funds	3,458	4,193	4,494	4,494	0	0.0%
Workforce Investments (UP)						
Local Funds	0	0	59,442	59,442	0	0.0%
Gross Funds	0	0	59,442	59,442	0	0.0%
Non-Departmental (DO)						
Local Funds	0	9,000	2,000	2,000	0	0.0%
Special Purpose	0	25,161	6,406	6,406	0	0.0%
Gross Funds	0	34,161	8,406	8,406	0	0.0%

Committee of the Whole
Summary Tables: Agency Operating Budget

Master Equipment Lease/Purchase Program (EL)						
Local Funds	49,791	50,036	42,677	42,677	0	0.0%
Gross Funds	49,791	50,036	42,677	42,677	0	0.0%
Emergency and Contingency Reserve Funds (SV)						
Local Funds	0	750	5,500	5,500	0	0.0%
Federal Funds	0	2,250		0	0	0.0%
Gross Funds	0	3,000	5,500	5,500	0	0.0%
Pay-As-You-Go Capital Fund (PA)						
Local Funds	33,730	4,270	9,137	9,137	0	0.0%
Special Purpose	47,148	31,533	26,508	26,508	0	0.0%
Gross Funds	80,878	35,803	35,645	35,645	0	0.0%
District Retiree Health Contribution (RH)						
Local Funds	109,800	107,800	107,800	107,800	0	0.0%
Gross Funds	109,800	107,800	107,800	107,800	0	0.0%
NET EXPENDITURES						
Local Funds	890,554	974,846	1,142,534	1,142,766	232	0.0%
Dedicated Taxes	5,574	8,222	7,824	7,824	0	0.0%
Special Purpose	51,657	141,830	121,187	121,187	0	0.0%
Federal Funds	20,894	54,056	32,284	20,284	(12,000)	-37.2%
Private Funds	250	3,047	2,476	2,476	0	0.0%
Intra-District	18,082	726	755	755	0	0.0%
Gross Funds	987,011	1,182,727	1,307,060	1,295,292	(11,768)	-0.9%

Committee of the Whole
Summary Tables: Agency Full-Time Equivalents

AGENCY FULL-TIME EQUIVALENT SUMMARY TABLE

(by all funding sources)

Agency	FY 2012 Actual	FY 2013 Approved	FY 2014 Mayor	FY 2014 Committee	Committee Change	Percent Change
Council of the District of Columbia (AB)						
Local Funds	184.5	195.5	185.5	185.5	0.0	0.0%
Gross Funds	184.5	195.5	185.5	185.5	0.0	0.0%
Office of the District of Columbia Auditor (AC)						
Local Funds	28.5	34.0	34.0	34.0	0.0	0.0%
Gross Funds	28.5	34.0	34.0	34.0	0.0	0.0%
Office of Labor Relations and Collective Bargaining (AE)						
Local Funds	13.9	10.4	10.0	11.0	1.0	10.0%
Intra-District	0.0	3.7	3.0	3.0	0.0	0.0%
Gross Funds	13.9	14.1	13.0	14.0	1.0	7.7%
Office of Contracting and Procurement (PO)						
Local Funds	74.0	85.0	103.0	103.0	0.0	0.0%
Gross Funds	74.0	85.0	103.0	103.0	0.0	0.0%
Contract Appeals Board (AF)						
Local Funds	6.1	8.0	8.0	8.0	0.0	0.0%
Gross Funds	6.1	8.0	8.0	8.0	0.0	0.0%
Metropolitan Washington Council of Governments (EA)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
One City Fund (EF)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Tax Revision Commission (PM)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Office of Budget and Planning (AT)						
Local Funds	40.4	42.0	42.0	42.0	0.0	0.0%
Gross Funds	40.4	42.0	42.0	42.0	0.0	0.0%
Office of Planning (BD)						
Local Funds	53.5	55.5	56.5	56.5	0.0	0.0%
Federal Funds	2.9	5.5	3.5	3.5	0.0	0.0%
Gross Funds	56.4	61.0	60.0	60.0	0.0	0.0%

Committee of the Whole
Summary Tables: Agency Full-Time Equivalents

Agency	FY 2012 Actual	FY 2013 Approved	FY 2014 Mayor	FY 2014 Committee	Committee Change	Percent Change
Office of Zoning (BJ)						
Local Funds	18.5	19.0	19.0	19.0	0.0	0.0%
Gross Funds	18.5	19.0	19.0	19.0	0.0	0.0%
District of Columbia Retirement Board (DY)						
Special Purpose	0.0	52.0	56.2	56.2	0.0	0.0%
Gross Funds	0.0	52.0	56.2	56.2	0.0	0.0%
Police Officers' and Fire Fighters' Retirement System (FD)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Teachers' Retirement System (GX)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
University of the District of Columbia (GF)						
Local Funds	0.0	563.0	523.0	523.0	0.0	0.0%
Special Purpose	0.0	290.6	237.3	237.3	0.0	0.0%
Federal Funds	0.0	201.3	166.2	166.2	0.0	0.0%
Private Funds	0.0	35.8	21.9	21.9	0.0	0.0%
Gross Funds	0.0	1,090.7	948.4	948.4	0.0	0.0%
University of the District of Columbia Subsidy Account (CG)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Debt Service (DS, ZA, CP, ZB, SM, DT)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
John A. Wilson Building Fund (ZZ)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Workforce Investments (UP)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Non-Departmental (DO)						
Local Funds	0.0	40.0	40.0	40.0	0.0	0.0%
Gross Funds	0.0	40.0	40.0	40.0	0.0	0.0%

Committee of the Whole
Summary Tables: Agency Full-Time Equivalents

Master Equipment Lease/Purchase Program (EL)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Emergency and Contingency Reserve Funds (SV)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
Pay-As-You-Go Capital Fund (PA)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
District Retiree Health Contribution (RH)						
Gross Funds	0.0	0.0	0.0	0.0	0.0	0.0%
NET FULL TIME EQUIVALENTS						
Local Funds	419.4	1,052.4	1,021.0	1,022.0	1.0	0.1%
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0%
Special Purpose	0.0	342.6	293.5	293.5	0.0	0.0%
Federal Funds	2.9	206.8	169.7	169.7	0.0	0.0%
Private Funds	0.0	35.8	21.9	21.9	0.0	0.0%
Intra-District	0.0	3.7	3.0	3.0	0.0	0.0%
Gross Funds	422.3	1,641.3	1,509.1	1,510.1	1.0	0.1%

Committee of the Whole
Summary Tables: Committee Transfers

AGENCY FY 2014 CAPITAL BUDGET SUMMARY TABLE

(whole dollars)

The Mayor's proposed fiscal year 2014 capital budget for agencies under the purview of the Committee of the Whole includes the following capital expenditures in fiscal year 2014. The Committee recommends adoption of the capital budget as proposed by the Mayor.¹³

Agency and Project Title	Project No.	Impl. Agency	Allotment FY14	Allotment FY15-FY19	6-yr Total
Office of Municipal Planning					
District Public Plans & Studies	PLN37	BD0	7,177	4,750	11,927
Office of Zoning					
Rewriting of Zoning Regulations	JM102C	BJ0	175	350	525
University of the District of Columbia					
Renovation of University Facilities	UG706C	GF0	17,493	52,740	70,234

COMMITTEE TRANSFERS

(whole dollars)

Fund Type	Description	Funding
<u>Local Funds</u>	The Committee of the Whole accepts the transfer of local funds from the Committee on Government Operations for the costs of restoring an attorney-advisor at the Office of Labor Relations and Collective Bargaining which was accidentally eliminated. The funding is all within the Office of the City Administrator, but under the jurisdiction of different Committees.	\$82,035
<u>Local Funds</u>	The Committee of the Whole accepts the transfer of local funds from the Committee on Finance and Revenue for the purpose of implementing a transit subsidy for employees of the Council of the District of Columbia.	\$150,000
<u>Local Funds</u>	The Committee of the Whole accepts the transfer of local funds from the Committee on Business, Consumer, and Regulatory Affairs to provide additional funds for the Council for Emancipation Day celebration activities.	\$100,000

¹³ See FY 2014 Proposed Budget and Financial Plan, Volume 6 – FY 2014 to FY 2019 Capital Improvements Plan (Including Highway Trust Fund), Appendix B (Mar. 28, 2013).

SUMMARY OF COMMITTEE BUDGET RECOMMENDATIONS

The following is a summary of changes and recommendations made by the Committee to the fiscal year 2014 budget as proposed by the Mayor for each agency under the Committee's purview. This summary lists changes to the operating budget and capital budget, as well as policy recommendations relevant to each agency.

Council of the District of Columbia (AB)

Operating Budget Recommendations:

- Increase of \$150,000 local funds (NPS) to Comptroller Source Group 40, (Program 0025 – Secretary to the Council) to implement transit employee benefits and to fund SmarTrip capable identification cards for Council employees without Council-provided parking passes.
- Increase of \$100,000 local funds (NPS) to Comptroller Source Group 40, (Program 0025 – Secretary to the Council) to provide additional funds for Emancipation Day celebration activities.

Office of the District of Columbia Auditor (AC)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Office of Labor Relations and Collective Bargaining (AE)

Operating Budget Recommendations:

- Increase of \$65,945 local funds (PS) to CSG 12 and an increase of 1 FTE to restore an attorney-advisor position erroneously eliminated from the FY14 proposed budget.
- Increase of \$16,090 local funds (PS) to CSG 14 (fringe associated with position above).

Policy Recommendations:

- Recommend that OLRCB meet monthly with union leaders, especially those with whom OLRCB has had a strained relationship, in order to facilitate stronger labor/management relations.
- Recommend that OLRCB give greater weight to financial cost, and the cost to overall labor relations in the District, when deciding how to proceed with a case.

Office of Contracting and Procurement

(PO)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Recommend that OCP must fully implement a robust training program which includes standardized courses utilizing classroom and online training as appropriate, to train and enrich contracting personnel, including contracting officers and contracting specialists
- Recommend OCP consider a variety of sources to provide training including public and private education institutions, corporate training outlets, and as other government training institutions such as the Federal Acquisition Institute and the Defense Acquisition University. In addition, OCP should work to leverage existing procurement training resources at other District agencies, including those not under the authority of the CPO, such as the Department of General Services and District of Columbia Public Schools.
- Recommend OCP Director designate a Chief Learning Officer, as recognized in the PPRA fiscal impact statement, to coordinate all aspects of training administration, curriculum, and interagency training coordination.
- Recommend OCP adopt and fully implement a certification program that includes several tiers of certification reflecting training level and on-the-job experience to promote career development for procurement personnel and ensure consistent quality,. The Committee considers this recommendation to be especially important.
- Recommend the Chief Procurement Officer review all active delegations of authority to staff at other agencies to ensure consistent accountability, contract quality, and. Where problems are persistent, the CPO should revoke the delegation.
- Recommend OCP work with agencies and appropriate officials to provide training for staff at other agencies that utilize OCP for procurement. The intent of this is to improve the level of sophistication and the attention to detail associated with requests for work on their behalf.
- Recommend OCP develop guidelines for recruitment, training, and retention of the contracting workforce, consistent with the PPRA. Guidelines should be publicly accessible, including on OCP's website, and should provide information prompting a career track for current and prospective contracting personnel.
- Recommend OCP look for opportunities to maximize transparency of information to the Council and the public at all stages of the procurement process.

Contract Appeals Board

(AF)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Recommend development of metrics to track aging cases.

Metropolitan Washington Council of Governments (EA)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

One City Fund (EF)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Recommend maximum transparency of the fund to enable proper oversight by District agencies.
- Recommend an effective mix of sub-grants to maximize positive impact on the community.

Tax Revision Commission (PM)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Office of Budget and Planning (AT)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Recommend the CFO work to finalize a contract for the SOAR replacement system as soon as possible in order to fully implement BMAPS for the fiscal year 2015 budget cycle.
- Recommend OBP continue to work with the OCFO to improve its systems so that reports can be completed in a time-relevant fashion.

Office of Planning (BD)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.
- Incorporate several technical shifts at the request of the OCFO.

Policy Recommendations:

- Recommend OP work harder to improve responsiveness to community concerns on initiatives, such as small area plans and Zoning Regulations Review, regardless of policy differences.

Office of Zoning (BJ)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Recommend that OZ work to obtain additional legal staff so that full orders can be issued in a more timely manner.
- Recommend that OZ reevaluate each of its performance indicators to more adequately measure agency performance over time.

District of Columbia Retirement Board (DY)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Recommend that the Retirement Modernization Program proceed expeditiously so that the DCRB can run more efficiently, retirees can be better served, and the agency can come into compliance with all legal requirements.
- Encourage the DCRB to fill, as necessary, the additional FTE positions being approved with the fiscal year 2014 budget.

Police Officers' and Firefighters' Retirement System (FD)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Ensure that the funding ratio for the Police Officers' and Firefighters' Retirement System stays at or over 100 percent.
- Ensure that the District's contribution to the fund does not increase exponentially over time as it has done in the recent past.

Teachers' Retirement System (GX)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Policy Recommendations:

- Work toward the goal of 100% funding of the Teachers' Retirement Fund (zero unfunded liability).
- Work to ensure a more consistent funding ratio for the Fund, rather than irregular overfunding and underfunding.

University of the District of Columbia (GF)

Operating Budget Recommendations:

- A reduction of \$12,000,000 federal funds due to a double-counting of federal Pell Grant funds.

Policy Recommendations:

- Recommend amending the Budget Support Act to allow UDC to retain fees collected by the District's Central Collection Unit on its behalf.
- Urge UDC to complete its right-sizing plan by August 31, 2013 and to begin implementation by October 1, 2013.
- Recommend the inclusion of a comprehensive enrollment plan in UDC's right-sizing plan.
- Recommend that UDC increase its tuition rate for 2013-2014 academic year.
- Recommend the inclusion of a more realistic tuition analysis and timeline in UDC's right-sizing plan.
- Provide the Community College with the independence it needs so that it can fulfill its ability to be recognized as "separately accreditable".
- Recommend that UDC outline a strategy for covering the impending accreditation costs.
- Creation of a transparent budget process.
- Direct the OCFO to review the OCFO personnel assigned to UDC and to remove individuals who are committing errors, failing to ensure transparency, or not making the UDC's finances clear, understandable, and accurate.
- Request the interim AFO provide the Committee with a list of all accounting errors found in UDC's budget in fiscal years 2013 & 2014 and a description for how each will be rectified by September 1, 2013.

University of the District of Columbia Subsidy Account (GC)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Debt Service (DS, ZA, CP, ZB, SM, DT)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

John A. Wilson Building Fund (ZZ)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Workforce Investments (UP)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Master Equipment Lease/Purchase Program (EL)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Emergency and Contingency Reserve Fund (SV)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

Pay-As-You-Go Capital Fund (PA)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

District Retiree Health Contribution (RH)

Operating Budget Recommendations:

- Recommend adoption of the fiscal year 2014 budget as proposed by the Mayor.

AGENCY FISCAL YEAR 2014 BUDGET RECOMMENDATIONS

The Committee presents the following with regard to the agencies and programs under its purview. The information contained herein provides for each agency: a brief overview of its purpose and function; a summary of the Mayor's fiscal year 2014 budget proposal; a description of issues and concerns the Committee has identified; and the recommended changes to the proposed budget as well as policy recommendations.

Before discussing the individual agency recommendations, the Committee makes the following observations on the Mayor's fiscal year 2014 budget proposal. The cost of fringe benefits being built into the budget continues to rise over previous fiscal years. While increased budget authority covers the rising fringe cost contained in the proposed fiscal year 2014 budget, the overall increase in costs to the District continues to rise. The increases in fringe for agencies under the Committee's purview are presented below.

Table 2: Fringe Benefit Calculation for Select Agencies

Agency	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Budgeted
Council of the District of Columbia	18.1 percent	17.1 percent	16.9 percent	20.0 percent	21.8 percent	22.7 percent
District of Columbia Auditor	18.6 percent	16.3 percent	18.1 percent	21.1 percent	23.3 percent	23.8 percent
Office of Labor Relations and Collective Bargaining*	15.7 percent	16.6 percent	21.2 percent	21.5 percent	23.4 percent	24.4 percent
Contract Appeals Board	17.4 percent	15.6 percent	17.2 percent	18.3 percent	19.9 percent	20.8 percent
Office of Budget and Planning*	18.0 percent	17.8 percent	19.7 percent	21.8 percent	23.9 percent	24.8 percent
Office of Planning	16.1 percent	16.4 percent	18.0 percent	19.9 percent	21.7 percent	22.6 percent
Office of Zoning	17.2 percent	18.0 percent	19.8 percent	21.9 percent	23.8 percent	24.8 percent
District of Columbia Retirement Board	28.0 percent	19.4 percent	24.4 percent	24.5 percent	27.6 percent	26.0 percent
University of the District of Columbia	23.3 percent	22.1 percent	24.1 percent	26.9 percent	28.7 percent	28.6 percent
Office of Contracting and Procurement	16.0 percent	16.8 percent	18.8 percent	20.3 percent	22.1 percent	23.0 percent
District Government-wide Average	16.4 percent	16.0 percent	17.6 percent	19.9 percent	21.3 percent	21.9 percent

* These offices are part of larger agencies. The number shown reflects the full agency calculation.

Source: Office of the Chief Financial Officer

COUNCIL OF THE DISTRICT OF COLUMBIA
Committee Recommendations – See Page 5

I. AGENCY OVERVIEW

The Council of the District of Columbia is the legislative branch of the District of Columbia government. The Council sets policy through the enactment of laws. It reviews and approves the government’s annual operating and capital budgets, and it conducts oversight of the performance of agencies, boards, and commissions.

II. MAYOR’S PROPOSED BUDGET

Mayor’s Proposed Fiscal Year 2014 Operating Budget:¹⁴

The Mayor’s fiscal year 2014 budget proposal for the Council of the District of Columbia is \$21,026, a decrease of \$69, or 0.3 percent, below the current fiscal year. The proposed budget supports 185 FTEs, a decrease of 10, or 5.1 percent, below the fiscal year 2013 approved level.

**Table AB-A: Council of the District of Columbia;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	18,824	19,929	19,833	18,265	18,542	21,096	21,026
FTEs	169.69	180.4	198.0	187.2	184.5	195.5	185.5

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$20,957, a decrease of \$50, or 0.2 percent, below the fiscal year 2013 approved budget of \$21,007. This funding supports 185.5 FTEs, a decrease of 10, or 0.3 percent, below the fiscal year 2013 approved level. The policy initiatives within the local funds budget include \$408 and 5 FTEs due to the creation of the Committee on Education, and a \$42 increase due to fringe benefits increases. In addition, the local funds budget, as proposed by the Mayor, includes \$250 to support the planning and implementation of Emancipation Day events. Finally, the budget decreased by \$50 due to the transfer out of the budget of the Uniform Law Commission.

¹⁴ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

Intra-District Funds: The proposed budget is \$70, a decrease of \$19, or 21.7 percent below the fiscal year 2013 approved budget of \$89. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The policy initiatives within the intra-District funds budget includes \$19 as a result of an agreement with the Office of the Attorney General to support the publishing and purchasing of revised volumes of the District of Columbia Official Code.

III. COMMITTEE CONCERNS

District of Columbia Official Code: In 2013, the District entered into a contract with a new provider for the District of Columbia Official Code which will include the publication of new volumes of the Code for 490 government subscribers.¹⁵ Under a Memorandum of Understanding signed between the Council and the Office of the Attorney General (OAG), the Council will pay for its sets of Code volumes, while the OAG will pay for the sets for independent and subordinate agencies. This is reflected as an intra-District transfer in the proposed budget.¹⁶ The published volumes should be delivered this summer.¹⁷ In addition, the Council's website now directs users to the online Code of the new provider, LexisNexis.¹⁸ The Committee notes that the Council continues to work to provide authoritative and up to date information to the public, and is eager to receive the updated volumes of the Code books.

Council Legislative Information Management System: The Council is working with a certified business enterprise vendor on a redesign of its legislative information management system known as LIMS.¹⁹ LIMS provides copies of introduced, engrossed, and enrolled legislation to Council staff, as well as to the public. The redesigned system will benefit from other, newer Council IT systems. The system is scheduled to be active in August 2013 and will provide an improved searchable database. Additionally, the system will include more electronic documents related to the legislative process.²⁰ The Committee is eager to see implementation of the improved LIMS and looks forward to a better system to help the public and the Council with easier access to legislative materials.

¹⁵ *Council of the District of Columbia: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 11, 2013) (oral testimony of Nyasha Smith, Secretary, Council of the District of Columbia) [hereinafter Smith 4.11.13 Testimony].

¹⁶ *Council of the District of Columbia: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 11, 2013) (oral testimony of V. David Zvenyach, General Counsel, Council of the District of Columbia) [hereinafter Zvenyach 4.11.13 Testimony].

¹⁷ *Id.*

¹⁸ *View Legislation and Laws/View the DC Code*, DISTRICT OF COLUMBIA COUNCIL, <http://dccouncil.us/legislation> (accessed April 29, 2013).

¹⁹ Smith 4.11.13 Testimony, *supra* note 15.

²⁰ Smith 4.11.13 Testimony, *supra* note 15.

Legal Sufficiency Review: A new rule instituted in Council Period 20 requires that all committee reports on legislation include a legal sufficiency memorandum from the Council's Office of the General Counsel.²¹ These memoranda have allowed the General Counsel to identify legal or technical flaws in proposed legislation earlier in the process, thereby enabling issues to be resolved before they move past the committee stage.²² The Committee is pleased with the increase in the quality of legislation that has resulted from these reviews.

Council Transparency: The Freedom of Information Act (FOIA) allows the public access to certain documents under the control of government agencies, including the Council.²³ Yet, fulfilling FOIA requests requires additional time and labor.

Until recently, the Secretary of the Council was personally responsible for fulfilling FOIA requests.²⁴ In 2013, the Council Office of the Secretary delegated FOIA request processing to the Office of the General Counsel, which is better equipped to handle the work associated with the requests.²⁵

At the April 11th Committee hearing on the Council's budget, the Secretary of the Council testified that over the last year, the Council had received 91 FOIA requests, which is an increase over past years.²⁶ According to the General Counsel, the Council receives more FOIA requests than many other government agencies combined.²⁷ Requests may be broad, such as a copy of all Council emails, or targeted, such as a request for a specific document.²⁸ In an effort to provide more efficient processing of FOIA requests, the Council is in the process of installing an improved IT system, known as FOIA Express, which is used by several other jurisdictions.²⁹ This system should dramatically improve management of FOIA requests for both requestors and the Council's review staff.³⁰ The Committee notes the Council's continuing dedication to transparency in its operations.

Council Website: The Council of the District of Columbia's website, located at <http://www.dccouncil.us>, has seen a number of revisions over the past few years—some have been positive; some have not. A consistent refrain from the public, and even from within the legislative body itself, is the need to make this interface more user friendly and robust. This includes not only providing information in an accessible and simple-to-understand format, but

²¹ See Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 20, Rule 231(c)(2).

²² Zvenyach 4.11.13 Testimony, *supra* note 16.

²³ D.C. OFFICIAL CODE, § 2-531, *et seq.*

²⁴ Smith 4.11.13 Testimony, *supra* note 15.

²⁵ Smith 4.11.13 Testimony, *supra* note 15.

²⁶ Smith 4.11.13 Testimony, *supra* note 15.

²⁷ Zvenyach 4.11.13 Testimony, *supra* note 16.

²⁸ Zvenyach 4.11.13 Testimony, *supra* note 16.

²⁹ Zvenyach 4.11.13 Testimony, *supra* note 16.

³⁰ Zvenyach 4.11.13 Testimony, *supra* note 16.

ensuring that the information is updated quickly and frequently so as to permit greater civic engagement and ensure the Council's actions are available and transparent. Specifically, the public should be able to study measures being considered by the Council with enough time to comment. On a more basic level, the website needs to provide the public with the correct information as to meetings, hearings, and potential votes on matters. At the Committee's March 2013 performance hearing, there was witness testimony regarding incorrect, inconsistent, or outdated information on the website.

The Committee recognizes the challenges associated with the current system. Undoubtedly, there are difficulties in maintaining a website that coordinates the activities of thirteen Councilmembers, eleven standing committees, and several other offices. The Council is aware of the need for improvement, as well as the challenges in implementing a robust and up to date portal into the workings of the Council. The Committee believes that building a more user-friendly website to keep the public informed is crucially important to a legislative body in this day and age. To that end, the Council is working to improve the functions of the legislative website with the objective of having information better organized and more easily accessed by the public. The Council will continue to strive to improve this function, recognizing that it is an ongoing process, one that is functional and not merely cosmetic.

Public Transportation: The federal government, and many District agencies, have provided a transit subsidy to employees for years. The Council never has. The idea behind the subsidy is twofold: first, to promote transit use (as opposed to more cars on our congested roads) during rush hour. Second, to recognize that employer-provided parking is something of value, and equity would provide similar value to employees who do not drive. The Committee on Finance and Revenue, recognizing this issue, has volunteered \$150 for the Council to initiate a transit benefits program for Council employees. The Council officers will develop rules for this program, modeled after similar programs in other agencies.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Council of the District of Columbia as proposed by the Mayor with the following modifications:

1. An increase of \$150,000 local funds (NPS) to Comptroller Source Group 40, (Program 0025 – Secretary to the Council) to implement transit employee benefits and fund SmarTrip cards or compatible identification cards for Council employees without Council provided parking passes.

2. An increase of \$100,000 local funds (NPS) to Comptroller Source Group 40, (Program 0025 – Secretary to the Council) to provide additional funds for Emancipation Day celebration activities.

OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR

Committee Recommendations – See Page 10

I. AGENCY OVERVIEW

The Office of the District of Columbia Auditor (ODCA) was established by the Home Rule Act³¹ as the audit and investigatory arm of the Council, and is intended to be an integral part of the Council's ability to conduct oversight. ODCA's mission includes annual or periodic audits of certain accounts and operations of the District government pursuant to specific District laws. ODCA seeks to ensure that District services are provided effectively, efficiently, and economically, and that government resources are used only for their approved purposes and in compliance with applicable laws, regulations, and standards. Concurrent with its mission, ODCA seeks to provide assistance to the Council in carrying out its oversight functions. Additionally, ODCA is required to certify revenue estimates in support of general obligation bonds issued by the District government, and to audit and provide financial oversight of the District's 37 Advisory Neighborhood Commissions.

ODCA adheres to Generally Accepted Government Auditor Standards established by the Comptroller General of the United States and the United States Government Accountability Office. These professional standards provide a framework for performing audit work with integrity and independence.

II. MAYOR'S PROPOSED BUDGET

*Mayor's Proposed Fiscal Year 2014 Operating Budget:*³²

³¹District of Columbia Home Rule Act, § 455 (1973) Pub. L.No. 93-198, 87 Stat.803) (Codified at D.C. OFFICIAL CODE § 1-204.55(b) (2006 repl.).

³² The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

The Mayor's fiscal year 2014 budget proposal for the Office of the District of Columbia Auditor is \$4,601, an increase of \$325, or 7.6 percent, from the current fiscal year. The proposed budget supports 34 FTEs, which represents no change from the fiscal year 2013 approved level.

**Table AC-A: Office of the District of Columbia Auditor;
Total Operating Funds Budget FY 2004-2014**

	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	1,555	1,662	1,928	1,948	2,418	3,506	4,150	3,614	3,361	4,276	4,601
FTEs	15.0	16.0	14.6	16.0	16.0	23.2	31.5	30.9	28.5	34.0	34.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$4,276, an increase of \$325, or 8.2 percent, from the current fiscal year. This proposed budget supports 34 FTEs, representing no change from the current fiscal year.

Intra-District Funds: The Mayor has proposed a budget of \$325, representing no change from the current fiscal year. This proposed budget supports 0 FTEs, representing no change from the current fiscal year. These funds come from the DC Public School system for the purpose of paying for the PERAA audit discussed on the next page.

III. COMMITTEE CONCERNS

Auditor Legal Fund: During the Committee's April 14, 2013 budget hearing for ODCA, D.C. Auditor Yolanda Branche requested an additional \$100,000 for ODCA's fiscal year 2014 budget.³³ The purpose of this additional funding would be to establish a balance in the Auditor Legal Fund. The Auditor Legal Fund was created to assist ODCA in the enforcement of its subpoena authority, including seeking attorney's fees and other costs of litigation for the successful enforcement of subpoenas.³⁴ The agency strongly believes it should have some money in this account in the event of a need to enforce its subpoena authority.

The need for the Auditor Legal Fund was identified as a result of a lawsuit between ODCA and Mayor Adrian Fenty in 2009. ODCA initiated a lawsuit against Mayor Fenty for

³³ *Office of the District of Columbia Auditor: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Apr. 19, 2013, at 13 (written testimony of Yolanda Branche, Auditor).

³⁴ See D.C. OFFICIAL CODE § 1-301.174 (2012 Supp.).

denying the agency access to certain government documents based on “Executive Privilege.”³⁵ In that matter, ODCA was forced to hire outside counsel. ODCA ultimately prevailed in the case; however the agency paid \$101,692 in legal fees. The ODCA had to absorb this expense. To avoid a similar, unfunded burden in the future, the Auditor Legal Fund was established. Currently it has a balance of \$0.³⁶

However, as far as the Committee knows, such costly litigation has occurred only that one time since Home Rule. Given this fact, the Committee does not see the need to add monies to this fund at this time.

Accrued Sick and Safe Leave Act of 2008: D.C. Law 17-152, the Accrued Sick and Safe Leave Act of 2008 (Act) requires ODCA to produce a report on the private sector’s compliance with the Act and its economic impact.³⁷ The Council mandated that ODCA complete this report in fiscal year 2010. However, at the April 19th hearing, ODCA testified that it would not be completed on June 21, 2013.³⁸

The Committee is concerned that, like other reports which are statutorily required of ODCA, timeliness in delivery to the Council is an issue. Advocacy groups have voiced frustration at the delay regarding the Sick and Safe Leave Act, and noted that other jurisdictions such as New York City and San Francisco have a similar law that includes requiring an annual report on the economic impact of their sick and safe leave statute. Those jurisdictions were able to meet the reporting requirement, and as a result, have made statutory changes based upon the auditor’s findings. The Chairman met with the Auditor on January 25, 2013 regarding the production of this report.

The Committee directs the ODCA to ensure the timely production of all required reports.

Public Education Reform Amendment Act (PERAA): In 2007, the Council adopted the “District of Columbia Public Education Reform Amendment Act of 2007,”³⁹ which established Mayoral control of the District of Columbia Public Schools and created a Department of Education to enact comprehensive school reform. In accordance with this law, ODCA is required to contract with an independent evaluator for an annual evaluation of progress. The PERAA mandated that an annual assessment be completed from 2009 through 2013, along with a final comprehensive five-year evaluation report that includes: an evaluation of public education following the passage of the Act; and a determination whether sufficient progress has been

³⁵ *Office of the District of Columbia Auditor: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Mar. 26, 2013, at 2 (written testimony of Yolanda Branche, Auditor). The case, which the ODCA won, was *Nichols v. Fenty*, 2009 CA 006292 2 (D.C. Super. Ct. 2009), available at <https://www.dccourts.gov/cco/maincase.jsf>.

³⁶ *Id.*

³⁷ See D.C. OFFICIAL CODE § 32-131.15 (2010 Repl.).

³⁸ *Office of the District of Columbia Auditor: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Apr. 19, 2013, at 13 (written testimony of Yolanda Branche, Auditor).

³⁹ Bill 17-1; D.C. Law 17-9 (codified at D.C. OFFICIAL CODE §38-193 *et seq.*).

achieved to warrant continuation of the provisions and requirements of the Act. However, the contract was not issued until last fall. Already the first evaluation is being delayed. It is important that the schedule for the six total PERAA reports be adhered to.

Certified Business Enterprise Compliance: The Compliance Unit Establishment Act of 2008⁴⁰ gave to the ODCA the Certified Business Enterprise (CBE) compliance function, which formerly had been under the Department of Small and Local Business Development (DSLBD). ODCA created a CBE compliance unit which is responsible for examining the procurement activities of District public bodies, private sector partners, and project contracting entities.⁴¹

In FY 2010, ODCA received \$407,000 and four FTEs to support the CBE unit. In fiscal year 2014, the Mayor's proposed budget transfers the responsibilities of the CBE unit back to DSLBD. However, the funds and FTEs associated with the program will remain with ODCA. The net effect of the Mayor's proposal is to leave ODCA with additional resources.

Additional Funding: ODCA has continuously seen an increase in its budget since fiscal year 2004. ODCA's budget has increased by \$2.4 million since 2008, to \$4.6 million in the Mayor's proposed fiscal year 2014 budget. In addition to this increase, ODCA has freed-up resources due to the CBE compliance transfer discussed in the preceding paragraph. Yet, ODCA testified at its April 19, 2013 budget hearing that it needs \$300,000 in additional funding for salaries, training, professional memberships, contractual services, and I.T. The Committee disagrees with ODCA, and believes that the agency's alleged budgetary needs can be addressed through the agency's spending practices. During the April 19th hearing, ODCA was unable to answer specific questions about its alleged needs in light of the 100% budget increase over the course of several years, the existence of substantial unspent dollars in recent years, and the freed-up resources resulting from the CBE transfer.

In an April 30, 2013 letter from ODCA,⁴² the agency explained that it lacks funding for: three partially-funded FTEs, to restore fringe benefits for three FTEs, continuing education requirements and memberships into professional organizations, contractual services, and equipment annual renewals costs. However, the Mayor's proposed fiscal year 2014 budget for ODCA provides increases in: 1) contractual services of \$330,000; 2) fringe benefits of \$14,000; and 3) other services and charges of \$46,000. The Mayor's proposed budget adequately increases in the areas where ODCA has identified need. Additionally, ODCA had five vacancies in fiscal year 2012 that were fully funded and has nine vacancies in fiscal year 2013 that are fully funded.

⁴⁰ D.C. Law 17-176 (eff. Jun. 13, 2008) (codified at D.C. OFFICIAL CODE § 1-301.181 *et seq.*)

⁴¹ *See id.*

⁴² *Office of the District of Columbia Auditor: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Mar. 26, 2013, at 4 (written testimony of Yolanda Branche, Auditor).

The Committee recommends that ODCA reevaluate its spending needs and funds availability.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Office of the District of Columbia Auditor as proposed by the Mayor.

Policy Recommendations:

1. The Committee directs ODCA to ensure the timely production of all required reports.

OFFICE OF LABOR RELATIONS AND COLLECTIVE BARGAINING

Committee Recommendations – See Page 14

I. AGENCY OVERVIEW

The mission of the Office of Labor Relations and Collective Bargaining (OLRCB) is to represent effectively the District as the principal management advocate in the administration of a comprehensive labor management program.

OLRCB is a component of the Executive Office of the Mayor (EOM), Office of the City Administrator (OCA). OLRCB's areas of responsibility include, but are not limited to:

- Representing management before the Public Employee Relations Board in representation matters, unit determinations, unfair labor practices, negotiability appeals, arbitration appeals, and impasse proceedings;
- Representing the Mayor and District departments, offices, and agencies in collective bargaining over working conditions and compensation agreements and bargaining over the impact and effects of changes in conditions of employment;
- Developing and presenting cases before third party neutrals in mediation and arbitration proceedings;
- Representing the Mayor on joint labor management committees and work groups;

- Advising the Mayor and District departments, offices, and agencies concerning all aspects of labor relations;
- Training labor liaisons, managers, supervisors, and management officials concerning their rights and obligations under the Comprehensive Merit Personnel Act and other applicable law, policies, and procedures; and
- Developing, implementing, and administering citywide labor initiatives.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget.⁴³

The Mayor's fiscal year 2014 budget proposal for the Office of Labor Relations and Collective Bargaining is \$1,570, a decrease of \$88, or 5.3 percent, from the current fiscal year. The proposed budget supports 13 FTEs, a decrease of 1 FTE, or 7.1 percent from the fiscal year 2013 approved budget.

**Table AE-A: Office of Labor Relations and Collective Bargaining;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	1,695	2,051	1,781	1,541	1,470	1,658	1,570
FTEs	14.0	16.5	18.0	14.4	13.9	14.1	13.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$1,235, representing a decrease of \$136, or 9.9 percent, from the fiscal year 2013 approved budget of \$1,370. This funding supports 10 FTEs, a decrease of 0.4 FTEs, or 3.85 percent, from the fiscal year 2013 approved budget.

Intra-District Funds: The Mayor has proposed a budget of \$336, representing an increase of \$48, or 14.3 percent, from the fiscal year 2013 approved budget of \$288. These intra-district funds come from Memoranda of Understandings (MOUs) established between OLR CB and the various District agencies that it represents.⁴⁴ This funding supports 3 FTEs, a

⁴³ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

⁴⁴ According to D.C. Official Code § 1-531.01, "[a]ny agency that is represented by the Office of Labor Relations and Collective Bargaining ("OLRCB") in third-party cases, grievances, and dispute resolution shall pay the cost of representation established through an intradistrict agreement with the OLR CB." In FY 2014, OLR CB will receive intra-district funds due to MOUs with the Office of the State Superintendent for Education, District of Columbia

decrease of 0.7 FTEs, or 18.9 percent, from the fiscal year 2013 approved budget. The intra-district funds budget includes: a shift of \$42 and 1 FTE from OLRCB's intra-district funds to the local funds for the City Administrator Division to support program management functions, and a shift of \$42 and 0.4 FTE from local funds to intra-district funds due to increased collections from labor negotiation services.

III. COMMITTEE CONCERNS

Relationship with Unions: Currently, about 75 percent of the District government employees are unionized.⁴⁵ As the District's chief management advocate, the OLRCB has a responsibility to maintain a positive and collaborative relationship with the various unions representing three-fourths of the District's workforce. As the relationship between labor and management was particularly problematic during the previous administration, OLRCB has had to focus on rebuilding relationships with unions and has had to make the strengthening of labor relations a priority.⁴⁶ To this end, OLRCB has participated in the reestablished Labor Management Partnership Council, has held quarterly briefings with union leaders, and has made efforts to meet with labor leaders to discuss broad initiatives and other matters that may affect the labor workforce.⁴⁷ As a result of these actions, labor relations in the District have improved.⁴⁸

While the Committee is pleased with the progress, it is concerned about OLRCB's relationship with two specific unions—the Fraternal Order of Police-Metropolitan Police Department (FOP-MPD) and the Fraternal Order of Police-Department of Youth Rehabilitation Services Labor Committee (FOP-DYRS). At the agency's performance hearing on March 14, 2013, Fraternal Order of Police (FOP) Chairman Kris Baumann raised concerns about OLRCB's handling of negotiations and litigation, particularly with regard to the FOP-MPD.⁴⁹ Such concerns are not new—Mr. Baumann has raised these concerns continuously since 2007—and documents provided to the Committee by the FOP-MPD demonstrate that the union and OLRCB

Public Libraries, the University of the District of Columbia, and the Department of Housing and Community Development.

⁴⁵ *Office of Labor Relations and Collective Bargaining: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Mar. 14, 2013, at 1 (written testimony of Natasha N. Campbell, Director, OLRCB) [hereinafter OLRCB 3.14.13 Performance Hearing].

⁴⁶ *Id.* at 5.

⁴⁷ *Id.* at 6.

⁴⁸ *See Office of Labor Relations and Collective Bargaining: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Mar. 14, 2013 (oral testimony of Geo T. Johnson, Executive Director, AFSCME Council 20); *see also* OLRCB 3.14.13 Performance Hearing, *supra* note 1, at 7 (noting that the improvement in labor relations has allowed OLRCB to partner with labor on a number of projects, including the DC One Fund Campaign and the Employee HIV-AIDS campaign).

⁴⁹ *See Office of Labor Relations and Collective Bargaining: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Mar. 14, 2013 (oral testimony of Kris Baumann, Chairman, Fraternal Order of Police-Metropolitan Police Department)

continue to have a strained and, at times, hostile relationship.⁵⁰ As a result of this animosity, a new collective bargaining agreement (CBA) has yet to be completed despite the fact that the current contract ended in 2007 and has remained in operation as a holdover for almost six years.⁵¹ As FOP-MPD represents approximately 3700 members, or approximately 94 percent of the agency's workforce,⁵² the Committee believes it is in the best interest of the District for OLRCB and FOP-MPD to have a collaborative and productive relationship. Therefore, the Committee strongly urges OLRCB to meet with the FOP-MPD and to resolve the differences between the two entities amicably so that, moving forward, the parties may work together in a more positive manner and complete a new CBA agreement within the year.

In addition to OLRCB's strained relationship with the FOP-MPD, the FOP-DYRS has expressed concerns about OLRCB's conduct. Specifically, the union filed a lawsuit on February 26, 2013, alleging that OLRCB refused to acknowledge the elected chairperson of the FOP-DYRS as head of the union and instead decided that all union communication directly involve the union executive board instead. The FOP-DYRS alleges this is an effort to frustrate collective bargaining.⁵³ That a labor organization has deemed it necessary to sue OLRCB is a problem. These two issues signal that while OLRCB has made progress in improving labor relations in the District, much more can be done. Tense labor relations only lead to animosity and prohibit management and labor from working together for the betterment of the District. Thus, the Committee recommends that OLRCB meet monthly with union leaders, especially those with whom OLRCB has had a strained relationship, in order to facilitate stronger labor/management relations.

Settlement Decisions: In addition to OLRCB's collective bargaining responsibilities, the Office also represents District agencies and departments in mediation and arbitration proceedings and before the Public Employee Relations Board (PERB). As part of this representation, OLRCB advises these entities on whether to pursue litigation or whether to settle. If litigation is pursued, OLRCB records each outcome as a win, loss, or a mixed result (partial win and partial loss).

⁵⁰ Specifically, FOP-MPD provided the Committee with several cases in which the FOP-MPD have accused OLRCB of failure to bargain in good faith. Additionally, the FOP-MPD also gave the Committee several arbitration and PERB decisions in which the union was awarded attorney's fees and arbitration costs as part of the judgment. In those cases, the District was represented by OLRCB.

⁵¹ See COUNCIL OF THE DISTRICT OF COLUMBIA, COMM. ON THE JUDICIARY, REPORT AND RECOMMENDATIONS OF THE COMMITTEE ON THE JUDICIARY ON THE FISCAL YEAR 2013 BUDGET AND CORRESPONDING BUDGET SUPPORT ACT 16 (2012).

⁵² This information was provided by the Metropolitan Police Department.

⁵³ Jeffrey Anderson, *Labor Dispute Swirls Around D.C. Union Leader*, WASH. TIMES, Mar. 3, 2013, <http://www.washingtontimes.com/news/2013/mar/3/labor-dispute-swirls-around-dc-union-leader/?page=all>; Jeffrey Anderson, *FOP Loses Bid for Restraining Order in Fight over Leader*, WASH. TIMES, <http://www.washingtontimes.com/news/2013/mar/7/fop-loses-bid-for-restraining-order-in-fight-over-/?page=all>. The outcome of this matter is currently pending both before PERB and in the D.C. Superior Court.

**Table AE-B: Office of Labor Relations and Collective Bargaining;
 Win-Loss Record for FY10-FY13 (to date)**

Fiscal Year	Win	Loss	Mixed	Total
2010	14	21	8	43
2011 ⁵⁴	7	6	1	14
2012	18	26	2	46
2013 (to date)	8	10	1	19

Source: Office of Labor Relations and Collective Bargaining April 8, 2013 Follow-Up from Hearing.

Over the past four fiscal years, OLRCB has recorded far more losses than wins. According to answers submitted by the agency, OLRCB won only 32.5 percent of cases in FY 2010, 39 percent of cases in FY 2012, and 42 percent of cases thus far in FY 2013. Given such low win rates, the Committee asked OLRCB to evaluate whether it should recommend agencies to pursue settlement in more cases. According to OLRCB’s response, it does not believe that evaluation is needed despite its win-loss record, as the cases that it chooses to pursue incorporate important legal issues that the District should pursue for precedential reasons.⁵⁵

The Committee understands that OLRCB wants to vigorously defend the District in these disputes, but this desire must be balanced against the cost to the District—both financially and to overall labor/management relations. The Committee urges OLRCB to give greater weight to the factors lending toward settlement. While financial cost and overall labor relations in the District should not be the only factors governing OLRCB’s decision on whether to proceed forward with a case, OLRCB must give them some weight in its decision-making. Failure to better account for these factors may strain labor/management relations and subject the District to greater fiscal liability.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Office of Labor Relations and Collective Bargaining (OLRCB) as proposed by the Mayor with the modifications stated below. The OLRCB is structured, for budgetary purposes, under the Office of the City Administrator, which is under the jurisdiction of the Committee on Government

⁵⁴ During FY 2011, PERB did not have a quorum, impacting the number of cases that were decided in FY 2011 and subsequently pushing cases that would have been decided in FY 2011 to FY 2012.

⁵⁵ Letter from Natasha N. Campbell, Dir. Office of Labor Relations and Collective Bargaining, to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Follow-up to 4.11.13 Budget Oversight Hearing, at 1 (Apr. 30, 2013) (on file with the Committee of the Whole).

Operations. Proposed corresponding changes appear in the Committee Report for the Committee on Government Operations:

1. An increase of \$65,945 local funds (PS) to Comptroller Source Group 12 (Regular Pay Other) and an increase of 1.0 FTE. This restores an attorney-advisor position that is currently accounted for in the fiscal year 2013 budget but which was accidentally eliminated in the fiscal year 2014 budget.
2. An increase of \$16,090 local funds (PS) to Comptroller Source Group 14 (Fringe Benefits – Current Personnel) to fund fringe benefits associated with the 1.0 FTE increase in number 1 above.

Policy Recommendations:

1. The Committee recommends that OLRCB meet monthly with union leaders, especially those with whom OLRCB has had a strained relationship, in order to facilitate stronger labor/management relations.
2. In light of its win/loss record, the Committee recommends that OLRCB give greater weight to financial cost and the cost to overall labor relations in the District when deciding how to proceed with a case.

OFFICE OF CONTRACTING AND PROCUREMENT

Committee Recommendations - See Page 25

I. AGENCY OVERVIEW

The mission of the Office of Contracting and Procurement (OCP) is to procure quality goods and services through a streamlined procurement process that is responsive to the needs of government agencies, transparent to the public, and that ensures that all purchasing actions are conducted fairly, impartially, and economically.

OCP purchases over \$1 billion in goods and services per year for more than 60 District agencies and programs, including goods, services, transportation, specialty equipment, and information technology. The agency provides oversight and monitoring of agencies that have received delegated contracting authority. In addition, it manages the District's Purchase Card Program. OCP also manages surplus property disposition for all District agencies.

OCP employs commodity managers, supervisory contracting specialists, and contracting specialists who carry out contracting and procurement functions. The agency has a number of administrative, operations, and support staff to assist. The Director of OCP, who is also the District's Chief Procurement Officer, delegates his authority to a variety of agency staff to carry out procurements on his behalf. This authority may also be delegated to individuals outside of the agency at the discretion of the Director.

The agency manages procurements for District agencies in accordance with relevant laws and regulations, notably the Procurement Practices Reform Act of 2010 and Title 27 of the District of Columbia Municipal Regulations.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:⁵⁶

The Mayor's fiscal year 2014 budget proposal for the Office of Contracting and Procurement is \$11,964, an increase of \$2,994, or 33.4 percent, over the current fiscal year. This is primarily due to additional staffing, a procurement reform initiative, and additional training.

**Table PO-A: Office of Contracting and Procurement;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	12,968	25,328	25,328	24,568	28,238	8,971	11,964
FTEs	125.9	105.6	102.5	87.7	74.0	85.0	103.0

Source: Budget Books (dollars in thousands)

Local Funds: OCP's budget is comprised entirely of local funds. The Mayor's proposed budget of \$11,964 supports 103 FTEs, an increase of 18 FTEs, or 21.2 percent, over the fiscal year 2013 approved level. The policy initiatives within the local funds budget include: increases of \$800 to support staff training and consultant services; \$288 to support the Surplus Property Division, and \$63 to purchase a vehicle for the transportation of surplus property.

In 2008, the responsibility of building construction, excluding school modernization, was removed from the purview of OCP resulting in large reductions. At the time, OCP increased

⁵⁶ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

delegated authority to the agencies, while reducing the number of FTEs in the central office. According to OCP, operations were not significantly changed.⁵⁷

III. COMMITTEE CONCERNS

There are various statistics that measure the problems or progress of an agency. For OCP, however, there is a different sort of measurement this Committee would like to see: a reversal in the number of requests by agencies for exemption from having to use OCP for procurement. Many times a year, the Council receives requests for exemption, or for independent procurement authority. We will know OCP has turned around when agencies instead seek to use OCP for its procurements.

Troubled Procurements: In the last year, there have been several instances of high profile procurements that have experienced significant delays due to deficiencies in the formulation and execution of the contracts. For example, problems have appeared in a contract for street-lighting,⁵⁸ a contract for procurement of new streetcars⁵⁹, and a contract to install new taxicab “smart” meters throughout the District’s taxi fleet.⁶⁰ In each of these cases, a protest was filed with the Contract Appeals Board (CAB) which found problems in meeting all of the requirements of the contracting process pursuant to law and regulation. In the case of the street-lighting contract, the CAB ordered the original contract award withdrawn and ordered OCP to reevaluate all proposals “in a manner consistent with the terms of the solicitation and the relevant procurement laws and regulations.”⁶¹ The CAB observed in the case of the taxi smart meter contract that “the Contracting Officer appears to have completely abdicated his responsibility to conduct an independent analysis of proposals, issued a flawed competitive range determination, and failed to provide contemporaneous documentation or proposal evaluation decisions...”⁶²

A contract for turnaround consulting services at United Medical Center⁶³ also came under the scrutiny of the Council, prompting a hearing by this Committee. Concern was expressed that OCP had not adhered to parts of the law dealing with subcontract set-asides for Certified Business Enterprises in the District. In that case, a non-certified subcontractor was accepted by a

⁵⁷ Letter from James Staton, Director, Office of Contracting and Procurement to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Response to Post-Hearing Questions Asked by the Committee for Fiscal Year 2012 and 2013 Performance Oversight, at 1 (Mar. 28, 2013) [hereinafter 3.28.13 Letter from OCP] (on file with the Committee of the Whole).

⁵⁸ *FY11 Citywide Street Light Asset Management Services*, DCKA-2011-R-0150.

⁵⁹ *Design, Manufacture, Test and Deliver Streetcar Vehicles for the District of Columbia*, DCKA-2011-R-0042.

⁶⁰ *Development, Installation and Operation of Taxicab Smart Meter System (TSMS)*, DCPO-2012-R-0342.

⁶¹ *Citelum DC, LLC*, CAB No. P-0922.

⁶² *Ridecharge Inc, and Creative Mobile Technologies, LLC*, CAB Nos. P-0920 and P-0921.

⁶³ *Implement Turnaround Operations for the Not-For-Profit Hospital Corporation*, DCHT-2012-C-0014.

contracting officer as part of a best and final offer by a bidder. The bidder ultimately found a compliant subcontractor and was awarded the contract.⁶⁴

According to CAB Chief Administrative Judge Mark Loud, in fiscal year 2012, the District prevailed in 52 percent of the 30 protests filed, and private parties prevailed in 21 percent of the cases. The remaining 37 percent of these cases were voluntarily withdrawn. Judge Loud, who could not speak about open or pending cases, testified before the Committee that many of the problems identified by CAB seem to fit a pattern of missteps by contracting officers, such as incomplete analysis of proposals.⁶⁵ It is also important to note that OCP is not responsible for contracting and procurement authority for 30 agencies, meaning that not all filings with the CAB are procurements involving the OCP.⁶⁶

While the vast majority of contract awards are never protested, the glaring problems identified in several multi-million dollar contracts managed by OCP, such as inadequate independent analysis of data and lack of contemporaneous documentation, lead the Committee to believe that OCP needs to increase the quality of its work in the areas identified below.

Procurement Process Reform: OCP handles a variety of different procurement methods depending on the goods or services it seeks to procure for an agency, including small purchases, invitation for bids (IFB), and requests for proposals (RFP). Each of these procurement types vary in complexity and have differing uses. Perhaps the most complex of these methods, the RFP, has at least 38 individual steps that must be completed before a contract can be awarded. Even after award, contracts meeting certain thresholds must then be reviewed by the Council for active or passive approval.⁶⁷

Many of these steps rely on the review or approval of a contract which may be outside of OCP's time management, such as legal review by the Office of Attorney General. In addition, contracting officers and personnel must abide by a long series of regulations laid out in the District of Columbia Municipals Regulations, as well new requirements under the Procurement Practices Reform Act of 2010 (PPRA).⁶⁸

Beginning in May 2013, OCP will contract with a consultant to examine the procurement process and help implement improvements. According to a document provided to the

⁶⁴ PR 20-56, the Contract No. DCHT-2012-C-0014 Approval Resolution of 2013: Council of the District of Columbia Committee of the Whole (Feb. 13, 2013) (oral testimony of James Staton, Director, Office of Contracting and Procurement)

⁶⁵ *Contract Appeals Board: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Mar. 15, 2013) (oral testimony of Mark Loud, Chief Administrative Judge, Contract Appeals Board)

⁶⁶ See D.C. Law 18-371, Procurement Practices Reform Act of 2010, § 201(b) and § 105(c) (effective April 08, 2011) [hereinafter D.C. Law 18-371].

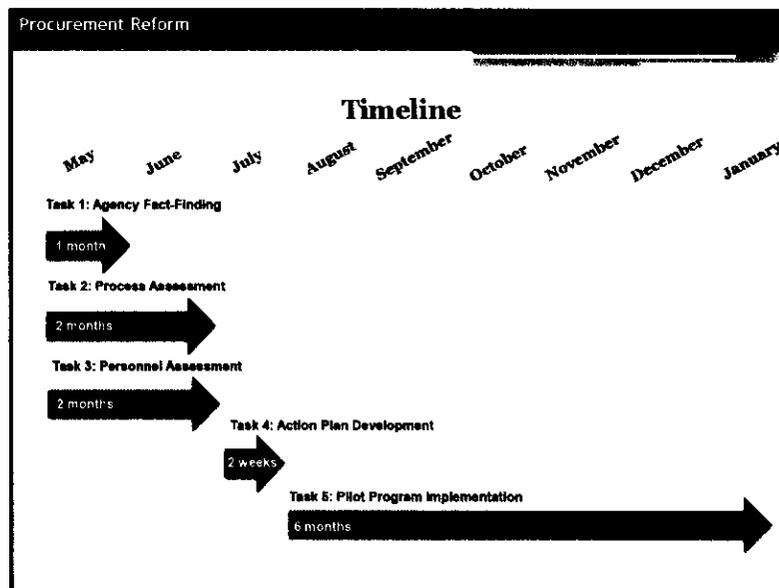
⁶⁷ See D.C. OFFICIAL CODE § 1-204.51.

⁶⁸ D.C. Law 18-371, *supra* at note 66.

Committee by OCP, the reform effort will consist of five tasks: (1) Agency Fact-Finding, (2) Process Assessment, (3) Personnel Assessment, (4) Action Plan Development, and (5) Pilot Program Implementation.⁶⁹ Included in those tasks are critical milestones pertaining to the procurement process itself, including “examination of agency bottlenecks and operating contracting within the procurement process,” “comparison of OCP regulation, the Procurement Practices Reform Act,” and “development of performance benchmarks for the procurement cycle.”⁷⁰ OCP also identified other milestones which pertain to other areas of Committee concern as discussed below.

The fiscal year 2014 budget request for OCP includes a total of \$800,000 to support this reform effort in fiscal year 2014. \$500,000 is set aside for a contract, which Director Staton testified is to be used for the consultant.⁷¹ The remaining \$300,000 is to be used for additional training for OCP personnel.⁷² The Committee intends to closely monitor the execution of the consulting process and the ensuing implementation of the process reform initiative. The timeline for that initiative is below.

**Figure PO-A: Office of Contracting and Procurement;
Procurement Reform Timeline**



Source: Office of Contracting and Procurement

⁶⁹ GOVERNMENT OF THE DISTRICT OF COLUMBIA, PROCUREMENT REFORM PROGRAM: PROVIDING FASTER, HIGHER-QUALITY, AND MORE COORDINATED CONTRACTING AND PROCUREMENT SERVICES TO DISTRICT AGENCIES (Mar. 28, 2013).

⁷⁰ 3.28.13 Letter from OCP, *supra* at note 57.

⁷¹ This information was included in a list of contracts provided to the Budget Office by the Agency Fiscal Officer.

⁷² This information was included in a pending plan provided to the Budget Office by the Agency Fiscal Officer.

Procurement Workforce: According to figures provided to the Committee, OCP handles over \$2 billion annually in contracts and procurements for District agencies. This number has more than tripled since 2004. However, at the same time, OCP’s workforce has declined 51 percent, from 172 to 85 FTEs. The number of staff directly working on contracts has been reduced from 86 to 45 FTEs. This decline in resources is compounded by a high vacancy rate: during formulation of the fiscal year 2014 budget, OCP had 8 vacancies, almost 10 percent of the agency’s overall staff.⁷³

**Table PO-B: Office of Contracting and Procurement;
Staff vs. Contract Spending 2004-2012**

Year	Contracting Staff	Total Staff	Contract Spending	Spending vs. Contracting Staff
2004	86	172	\$629	\$7.3
2005	109	209	\$777	\$7.1
2006	99	179	\$1,043	\$10.5
2007	91	152	\$1,085	\$11.9
2008	82	152	\$1,191	\$14.5
2009	67	128	\$1,096	\$16.3
2010	51	110	\$1,198	\$23.4
2011	48	101	\$1,498	\$31.2
2012	45	84	\$2,029	\$45.1

Source: Data from Office of Contracting and Procurement (Dollars in millions)

OCP’s Director of Resource Management, Ms. Shirley Lanier, estimated that an average of 10 percent of the agency’s personnel turnover annually.⁷⁴ The Committee finds this of particular concern because of the agency’s relatively low staff tenure.⁷⁵ Given the relatively high turnover and a historical vacancy problem, the agency needs to develop a plan for maintaining staffing.

⁷³ Letter from James Staton, to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Responses to Questions Asked by the Committee for “Fiscal Year 2012 and 2013 Performance Oversight,” at 4-5 (Feb. 22, 2013) [hereinafter OCP 2.22.13 Responses].

⁷⁴ *Office of Contracting and Procurement: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Shirley Lanier, Director of Resource Management, Office of Contracting and Procurement).

⁷⁵ *Office of Contracting and Procurement, Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Mar. 15, 2013) (oral testimony of James Staton, Director, OCP) [hereinafter Staton 3.15.13 Testimony].

**Table PO-C: Office of Contracting and Procurement;
Average Procurement Tenure at the Office of Contracting and Procurement**

Position	Tenure
Contracting Specialist Grade 9	4 years
Contracting Specialist Grade 11	4 years
Contracting Specialist Grade 12	7 years
Contracting Specialist Grade 13	7 years
Contracting Supervisory Specialist 14	6 years
Commodity Manager 15	4 years

Source: Pre- and Post- Performance Hearing Answers from OCP

The proposed budget for fiscal year 2014 would add 18 new positions to OCP, 15 working directly on contracting. In total, the agency could have a total of 70 contracting personnel in FY 2014 if all vacant and new positions were filled.

**Table PO-D: Office of Contracting and Procurement;
Contracting Staff Distribution by Commodity Group**

		Information Technology	Simplified Acquisitions	General Services	Healthcare Services
Existing Filled	Commodity Manager	1	1	1	1
	Supervisory Specialist	2	2	2	2
	Contracting Specialist	6	11	5	11
Existing Vacant	Commodity Manager	0	0	0	0
	Supervisory Specialist	0	0	0	0
	Contracting Specialist	1	1	0	0
Proposed New	Commodity Manager	0	0	3	0
	Supervisory Specialist	0	4	0	0
	Contracting Specialist	4	0	4	0

Source: Office of Contracting and Procurement (assignment subject to change)

According to testimony from Ms. Lanier, the agency usually fills the more senior positions, grades 13, 14, and 15, within 60 days. In total, the proposed budget would provide \$2.184 million in personal services supporting the additional FTEs. The agency has \$220,000 in fiscal year 2013 projected salary lapse, which it hopes to use to pay for term employees in the

current fiscal year in anticipation of several new requested positions.⁷⁶ If handled well, the agency could have all new contracting positions on board as of October 1st of the fiscal year.

The Committee is concerned about the ability of OCP to identify, screen, and hire so many individuals with the requisite skills and training necessary for these positions. OCP testified that many individuals in the contracting and procurement field move from agency to agency between the federal and local governments. A list of the proposed additional positions is below, along with the commodity group to which each position is to be assigned.

Training and Certification: Public sector procurement is a specialized area which requires specific skills and abilities spanning a wide range of disciplines. A recent job posting for an OCP contracting specialist seeks an individual who “performs entry to intermediate level, “cradle to grave” acquisition work including but not limited to planning and carrying out pre-solicitation, evaluation, vendor selection, contract administration and ensuring contractor performance in the well-established aspects of contracting.”⁷⁷

According to a study conducted at the request of OCP, the open and complex procurement process requires education, training, and professional development for contracting staff. That study recommends OCP charter a Procurement University for OCP staff, as well as other agency staff involved with procurements, with both classroom and web-based offerings.⁷⁸ The PPRA echoed this recommendation by requiring creation of a procurement training institute to “facilitate a system of training, continuing education, and certification for District contracting personnel.”⁷⁹

Unfortunately, in the two years since enactment of the PPRA, the requirement for a training institute is languishing. According to OCP, it runs the “Knowledge Plus Institute” which provides training to fulfill the PPRA requirement.⁸⁰ However, a 2011 Inspector General Audit on contracting officer qualifications found that OCP “neither had formal training for its

⁷⁶ *Office of Contracting and Procurement: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Sanya Cade, Assistant Director of Operations, Office of Contracting and Procurement)

⁷⁷ *Contracting Specialist, Position 22065*, D.C. Department of Human Resources https://erecruit.dc.gov/psp/erecruit/EMPLOYEE/HRMS/c/HRS_HRAM.HRS_CE.GBL?Page=HRS_CE_JOB_DTL&Action=A&JobOpeningId=22065&SiteId=1&PostingSeq=1 (Posted Apr. 10, 2013).

⁷⁸ *Contracting Specialist, Position 22065*, D.C. Department of Human Resources https://erecruit.dc.gov/psp/erecruit/EMPLOYEE/HRMS/c/HRS_HRAM.HRS_CE.GBL?Page=HRS_CE_JOB_DTL&Action=A&JobOpeningId=22065&SiteId=1&PostingSeq=1 (Posted Apr. 10, 2013).

⁷⁸ Stefan Rollwage, MPA, CPPO, *et al*, PROCESS TRANSFORMATION: PROCUREMENT MANAGEMENT ASSISTANCE, 25, (Sept. 28, 2007) [hereinafter OCP 2007 Study].

⁷⁹ D.C. Law 18-371, *supra* note 66, at § 206.

⁸⁰ Letter from James Staton, to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Responses to Questions Asked by the Committee for “Fiscal Year 2012 and 2013 Performance Oversight,” at 17 (Feb. 8, 2013) [hereinafter OCP 2.8.13 Responses].

professional contracting personnel nor required its contracting officers to obtain professional certification or enhance and maintain their proficiency through continuing education.”⁸¹ While the report noted that during the course of the audit OCP began to take action to improve its training,⁸² the Council’s Committee on Government Operations, in its review of the fiscal year 2013 budget, identified a lack of training at OCP as a key concern.⁸³

This year the Committee of the Whole probed about the availability of training through several questions before, during, and after both the performance oversight and budget hearings. The Committee was provided with documentation detailing a tiered curriculum of various topics to be covered in a training program. Director Staton also testified that some existing training comes in the form of seminars by various OCP senior staff.⁸⁴ OCP also mentioned at both hearings that it was looking to partner with the University of the District of Columbia (UDC) which currently has a bachelor’s in business administration degree in Procurement and Public Contracting.⁸⁵ However, according to UDC’s website, this program is set to be discontinued.⁸⁶ Moreover, the materials provided to the Committee do not show adequate evidence of comprehensive classroom or web-based course offerings.

Closely related to effective training is the certification of individuals having received the requisite training and demonstrating ability and expertise. A certification program is also required by the PPRA.⁸⁷ In response to questions at the OCP’s agency performance hearing, Director Staton testified that OCP does not utilize a formal “warranted officer” program,⁸⁸ which is a certification model used by many other jurisdictions including the federal government.⁸⁹ The OCP Study,⁹⁰ the committee report for the PPRA,⁹¹ and a report by the Government

⁸¹ Charles J. Willoughby, INSPECTOR GENERAL, AUDIT OF CONTRACTING OFFICER QUALIFICATIONS, (Sept. 22, 2011).

⁸² *Id.* at 4.

⁸³ COUNCIL OF THE DISTRICT OF COLUMBIA, COMM. ON GOVERNMENT OPERATIONS, REPORT AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS ON THE FISCAL YEAR 2013 BUDGET AND CORRESPONDING BUDGET SUPPORT ACT 114 (May 2, 2012).

⁸⁴ *Office of Contracting and Procurement: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of James Staton, Director, Office of Contracting and Procurement) [hereinafter Staton 4.18.13 Testimony].

⁸⁵ *Id.*

⁸⁶ University of the District of Columbia, *Programs & Degrees*, (April 24, 2013 at 2:00 PM), http://www.udc.edu/programs/degrees_programs_majors.

⁸⁷ D.C. Law 18-371, *supra* note 66, at § 206(c).

⁸⁸ Staton 3.15.13 Testimony, *supra* note 71.

⁸⁹ OMB Policy Letter 05-01, Letter from David Safavian, Administrator, Office of Federal Procurement Policy to Heads of Civilian Executive Departments and Agencies (This Policy Letter established the Federal government-wide framework for creating a federal acquisition workforce.) (April 15, 2005).

⁹⁰ OCP 2007 Study, *supra* 78, at 25.

⁹¹ COUNCIL OF THE DISTRICT OF COLUMBIA COMMITTEE ON GOVERNMENT OPERATIONS AND THE ENVIRONMENT, REPORT ON BILL 18-610, THE “PROCUREMENT PRACTICES REFORM ACT OF 2010,” 8 (October 21, 2010) [hereinafter PPRA Committee Report]

Accountability Office (GAO) on District procurement⁹² all stress the importance of implementing a professional certification requirement. According to that GAO report, “[i]n the absence of a comprehensive training and certification program, the CPO delegates contracting authority to procurement staff based on his perceptions of individual skill and experience.”⁹³

While both training and certification are important, as well as required under the PPRA, they represent two distinct parts of a whole with their own challenges and benefits. Training gives individuals the skills needed to effectively carry out their jobs. Certification serves as the agency’s check to ensure that employees are adequately trained and given the appropriate corresponding level of responsibility. Both should be implemented as soon as possible.

The Fiscal Impact Statement accompanying the PPRA committee report indicated that the training required under the PPRA would consist of several courses culminating in a certification test.⁹⁴ With that understanding, the Office of the Chief Financial Officer estimated the fiscal impact as \$2,730 per employee for training plus one full-time employee to implement the training institute.⁹⁵ Neither funding nor an additional FTE have been appropriated by the Council since passage of the PPRA. However OCP has indicated that it recognizes training as a requirement of the PPRA.⁹⁶

The Committee is pleased that the Mayor has requested \$300,000 for training and certification for OCP staff in the FY 2014 budget. The Committee expects that these funds will supplement resources provided in prior budgets for any sort of internal training. Further, the Committee expects that as a result of the procurement process reform effort (discussed on pages 17-19), OCP will have a better picture of the resources needed to implement training and certification requirements. The Committee expects that given the timeline for the reform effort, additional training should be available by the beginning of fiscal year 2014.

Coordination with District Agencies: Finally, the Committee is concerned about the complexity of coordinating the procurement process between agencies and OCP.

Thirty agencies are expressly independent of the Chief Procurement Officer’s authority. Several other individuals at agencies are delegated authority from the CPO in order to manage certain levels at that agency. For example, the DDOT, according to a Schedule A of employees

⁹² Government Accountability Office, DISTRICT OF COLUMBIA: PROCUREMENT SYSTEM NEEDS MAJOR REFORM, GAO-07-159, 36 (Jan. 19, 2007).

⁹³ *Id.*

⁹⁴ PPRA Committee Report, *supra* note 91, at Attachment I 5; Memorandum from Natwar M. Gandhi, Chief Financial Officer, to the Honorable Vincent C. Gray, Chairman, Council of the District of Columbia, Re: Fiscal Impact Statement – “Procurement Practices Reform Amendment Act of 2010” 5 (Oct. 29, 2010), *available at*: http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/FINAL%20FIS%2018-610%20Procurement%20Practices%20Reform%20Amendment%20Act%20of%202010.pdf.

⁹⁵ *Id.*

⁹⁶ Staton 3.15.13 Testimony, *supra* note 75.

provided during the fiscal year 2013 budget cycle, had 16 contracting staff of its own, including supervisory contracting specialists and contracting specialists.⁹⁷ As discussed earlier, DDOT faced significant challenges in a procurement for streetcars for which OCP was ultimately responsible, even though the contracting staff was not under the agency control of OCP. A senior level contracting officer had authority delegated by the CPO to enter directly into contracts.

With authority delegated to several individuals across the government at different agencies, it is important for the CPO to manage closely the performance of those procurements for which authority has been delegated. The Committee believes that such a situation creates tension between the wants of an agency and the need to ensure independence and integrity of the procurement process, in addition to unclear accountability for the contracting officers. The CPO should review all delegations to staff at other agencies and examine the quality and outcomes of agency contracts. If necessary, the CPO should reconsider delegations where problems are persistent.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Office of Contract and Procurement as proposed by the Mayor.

Policy Recommendations:

1. In an effort to improve the skills and abilities of the contracting workforce, OCP must fully implement a robust training program which includes standardized courses utilizing classroom and online training as appropriate, to train and enrich contracting personnel, including contracting officers and contracting specialists
2. OCP should consider a variety of sources to provide training including public and private education institutions, corporate training outlets, and as other government training institutions such as the Federal Acquisition Institute and the Defense Acquisition University. In addition, OCP should work to leverage existing procurement training resources at other District agencies, including those not under the authority of the CPO, such as the Department of General Services and District of Columbia Public Schools.

⁹⁷ District Department of Transportation, *Performance Documents: Appendix B Position Listing* (Apr. 29, 2013 2:00PM) http://www.dccouncil.us/files/user_uploads/budget_responses/Appendix_B_PositionListing.pdf.

3. The Director should designate a Chief Learning Officer, recognized in the PPRA fiscal impact statement, to coordinate all aspects of training administration, curriculum, and interagency training coordination.
4. To promote career development for procurement personnel and ensure consistent quality, OCP must adopt and fully implement a certification program that includes several tiers of certification reflecting training level and on-the-job experience. The Committee considers this recommendation to be especially important.
5. The Chief Procurement Officer should review all active delegations of authority to staff at other agencies to ensure consistent accountability, contract quality, and outcomes on the part of anyone utilizing a delegation. Where problems are persistent, the CPO should revoke the delegation.
6. The Committee recommends that OCP work with agencies and appropriate officials to provide training for staff at other agencies that utilize OCP for procurement. The intent of this is to improve the level of sophistication and the attention to detail associated with requests for work on their behalf.
7. Consistent with the PPRA, OCP should develop guidelines for recruitment, training, and retention of the contracting workforce. Those guidelines should be publicly accessible, including on OCP's website, and should provide information prompting a career track for current and prospective contracting personnel.
8. OCP should look for opportunities to maximize transparency of information to the Council and the public at all stages of the procurement process.

CONTRACT APPEALS BOARD

Committee Recommendations – See Page 28

I. AGENCY OVERVIEW

The mission of the Contract Appeals Board (CAB) is to provide an impartial, expeditious, inexpensive, and knowledgeable forum for the hearing and resolving of contractual disputes and protests involving the District and its contracting communities. The Contract Appeals Board adjudicates protests of District contract solicitations and awards, appeals by contractors of District contracting officer final decisions, claims by the District against

contractors, appeals by contractors of suspensions and debarments, and contractor appeals of interest payment claims under the Quick Payment Act.

The CAB hears two types of appeals – protests which involve a disappointed bidder protesting the award of a contract to another entity, and disputes, which are civil actions arising out of failure to meet an obligation in a previously awarded contract. The vast majority of cases heard by the Board are disputes (91%). The CAB consists of three judges: Chief Judge Marc D. Loud, Judge Monica Parchment, and Judge Maxine E. McBean. The Board also employs a Clerk of Court, Appeals Clerk, Protest Clerk, and a Program Support Paralegal.

II. MAYOR’S PROPOSED BUDGET

Mayor’s Proposed Fiscal Year 2014 Operating Budget:⁹⁸

The Mayor’s fiscal year 2014 budget proposal for the CAB is \$1,059, an increase of \$8, or .08 percent, above the current fiscal year. The proposed budget supports 8 FTEs, representing no change from the fiscal year 2013 approved level.

**Table AF-A: Contract Appeals Board;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	940	933	1,032	765	835	1,051	1,059
FTEs	5.0	5.7	5.5	5.6	6.1	8.0	8.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget for the CAB is entirely local funds. The policy initiatives within the local funds budget include an increase of \$8 to support proposed step increases for staff and a decrease of \$8 in nonpersonal services to absorb the step increases. In addition, there is an increase of \$8 as a result of an increase in the current services funding level.

III. COMMITTEE CONCERNS

Case Backlog: Between fiscal years 2006 and 2010, CAB saw a tremendous increase in new appeals case filings, while undergoing a reduction of judges from three to two over the same

⁹⁸ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

period. As a result, by fiscal year 2011, half of the appeals docket had become aged or dormant, causing each judge's annual caseload to rise from 64.5 to 82.⁹⁹

By fiscal year 2012, the Board had a full contingent of judges, thereby enabling it to eliminate all dormant cases and reduce the inherited backlog by half. CAB completed nearly 30 trials in fiscal years 2012 and 2013 year-to-date, and expects to issue decisions in 43 cases by the end of calendar year 2013. According to pre-hearing information provided by the Board, CAB has taken several actions to control and reduce the backlog in order to completely eliminate it by the end of calendar year 2013.¹⁰⁰ In stating this, the CAB has defined backlog to mean over three years old.

In order to help eliminate the backlog, and prevent future ones from occurring, the CAB has increased its judges' caseloads and hired a paralegal, whose position is currently being converted from term to permanent. It has also realigned the General Counsel's portfolio.¹⁰¹ While the Committee applauds these efforts, it is cognizant that a backlog could return should the number of appeals increase. Thus, the Committee urges the Board to remain vigilant about its caseload and to be proactive whenever the CAB notices an increase.

In addition to more timely disposition of decisions in disputes, the CAB also hopes to ensure timely resolution of protests. By law, protests must be resolved within 60 days.¹⁰² According to the CAB, 90% of protest cases met the 60-day threshold in fiscal year 2012 and 2013 to date.¹⁰³ In most cases where the timeframe was exceeded, it was as a result of a higher than average number of motions filed in the case, sometimes to extend certain deadlines. The Board indicated that it intends to continue to improve upon protest decisions until it is in full compliance with the law.¹⁰⁴ The Committee supports these efforts.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Contract Appeals Board as proposed by the Mayor.

Policy Recommendations:

⁹⁹ Letter from Marc Loud, Chief Judge, Contract Appeals Board, to Phil Mendelson, Chairman, Council of the District of Columbia, Re: CAB Responses to Questions Asked by the Committee for Fiscal Year 2012 and 2013 Performance Oversight Hearing, at 7-8 (Feb. 15, 2013) [hereinafter Loud Letter 2.15.13]

¹⁰⁰ *Id.* at 8.

¹⁰¹ *Id.*

¹⁰² D.C. OFFICIAL CODE § 2-360.08(d).

¹⁰³ Loud Letter 2.15.13 *supra* note 99, at 9.

¹⁰⁴ Loud Letter 2.15.13 *supra* note 99, at 9.

1. The Committee recommends that the CAB develop metrics to measure case timeliness in order to assess the number of cases that may be older than three years.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

Committee Recommendations See Page 31

I. AGENCY OVERVIEW

“Region Forward” is the mission and commitment by the Metropolitan Washington Council of Governments (COG). COG’s member governments include 22 local jurisdictions. Also participating are representatives of both the Maryland and Virginia State Legislatures, as well as the U.S. Congress. The member governments work together on a variety of issues regarding transportation, public safety, the environment, and human services. COG’s overarching mission is to make “Region Forward” a reality by being a discussion forum, expert resource, issue advocate, and catalyst for action. COG fulfills its mission by fostering cooperative relationships among government bodies throughout the metropolitan region, advocating quality of life for all, promoting better air and water quality, promoting a multi-modal transportation system that prioritizes management, performance, maintenance, and promoting regional emergency response coordination planning.

For more than 55 years, COG has helped tackle metropolitan Washington’s biggest challenges, such as restoring the Potomac River, ensuring that the Metrorail system was fully built, and strengthening emergency preparedness after September 11, 2001. COG is supported by financial contributions from its participating local governments, federal and state grants and contracts, and donations from foundations and the private sector.

II. MAYOR’S PROPOSED BUDGET

Mayor’s Proposed Fiscal Year 2014 Operating Budget:¹⁰⁵

The Mayor’s proposed budget for Fiscal Year 2014 is \$428, an increase of \$20, or 5.0 percent over the current fiscal year. The proposed budget supports 0 FTEs, representing no

¹⁰⁵ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

change from the current fiscal year. This represents the District’s annual payment to COG and is equal to the dues requested by COG.

**Table EA-A: Metropolitan Washington Council of Governments;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	381	396	396	495	396	408	428
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget for COG is comprised entirely of local funds.

III. COMMITTEE CONCERNS

Regionalism: The Committee believes that COG should continue to foster regional cooperation amongst its member governments. It is important that members not engage in threats to withdraw membership because of controversial issues. During the recent debate about gun control, some member governments threatened to withdraw from COG because of ideological and policy differences.

COG has been in existence since 1957 and this not the first nor will it be the last time member governments will disagree. However, the purpose of COG is to bring together different member governments that are diverse in geography, political affiliations and demographics to work together for the good of the Washington Metropolitan Area. COG can be tepid about controversial issues, and thus not be helpful, or COG can step into controversies and help achieve a result. Despite differences, and there will be some, it is vital that COG remain a cohesive group and focus on addressing regional issues.

Sequestration: The Committee believes that it is incumbent upon COG to study the effect of sequestration (due to federal irresolution over its own spending) on the Washington Metropolitan Area, especially the District of Columbia. Given that COG has access to many resources, both public and private, we encourage the agency to communicate to its member governments the real effects of sequestration on the jurisdictions and how to best adjust with the threats of more federal cuts due to come.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Metropolitan Washington Council of Governments as proposed by the Mayor.

Policy Recommendations:

1. The Committee recommends that COG continue its work on both its “Region Forward”, and “Economy Forward” initiatives. COG should implement its five-point plan which includes: developing a new brand that promotes the region’s diversity; implementing a transportation priorities plan to produce sustainable funding strategies; implementing a plan to guide more efficient investments in the region’s Activity Centers; working with senior federal administration officials to identify an official to serve as a federal regional liaison to improve partnership; and undertaking an industry and labor market analysis to ensure workforce development programs are training for current and future growth sectors.

ONE CITY FUND

Committee Recommendations – See Page 34

I. AGENCY OVERVIEW

The One City Fund, to be administered by the Community Foundation for the National Capital Region, is proposed by the Mayor as part of the District’s FY 2014 budget. The One City Fund Establishment Act of 2013 (Title I, Subtitle III of the proposed Bill 20-199, Fiscal Year 2014 Budget Support Act of 2013) would establish the One City Fund.

The mission of the One City Fund is to provide competitive grant funds to District nonprofit organizations in education, job training, health, senior services, arts, public safety, and the environment for the purpose of growing and diversifying our economy, educating and preparing our residents for the emerging new economy, improving the quality of life for all residents, and increasing our city’s sustainability.

While the Community Foundation for the National Capital Region, identified in the proposed subtitle as the fund manager, does not provide direct services to families, it does sub-grant funds and give technical assistance to nonprofit organizations that provide direct services to District residents and families. Those services promote a growing economy, educational improvement, increased sustainability, and improved quality of life for all residents. By housing the One City Fund outside the government with rules meant to insulate it from politics, grant decisions can be kept at arm's length from the political offices of the District government and made on the merits of the various organizations' proposals.

The One City fund is intended to encourage innovation in programing, and to build capacity of non-profit organizations. The One City Fund is not duplicative of other initiatives, such as the Children's Youth Investment Trust Corporation. Not only is the mission different, but the One City Fund's scope of issues is very much broader.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget.¹⁰⁶

The Mayor's fiscal year 2014 budget proposal for the One City Fund is \$15,000. The proposed budget supports 0 FTEs.

**Table EF-A: One City Fund;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	N/A	N/A	N/A	N/A	N/A	N/A	15,000
FTEs	N/A	N/A	N/A	N/A	N/A	N.A	0.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor's fiscal year 2014 budget proposal for the One City Fund is comprised entirely of one-time local funds. It is an increase of \$15,000, or 100 percent over the current fiscal year. The proposed budget supports 0 FTEs. Six percent, or \$900, of the funds are proposed to be retained by the fund manager to support administrative and evaluation expenses.

¹⁰⁶ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

III. COMMITTEE CONCERNS

Management of the Fund: At the April 18th budget hearing on the One City Fund (Fund), questions were raised about the management of the fund and about the lack of information on how projects are to be selected. For example, the proposed subtitle does not specify which agency will be the District's point of contact with the Fund. The Executive testified that the Deputy Mayor for Human Services would serve the role of liaison for the fund and would track compliance with transparency requirements of the Fund.¹⁰⁷

According to the Executive, the District is in the process of entering into a Memorandum of Understanding (MOU) with the Community Foundation for the National Capital Region that will provide more detail on how the fund will be managed. This MOU addresses details not articulated in the Budget Support Act language meant to ensure transparency and accountability.¹⁰⁸

In addition, the Committee is also concerned about the accountability and transparency of the Fund, because it is not directly managed by the District and sub-grants are not provided directly by the District, rather the Community Foundation. Moreover, this is the first government-funded grant program managed by the Community Foundation. However, according to testimony at the April 18th budget hearing, the Foundation is highly respected in the philanthropic community. Further, the Foundation, as grants manager, will conduct rigorous audits and evaluations of sub-grants, which will be paid for from the six percent administration fee.¹⁰⁹

Effective Grant-making: At the April 18th hearing, several witnesses testified to the value of multi-year program development grants as an effective means for leveraging future program and capacity dollars. The Budget Support Act language allows for both capacity building grants, which can be used to build on the organization's mission, such as communications training or information technology investments, and multi-year program development sub-grants which are contingent on positive early outcomes.¹¹⁰ The Community Foundation testified that its understanding is that while a capacity building grant is limited to a single year, the funds could support a multi-year effort. Budget Director Eric Goulet testified that the timeframes for the different grant types would be clarified in a subsequent errata letter regarding the Mayor's budget.¹¹¹

¹⁰⁷ *One City Fund: Budget Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Allen Lew, City Administrator, District of Columbia).

¹⁰⁸ *Id.*

¹⁰⁹ *One City Fund: Budget Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Terri Lee Freeman, President, Community Foundation of the National Capital Region).

¹¹⁰ *Id.*

¹¹¹ *One City Fund: Budget Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Eric Goulet, Deputy Chief of Staff and Budget Director, Office of the Mayor of the District of Columbia).

Several witnesses testified that multi-year program grants have value in establishing new programs with measureable outcomes, but did acknowledge that capacity building grants would be useful in certain situations.¹¹² Others testified that multi-year capacity building would be useful, for example in implementing a strategic plan developed with a capacity building grant.¹¹³ One public witness stated that capacity building often takes more than one year, but limiting it could give organizations a “kick in the pants” to move more swiftly.¹¹⁴

The Committee hopes that sub-grant decisions will be made with regard to long-term positive outcomes for improving the community through the activities of the nonprofit sub-grantees. The Committee understands that program grants have a more direct impact on the community, but recognizes that capacity building grants still have a place to strengthen our nonprofit organizations to provide better services. The Executive should work with the fund manager to ensure the best mix of grant types.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the One City Fund as proposed by the Mayor.

Policy Recommendations:

1. The Committee recommends that the Executive ensure maximum transparency in the One City Fund, including access to financial records for sub-grants for oversight by appropriate bodies, including the Council, the District of Columbia Auditor, the Attorney General, and the Inspector General.
2. The Committee encourages the Deputy Mayor for Human Services to work with the grant manager to ensure an appropriate mix of program development and capacity building grants to maximize the positive impact on District residents.

¹¹² *One City Fund: Budget Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Margery Goldberg, Public Witness, Robert Gundling, Public Witness, and Alex Moore, Public Witness).

¹¹³ *One City Fund: Budget Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Natasha Harrison).

¹¹⁴ *One City Fund: Budget Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Cosby Hunt).

TAX REVISION COMMISSION

Committee Recommendations – See Page 37

I. AGENCY OVERVIEW

A Tax Revision Commission (TRC) was established by the Tax Revision Commission Establishment Act of 1996.¹¹⁵ That Commission was comprised of 20 members, whose assigned duties were to analyze the District's current tax system in terms of revenue productivity and stability, efficiency, equity, simplicity of administration, and effect upon the District's economy; propose innovative solutions for meeting the District's projected revenue needs while exploring possibilities for reducing general rates; identify economic activities that are either beneficial or detrimental to the District's economy and that should be either encouraged or discouraged through tax policy; recommend changes in the District's tax policies and laws; establish criteria and a conceptual framework for evaluating current and future taxes; and conduct an analysis of split-rate approach to real property taxation together with a recommendation as to how it could be structured with minimal effect on the average payers' taxes.

In 2011, the TRC was reestablished by the Tax Revision Commission Amendment Act of 2011,¹¹⁶ which established the TRC as an independent body consisting of 11 members appointed by the Mayor and the Chairman of the District of Columbia Council.

The purpose of the revised TRC shifted toward preparing comprehensive recommendations to the Council and the Mayor which: provide for fairness in apportionment of taxes; broaden the tax base; make the District's tax policy competitive with surrounding jurisdictions; encourage business growth and job creation; and modernize, simplify, and increase transparency in the District's tax code.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹¹⁷

The Mayor's FY 2014 budget proposal for the TRC is \$200. This agency did not have a funding appropriated prior to fiscal year 2013. The proposed budget does not support any FTEs in the current fiscal year.

¹¹⁵ D.C. Law 11-254; D.C. OFFICIAL CODE §47-461. There had also been a tax revision commission established pursuant to Council resolution 1-149. That Commission issued a report, *Financing an Urban Government*, on December 5, 1977.

¹¹⁶ Law 19-21; D.C. OFFICIAL CODE §47-461

¹¹⁷ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table PM-A: Tax Revision Commission;
Total Operating Funds Budget FY 2008-2014**

	Actual 1996	Actual 1997	Actual 1998		Actual 2012	Budget 2013	Mayor 2014
Total Funds	118	295	499		0	808	200
FTEs	0	0	0		0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s FY 2014 proposed budget for TRC is \$200 and 0 FTEs. In FY 2013, the District allocated \$808 in local funds to the Office of Chief Financial Officer (OCFO) to reestablish the TRC. The OCFO reallocated these funds to the TRC during FY 2013; however, the TRC was not formally established as a separate agency in the FY 2013 approved budget.

III. COMMITTEE CONCERNS

Report Extension: The current TRC is required by the 2011 statute to submit a final report to the Chairman of the Council and the Mayor nine months from the date the Commission is formed. This report is to include draft legislation, regulations, amendments to existing regulations, and other specific steps for implementing recommendations. The Commission was formed on August 3, 2012, making the original deadline for the final report June 30, 2013.

The Commission has stated that they will not be able to submit a final report by the June 30th deadline. This prompted Chairman Phil Mendelson and Councilmember Jack Evans to introduce the “Tax Revision Commission Report Extension and Procurement Streamlining Emergency Act of 2013¹¹⁸”, on February 5, 2013. Together with a temporary act,¹¹⁹ this Emergency extended the report deadline to September 30, 2013. Accompanying the fiscal year 2014 budget however, is a subtitle proposed by the Committee to permanently extend the deadline to December 31, 2013 (see page 116 of this report). The members of the Commission are of the opinion that this extension will result in a publication of greater depth and breadth compared to the 1998 report, and will better inform policy decisions in the coming years. The Committee believes that this is a sufficient amount of time to complete this report in preparation for budget planning purposes for fiscal year 2015.

¹¹⁸ Act 20-19, 60 DCR 3974 (enacted Mar 1, 2013).

¹¹⁹ Law 20-05, 60 DCR 4667 (eff. Mar. 20, 2013).

Procurement: Emergency and temporary legislation was passed on February 5, 2013¹²⁰ to allow the TRC to procure goods and services independent of the Chief Procurement Officer pursuant to a streamlined small-purchase procurement process for contract goods and services not exceeding \$40,000. The TRC is otherwise required to comply with the District's Procurement Practices Reform Act of 2010,¹²¹ which prevents agencies from entering into contracts for goods and services exceed \$10,000, (and the purchase being transparent).

The Committee agrees with the TRC that there are necessary items that were needed in order to complete their final report. Due to the long process of procurement, the Committee believes that the TRC delay in the procurement process of necessary goods and services would delay the production of this final report, which would result in the Commission failing to reach its mission. It is imperative for the TRC to have the authority to execute these specific contracts for specialized services. This procurement authority is also included in the proposed subtitle attached to this report.

Funding for Recommendations: The TRC is tasked with preparing comprehensive recommendations to the Council and the Mayor. Those recommendations may have associated costs. It is the Committee's opinion that funding should be set aside to cover the recommendations produced by the TRC.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Tax Revision Commission for the District of Columbia as proposed by the Mayor.

OFFICE BUDGET AND PLANNING

Committee Recommendations - See Page 41

I. AGENCY OVERVIEW

The Office of Budget and Planning (OBP) is a component of the Office of the Chief Financial Officer (OCFO). OBP prepares, monitors, analyzes, and executes the District's budget, including operating, capital and enterprise funds, in a manner that ensures fiscal integrity and

¹²⁰ *Id.*

¹²¹ D.C. OFFICIAL CODE § 2-354.07.

maximizes service to taxpayers. Additionally, OBP advises policymakers on the District government's budget and has primary responsibility for expenditure forecasts.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹²²

As a component of the OCFO, the OBP does not submit a separate budget request to the Mayor. The operating budget for OBP is a program within the OCFO's budget.

**Table AT-A: Office of Budget and Planning;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	6,793	6,309	5,384	5,076	4,883	5,818	5,874
FTEs	54.9	46.6	44.4	44.9	40.4	42.0	42.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor's fiscal year 2014 proposed budget for OBP is \$5,874,000, an increase of \$56,304 from the fiscal year 2013 approved budget of \$5,818,000. The fiscal year 2014 request of 42 FTEs reflects no change from the approved fiscal year 2013 budget.

III. COMMITTEE CONCERNS

The District of Columbia's Capital Improvement Program (CIP) consists of financing, acquisition, development, and implementation of permanent improvement projects for the District's fixed assets. Such assets typically have a useful life exceeding three years and cost more than \$250,000. The CIP document is a comprehensive, annually updated, six-year plan for the development, modernization, or replacement of city-owned facilities and infrastructure which can be viewed on the website for the OCFO.¹²³ Additionally, the CIP sets forth the appropriated budget authority request for the upcoming fiscal year and the projected funding and expenditure plans for the following five years. In most instances, the capital authority goes toward

¹²² The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

¹²³ District of Columbia Office of Budget and Planning: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole (April 11, 2013) (oral testimony of Gordon McDonald, Deputy Chief Financial Officer, Office of Budget and Planning) [hereinafter McDonald 4.11.13 Oral Testimony].

improvements, or applicable activities associated with streets, bridges, government facilities, public schools, and recreational facilities.

OBP has continued a focus on management of the CIP, including implementation of the District of Columbia Department of Transportation (DDOT) Capital Project Review and Reconciliation Act of 2011¹²⁴ and the Capital Project Support Fund, which is a method for capturing unused budget from older, inactive capital projects.¹²⁵ As of April 11, 2013, OBP has closed over 650 projects in DDOT, and over 120 projects in other agencies to consolidate the capital budget. This allows the Mayor and the Council to focus limited capital dollars where they can be used effectively and efficiently.¹²⁶

The Committee commends OBP for its leadership, and ongoing effort to close capital projects that are no longer in need. Additionally, the Committee appreciates OBP's ability to reduce budgets that exceed actual need, while keeping numerous agencies within their budgets.

Financial Management Systems: In 1996, former D.C. Chief Financial Officer (CFO) Anthony Williams implemented the System of Accounting and Reporting (SOAR) initiative to improve on the previous financial management system which was unable to provide timely and reliable financial reports. SOAR resulted in a public financial management system that could be accessed by more than 2,000 employees with varied needs for financial information, as well as other financial analyses that are imperative to the effective budgeting of the District.

In July 2011, OBP and the Office of the Chief Information Officer began work on a new financial management system to replace SOAR. This system would include a component known as the Budget Management and Planning System (BMAPS) which would replace the current Budget Formulation Application. However, its initial implementation has proven difficult.

BMAPS was to begin implementation for the fiscal year 2013 budget process. However, as a result of delays in implementing the underlying SOAR replacement system, BMAPS has yet to be implemented. Additionally, during the April 11, 2013 budget hearing for OBP's fiscal year 2014 budget, Deputy Chief Financial Officer, Gordon McDonald informed the Committee that the OCFO Office of Contracts issued a notice of termination due to default for the SOAR replacement project on March 28, 2013, which has the potential to be litigated.¹²⁷ In response to a question at the March 14, 2013 performance oversight hearing for OBP, the SOAR replacement and BMAPS are inextricably linked.¹²⁸

¹²⁴ Bill 19-350, The District of Columbia Department of Transportation Capital Project Review and Reconciliation Act of 2011.

¹²⁵ McDonald 4.11.13 Oral Testimony, *supra* note 123.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ District of Columbia Office of Budget and Planning: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole (March 14, 2013) (oral testimony of Gordon McDonald, Deputy Chief Financial Officer, Office of Budget and Planning)

The Committee urges OFCO to resolve the contract issues surrounding the SOAR replacement to allow BMAPS to move forward. In addition, the Committee has made several requests of OBP for additional information about SOAR replacement contract and timetable for full implementation. Unfortunately, the Committee has yet to receive this information. The Committee requests that OBP provide 1) a plan, including a timetable for acquisition of a replacement for the SOAR; 2) the current status of the agreement between the District and the contractor; and 3) a milestones required for implementation BMAPS prior to the next budget cycle.

Reports Mandated by Law: OBP issues roughly 45 monthly and quarterly operating and capital reports every year. These reports provide a variety of financial information including the status of agencies' spending and available balances, modifications to agency budgets, status of the District's cash reserves, and operating and capital budget variances compared to spending plan. OBP formulates ad hoc reports on District agency finances requested by the media and community organizations.

These reports are used by OBP in its budget execution activities. They are used to monitor agency spending, determine potential overspending, and to make budget adjustments through reprogrammings or other actions. In an effort to provide transparency, a majority of these reports are posted on OBP's website so that residents of the District have easy access to this information.

While OBP's goal is to issue timely reports, numerous reports have been issued several months after their expected date. For instance, during the March 14, 2013 Performance Hearing, the Committee noted that several reports, such as the Summary of FY 2012 Intra-District Requests – July 1, 2012, was delivered to the Council six months after the fiscal year ended. OBP stated that it is currently developing a timetable for report publication with the specific goal of improving timeliness.¹²⁹ Special focus will be placed on the reprogramming and intra-District reports for which there is no central data source, requiring OBP to compile data from multiple sources. OBP is currently looking at amending these reports in order to decrease the time it takes to prepare them, while maintaining the level of detailed information required by the D.C. Code § 47-355.05(e).

¹²⁹ *Id.*

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Office of Budget and Planning as proposed by the Mayor.

Policy Recommendations:

1. The Committee recommends that the CFO work to finalize a contract for the SOAR replacement system as soon as possible in order to fully implement BMAPS for the fiscal year 2015 budget cycle.
2. The Committee recommends that OBP continue to work with the OCFO to improve its systems so that reports can be completed in a time-relevant fashion.

OFFICE OF PLANNING

Committee Recommendations – See Page 48

I. AGENCY OVERVIEW

The mission of the Office of Planning (OP) is to guide development of the District of Columbia, including the preservation and revitalization of our distinctive neighborhoods, by informing decisions, advancing strategic goals, encouraging the highest quality development outcomes, and engaging all communities.

OP performs planning for neighborhoods, corridors, districts, historic preservation, public facilities, parks and open spaces, and individual sites. In addition, OP engages in urban design, land use, and historic preservation review. OP also conducts historic resources research and community visioning, and manages, analyzes, maps, and disseminates spatial and U.S. Census data.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹³⁰

The Mayor's fiscal year 2014 budget proposal for OP is \$7,338, a decrease of \$9, or 0.1 percent, below the current fiscal year. The proposed budget supports 60 FTEs, a decrease of 1 FTE, or 1.6 percent, from the fiscal year 2013 approved level.

**Table BD-A: Office of Planning;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	9,188	9,224	7,892	6,357	7,975	7,347	7,338
FTEs	57.9	74.5	64.2	56.2	56.4	61.0	60.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor's proposed budget is \$6,531, a decrease of \$28, or 0.4 percent, below the fiscal year 2013 approved budget of \$6,559. This funding supports 56.5 FTEs, an increase of 1.0 FTE, or 1.8 percent, from the fiscal year 2013 approved level. The policy initiatives within the local funds budget include a net increase of \$79 to support projected salary step increases and fringe benefit costs.

In order to partially absorb the personal services increases, OP will reduce nonpersonal services across multiple programs by \$36, including: reductions to the Supplies and Materials, Other Services and Charges, Contractual Services-Other, and Equipment and Equipment Rental Comptroller Source Groups (CSGs). The Contractual Services budget is being reduced by \$15 in order to offset the proposed COLA increase. Additionally, OP will reduce the Subsidies and Transfers CSG by \$29, and the fixed cost IT Assessment from the Office of the Chief Technology Officer by \$14.

A total of \$121 and 1 FTE will transfer in from capital funds to local funds.

Special Purpose Revenue Funds: The proposed budget is \$50, an increase of \$20, or 66.7 percent, over the fiscal year 2013 approved budget of \$30. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The policy initiatives within the special purpose revenue funds budget include an increase of \$20 due to increased revenue

¹³⁰ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

projections from the Historic Landmark and Historic District fund; OP will allocate the funds to professional fees and contracts.

Federal Resources: The proposed budget is \$757, a decrease of \$1, or 0.1 percent, from the fiscal year 2013 approved budget of \$758. This funding supports 3.5 FTEs, a reduction of 2 FTEs, or 36.4 percent, from the fiscal year 2013 approved level. The policy initiatives within the federal funds budget include a net increase of \$16 in federal grant funds to support projected salary step increases and fringe benefit costs. In order to off-set this, OP will have a portion of its contractual service responsibilities carried out by current personnel, resulting in \$17 in federal grant funds savings.

OP also reduced its budget for federal payments by \$235 to reflect the expected level in the fiscal year 2014 federal budget. These funds supported 2 FTEs and were to be used for the redevelopment of the site of the former St. Elizabeths hospital. OP is moving forward with this project, and is seeking support from capital funds. OP's budget also includes an increase in federal payments in the amount of \$235, to be used for the same purpose—redevelopment of St. Elizabeths—in order to align the agency with the fiscal year 2014 Mayor's budget request. It is the Committee's understanding that this federal funding was part of the fiscal year 2013 approved budget for OP, but the funding was not approved by Congress for FY 2013. It is thus being removed in the fiscal year 2014 budget as a technical correction, to reflect what occurred for FY 2013. However, OP believes that the funding will be available from the federal government in fiscal year 2014, which is why it is budgeted for the upcoming fiscal year.

OP's proposed cost of living adjustment includes \$15 in federal grant funds.

Private Grant Funds: The proposed budget is \$0, representing no change from the fiscal year 2013 approved budget of \$0. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

Intra-District Funds: The proposed budget is \$0, representing no change from the fiscal year 2013 approved budget of \$0. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

Mayor's Proposed Fiscal Year 2014 Capital Budget:

The Mayor's proposed capital improvements plan includes \$11,927 for the Office of Planning over the 6-year plan. The plan authorizes \$7,177 for fiscal year 2014, \$3,000 for fiscal year 2015, and \$1,750 for fiscal year 2016. This funding is for planning, zoning, and historic preservation studies and projects and facility plans. Analogous to "pre-development" costs, these funds are used for planning studies for both large-scale capital projects and neighborhood-focused projects, and represent an up-front investment for all of these projects.

III. COMMITTEE CONCERNS

Community Engagement: OP is currently spearheading an update to the District's zoning regulations, called the Zoning Regulations Review (ZRR). This process began in 2008, and has included Zoning Commission public roundtables, 20 special topic working groups, a Task Force, and District agencies including the Office of Zoning, the District Department of Transportation, the District Department of the Environment, and the Office of the Attorney General.¹³¹ Most recently, during fiscal year 2013, OP has hosted eight community outreach meetings where the agency presented the draft zoning regulations proposals and responded to public questions and feedback. The meeting dates in each ward were as follows: Ward 6 was held on December 8, 2012; Ward 2 on December 11, 2012; Ward 8 on December 13, 2012; Ward 1 on January 5, 2013; Ward 3 on January 8, 2013; Ward 5 on January 9, 2013; Ward 7 on January 12, 2013; and Ward 4 on January 16, 2013. OP also held two Twitter Town Halls—on December 14, 2012 and January 14, 2013—where staff live-tweeted responses to questions for an hour.¹³² OP also presented to Advisory Neighborhood Commissions, and before other community groups and organizations.¹³³ OP has made efforts to give the public access to the draft proposals, including by placing them in a library in each ward, making them available electronically on OP's website, and creating a blog to provide information and updates on the process.¹³⁴ The Committee appreciates OP's outreach efforts regarding the ZRR process. However, more can be done. There is *significant* public interest in and concern with the ZRR process and what it might mean for the future of the city. The Committee held a hearing regarding the process on October 5, 2012, and 41 witnesses signed up to testify in addition to OP. OP's March 7, 2013 performance oversight hearing was dominated almost entirely by public concerns related to the ZRR; 46 witnesses signed up to testify, and the overwhelming majority spoke to the ZRR. The Committee also received many written comments on the ZRR for the hearing record.

Many concerns center around four provisions of the proposed regulations: (1) allowing an accessory dwelling unit to be added to property as a matter of right; (2) allowing corner stores in certain residential areas; (3) eliminating parking minimums in what will be classified as the most transit-heavy areas of the city; and (4) simplifying provisions relating to overlay districts. Regardless of where members of the public may fall in terms of their agreement or disagreement with the proposals, the volume and level of passion that these proposals have evoked among District residents—including a palpable degree of animosity—is concerning to the Committee. The ZRR has been polarizing, seemingly dividing residents into categories such as pedestrian/bicycle friendly versus car-friendly, older versus younger, existing residents versus

¹³¹ *Office of Planning: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, at 17-18 (Apr. 12, 2013) (written testimony of Harriet Tregoning, Director, Office of Planning) [hereinafter Tregoning 4.12.13 Written Testimony].

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

new residents, and higher-income versus lower-income individuals. In most instances, these perceived divisions are unnecessary. It is OP's duty to diffuse the animosity and divisiveness surrounding this issue. OP can do this by better communicating the details of the ZRR process to the public in the clearest manner possible, and ensuring ample opportunity for public input. This is particularly important given the significant public interest in the ZRR, and its citywide impact.

It is notable—and therefore concerning—that despite the extensive public outreach that OP has conducted on the ZRR, the public still feels as though the agency is not listening. Regardless of the ultimate changes made to the zoning code, it is imperative that through this important process the concerns and voices of District residents be adequately heard and reassured. The Committee believes that OP has room for considerable improvement in this regard. There are still various steps that need to occur, and many more months, before the proposed changes to the zoning regulations will be finalized. These steps include finalizing the draft and submitting it to the Zoning Commission. Set-down by the Zoning Commission is projected for May or June of this year, and Zoning Commission hearings are projected for September or October.¹³⁵ There continues to be opportunities for the public to engage in this process, and it remains the continuing obligation of OP to ensure that the public feels it is being heard.

As another example, the Committee has had concern with OP's level of responsiveness to feedback from the community on the Walter Reed Army Medical Center (WRAMC) Small Area Plan (SAP).¹³⁶ Of the 68 comments that OP received during the public comment period for the SAP—September 14, 2012 through October 31, 2012—not a single comment resulted in any change to the draft SAP.¹³⁷ Director Tregoning testified at the March 26th hearing that because of the extensive planning that surrounded the re-development of the WRAMC site, including the Base Reuse Plan process and the formulation of the SAP, the issues had already been well-vetted, and many comments raised in the past had already been addressed.¹³⁸ However, it was striking to the Committee that the public did not see this, and that not a single modification to the SAP was made after OP received community comment during this most recent phase. Moreover, many of OP's responses to community concerns were so cursory as to be inaccurate. This occurred, for example, when numerous members of the public commented that new residential buildings on Fern Street, NW across from existing residential housing should be limited to 3 stories, when in fact the Base Reuse Plan and the SAP both refer to buildings on Fern Street, NW

¹³⁵ *Office of Zoning: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Mar. 7, 2013) (oral testimony of Anthony J. Hood, Chair, Zoning Commission).

¹³⁶ See PR. 20-105, Walter Reed Army Medical Center Small Area Plan Resolution of 2013 (eff. April 30, 2013).

¹³⁷ OP posted the public comments on its website. See *Walter Reed Army Medical Center Small Area Plan Council Announcement*, DISTRICT OF COLUMBIA OFFICE OF PLANNING, <http://dc.gov/DC/Planning/In+Your+Neighborhood/Wards/Ward+4/Small+Area+Plans+&+Studies/Walter+Reed+Army+Medical+Center+Small+Area+Plan+Council+Announcement>.

¹³⁸ *Office of Planning: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 12, 2013) (oral testimony of Harriet Tregoning, Director, Office of Planning) [hereinafter Tregoning 4.12.13 Oral Testimony].

being limited to 3 stories.¹³⁹ Rather than simply pointing to the provisions in the two plans, OP provided obfuscatory answers that appeared to dismiss the comments, causing further public upset. OP could have replied to the comments in a more clear, sensitive, and accurate manner.

Overall, the Committee is concerned about OP's perceived lack of interest in the views of the community. Perception can be reality. The Committee encourages OP to work to improve its public engagement, responsiveness, and sensitivity.

Historic Homeowner Grant Funding: The Committee has concerns with regard to the agency's capacity to administer funds allocated to the Historic Homeowner Grand Fund. This program, run through OP's Historic Preservation Office, provides grants to low and moderate income households in specific historic districts, enabling homeowners to make improvements to their properties such as exterior repairs, rehabilitation, and structural repairs.¹⁴⁰ Grants are available at a maximum of \$25,000, except for the Anacostia Historic District, where the maximum is \$35,000. Eligible Historic Districts are: Anacostia, Blagden Alley/Naylor Court, Capitol Hill, 14th Street, LeDroit Park, Mount Pleasant, Mount Vernon Triangle, Shaw, Strivers' Section, U Street, and Takoma Park.¹⁴¹

Originally, this program was to sunset by fiscal year 2010. However, the Council removed the sunset provision in the Fiscal Year 2010 Budget Support Act of 2009.¹⁴² Current law states that "[t]he Mayor may expend up to \$1.25 million of appropriated funds for [the purpose of providing such grants] each fiscal year."¹⁴³ Thus, it was envisioned that a much higher amount than current funding should be made available for this grant program during each fiscal year.

This program has seen substantial reduction in the amount of available grant funding. From fiscal year 2006 through fiscal year 2009, the program was budgeted at \$1.25 million annually.¹⁴⁴ OP was able to provide substantial grant funding during this time period. The agency's annual expenditures for the program were \$994,226 in fiscal year 2008 and \$904,229 in fiscal year 2009.¹⁴⁵ While impressive, the grants issued during these periods were still well

¹³⁹ See COUNCIL OF THE DISTRICT OF COLUMBIA, COMMITTEE OF THE WHOLE, DRAFT REPORT ON PR 20-87, WALTER REED ARMY MEDICAL CENTER SMALL AREA PLAN APPROVAL RESOLUTION OF 2013 6-7 (2013) (This report was approved by the Committee of the Whole on April 30, 2013 and is still in draft form pending filing with the Council's Office of the Secretary).

¹⁴⁰ *Historic Preservation Office, Historic Homeowner Grant Program*, DISTRICT OF COLUMBIA OFFICE OF PLANNING, <http://dc.gov/DC/Planning/Historic+Preservation/Preservation+Services/For+Residents/Grants>.

¹⁴¹ *Id.*; see D.C. OFFICIAL CODE § 6-11 10.02 (2012 Supp.).

¹⁴² Fiscal Year 2010 Budget Support Act of 2009, § 2121 (Bill 18-203, D.C. Law 18-111) (eff. March 3, 2010).

¹⁴³ D.C. OFFICIAL CODE § 6-11 10.02(k)(2) (2012 Supp.).

¹⁴⁴ Letter from Harriet Tregoning, Director, Office of Planning to Phil Mendelson, Chairman, Council of the District of Columbia, at 4 (Apr. 4, 2013) [hereinafter 4.4.13 Letter from OP] (on file with the Committee of the Whole).

¹⁴⁵ These figures were provided by the Office of Planning. According to OP, FY 2007 was the first year that the agency received funds for the program, but the funds were received late during that fiscal year. The first grants were issued in FY 2008.

below the authorized level. The funding was reduced significantly starting in fiscal year 2010, when the budget for the program was \$361,000. According to OP, this was the result of citywide budget constraints.¹⁴⁶ The program has continued to see reductions in the fiscal years that have followed, with only \$191,000 proposed for the program for fiscal year 2014.¹⁴⁷

The proposed budget of \$191,000 for this program represents only 15 percent of the statutorily-authorized amount. Any unspent funds carry over to the next fiscal year.¹⁴⁸ At the end of fiscal year 2012, \$131,664 was carried over into the current fiscal year, and those funds are available for new grants in addition to the budgeted amount of \$220,439 for fiscal year 2013.¹⁴⁹ Based on information provided by OP, a substantial portion of the available funds for this program—at least during those fiscal years for which data is available—remains unspent and is carried over into the next fiscal year.¹⁵⁰

**Table BD-B: Office of Planning;
Budget for Historic Homeowner Grant Program; FY 2008-2014
(Non-Lapsing Fund)**

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Available Budget	\$1,250,000	\$1,250,000	\$361,000	\$338,826	\$242,287	\$220,439	\$191,000
Prior FY Carryover	\$0	\$0	\$0	\$0	\$124,921	\$131,664	N/A
Actual Expenditures	\$994,226	\$904,229	\$199,004	\$221,746	\$246,048	\$59,315*	N/A

Source: Office of Planning (dollars are actuals).

*As of April 4, 2013.

Director Tregoning testified that the Historic Homeowner Grant Program is an extremely popular program, and it is OP's goal to spend all of the available funds that it can during a given fiscal year.¹⁵¹ She also testified that when the decision was made to repeal the fiscal year 2010 sunset, OP decided to maintain its support of the program by extending it out over a longer

¹⁴⁶ 4.4.13 Letter from OP, *supra* note 144.

¹⁴⁷ Tregoning 4.12.13 Oral Testimony, *supra* note 138.

¹⁴⁸ Tregoning 4.12.13 Oral Testimony, *supra* note 138; *see also* D.C. OFFICIAL CODE § 6-1110.02(k)(2) (2012 Supp.).

¹⁴⁹ Tregoning 4.12.13 Oral Testimony, *supra* note 138. This figure was updated by the Office of Planning following the April 12th hearing.

¹⁵⁰ According to OP, despite the statutory authorization for the carryover of funds into the next fiscal year, for fiscal years 2007-2010, there were unspent funds at the end of each fiscal year, but the funds were not carried over (budget authority was not given to spend them in the next fiscal year). It is the Committee's understanding that this was rectified beginning with fiscal year 2011.

¹⁵¹ Tregoning 4.12.13 Oral Testimony, *supra* note 138.

period of time—presumably spending less funds each year as a result.¹⁵² The Committee commends OP's support of the program. OP also indicated to the Committee that the fiscal year 2014 budget request for this program is in line with OP's capacity to administer the program. The program is labor-intensive, and requires the agency to process and manage applications and awards, provide guidance to homeowners including how to work with contractors, and make multiple site visits for each grant. However, OP previously managed a much higher budget for this program. With reduced funding and a significant portion of OP's budget for the program not being spent, the Committee is concerned about the availability of this popular program to DC residents.

Making these grant funds available to homeowners who live in the eligible historic districts benefits not only the homeowners themselves, who have an individual interest in making improvements to their property investments, but there are concomitant benefits for the neighborhood when the appearance of particular properties is improved. When blighted properties are improved and historic districts are aesthetically-maintained, historic assets are preserved, property values increase, and the city at large benefits. OP should work to ensure not only that the available resources in this program are sufficient to meet the demand of residents, but that the agency is issuing grants in the most efficient manner possible, so that more residents can receive grants in a given fiscal year and less funds remain unspent.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Office of Planning as proposed by the Mayor with the following modifications:

Technical shifts at the request of the OCFO: A shift of four positions, as a technical correction at the request of the OCFO:

1. Within Comptroller Source Group 11 (Regular Pay – Cont. Full Time), three positions are being shifted to correctly account for the programs where those positions are currently located:
 - a. A reduction of \$91,152.63 in local funds (PS) in Program 2020 (Historic Preservation), and an increase of \$91,152.63 in local funds (PS) in Program 2010 (Development/Zoning Review), in order to shift position number 00044751, Development Review Specialist.

¹⁵² Tregoning 4.12.13 Written Testimony, *supra* note 131, at 3.

- b. A reduction of \$105,261.91 in local funds (PS) in Program 3010 (Neighborhood Planning), and an increase of \$105,261.91 in local funds (PS) in Program 3020 (Revitalization and Design), in order to shift position number 00033984, Community Planner.
 - c. A reduction of \$80,616.68 in local funds (PS) in Program 3020 (Revitalization and Design), and an increase of \$80,616.68 in local funds (PS) in Program 2020 (Historic Preservation), in order to shift position number 00038608, Historic Preservation Specialist.
 2. A reduction of \$80,616.68 in local funds (PS) in Comptroller Source Group 12 (Regular Pay – Other), and an increase of \$80,616.68 in local funds in Comptroller Source Group 11 (Regular Pay – Cont. Full Time), in order to convert position number 00006591, Community Planner, from a term to permanent position.

Policy Recommendations:

1. OP should work harder to improve its responsiveness to community concerns on all of its initiatives, such as small area plans and the Zoning Regulations Review, regardless of policy differences.

OFFICE OF ZONING

Committee Recommendations – See Page 53

V. AGENCY OVERVIEW

The mission of the Office of Zoning (OZ) is to provide administrative, professional, and technical assistance to the Zoning Commission (ZC) and the Board of Zoning Adjustment (BZA) in support of their oversight and adjudication of zoning matters in the District of Columbia.

OZ administers the zoning application process for the ZC and the BZA. The agency accepts applications, schedules hearings to determine whether cases meet specified zoning criteria, schedules meetings to make determinations with respect to pending applications, and issues legal orders. Technology plays a critical role in support of this process by enhancing effectiveness and transparency. OZ also spearheads outreach to citizens of the District of Columbia to ensure a robust understanding of the zoning process.

VI. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹⁵³

The Mayor's fiscal year 2014 budget proposal for OZ is \$2,652, an increase of \$32, or 1.2 percent, above the current fiscal year. The proposed budget supports 19 FTEs, representing no change from the fiscal year 2013 approved level.

**Table BJ-A: Office of Zoning;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	3,102	2,967	3,005	2,485	2,540	2,620	2,652
FTEs	19.0	16.9	18.8	18.8	18.5	19.0	19.0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor's proposed budget is \$2,628, an increase of \$32, or 1.2 percent, above the fiscal year 2013 approved budget of \$2,596. This funding supports 19 FTEs, representing no change from the fiscal year 2013 approved level. The adjustments within the local funds budget include an increase of \$15 in the personal services budget, which includes \$12 for planned salary step increases and \$3 for fringe benefits. There is also an increase of \$1 in the nonpersonal services budget due to the increased need for courier services. OZ will make a reduction in its Zoning Services program of \$9, reducing the agency's reliance on contractual services. In order to streamline operations, OZ will reduce nonpersonal services by \$7 across both of its programs in areas such as supplies, equipment, and printing and duplicating services.

Intra-District Funds: The proposed budget is \$24, representing no change from the fiscal year 2013 approved budget of \$24. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The funding comes from the Office of Planning, and is for audio-visual support for Historic Preservation Review Board hearings.

¹⁵³ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

Mayor's Proposed Fiscal Year 2014 Capital Budget:

The Mayor's proposed capital improvements plan includes \$525,000 for the Office of Zoning over the 6-year plan. The plan authorizes \$175,000 for each year from fiscal year 2014 through fiscal year 2016. This funds the continued, multi-year implementation of a variety of mission-critical information technology systems relating to the zoning regulations, zoning map, and the Interactive Zoning Information System. OZ will use the funds for the technical and legal infrastructure of the new zoning regulations, currently being updated by the Office of Planning as part of the Zoning Regulations Review (ZRR). The funds will also be used for updates to the zoning map, including those that will be necessary based on the passage of the new zoning regulations. Further, the funds will be used for continued implementation of the zoning case management system designed to accept cases filed on-line, allow applicants to respond to requests for additional documentation, and allow the public to track the progress of cases online.

VII. COMMITTEE CONCERNS

Technology Upgrades: OZ has a robust technology improvement program that has already begun and that will continue beyond fiscal year 2014. The formerly paper-based official zoning map for the District has been replaced by a fully-interactive, web-based zoning map which OZ released in FY 2011, and designated as the official District zoning map effective April 13, 2012.¹⁵⁴ There are still plans to further develop the online zoning map, with planned enhancements including the mapping of all pending ZC and BZA cases, expanded search capability to include a single point or lot or contiguous or multiple points or lots, and a 3D visualization tool to assist the ZC and BZA in reviewing the effects of a pending case, such as volume, height, traffic patterns, and shadows cast on existing adjacent properties.¹⁵⁵ Additionally, OZ continues to work toward its goal of paperless operations with improvements to its Interactive Zoning Information System (IZIS). As of FY 2012, OZ has been able to accept online case filings for map amendments, planned unit developments (PUDS), and BZA appeal cases.¹⁵⁶ Over the next several years, OZ plans to expand electronic filings for rulemakings, time extensions and minor modifications of approved PUDS, campus plans, special exceptions, and variances.¹⁵⁷ The steps that OZ has taken to reduce the large amounts of paper copies of documents required to be produced during case processing, in favor of allowing various filings to be handled electronically, has substantially improved the operations of the agency. The Committee encourages the continued transition of OZ's operations into a paperless environment.

¹⁵⁴ Letter from Sara Bardin, Director, Office of Zoning to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Response to Questions Asked by the Committee for Fiscal Year 2012 and 2013 Performance Oversight, at 12 (Feb. 8, 2013) [hereinafter 2.8.13 Letter from OZ] (on file with the Committee of the Whole).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 10.

¹⁵⁷ *Id.*

Once the Office of Planning has finalized the proposed changes to the zoning regulations as part of the Zoning Regulations Review (ZRR), the regulations will be set down before the ZC so that public hearings can be held on the proposed text. Once the final text has been approved and the new and updated zoning regulations are in effect, it will be OZ's job to introduce these new regulations to the public and to implement the necessary changes, technological and substantive, to the zoning map and other documents and publications. At the Committee's April 12, 2013 budget hearing for OZ, Director Bardin testified that it is estimated that OZ could begin this work at the beginning of calendar year 2014.¹⁵⁸ The work will include revisions to the zoning map, changing existing forms and documents, and making improvements to the workflows in IZIS, all of which will require significant internal labor on the part of OZ.¹⁵⁹ All of these planned improvements to OZ's technological infrastructure will be instrumental in implementing the ZRR. The Committee commends OZ on its improvements to technology thus far, and encourages expeditious implementation of the additional upgrades so that the agency is ready for the new zoning regulations.

Performance Indicators: The Committee is concerned with some of OZ's current performance indicators. For example, one of OZ's current Key Performance Indicators is "[p]ercent of zoning certifications completed within 2 weeks."¹⁶⁰ According to OZ, zoning certifications are sought by "[d]evelopers, architects, lawyers, realtors, tax assessors, land owners, and others in the land use business" for purposes of "definitive authentication of zoning classification of property for due diligence purposes or to satisfy a legal requirement," such as for a property settlement or a construction loan.¹⁶¹ A zoning certification is obtained by the above entities in order to have an official, written, notarized recognition of the zoning of a particular property or location.¹⁶² OZ issues zoning certifications on average within three days of a request.¹⁶³ In response to questioning at the Committee's April 12th budget hearing, Director Bardin stated that the agency was looking to change this performance indicator to a five-day target.¹⁶⁴ The Committee encourages revision of this performance indicator. While the Committee recognizes that sometimes considerable research may be required, or volume may be high, the OZ should have a streamlined and efficient process. If the average issuance is three days, the target should not be two weeks. A five-day target is more realistic.

¹⁵⁸ *Office of Zoning: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 12, 2013) (oral testimony of Sara Bardin, Director, Office of Zoning) [hereinafter Bardin 4.12.13 Testimony].

¹⁵⁹ Bardin 4.12.13 Testimony, *supra* note 158.

¹⁶⁰ See 2.8.13 Letter from OZ, *supra* note 154, at Attachment C, at 3.

¹⁶¹ Letter from Sara Bardin, Director, Office of Zoning to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Re: Response to Questions Asked by the Committee for Fiscal Year 2012 and 2013 Performance Oversight, at 5 (Mar. 13, 2013) [hereinafter 3.13.13 Letter from OZ] (on file with the Committee of the Whole).

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ Bardin 4.12.13 Testimony, *supra* note 158.

OZ should reexamine all of its performance indicators to ensure that the indicators are providing appropriate measures for the agency, the Executive, the public, and the Council in assessing OZ's performance over time.

Legal Staff: At the April 12th hearing, Director Bardin stated that summary orders, which are done by OZ staff, are typically issued within three days.¹⁶⁵ For full orders, which are of a more complex nature, Lloyd Jordan, Chairperson of the BZA, stated that the advertised rate for the issuance of such an order is three months, but often it takes much longer.¹⁶⁶ Even three months is a long time. OZ relies on the assistance of the Office of the Attorney General (OAG) for the issuance of the more complex orders. At the April 12th hearing, Director Bardin and Chairperson Jordan stated that the OAG's response on these cases has diminished because an attorney was lost in the previous year.¹⁶⁷ This created a ripple effect on the timeliness of the issuance of such orders.¹⁶⁸ The Committee inquired as to what happened with this attorney position, and Director Bardin responded that "OAG is actively exploring options to add back attorney resources to this section and expects to have a set of options within the next two to three weeks [from April 23, 2013] to discuss with the OZ."¹⁶⁹ The length of time that it is taking for the issuance of full orders is too long. If OZ had the appropriate legal resources at one point in time, and this has been lost, then this needs to be restored. As OZ has indicated to the Committee that its proposed fiscal year 2014 budget is sufficient, the Committee trusts that OZ can engage additional legal staff from the OAG with existing resources. The Committee urges that this be done quickly in order to eliminate the backlog in the issuance of orders, to ensure that full orders are issued in a timely manner, and to strive for the issuance of orders sooner than the advertised rate of three months.

VIII. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Office of Zoning as proposed by the Mayor.

Policy Recommendations:

¹⁶⁵ Bardin 4.12.13 Testimony, *supra* note 158.

¹⁶⁶ *Office of Zoning: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 12, 2013) (oral testimony of Lloyd J. Jordan, Chairperson, Board of Zoning Adjustment) [hereinafter Jordan 4.12.13 Testimony]. Mr. Jordan stated that there is currently one case pending since July 2012.

¹⁶⁷ Bardin 4.12.13 Testimony, *supra* note 158; Jordan 4.12.13 Testimony; *supra* note 166.

¹⁶⁸ Bardin 4.12.13 Testimony, *supra* note 158; Jordan 4.12.13 Testimony; *supra* note 166.

¹⁶⁹ Letter from Sara Bardin, Director, Office of Zoning to Phil Mendelson, Chairman, Council of the District of Columbia, Re: Follow-up to Questions Asked by the Committee at the Fiscal Year 2012 and 2013 Performance Oversight Hearing, at 3 (Apr. 23, 2013) (on file with the Committee of the Whole).

1. The Committee recommends that OZ work to obtain additional legal staff so that full orders can be issued in a more timely manner.
2. The Committee recommends that OZ reevaluate each of its performance indicators to more adequately measure agency performance over time.

DISTRICT OF COLUMBIA RETIREMENT BOARD

Committee Recommendations – See Page 59

I. AGENCY OVERVIEW

The mission of the District of Columbia Retirement Board (DCRB) is to invest prudently the assets of the police officers, firefighters, and teachers of the District of Columbia, while providing those employees with retirement services.

The DCRB is an independent agency that has exclusive authority and discretion to manage and control the District's retirement funds for teachers, police officers, and firefighters (hereinafter referred to as the "Fund") pursuant to D.C. Official Code § 1-711(a). In 2005, the responsibility of administering the teachers', police officers', and firefighters' retirement programs was transferred to the DCRB from the Office of Pay and Retirement Services, a part of the Office of the Chief Financial Officer. The federal government assumed the District's unfunded liability for the retirement plans of teachers, police officers, firefighters, and judges under provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997. Under this law, the federal government pays the retirement benefits and death benefits, and a share of disability payments, for members for years of service earned up to the freeze date of June 30, 1997. The District of Columbia government is responsible for all subsequently earned benefits for the members of the retirement plans.

The DCRB Board of Trustees is comprised of 12 voting trustees: three appointed by the Mayor, three appointed by the Council, and six elected by employee participation groups. The District's Chief Financial Officer, or his designee, serves as a non-voting, ex-officio member of the Board.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹⁷⁰

The Mayor's fiscal year 2014 budget proposal for the DCRB is \$30,338, representing no change from the fiscal year 2013 approved budget of \$30,338. The proposed budget supports 56.2 FTEs, an increase of 4.2 FTEs, or 8.1 percent.

**Table DY-A: District of Columbia Retirement Board;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	20,943	18,212	86,053 ¹⁷¹	100,712	18,621	30,338	30,338
FTEs	44.3	36.9	38.2	42.6	42.0	52.0	56.2

Source: Budget Books (dollars in thousands)

Special Purpose Revenue Funds: The DCRB is funded solely with special purpose revenue funds. The adjustments within the special purpose revenue funds budget include the following increases: \$891 to adjust personal services to cover projected fringe benefits and support 4.2 new FTEs; \$170 in fixed costs to primarily cover increased rental charges, and also telephone and security costs; \$51 in the Equipment and Equipment Rental Comptroller Source Group (CSG) for information technology infrastructure and projects; and \$19 in the Additional Gross Pay CSG to cover potential bonuses.

The proposed budget includes the following decreases: \$717 in the Other Services and Charges CSG due to a reduction in estimated investment fees that are tied to portfolio performance; \$123 in the Contractual Services – Other CSG to correspond with the decreased estimate provided by the U.S. Department of the Treasury for the System to Administer Retirement (STAR), the federal portion of what the DCRB administers; \$120 in the Regular Pay – Other CSG because the agency will no longer budget in this category for compensation for the Funds' Trustees; \$118 in the Supplies and Materials CSG to reflect the actual cost of expenditures; and \$53 in the Overtime Pay CSG due to a reduction in the schedule of planned Data Reclamation and Pension Information Management System projects.

¹⁷⁰ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

¹⁷¹ The budget books for fiscal years 2012 and 2013 erroneously include DCRB's benefit payments as an administrative expense for fiscal years 2010 and 2011, even though they are not budgeted expenses. The figures in the budget books were based on how they were recorded in the Comprehensive Annual Financial Report. DCRB's actual administrative expenditures—or actual operating funds budget—for fiscal year 2010 was \$20,946, and for fiscal year 2011 was \$21,441.

III. COMMITTEE CONCERNS

Technology Improvements: The DCRB is in the early stages of a multi-year Retirement Modernization Program.¹⁷² There are three primary aspects to the program—the first is Business Process Reengineering, which will review the agency’s current paper-based benefits processes and ultimately result in redesigned work flows and standard operating procedures that are more technologically-based and more responsive to customers.¹⁷³ The second primary component is the adoption of a Pension Management Information System (PMIS), an information repository for the agency that will allow for the provision of retirement services for members, including self-service use by members, the integration of data from various systems, and annual benefits statements.¹⁷⁴ Prior to the acquisition of such a system, the DCRB is undertaking a Data Reclamation Project, the third major component of the Retirement Modernization Program.¹⁷⁵ This project is a significant effort. The agency is working with the Office of the Chief Technology Officer, the Department of Human Resources (DCHR), the District of Columbia Public Schools (DCPS), and other stakeholders in order to obtain and collect historical employee data for inclusion in the new PMIS.¹⁷⁶

At the DCRB’s April 18th budget oversight hearing, Executive Director Eric Stanchfield stated that such a modernization program is necessary because the District has never had a central data repository of pension information.¹⁷⁷ Currently, the U.S. Department of the Treasury owns and operates the system for the calculation and payment of benefits for the DCRB’s retirees and their survivors.¹⁷⁸ Thus, implementation of this system—in addition to the benefits that will result from the enhanced technology and improved customer service—will also be important for restoring to the District additional maintenance of the benefits for retirees under the DCRB’s purview. Additionally, transferring over to such a system will align the District with other jurisdictions, which all run paperless benefits systems.¹⁷⁹

The Committee is concerned that at present, the DCRB is not able to comply with its statutory obligation that requires the agency to furnish a benefits statement to any participant or

¹⁷² Letter from Eric Stanchfield, Exec. Dir., District of Columbia Retirement Bd., to Phil Mendelson, Chairman, Council of the District of Columbia, at 12 (Feb. 13, 2013) [hereinafter 2.13.13 Letter from DCRB] (on file with the Committee of the Whole).

¹⁷³ *Id.*

¹⁷⁴ *Id.* at 13. Annual benefits statements are required by law. *See infra* note 180 and accompanying text.

¹⁷⁵ 2.13.13 Letter from DCRB, *supra* note 172 at 12-13.

¹⁷⁶ *Id.*

¹⁷⁷ *District of Columbia Retirement Board: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Eric Stanchfield, Executive Director, District of Columbia Retirement Board) [hereinafter Stanchfield 4.18.13 Oral Testimony].

¹⁷⁸ *District of Columbia Retirement Board: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, at 3 (Apr. 18, 2013) (written testimony of Eric O. Stanchfield, Executive Director, District of Columbia Retirement Board) [hereinafter Stanchfield 4.18.13 Written Testimony].

¹⁷⁹ Stanchfield 4.18.13 Oral Testimony, *supra* note 177.

beneficiary who submits a written request.¹⁸⁰ In a written response to Committee questions, Executive Director Stanchfield stated that at the present time, the DCRB does not have “comprehensive certified electronic data for active employees and, therefore, cannot produce the required benefit statements.”¹⁸¹ At the April 18th hearing, Executive Director Stanchfield testified that each of the steps in the Retirement Modernization Program—Business Process Reengineering, the Data Reclamation Project and PMIS acquisition—need to occur prior to the DCRB’s having the capability to issue these benefits statements in accordance with the law.¹⁸² This is another important reason for the DCRB’s Retirement Modernization Program to move forward expeditiously.

Executive Director Stanchfield also testified that the DCRB is currently assessing different types of PIMS systems for procurement, and a decision on timeframes for implementation will be made in fiscal year 2014.¹⁸³ The Committee encourages this project and recommends that the DCRB complete the initial stages of this process, including working together with the necessary agencies and other stakeholders to collect historic benefits data quickly and efficiently so that the next steps in this important, multi-year project may begin.

Increased Staffing: The DCRB’s proposed budget for fiscal year 2014 includes the addition of 4.2 FTEs, for a total of 56.2 FTEs. This represents a large increase over the fiscal year 2013 approved level of 52.0 FTEs—8.1 percent. Executive Director Stanchfield spoke to the need for additional FTEs at the April 18th hearing, stating that the DCRB is in essence a relatively new agency, because there was no benefits function at the agency until 2005.¹⁸⁴ Prior to that time, the agency was primarily an investment fund.¹⁸⁵ Additionally, over time, the U.S. Department of the Treasury has handed over additional responsibilities to the DCRB, and continues to do so.¹⁸⁶ Executive Director Stanchfield testified that it is for these reasons that the DCRB’s budget is formulated in this way—with extra funds to hire staff as necessary—in order to be prepared to manage the unknowns that go along with maintaining the stability of a new operation.¹⁸⁷ The Committee understands this, and believes that the DCRB has done well with the resources that it has. Thus, the Committee is approving the DCRB’s proposed budget with this increased staffing, with the understanding that resources will be used efficiently, prudently, and in the interests of the beneficiaries of the respective funds managed by the agency.

¹⁸⁰ See D.C. OFFICIAL CODE § 1-735 (2006 Repl.).

¹⁸¹ Letter from Eric Stanchfield, Exec. Dir., District of Columbia Retirement Bd., to Phil Mendelson, Chairman, Council of the District of Columbia, at 12 (Mar. 5, 2013) (on file with the Committee of the Whole).

¹⁸² Stanchfield 4.18.13 Oral Testimony, *supra* note 177.

¹⁸³ Stanchfield 4.18.13 Written Testimony, *supra* note 178.

¹⁸⁴ Stanchfield 4.18.13 Oral Testimony, *supra* note 177.

¹⁸⁵ *District of Columbia Retirement Board: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Michael J. Warren, Trustee, District of Columbia Retirement Board).

¹⁸⁶ Stanchfield 4.18.13 Oral Testimony, *supra* note 177.

¹⁸⁷ Stanchfield 4.18.13 Oral Testimony, *supra* note 177.

Communication: At last year's April 20, 2012 budget oversight hearing for the Police Officers' and Fire Fighters' Retirement System, then under the purview of the Committee on the Judiciary, the DCRB discussed the fact that the agency could do a better job at obtaining current information from agencies, such as the Metropolitan Police Department (MPD) and the Department of Fire and Emergency Medical Services (F&EMS). The currency of information from its constituent agencies affects the DCRB's experience studies as well as the annual determination of District contributions. At that hearing, Joan Passerino, Chief Benefits Officer for the DCRB, testified that when the agency knows of impending changes to actual practices, this information is shared with the DCRB's actuaries, but there could be changes after union bargaining that might impact retirement, which the DCRB might not be immediately aware of.¹⁸⁸ This failure on the part of public agencies to communicate was of concern to the Committee on the Judiciary during the formulation of the fiscal year 2013 budget. Additionally, the DCRB had mentioned that they were working to be involved in potential legislative changes earlier in the process so that they could have the opportunity to weigh in, and also that they were working on ways to have better communication with the District's Office of the Chief Financial Officer. The DCRB agreed to look at ways to systematize its interactions with other agencies in order to have the most thorough, correct, and current information available in making its calculations. The Committee on the Judiciary noted that in managing the pension funds for MPD and FEMS,¹⁸⁹ it is crucial that the DCRB have the most up-to-date information that might affect the funds. That Committee also noted that it was incumbent upon the DCRB to reach out to other agencies in order to foster relationships, and it was also incumbent upon the agencies and the Council to keep the DCRB informed when actions are taken that affect the DCRB and the calculation of the District's contribution to the pension funds.

Since last year, the Committee has seen great improvement in this regard. The DCRB's interactions with stakeholders and other agencies are crucial to the successful completion of the Data Reclamation Project, including the thorough and comprehensive aggregation of historical benefits data in preparation for the acquisition of the PMIS. The Committee is not aware of any communication issues among the necessary agencies for this project—which the DCRB has listed as DCPS, MPD, F&EMS, the Office of the Chief Technology Officer, the Office of Pay and Retirement Services, and DCHR.¹⁹⁰ In fact, Executive Director Stanchfield testified that the collaboration with these agencies has been “exemplary.”¹⁹¹ This is encouraging. Further, the DCRB's interactions with the Committee have been helpful; the DCRB has been available on the front end to discuss the background and any legal issues surrounding pending legislation before the Council. The Committee appreciates this increased effort on the part of the DCRB to have

¹⁸⁸ *Police Officers' and Fire Fighters' Retirement System: Performance Oversight Hearing before the Council of the District of Columbia Committee on the Judiciary* (Apr. 20, 2012) (oral testimony of Joan Passerino, Chief Benefits Officer, District of Columbia Retirement Board).

¹⁸⁹ During Council Period 19, the Police Officers' and Fire Fighters' Retirement System was under the jurisdiction of the Committee on the Judiciary, while the Teachers' Retirement System was under the purview of the Committee of the Whole.

¹⁹⁰ Stanchfield 4.18.13 Written Testimony, *supra* note 178.

¹⁹¹ Stanchfield 4.18.13 Written Testimony, *supra* note 178.

sustained and regular interactions with Executive agencies and the legislature; this results in an overall better system for the District's retired police officers, firefighters, and teachers.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the District of Columbia Retirement Board as proposed by the Mayor.

Policy Recommendations:

1. The Committee recommends that the Retirement Modernization Program proceed expeditiously so that the DCRB can run more efficiently, retirees can be better served, and the agency can come into compliance with all legal requirements.
2. The Committee encourages the DCRB to fill, as necessary, the additional FTE positions being approved within the fiscal year 2014 budget.

POLICE OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Committee Recommendations – See Page 62

V. AGENCY OVERVIEW

The mission of the Police Officers' and Fire Fighters' Retirement System is to provide the District's required contribution as the employer to these two pension funds, which are administered by the District of Columbia Retirement Board (DCRB).

Under provisions of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 ("the Act"), the federal government assumed the District's unfunded pension liability for the retirement plans for teachers, police officers, fire fighters and judges. Pursuant to the Act, the federal government will pay the retirement and death benefits, and a defined share of disability benefits, for employees for service accrued prior to July 1, 1997. The cost for benefits earned after June 30, 1997 is the responsibility of the government of the District of Columbia. This proposed FY 2014 budget reflects the required annual District contribution. Pursuant to D.C. Official Code § 1-907.02(a), the District is required to budget the pension contribution at an amount equal to, or greater than, the amount certified by the DCRB on

the basis of a prescribed actuarial study and formula calculation that is set forth in § 1-907.03. On January 9, 2013, DCRB transmitted the certified contribution for inclusion in the Mayor's FY 2014 proposed budget, and it is reflected in this chapter.

VI. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹⁹²

The Mayor's fiscal year 2014 budget proposal for the Police Officers' and Fire Fighters' Retirement System is \$110,766, an increase of \$14,452, or 15.0 percent, above the fiscal year 2013 approved budget of \$96,314. The proposed budget supports 0 FTEs, representing no change from the current fiscal year.

**Table FD-A: Police Officers' and Fire Fighters' Retirement System;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	137,000	106,000	132,300	127,200	116,700	96,314	110,766
FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: Budget Books (dollars in thousands)

Local Funds: The Police Officers' and Fire Fighters' Retirement System is funded solely with local funds. The increase over the current fiscal year is based on the actuarial report certified by the District of Columbia Retirement Board and transmitted to the Mayor and Council in a January 9, 2013 letter representing the statutorily required annual certification.

VII. COMMITTEE CONCERNS

Fund Contribution Levels: In previous budget cycles, the Committee on the Judiciary, which had oversight over the Police Officers' and Fire Fighters' Retirement System, expressed concern regarding the increases seen over time in the District's contribution to the Police Officers' and Fire Fighters' Retirement Fund (Fund). While there have been slight decreases in the District's contribution to the Fund in some fiscal years, contributions have, on the whole, increased significantly. Between 2001 and 2004, the District's actual contribution ranged from \$47,600 to \$96,700. Between 2005 and 2011, however, the actual amount of the District's contribution to the Fund ranged from \$106,000 at the lowest to \$140,100 at the highest.

¹⁹² The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table FD-B: Police Officers' and Fire Fighters' Retirement System;
Review of District Contributions, Fiscal Years 2001-2014**

Fiscal Year	Actual Contribution	Annual Required Contribution
2001	\$49,000	\$47,400
2002	\$74,600	\$62,800
2003	\$68,900	\$68,900
2004	\$96,700	\$96,200
2005	\$112,100	\$111,600
2006	\$117,500	\$117,500
2007	\$140,100	\$140,100
2008	\$137,000	\$137,000
2009	\$106,000	\$106,000
2010	\$132,300	\$132,300
2011	\$127,200	\$127,200
2012	\$116,700	\$116,700
2013	\$96,300	\$96,300
2014	N/A	\$110,766

Source: D.C. Retirement Board (dollars in thousands)

The consultant for the District of Columbia Retirement Board (DCRB), Cavanaugh MacDonald, explained in a 2011 letter provided to the Committee on the Judiciary that the reasons for the increases since 1998 (when the actual contribution was \$57,300) included an overall increase in payroll of 55 percent from 1998 to 2011.¹⁹³ Thus, contribution dollars had a corresponding increase. Another major reason was poor investment returns experienced by the DCRB, similar to the performance of other U.S. pension plans, from 2000 through 2002 and 2008 through 2009 (asset smoothing spreads the effects of the poor returns over a seven-year period of time). At the Committee's April 18th budget hearing for DCRB, Ed Koebel, the actuary representative from Cavanaugh MacDonald, stated that the Fund, as well as the Teachers' Retirement Fund, will continue to experience smoothing from the 2008 and 2009 fund losses for the next two years.¹⁹⁴

After that period, both funds should experience stabilization, which will be aided by the recent switch to the Entry Age Normal funding policy.¹⁹⁵ The Committee remains concerned regarding recent increases, but recognizes that as a greater percentage of the workforce will be post-June 30, 1997, and as the police and fire payroll grows with inflation, the District's contribution will necessarily grow.

¹⁹³ Letter from Cavanaugh Macdonald Consulting, LLC to Mr. Eric Stanchfield, Exec. Dir., District of Columbia Retirement Bd. (Apr. 14, 2011) (on file with the Committee on the Judiciary).

¹⁹⁴ *District of Columbia Retirement Board: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013 (oral testimony of Ed Koebel, Actuary, Cavanaugh MacDonald Consulting, LLC).

¹⁹⁵ See the section of this report on the Teachers' Retirement System, beginning on page 63, describing the recent change to the law authorizing the Entry Age Normal funding method in place of the former Aggregate Cost method.

Table FD-C: Teachers' Retirement Fund; Police Officers' and Fire Fighters' Retirement Fund; and Total Certified District Contribution Amounts – Fiscal Year 2014*

Retirement Fund	Normal Contribution Amount
Teacher's Retirement Fund	\$31,636
Police Officers' and Fire Fighters' Retirement Fund	\$110,766
Total FY 2014 District Contribution	\$142,402

*Source: D.C. Retirement Board (*dollars in thousands)*

At the March 12, 2013 performance oversight hearing for DCRB, Executive Director Eric Stanchfield testified that the Police Officers' and Fire Fighters' Retirement Fund is currently 110.1 percent funded.¹⁹⁶ This Fund has a better funding ratio than that of the Teachers' Retirement Fund, which is currently at 94.4 percent and is expected to dip below 90 percent over the next two years. For the Police Officers' and Fire Fighters' Fund, on the other hand, DCRB's actuary testified at the April 18th budget hearing that based on the actuarial 30-year projection study currently being conducted, the Fund should stay over 100 percent funded over the 30-year period. The Committee is encouraged by this finding, as it is important to have sufficient assets in the Fund to pay current and future liabilities.

VIII. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Police Officers' and Fire Fighters' Retirement System as proposed by the Mayor.

Policy Recommendations:

1. Ensure that the funding ratio for the Police Officers' and Firefighters' Retirement System stays at or over 100 percent.
2. Ensure that the District's contribution to the fund avoids disproportionately large increases from time to time as has occurred in the past.

¹⁹⁶ *District of Columbia Retirement Board: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 18, 2013) (oral testimony of Eric Stanchfield, Executive Director, District of Columbia Retirement Board).

TEACHERS' RETIREMENT SYSTEM

Committee Recommendations – See Page 67

I. AGENCY OVERVIEW

The Teachers' Retirement System provides the District's required contribution to this retirement plan, which is administered by the District of Columbia Retirement Board (DCRB).

Under provisions of the Police Officers, Firefighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 ("the Act"), the federal government assumed the District's unfunded pension liability for the retirement plans for teachers, police officers, firefighters and judges. Pursuant to the Act, the federal government will pay the retirement and death benefits, and a defined share of disability benefits, for employees for service accrued prior to July 1, 1997. The costs for benefits earned after June 30, 1997 are the responsibility of the District government. The Mayor's proposed budget reflects the required annual District contribution to fund these earned benefits. Pursuant to D.C. Official Code § 1-907.02(a), the District is required to budget the pension contribution at an amount equal to, or greater than, the amount certified by the DCRB on the basis of a prescribed actuarial study and formula calculation that is set forth in § 1-907.03. On January 9, 2013, the DCRB transmitted the certified contribution for inclusion in the Mayor's FY 2014 proposed budget as reflected in this chapter.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:¹⁹⁷

The Mayor's fiscal year 2014 budget proposal for the Teachers' Retirement System is \$31,636, an increase of \$25,229, or 393.8 percent, above the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the current fiscal year.

¹⁹⁷ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table GX0-A: Teachers' Retirement System;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	5,964	-3	3,000	3,000	3,000	6,407	31,636
FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: Budget Books (dollars in thousands)

Local Funds: The Teachers' Retirement System is funded solely with local funds. The adjustments within the local funds budget include an increase of \$25,229 based on the DCRB's actuarial certification of January 9, 2013.¹⁹⁸

III. COMMITTEE CONCERNS

Funded Ratio: At the Committee's March 12, 2013 performance oversight hearing for the DCRB, Ed Koebel, an actuary representative from Cavanaugh MacDonald, the DCRB's enrolled actuary, testified that the Teachers' Retirement Fund (Fund) was 94.4 percent funded.¹⁹⁹ He stated that the goal is to increase this ratio to 100 percent, which will be possible since the recent Council passage of a law changing the funding method used by the actuary in calculating the District's retirement contribution, discussed below.

In the Fiscal Year 2013 Budget Support Act of 2012, the Council amended the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 to require that the enrolled actuary use the Entry Age Normal funding method rather than the previous Aggregate Cost method in calculating the District's annual required contribution to the retirement funds for police officers, fire fighters, and teachers.²⁰⁰ There were several reasons for adoption of the Entry Age Normal funding method over the former Aggregate Cost method. First, the Entry Age Normal funding method is the method most commonly used in the public

¹⁹⁸ The proposed fiscal year 2014 budget for the Teachers' Retirement System increases significantly over the fiscal year 2013 approved amount as a result of the switch to the Entry Age Normal funding method that occurred last year, which requires that at least the normal cost be funded. Additionally, according to DCRB, the increase is also the result of teacher salary increases that recently went into effect and which were retroactive, as well as the system still recognizing smoothing effects from the economic losses of 2008-2009.

¹⁹⁹ *District of Columbia Retirement Board: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Mar. 12, 2013) (oral testimony of Ed Koebel, Actuary, Cavanaugh MacDonald Consulting, LLC) [hereinafter Koebel 3.12.13 Oral Testimony].

²⁰⁰ See Fiscal Year 2013 Budget Support Act of 2012, § 1062 (Bill 19-743, D.C. Law 19-168) (eff. Sept. 20, 2012); see also District of Columbia Retirement Board Actuarial Method Amendment Act of 2010 (Bill 18-477) (This legislation was marked up by the Committee on Government Operations on January 21, 2010, but the bill was tabled at first reading on March 2, 2010).

sector.²⁰¹ Second, benefits to using Entry Age Normal include the fact that the annual benefit cost (the normal cost) is determined and explicitly funded,²⁰² and yearly changes to the District contribution are typically smaller, resulting in less fund volatility.²⁰³ Because the Entry Age Normal method provides for a defined unfunded accrued liability, the method allows for greater flexibility in amortizing the liabilities of the plans.²⁰⁴ When amortization can be spread out over a longer period of time, the pattern of the District's contribution rate is smoother—and less volatile—because any gains or losses are smoothed out over a longer, more gradual period of time rather than showing up as sharp increases or decreases on a yearly basis.²⁰⁵

At the Committee's March 12th performance oversight hearing, Mr. Koebel testified that with the switch to the Entry Age Normal funding method, the unfunded accrued liability, which is paid over time in a way similar to a mortgage, will eventually decrease and the funding ratio for the Fund should rise to 100 percent within a 20 year period.²⁰⁶ In recent years, the Fund was overfunded, and the District did not need to make any payments from the Fund.²⁰⁷ However, the District's contribution for FY 2014 is going up almost 394 percent. The Entry Age Normal method minimizes such spikes. It also ensures that the normal cost is paid each year, so rather than the District paying out \$0 to the fund in any given year, at least the normal cost will always be paid, serving as a floor.²⁰⁸ Mr. Koebel noted that this is the better method for budgeting cost, and is the better strategy long-term.²⁰⁹

At the Committee's April 18th budget hearing, Mr. Koebel described some of the findings of the 30-year projection study that the actuary is currently undertaking for the DCRB. He stated

²⁰¹ Letter from Eric O. Stanchfield, Exec. Dir., District of Columbia Retirement Bd., to Councilmember Carol Schwartz, Encl. 2 (Jul. 3, 2008) [hereinafter DCRB 7.3.08 Letter] (on file with the Committee of the Whole) ("The entry age normal funding method is the most commonly used funding method by public sector employers."); see also Bill 18-447, *District of Columbia Retirement Board Actuarial Amendment Act of 2010: Hearing before the Council of the District of Columbia Committee on Government Operations and the Environment* 2 (Nov. 24, 2009) (written testimony of Greg Stump, Vice President/Consulting Actuary, EFI Actuaries) [hereinafter Stump 11.24.09 Testimony] (describing that "the vast majority of public pension plans that provide benefits based on final average pay use the Entry Age Normal method to determine contributions to their pension funds," and that to his knowledge at that time only 2 other states used the Aggregate Cost method); Letter from Shiela Morgan-Johnson, Acting Exec. Dir., District of Columbia Retirement Bd. to Phil Mendelson, Chairman, Committee on the Judiciary, Re: Police Officers' and Fire Fighters' Retirement System, Fiscal Year 2011 and 2012 Performance Oversight, at Attachment 2, at 2 (Feb. 21, 2012) (stating that the Entry Age Normal method "is used by 70-80% of public retirement systems.").

²⁰² See Stump 11.24.09 Testimony, *supra* note 201.

²⁰³ *Id.*; see also DCRB 7.3.08 Letter, *supra* note 187, at 2 (stating that the Entry Age Normal plan "provides for a smoother, less volatile contribution pattern.").

²⁰⁴ DCRB 7.3.08 Letter, *supra* note 201.

²⁰⁵ DCRB 7.3.08 Letter, *supra* note 201.

²⁰⁶ Koebel 3.12.13 Oral Testimony, *supra* note 199.

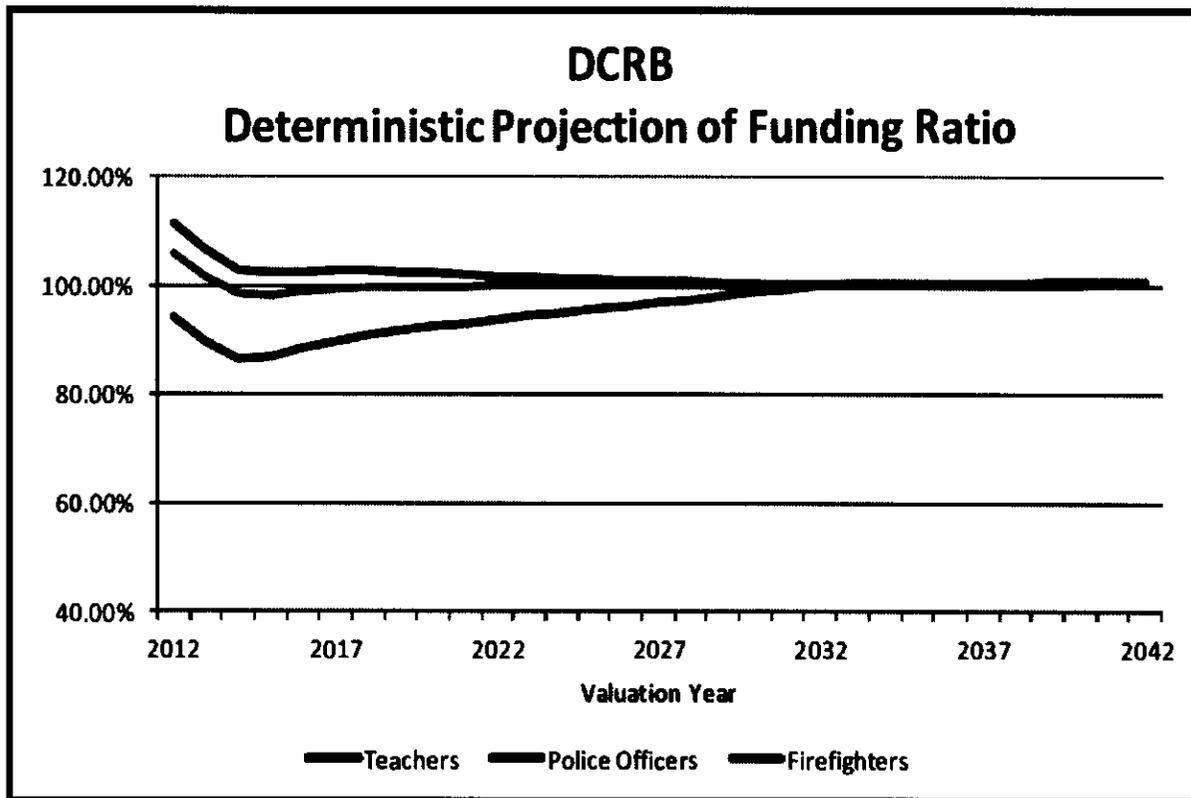
²⁰⁷ Koebel 3.12.13 Oral Testimony, *supra* note 199.

²⁰⁸ Koebel 3.12.13 Oral Testimony, *supra* note 199; *District of Columbia Retirement Board: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, Apr. 18, 2013 (oral testimony of Ed Koebel, Actuary, Cavanaugh MacDonald Consulting, LLC) [hereinafter Koebel 4.18.13 Oral Testimony].

²⁰⁹ Koebel 3.12.13 Oral Testimony, *supra* note 199.

that for the next two years, the funding ratio will continue to decrease, and is projected to reach below 90 percent.²¹⁰ Because of the switch to Entry Age Normal, however, he reiterated that by 2032, the funding ratio should be at 100 percent.²¹¹ It is of some concern to the Committee that the current funded ratio for the Teachers' Retirement System is at 94 percent, but the Committee is encouraged by the testimony of the actuary that it is normal for similar plans to fall below 100 percent of funding, and this does not mean that the Fund is under-funded, because the average is taken over a 20-year period.²¹² According to the actuary, compared with other jurisdictions, the District's level of unfunded accrued liability for the Fund, currently around \$95 million based on the 2012 valuation, is small.²¹³

**Table GX0-B: Actuarial 30-Year Projection Study:
 Funding Ratio for the Teachers,' Police Officers,' and Fire Fighters' Funds**



Source: CAVANAUGH MACDONALD CONSULTING, LLC, THE DISTRICT OF COLUMBIA RETIREMENT BOARD 2012 PROJECTION STUDY 13 (2013) (on file with the Committee of the Whole).

²¹⁰ Koebel 4.18.13 Oral Testimony, *supra* note 208.

²¹¹ Koebel 4.18.13 Oral Testimony, *supra* note 208.

²¹² Koebel 4.18.13 Oral Testimony, *supra* note 208.

²¹³ Koebel 4.18.13 Oral Testimony, *supra* note 208.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Teachers' Retirement System as proposed by the Mayor.

Policy Recommendations:

1. Work toward the goal of 100% funding (zero unfunded liability) in the Teachers' Retirement Fund.
2. Rather than having overfunding for a period and then underfunding for a period, work to ensure a more consistent funding ratio.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

Committee Recommendations – See Page 81

I. AGENCY OVERVIEW

The University of the District of Columbia (UDC) is an urban land grant institution of higher education. Through its community college, flagship, and graduate schools, UDC offers affordable post-secondary education to District of Columbia residents at the certificate, baccalaureate, and graduate levels. These programs prepare students for immediate entry into the workforce, the next level of education, specialized employment opportunities, and life-long learning.

The University is governed by a board of trustees comprised of 15 members, 11 of whom are appointed by the Mayor (with the advice and consent of the Council), one who is a full-time student in good-standing at the University, and three who have either graduated from the University of the District of Columbia or one of its predecessors.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:²¹⁴

The Mayor's fiscal year 2014 budget proposal for the University of the District of Columbia is \$153,850, a decrease of 15,420, or 9.1 percent, from the current fiscal year. The proposed budget supports 948.4 FTEs, a decrease of 142.3 FTEs, or 13.0 percent from the fiscal year 2013 approved budget.

**Table GF-A: University of the District of Columbia;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	107,968	124,949	129,951	148,012	151,407	169,270	153,850
FTEs	1655.5	812.4	1192.99	1205.7	1102.0	1090.7	948.4

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a local funds budget of \$66,691, representing an increase of \$1,736, or 2.7 percent, from the fiscal year 2013 approved budget of \$64,955. This funding supports 523 FTEs, a decrease of 40 FTEs, or 7.1 percent, from the fiscal year 2013 approved level. The adjustments within the local funds budget include: a University-wide reduction in force; an increase in nonpersonal service funds for projected energy, telecomm, and rental building costs; and an increase of personal services to support the growth of the Community College.

Special Purpose Revenue Funds: The Mayor has proposed a budget of \$53,157, representing an increase of \$2,936, or 5.8 percent, above the fiscal year 2013 approved budget of \$50,221. This funding supports 237.3 FTEs, a decrease of 53.3 FTEs, or 18.3 percent, from the fiscal year 2013 approved budget. The adjustments within the special purpose revenue funds budget include: a decrease of \$607 and 53.3 FTEs due to a reduction in force needed to realign the budget; and an increase of \$3,543 needed to support projected costs in supplies and materials.

Federal Resources: The Mayor has proposed a budget of \$31,527, representing a decrease of \$19,521, or 38.2 percent, from the fiscal year 2013 approved budget of \$51,048. This funding supports 166.2 FTEs, a decrease of 35.1 FTEs, or 17.5 percent, from the fiscal year

²¹⁴ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

2013 approved budget. The adjustments within the federal resources budget include a decrease of \$19,521 to reflect the administrative reclassification of the Direct Loan Program.

Private Grant Funds: The Mayor has proposed a budget of \$2,476, representing a decrease of \$571, or 18.8 percent, from the fiscal year 2013 approved budget of \$3,047. This funding supports 21.9 FTEs, a decrease of 13.9 FTEs, or 38.7 percent, from the fiscal year 2013 approved budget. The adjustments within the private grant funds budget include a decrease of \$571 and 13.9 FTEs due to the expiration of several grants, including the Capital Health Careers, Tidewater Community College, and Wal-Mart programs.

Mayor's Proposed Fiscal Year 2014 Capital Budget:

The Mayor's proposed capital budget authority for the University of the District of Columbia includes \$70,234 for fiscal years 2014-2019. This is a net decrease of \$68,558 over the next six years.²¹⁵ Because of this decrease, UDC must reevaluate what capital projects it will. Currently, UDC is planning to do the following in the upcoming year: complete its new student center; pursue upgrades to its electrical and mechanical systems; complete the upgrade of its architectural and engineering labs, as well as an upgrade to the College of Agriculture, Urban Sustainability, and Environmental Sciences kitchen; and continue renovations to the Backus campus.²¹⁶ However, this list will most likely be shortened due to the projected decrease in the University's capital budget.

III. COMMITTEE CONCERNS

Governance: Over the past year, governance of the University has become increasingly concerning. In 2008, the Board appointed Dr. Allen Sessoms as president of the University and tasked him with the responsibility of rebuilding the University's reputation.²¹⁷ During his tenure, Dr. Sessoms oversaw the creation of the UDC-Community College and worked to raise the admission standards for entrance into UDC's four-year flagship institution.²¹⁸ However, scandal and controversy—allegations of extravagant travel charges and protests over a proposed tuition

²¹⁵ UDC's capital budget is being decreased as follows: in fiscal year 2014 by \$5.66 million; in fiscal year 2015 by \$12.37 million; in fiscal year 2016 by \$26.49 million; in fiscal year 2017 by \$40.66 million. In fiscal year 2018, its capital budget is being increased by \$7.31 million, and in fiscal year 2019, it is being increased by \$9.31 million.

²¹⁶ *University of the District of Columbia: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Apr. 19, 2013) (oral testimony of Barbara Jumper, Vice President for Facilities, Construction Management, and Public Safety, University of the District of Columbia).

²¹⁷ Nick Anderson, *UDC Board Votes to Fire President Sessoms*, WASH. POST, Dec. 19, 2011, http://www.washingtonpost.com/local/education/udc-board-votes-to-fire-president-sessoms/2012/12/19/24f3201a-4a1b-11e2-b6f0-e851e741d196_story.html

²¹⁸ *Id.*

increase—also plagued his term,²¹⁹ as did concerns about University spending, morale, and enrollment. As a consequence, the UDC Board of Trustees removed Dr. Sessoms on December 19, 2012.²²⁰ Such an action was highly unusual since it occurred in the middle of the school year, and without the immediate identification of an interim President.²²¹

For three months the University operated without an interim president, as interim President Dr. James Lyons did not assume his role until March 20, 2013.²²² While the Committee defers to the Board's decision to terminate Dr. Sessoms, the Committee is concerned about the Board's handling of the termination. In order to maintain stability, the Board should have identified, or at least started the process of identifying, an interim President before announcing Dr. Sessoms' termination. This timing meant that the Board's decision to proceed with a reduction in force²²³ (in response to Council pressure) caused uncertainty and angst amongst faculty and staff, which in turn has affected the morale at the University. Further, because Dr. Sessoms' firing was done very publicly, this may affect the ability to recruit highly qualified candidates for the position.

The Committee is optimistic that Dr. Lyons will stabilize the University and be able to navigate UDC successfully through the proposed right-sizing. In order for the University to prosper, the Committee believes that the right-sizing needs to be completed under Dr. Lyons so that a new president may enter UDC with a fresh start. According to UDC, the Board plans to begin searching for the new President in the fall of 2013 and hopes to appoint him or her during the 2013-2014 academic year.²²⁴ The Committee supports this timeline with the assumption that

²¹⁹ Will Sommer, *UDC President Allen Sessoms Ousted by Board*, WASH. CITY PAPER (Dec. 19, 2012, 11:55 PM), <http://www.washingtoncitypaper.com/blogs/citydesk/2012/12/19/udc-president-allen-sessoms-ousted-by-board/>. In addition to these more public issues, Dr. Sessoms also struggled to establish a relationship with UDC faculty, resulting in a tense relationship between faculty and the UDC administration.

²²⁰ Press Release, University of the District of Columbia, National Search Underway for New University Leadership (Dec. 19, 2012), available at http://www.udc.edu/news/national_search_underway_for_new_udc_leadership. [hereinafter UDC 12.19.12 Press Release]. According to the Board, its decision was driven by its desire to move the University in a different direction in order to right-size the institution. *Id.*

²²¹ While the Board worked to identify an interim president, it tasked Chief Operating Officer Dr. Rachel Petty with oversight over the daily operations of the University. *Dr. Rachel Petty to Oversee UDC Day-to-Day Operations*, WJLA (Dec. 21, 2012, 10:55 a.m.), <http://www.wjla.com/articles/2012/12/dr-rachel-petty-to-oversee-udc-day-to-day-operations-83350.html>.

²²² Notably, the Board announced that it would identify an interim President by mid-January 2013. UDC 12.19.12 Press Release, *supra* note 220. The Board, however, did not name Dr. James Lyons as the interim President until March 14, 2013. Mike DeBonis, *James E. Lyons Sr. is UDC's Interim President*, WASH. POST (Mar. 14, 2013, 7:19 PM), <http://www.washingtonpost.com/blogs/mike-debonis/wp/2013/03/14/james-e-lyons-sr-is-udcs-interim-president/>.

²²³ See Nick Anderson, *UDC Cuts Nearly 100 Positions*, WASH. POST, Jan. 25, 2013, <http://www.washingtonpost.com>

[/local/education/udc-cuts-nearly-100-positions/2013/01/25/c9dcc142-66fb-11e2-85f5-a8a9228e55e7_story.html](http://www.washingtonpost.com/local/education/udc-cuts-nearly-100-positions/2013/01/25/c9dcc142-66fb-11e2-85f5-a8a9228e55e7_story.html). Dr. Petty carried out these eliminations.

²²⁴ Letter from Dr. Rachel M. Petty, Chief Operating Officer, the University of the District of Columbia, to Phil Mendelson, Chairman, Council of the District of Columbia, at 12 (Mar. 7, 2013) (on file with the Committee of the Whole).

it provides Dr. Lyons with enough time to complete the right-sizing. Expecting the new president to complete the right-sizing may limit the Board's ability to find a highly qualified candidate, as many individuals may not be willing to undertake such a task. Instead, the new president should have the opportunity, and most likely would expect, to begin rebuilding the University and should not have to continue to handle the University's past problems and mistakes.

Right-sizing: Over the past six years, the Council has provided UDC with a subsidy totaling over \$60 million dollars annually. Despite this subsidy, UDC has continued to struggle to manage properly its finances. Yet, the subsidy markedly exceeds that received by peer institutions,²²⁵ According to a study done by Attain Consulting, UDC had an appropriation of \$16,785 per full-time equivalent student (FTE) during the 2009-2010 academic year, the highest of any other peer institution analyzed in the study.²²⁶ During the same academic year, UDC spent \$34,684 per FTE student, approximately 60 percent more than the average spent by its peers.²²⁷ Additionally, UDC has overspent its budget for the past three years, resulting in a depletion of its unrestricted net reserves.²²⁸

²²⁵ See UNIVERSITY OF THE DISTRICT OF COLUMBIA COMMUNITY COLLEGE TRANSITION TO INDEPENDENCE ADVISORY BOARD, TRANSITION PLAN FOR AN INDEPENDENT D.C. COMMUNITY COLLEGE 20 (Sept. 2012) [hereinafter COMMUNITY COLLEGE TRANSITION PLAN].

²²⁶ See *id.* (discussing the Attain study, which was completed for the UDC-CC Transition to Independence Advisory Board). Seventeen peer institutions were reviewed by Attain, including public masters institutions of similar size and competitors of UDC. *Id.* The median appropriation among these 17 institutions was \$7,500 per FTE student for the 2009-2010 academic year. *Id.*

²²⁷ *Id.*

²²⁸ *Id.* Generally, an institution of similar size has over 50 million dollars in its reserves. *Id.* As of September 2012, UDC's reserve was whittled down to \$12.8 million, of which \$4.8 million was restricted to the support of the new student center. *Id.* Thus, UDC only had approximately eight million in its reserves.

**Table GF-B: University of the District of Columbia;
 District Subsidy Payments: FY 2008 – FY 2014 (Proposed)²²⁹**

Fiscal Year	District Subsidy	Total UDC Budget	Percent of UDC Budget from District Subsidy
2008	\$62,770	\$107,968	58.14%
2009	\$62,070	\$124,949	49.68%
2010	\$62,070	\$129,951	47.76%
2011	\$66,420	\$148,012	44.87%
2012	\$67,362	\$151,407	44.49%
2013	\$64,955	\$169,270	38.37%
2014	\$66,691	\$153,850	43.35%

Source: Budget Books and the Chief Financial Officer for the University of the District of Columbia.

Given the perilous state of UDC’s finances, the Council mandated last year that the University undertake a right-sizing in order to bring its spending, staff, and faculty size more in line with that of its peer institutions.²³⁰ Specifically, the Council required UDC to submit a Board-approved right-sizing plan to the Council by October 1, 2012, and outlined the following seven items to be included in the plan:²³¹

²²⁹ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars. For fiscal years 2008-2012 the amounts reflected are the actuals spent by the UDC during that fiscal year. For fiscal year 2013, the amount reflected is the approved budget amount, and for fiscal year 2014, the amount reflected is the proposed budget amount.

²³⁰ Title IV.D. of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

²³¹ *Id.*

1. A vision for UDC that explains its mission, roles, responsibilities, and scope of the flagship, the community college, and the law school, and how they relate to each other;
2. An enrollment plan that sets forth reasonable enrollment projections for the next five years based on recent enrollment trends and includes an analysis of potential student demand for the flagship and community college;
3. An analysis of all academic programs that identifies under-enrolled and under-performing programs and an associated timeline and plan for improving or eliminating those programs;
4. A compensation market analysis to determine appropriate compensation levels for staff and faculty and a strategy and timeline to bring salaries and wages in line with these levels;
5. An analysis of current and planned facilities and a revised capital spending plan that reflects the University's actual enrollment size and realistic enrollment projections;
6. A tuition analysis and timeline to bring tuition more in line with actual costs associated with a student's education, with particular emphasis on the non-District resident tuition rates, including the metro-area resident rate; and
7. A staff and faculty reduction strategy and timeline, including an assessment of the initial and subsequent budgetary impacts of implementing this strategy.

While UDC complied with submitting a document by October 1st, the right-sizing plan that the University submitted to the Council drew outcries from the public, faculty, staff, and students.²³² Besides disagreements on the substance, many argued that the plan was not thorough. Due to this response, the Board decided to reconsider the right-sizing plan and set out to develop a revised plan. Yet, as of the performance and budget oversight hearings on March 12, 2013 and April 19, 2013, respectively, UDC had not put forth a new right-sizing plan. When the Committee asked the University to provide it with a copy of the revised plan, the University sent the Committee a report entitled, "2020 Vision: A Roadmap for Renewal, Innovation, Success, and Sustainability." According to this report, the University "will complete [its] comprehensive review of the seven areas identified [in D.C. Law 19-168, and as outlined above] and present a sound response at the conclusion of the Strategic Planning Process in June 2013."²³³ Based on this response, the Committee assumed that it would receive UDC's revised right-sizing plan by June 2013. However, at UDC's April 19th budget oversight hearing, the

²³² On October 11, 2012, the Committee on Jobs and Workforce Development held an oversight hearing on the submitted plan, and over 120 witnesses signed up to testify about their concerns with the plan. Due to the enormous interest in this oversight hearing, it was recessed until October 22, 2012, at which time President Sessoms and Dr. Crider, Chairman of the UDC Board of Trustees, testified about the proposed right-sizing plan. During the fall of 2012, UDC was under the purview of the Committee on Jobs and Workforce Development. It was not placed back under the Committee of the Whole until the beginning of Council Period 20.

²³³ UNIVERSITY OF THE DISTRICT OF COLUMBIA, 2020 VISION: A ROADMAP FOR RENEWAL, INNOVATION, SUCCESS, AND SUSTAINABILITY 2 (2013).

University indicated that the strategic/right-sizing plan would not be complete until August 31, 2013.²³⁴

These delays concern the Committee. When the Council mandated the right-sizing last spring, it did so with the expectation that UDC would begin to implement its plan during fiscal year 2013.²³⁵ If the University sticks to its current timeline, the University will not finish implementation until sometime in fiscal year 2014. The Committee understands that time and thoroughness are needed to craft a comprehensive right-sizing plan, but time is of the essence. Each delay in this process leads to greater debt by the University, continued waste of resources, and prolonged instability. The University will not be able to subsist if this continues.

In order for both the flagship and the Community College to succeed, a right-sizing must occur, and the Committee believes that implementation of the next steps of the process must begin before the end of the calendar year. Continual delays are not an option. Thus, the Committee expects UDC to complete its right-sizing plan and to deliver it to the Council by August 31, 2013. Additionally, the Committee anticipates that implementation of the next steps will begin by October 1, 2013.

Enrollment: Moving forward, UDC must address its stagnant enrollment. Since 2000, UDC's overall enrollment has remained relatively flat. When the Community College opened in 2009, the total enrollment did not substantively increase, as students who would have attended the flagship simply moved over to the Community College. Over the past four years, although the Community College's enrollment has grown, the flagship's enrollment has seen a steady decline, with little net change to the total enrollment.

While the Committee is pleased with the enrollment growth at the Community College, the Committee is concerned with the declining enrollment at UDC's flagship campus. When the Committee questioned the University about this decline, UDC responded that the flagship's decline is attributed to the fact that students who would have attended the flagship have now chosen to attend the Community College.²³⁶ The Committee understands that the initial opening of the Community College may have caused a dip in the flagship enrollment, but over the past four years, the Committee would have expected the University to develop a strategy to overcome this. In essence, UDC has simply competed with itself and not found ways to attract students to the flagship who have chosen to attend other comparable four-year institutions.

²³⁴ *University of the District of Columbia: Budget Oversight Hearing before the Council of the District of Columbia Committee of the Whole*, at 19 (Apr. 19, 2013) (written powerpoint presentation of Dr. James Lyons, Interim President, University of the District of Columbia).

²³⁵ See Sec. 4032 of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

²³⁶ *University of the District of Columbia: Performance Oversight Hearing before the Council of the District of Columbia Committee of the Whole* (Mar. 12, 2013) (oral testimony of Dr. Ken Bain, Provost and Vice President for Academic Affairs, University of the District of Columbia and Dr. Rachel Petty, Chief Operating Officer, University of the District of Columbia).

**Table GF-C: University of the District of Columbia;
 Historical Enrollment Data: 2000-2013**

Term	UDC-Flagship	UDC-Community College	Total
Fall 2000	5,430		5,430
Fall 2001	5,534		5,534
Fall 2002	5,602		5,602
Fall 2003	5,398		5,398
Fall 2004	5,393		5,393
Fall 2005	5,602		5,602
Fall 2006	5,367		5,367
Fall 2007	5,172		5,172
Fall 2008	4,959		4,959
Fall 2009	3,481	1,779	5,260
Fall 2010	3,180	2,675	5,855
Fall 2011	2,757	2,529	5,286
Fall 2012	2,652	2,838	5,490

Source: University of the District of Columbia March 26, 2013 Follow-up to Performance Oversight Hearing.

In order for the flagship to survive, this must change. The flagship and the Community College are two different entities, offering two different services. Instead of viewing the Community College as competition for students, it should be seen as another source of growth for the flagship—graduating students from the Community College should be encouraged to attend the flagship in order to pursue a Bachelor’s degree. Simultaneously, the flagship needs to focus on recruiting students who transfer from other four-year institutions, first-time college freshmen, and graduates from other community colleges.

As part of its right-sizing mandate, the Council instructed UDC to set forth an enrollment plan containing reasonable enrollment projections for the next five years.²³⁷ While UDC did put forth an initial plan, it stated in October that it would develop a more comprehensive enrollment plan within the next three months.²³⁸ This has not occurred. Since the enrollment plan was supposed to be a part of UDC’s right-sizing plan, the Committee expects that the University will include this comprehensive plan along with the right-sizing plan that it intends to finish by August 31, 2013. The Committee believes it reasonable to expect the enrollment plan to set forth

²³⁷ Sec. 4032 of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

²³⁸ BOARD OF TRUSTEES OF UNIVERSITY OF THE DISTRICT OF COLUMBIA, UNIVERSITY OF THE DISTRICT OF COLUMBIA RIGHT-SIZING PLAN 8-9 (2012) [hereinafter 10.1.12 RIGHT-SIZING PLAN].

strategies for increasing the flagship's enrollment by at least three percent annually²³⁹ over the next five years (which would return the flagship's enrollment near to its 2010 level—far short of earlier enrollments). Additionally, the Committee expects the enrollment plan to address ways to continue to increase the Community College's enrollment so that both institutions are making reasonable progress in the coming years.

Tuition: In addition to an enrollment plan, the Council directed UDC to develop a tuition analysis and timeline as part of the University's right-sizing plan.²⁴⁰ Specifically, the Council wanted the tuition analysis to address how to align tuition rates with the per-student cost and wanted the University to evaluate the tuition rate for non-resident and metro-area resident students.²⁴¹ In its October 1, 2012 right-sizing plan, the University indicated that for fiscal year 2013 the University had already raised tuition across the board, including tuition for non-residents and metro-area residents.²⁴² Moreover, for the undergraduate and graduate students attending the flagship and for students attending the Community College, the Board approved a future annual rate increase of the Consumer Price Index + 1%.²⁴³ Given these increases, the Board felt that any further increase at this time would be detrimental to the University, for it believed that it was vital to the success of the University that it remains affordable, especially for non-District residents.²⁴⁴ Thus, the Board chose not to examine tuition or to provide a timeline beyond the future annual rate increases it approved during fiscal year 2012.

At UDC's April 19th budget hearing, the Committee asked UDC to consider a tuition increase during the next academic year as a means to offset the additional \$4.2 million budget enhancement that UDC requested.²⁴⁵ In its May 3, 2013 follow-up to the budget oversight hearing, UDC responded that it would not raise tuition for the 2013-2014 academic year because "any sharp increase in tuition rates is closely correlated with a subsequent decrease in enrollment among the affected student population [and] due to the resultant decrease in enrollment, the revenue target that the rate hikes were premised upon is not achieved."²⁴⁶ Additionally, UDC indicated that it will not be applying the Consumer Price Index + 1% policy for the 2013-2014

²³⁹ According to the University, "normal" enrollment growth is generally three percent annually. *See id.* at 32.

²⁴⁰ Sec. 4032 of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

²⁴¹ *Id.*

²⁴² 10.1.12 RIGHT-SIZING PLAN, *supra* note 238, at 20. This included tuition rate increases for undergraduates and graduates at the flagship, for students attending the community college, and for the law students attending the UDC David A. Clarke School of Law. *Id.*

²⁴³ *Id.* Thus, in fiscal year 2014 and beyond, the Board voted to increase tuition annually by CPI + 1%. *Id.* This annual increase was not implemented for the law school. *See id.*

²⁴⁴ *Id.* According to the Board, non-District residents account for approximately 60 percent of the tuition revenue. *Id.* at 20-21. If non-resident tuition was to increase beyond the Consumer Price Index + 1%, the Board feared that many of its non-resident students would choose to attend other schools, thereby decreasing the tuition revenue received by the University from this group of students. *Id.* at 21.

²⁴⁵ See the accreditation section below for a discussion of the \$4.2 million budget enhancement request.

²⁴⁶ Letter from Dr. James Lyons, Interim President, University of the District of Columbia, to Phil Mendelson, Chairman, Council of the District of Columbia, at 9 (May 3, 2013) [hereinafter UDC 5.3.13 Responses] (on file with the Committee of the Whole)

academic year, as students will be required to pay an extra \$1000 in mandatory fees due to a rise in their health insurance premiums.²⁴⁷

**Table GF-D: University of the District of Columbia;
 Tuition Rate, Dollars/Credit: FY 2009-FY 2014²⁴⁸**

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Community College						
D.C. Residents	105	100	100	100	100	100
Metropolitan Residents	215	100	100	100	168	168
All Others	215	100	100	100	283	283
Undergraduate (Flagship)						
D.C. Residents	105	198	266	266	276	276
Metropolitan Residents	215	237	308	308	320	320
All Others	215	487	558	558	580	580
Graduate (Flagship)						
D.C. Residents	225	421	421	421	438	438
Metropolitan Residents	350	477	477	477	496	496
All Others	350	810	810	810	842	842
Law School						
D.C. Residents	260	250	300	300	360	360
All Others	500	500	600	600	720	720

Source: University of the District of Columbia May 3, 2013 Follow-up to Budget Oversight Hearing

While the Committee understands that UDC must remain affordable in order to stay competitive, it believes that the University can marginally raise tuition without jeopardizing enrollment at both the flagship and the Community College. According to the tuition competitiveness study provided by UDC in its October 1, 2012 right-sizing plan, UDC's tuition for its undergraduate and Community College students is lower than the median average of its peers.²⁴⁹ Using the data from that study, if the University were to raise tuition solely for undergraduates at the flagship by approximately \$500 per year, the University could realize approximately \$1.3 million in additional tuition revenue.²⁵⁰ Further, if the University raised

²⁴⁷ *Id.* The Committee notes the number \$1,000 is speculative, that many students will pay nothing because they are covered under an existing family plan, that insurance may cost less through the Districts' health benefits exchange, and that all students at all peer-group universities and community colleges face this cost.

²⁴⁸ This is purely tuition and does not include the mandatory fees charged to each student.

²⁴⁹ 10.1.12 RIGHT-SIZING PLAN, *supra* note 238, at app. D.

²⁵⁰ According to the study, a rise of \$500 per year would still keep UDC's tuition rate below the median rate of its peers. *Id.* Notably, the data provided in the tuition competitiveness study is from the 2010-2011 academic year. *Id.*

tuition at the Community College by \$500, which would still keep the Community College's tuition rate below the median rate of similar community colleges in the area, the University could realize approximately \$1.4 million in additional revenue. Combined, the increase in tuition would allow the University to absorb over half of its budget enhancement request for accreditation. In such case, the Committee would recommend subsidizing the remaining \$1.5 million.

The Committee strongly recommends that UDC reevaluate its tuition rate for the 2013-2014 academic year and beyond. Increases are possible that would not exceed the median cost of peer group universities and community colleges – peer groups, such as HBCUs, this region, and big city colleges. Additionally, the Committee expects UDC to include a more comprehensive and realistic tuition analysis and timeline in its strategic/right-sizing plan due to the Council in August 2013.

University of the District of Columbia Community College Independence: In January 2009, the UDC Board of Trustees created the UDC-Community College (UDC-CC), thereby establishing a two-part university system comprised of the flagship, which includes the David A. Clarke School of Law, and the Community College.²⁵¹ When establishing the Community College, the Board articulated its desire to have UDC-CC operate as a “branch” campus of the University flagship. Specifically, the Board directed the President of UDC to: appoint a Chief Executive Officer to oversee the Community College; locate appropriate facilities for the Community College; and create a separate name and marketing image for the Community College.²⁵²

Independent from the Board's actions, then-Council Chairman Vincent Gray called for a feasibility study to be conducted with regard to the creation of a UDC community college.²⁵³ The study recommended that the newly established Community College achieve independent accreditation and become autonomous from the UDC flagship.²⁵⁴ Following this recommendation, in 2011 and 2012 the Council mandated that a transition to independence plan for the Community College be created and required UDC to submit a request to Middle States

Thus, the Committee's calculation was based on the presumption that tuition has not risen at any of the peer institutions included in the study.

²⁵¹ See BOARD OF TRUSTEES OF THE UNIVERSITY OF THE DISTRICT OF COLUMBIA, UDC RESOLUTION NO. 2009-01(2009), available at http://www.udc.edu/president/board_trustees/docs/200901%20Defining%20the%20University%20System%20of%20the%20District%20of%20Columbia.pdf. Beginning with the 2009-2010 academic year, the Community College became operational, with a total student enrollment of 1,779 students. See University of the District of Columbia, Follow-up to March 12, 2013 Performance Oversight Hearing, at 1 (Mar. 26, 2013) [hereinafter UDC 3.26.12 Responses].

²⁵² See BOARD OF TRUSTEES OF THE UNIVERSITY OF THE DISTRICT OF COLUMBIA, UDC RESOLUTION NO. 2009-04 (2009), available at http://www.udc.edu/president/board_trustees/docs/2009-04%20Structure%20of%20Community%20College%20Component%20of%20University%20System%20of%20the%20District%20of%20Columbia.pdf.

²⁵³ COMMUNITY COLLEGE TRANSITION PLAN, *supra* note 225, at 3.

²⁵⁴ *Id.*

Commission on Higher Education (Middle States) for branch campus status for the Community College.²⁵⁵

The Committee was pleased to learn that in January 2013 Middle States awarded UDC-CC branch campus status, as this is the first step to UDC-CC achieving its own independent accreditation. Moving forward, the Community College will need to undertake a two-step process to achieve separate accreditation. First, UDC-CC must develop the ability to be viewed by Middle States as “separately accreditable.”²⁵⁶ This requires the Community College to demonstrate the following:

1. UDC-CC has, under governing body policy, substantial financial and administrative independence from the flagship, including matters related to personnel;
2. It has a full-time chief administrative officer;
3. UDC-CC is empowered, under governing body policy, to initiate and sustain its own academic programs; and
4. It has degree-granting authority in the District.

Second, UDC-CC must apply for its own accreditation.²⁵⁷ In order for these steps to occur, the Board of Trustees must take action to provide the Community College with certain rights, such as granting the Community College its own procurement authority.²⁵⁸ Hence, the Committee urges the Board to act to provide the Community College with the independence it needs to fulfill its ability to be recognized as “separately accreditable,” and hopes that UDC-CC will be able to apply for and attain its own accreditation within the next two years.

Notably, the Committee does acknowledge that achieving independent accreditation for the Community College will require funding. In the fiscal year 2013 budget, the Council appropriated \$21.48 million to be used solely by the Community College, as a means of ensuring that the Community College has the funds it needs to be successful. Likewise, the Committee adopts the Mayor’s recommendation that UDC-CC receive \$21.34 million of the \$66.691 million subsidy given to UDC by the District. Yet the Committee wants to be clear that its adoption of the Mayor’s recommendation does not mean that the Committee does not support the flagship and the funding that the flagship needs to survive. To the contrary, the Committee fully supports the flagship and the purpose that it serves for District residents. However, the Committee also

²⁵⁵ This body accredits post-secondary institutions in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands. MIDDLE STS. COMMISSION ON HIGHER EDUC., <http://www.msche.org/> (last visited May 6, 2013).

²⁵⁶ UDC 3.26.12 Responses, *supra* note 251, at 7.

²⁵⁷ *Id.* at 8. Until the Community College receives its own accreditation it will remain an entity of UDC. *Id.*

²⁵⁸ *Id.*

believes that a need exists in the District for a successful and dynamic community college and wants to ensure that UDC-CC has the appropriate funding that it needs to continue to be prosper.

Accreditation: In fiscal year 2014, several programs at UDC are scheduled for reaccreditation.²⁵⁹ Specifically, the Engineering and Computer Science programs within the School of Engineering and Applied Science and the Teacher Education and Social Work programs within the College of Arts and Sciences are each scheduled for reaccreditation.²⁶⁰ Additionally, the University intends to begin the accreditation process for the Community College, the School of Business and Public Administration, and the graduate program in Public Administration.²⁶¹ Because of these reaccreditations and new accreditations, UDC is requesting a budget enhancement of \$4.2 million, of which \$2.2 million will be spent solely on accreditation-related matters.²⁶² The remaining \$2 million will indirectly benefit these efforts. Of the \$2.2 million, UDC indicates that \$1.575 million is needed to hire 16.0 additional FTEs.²⁶³ The remaining \$625,000 is requested so that the University may obtain and upgrade lab equipment for the programs in the School of Engineering and Applied Science and so that it may renew software licenses needed by the School of Business and Public Administration.²⁶⁴

The Committee acknowledges that accreditation requires financial support, but UDC's budget enhancement request troubles the Committee for a number of reasons. First, this request indicates to the Committee that UDC has neglected vital academic needs for years, and only now has chosen to rectify these issues because of impending accreditations. If these accreditations were not upcoming, how long would the University have ignored these needs, and how detrimental have these lapses been to the academic success of UDC and its students? Second, the request demonstrates that UDC has failed to manage its finances properly. From fiscal year 2008 to fiscal year 2013, UDC's budget has grown over 56%, and given the exorbitant amount spent by UDC annually on each student, the Committee questions how those funds were used. Third, the failure to account for these needs in UDC's original fiscal year 2014 budget request renders suspect the University's budget-development process. The University should have been aware much sooner than now of its needs for accreditation and should have accounted for them in the budget that it submitted to the Mayor. Fourth, UDC has stated that this enhancement request will be on-going, meaning that UDC anticipates needing an additional \$4.2 million in the upcoming years, despite the Council's mandate to the University to right-size its finances. Fifth, UDC's request implies that the University, as whole, may struggle to achieve reaccreditation by Middle States, which is scheduled to evaluate the University during the 2014-2015 academic year.

²⁵⁹ UDC 5.3.13 Responses, *supra* note 246, at app. A.

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.* The remaining will be used as follows: \$400,000 for Law Library Acquisitions and Technology; \$600,000 for Undergraduate and Graduate Library Acquisitions; \$500,000 for Student Support Services and Enrollment Management; and \$500,000 Learning Resources Division Technology.

²⁶⁴ *Id.*

The Committee is concerned about the University's reaccreditation and about the ability of the three programs mentioned above to gain new accreditation. Without these accreditations, UDC's flagship will be unable to attract students because the degrees conferred from the institution will be meaningless. Moreover, the law school and the Community College will also suffer since they are tied to the flagship and do not operate independently. Thus, the Committee recommends that UDC realistically address its financial health in its right-sizing plan and map out, within that plan, a strategy detailing how UDC plans to cover the impending accreditation costs without additional subsidy funds from the District. Additionally, the Committee requests that the University review its budgeting process and make the necessary changes so that oversights of this magnitude do not occur in the future.

Accounting Errors: During this budget season, the Committee has learned that UDC's past budgets have contained substantial errors. For example, UDC overstated its federal funds budget by approximately \$31 million during fiscal year 2013, as the University double-counted federal direct student loan funds and Pell grant funds.²⁶⁵ When asked, the University's Chief Financial Officer (CFO) was unable to explain how long this has occurred. Such accounting errors deeply concern the Committee. Failure to maintain an accurate budget speaks to the management, or rather lack thereof, of the University. Moreover, the Committee hesitates to provide more funding to UDC when it cannot accurately count the funds it has already received. The Committee does note that the interim AFO has only been in that position for approximately six weeks and recognizes that these errors did not occur under her watch. However, many of the individuals who were at UDC when these errors occurred still remain employed with the University. Given this, the Committee recommends that Dr. Gandhi review the CFO personnel, other than the interim CFO, assigned to UDC and that he determine whether any of those individuals should be removed or re-designated to a different agency. Additionally, the Committee requests that the interim CFO provide the Committee with a list of all accounting errors found in UDC's budget in fiscal years 2013-2014 and a description for how each will be rectified by September 1, 2013.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the University of the District of Columbia as proposed by the Mayor with the following modifications:

²⁶⁵ See Bill 20-198, Fiscal Year 2014 Budget Request Act of 2013, Bill 20-199, Fiscal Year 2014 Budget Support Act of 2013, and Bill 20-200, Fiscal Year 2013 Revised Budget Request Emergency Adjustment Act of 2013: Hearing before the Council of the District of Columbia Comm. of the Whole, May 3, 2013, at 1 (written testimony of David Bardin, Public Witness). UDC counted the funds as both federal grants to the University and again as student tuition revenue, thereby inflating UDC's budget by over \$31 million in the fiscal year 2013 budget.

1. A reduction of \$12,000,000 federal funds due to a double-counting of federal Pell Grant funds, as the University solely acts as a pass-through for these funds and therefore should not have them included in its fiscal year 2014 budget.

Policy Recommendations:

1. The Committee recommends including in the Budget Support Act (Bill 20-199) an amendment that would allow the University to retain debts collected for it by the District's Central Collection Unit. Additionally, this amendment would align the collection timeline for UDC debts with UDC's current collection practices. The rationale and reason for this change are discussed more fully in the Budget Support Act recommendations later in this report.
2. The Committee strongly urges UDC to complete its right-sizing plan and to deliver it to the Council by August 31, 2013 and anticipates that implementation of the next steps of the plan will begin by October 1, 2013.
3. The University must include a comprehensive enrollment plan in its right-sizing plan. This enrollment plan should set forth strategies for increasing the flagship's enrollment by at least three percent annually over the next five years and should also address ways to continue to increase the Community College's enrollment.
4. The Committee recommends that UDC increase its tuition rates for the 2013-2014 academic year and beyond.
5. UDC's right-sizing plan, scheduled to be completed in August 2013, needs to include a more comprehensive and realistic tuition analysis and timeline.
6. The Committee urges the Board to provide the Community College with the independence it needs to fulfill its ability to be recognized as "separately accreditable," and expects that UDC-CC will be able to apply for and attain its own accreditation within the next two years.
7. UDC must realistically address its financial health in its right-sizing plan and map out, within that plan, a strategy detailing how UDC will cover the impending accreditation costs without additional subsidy funds from the District.
8. UDC's budgetary process must become transparent, and more emphasis must be placed on ensuring that the University's budget accurately reflects its needs for the fiscal year.

9. Given the numerous accounting errors in UDC's budget, the Committee recommends that Dr. Gandhi review the CFO personnel, other than the interim AFO, assigned to UDC. Those individuals who are committing errors, failing to ensure transparency, or not making the UDC's finances clear, understandable, and accurate should be removed or re-designated to a different agency.
10. The Committee requests that the interim AFO provide the Committee with a list of all accounting errors found in UDC's budget in fiscal years 2013 & 2014 and a description for how each will be rectified by September 1, 2013.

**UNIVERSITY OF THE DISTRICT OF COLUMBIA
SUBSIDY ACCOUNT**

Committee Recommendations - See Page 84

I. AGENCY OVERVIEW

The University of the District of Columbia Subsidy Account reflects the total local funds transfer to the University of the District of Columbia to subsidize its operations during the fiscal year.

The University, as a component unit of the District of Columbia government, is a legally separate entity for which the elected officials of the District of Columbia are financially accountable. Accountability exists because the Mayor, with the consent of the Council, appoints members to the University Board of Trustees, pursuant to District of Columbia Official Code § 38-1202.06(4), and because both the Mayor and the Council approve the University's budget, including a local funds subsidy.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget.²⁶⁶

The Mayor's fiscal year 2014 budget proposal for the University of the District of Columbia Subsidy Account is \$66,690, an increase of 1,736, or 2.7 percent, from the current

²⁶⁶ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

fiscal year. The proposed budget supports 0 FTEs, representing no change over the current fiscal year.

**Table GC-A: University of the District of Columbia Subsidy Account;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	62,770	62,070	62,070	66,420	67,362	64,955	66,691
FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: Budget Books (dollars in thousands)

Local Funds: The University of the District of Columbia Subsidy Account is solely funded with local funds. Adjustments within the local funds budget include an increase of \$1,736 in nonpersonal services to account for the operating budget impact of completed capital projects.

III. COMMITTEE CONCERNS

For Committee Concerns related to the University of the District of Columbia, please see pages 67-81 of this report.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the University of the District of Columbia Subsidy Account as proposed by the Mayor.

Policy Recommendations:

1. For policy recommendations related to the University of the District of Columbia, please see page 82

DEBT SERVICE

Committee Recommendations – See Page 87

I. AGENCY OVERVIEW

Debt service finances the District's capital and cash flow needs. Prudent administration minimizes costs associated with financing, exercises fiscally responsible debt management practices, and makes timely payment of all principal and interest. Timely debt service payments are necessary to satisfy the District's commitments to its investors (bondholders) and maintain a good credit standing in the financial marketplace. Under the District of Columbia Home Rule Act, as modified by local law, the District may issue debt to finance capital projects or seasonal cash needs, subject to certain limitations. Specifically, no long-term debt may be issued that would cause total debt service on all tax-supported debt to exceed 12 percent of total general fund expenditures in any year during the 6-year capital plan period. No short-term debt may be issued in an amount that would cause total outstanding short-term debt to exceed 20 percent of the projected revenue of the fiscal year in which the debt is issued. Short-term debt must be repaid by the end of the fiscal year in which it is issued. The District's total outstanding tax-supported long-term debt as of December 2012 was \$8.7 billion. The District issued \$675 million of short-term debt in FY 2013, which will be repaid by September 28, 2013. Appropriations are budgeted from Local funds in amounts sufficient to meet the required payments for the various types of debt service.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:²⁶⁷

The Mayor's fiscal year 2014 budget proposal for Debt Service is \$578,099, an increase of \$50,805, or 9.7 percent, above the current fiscal year. The proposed budget supports 19 FTEs, representing no change from the fiscal year 2013 approved level.

²⁶⁷ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table DS, ZA, CP, ZB, SM, DT-A: Debt Service;
Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Repayment of Loans and Interest (DS)	420,827	438,383	351,816	404,768	434,384	462,877	527,794
Short-Term Borrowing (ZA)	7,849	4,538	2,373	2,841	2,571	4,390	5,000
Certificates of Participation (CP)	30,664	32,270	32,257	32,244	32,233	32,541	24,619
Debt Service -- Issuance Cost (ZB)	16,216	4,382	6,514	5,884	4,347	6,000	6,000
Schools Modernization (SM)	4,716	8,613	8,612	8,613	8,620	8,625	11,863
Repayment of Revenue Bonds (DT)	2,512	2,144	2,149	4,782	5,574	8,222	7,824
Total Funds	482,785	490,030	403,719	459,132	487,731	527,203	578,099

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor's proposed budget is \$527,794 for Repayment of Loans and Interests, an increase of \$55,370, or 11.8 percent above the current fiscal year; \$5,000 for Short Term Borrowing, an increase of \$610, or 13.9 percent above the current fiscal year; \$24,619 for Certificates of Participation, a decrease of \$7,922, or 24.3 percent below the current fiscal year; \$6,000 for Debt Service-Issuance Costs, representing no change from the current fiscal year; \$11,863 for Schools Modernization Fund, an increase of \$3,237, or 37.5 percent, above the current fiscal year; and \$7,824 for Repayment of Revenue Bonds, a decrease of \$398, or 4.8 percent, below the current fiscal year 2013 approved level.

Special Purpose Revenue Funds: The Mayor's proposed budget is \$4,728 for Repayment of Loans and Interest, an increase of \$181, or 4.0 percent, above the current fiscal year 2013 approved level.

Dedicated Taxes: The Mayor's proposed budget is \$7,824 for Repayment of Revenue Bonds, a decrease of \$398, or 4.8 percent, below the fiscal year 2013 approved level.

III. COMMITTEE CONCERNS

The Debt Service agencies have no program or structural changes for fiscal year 2014.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for Debt Service as proposed by the Mayor.

JOHN A. WILSON BUILDING FUND

Committee Recommendations – See Page 88

I. AGENCY OVERVIEW

The mission of the John A. Wilson Building Fund is to provide an efficient, clean and safe working environment for District employees in a modernized century-old historic building. Easily accessible to the public, the Wilson Building is an emblem of District pride showcased on the historic Pennsylvania Avenue corridor within the Federal Triangle, just blocks from the White House.

Culminating a five-year restoration and expansion, the Wilson Building reopened to acclaim in late 2001. Built in 1904, the building had suffered from neglect and had to be closed in 1996. But preservation-minded District officials emerged with a redevelopment plan, and starting in 1996, the Wilson Building underwent renovation based on plans from architect Shalom Baranes. The result is a modern workplace for the District government that retains much of its historic flavor and texture. The building was renamed in 2001 after the long-term District Council member and Chairman John A. Wilson.

Housed in the building are the Executive Office of the Mayor, the Council of the District of Columbia, the Office of the Chief Financial Officer, and a number of other District agencies. The Wilson Building will serve the District for many years, while preserving a link to the past.

II. MAYOR’S PROPOSED BUDGET

Mayor’s Proposed Fiscal Year 2014 Operating Budget.²⁶⁸

The Mayor’s fiscal year 2014 budget proposal for the John A. Wilson Building Fund is \$4,494, an increase of \$301, or 7.2 percent, above the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

**Table ZZ-A: John Wilson Building Fund;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	4,147	4,008	3,226	3,556	3,457	4,193	4,494
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The budget for the John A. Wilson Building Fund is comprised entirely of local funds.

III. COMMITTEE CONCERNS

This fund provides for the operation and maintenance of the John A. Wilson Building. According to the proposed budget for fiscal year 2014, changes in the funding level over fiscal year 2013 were driven by an increase in the Consumer Price Index that more than offset an increase in energy savings. This program had no program or structural changes for fiscal year 2014. The Committee recognizes the importance of ensuring stable funding for the operations of the historic John A. Wilson Building. The John A. Wilson Building Fund is administered by the Department of General Services, although the building is under the control of the Council of the District of Columbia.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the John A. Wilson Building Fund as proposed by the Mayor.

²⁶⁸ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

WORKFORCE INVESTMENTS
Committee Recommendations - See Page 90

I. AGENCY OVERVIEW

The mission of Workforce Investments is to pay compensation increases for nonunion and union District employees and Retirement Reform initiative costs. The District budgets an amount for Workforce Investments for pay increases and reforms that are expected in the budgeted year but are not finalized. Employees covered and dollar amounts vary from year to year, depending on what compensation changes are pending or expected. In FY 2014, Workforce Investments includes the cost of a number of new collective bargaining agreements as well as Cost of Living Adjustment (COLA) for non-union employees. The Office of Budget and Planning develops estimates for the Workforce Investments budget in consultation with the D.C. Department of Human Resources, the Office of Labor Relations and Collective Bargaining, the Mayor’s Office of Budget and Finance, and the Office of the City Administrator.

II. MAYOR’S PROPOSED BUDGET

Mayor’s Proposed Fiscal Year 2014 Operating Budget:²⁶⁹

The Mayor’s fiscal year 2014 budget proposal for Workforce Investments is \$59,442, an increase of \$59,442, or 100 percent above the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

**Table UP-A: Workforce Investments;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	0	26,691	0	0	0	0	59,442
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The budget for Workforce Investments is comprised entirely of local funds. The adjustments within the local funds budget include an increase of \$56,884 to cover newly negotiated collective bargaining agreements and the COLA for salaries of various District

²⁶⁹ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

agency staff, and a transfer-in of \$2,558 of personal services savings from the D.C. Fire and Emergency Medical Services Department to support the COLA.

III. COMMITTEE CONCERNS

According to the proposed budget for fiscal year 2014, this funding would support pay increases for District employees across the various agencies. This includes both salary and benefits.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for Workforce Investments as proposed by the Mayor.

NON-DEPARTMENTAL

Committee Recommendations – See Page 91

I. AGENCY OVERVIEW

The mission of the Non-Departmental account provides for anticipated costs that were not allocated to specific agencies during the development of the proposed budget to ensure that specific use requirements are met. Use of a Non-Departmental account is a common practice to include both spending authority and funding in the budget, while providing the flexibility to allocate these costs. Use of Non-Departmental improves budget formulation by ensuring that certain use criteria are met by agencies before the funds are released to those agencies.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget.²⁷⁰

The Mayor's fiscal year 2014 budget proposal for Non-Departmental is \$34,161, a decrease of \$25,755, or 75.4 percent, below the current fiscal year. The proposed budget supports 40 FTEs, representing no change from the fiscal year 2013 approved level.

²⁷⁰ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table DO-A: Non-Departmental;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	0	0	2,410	0	0	34,161	8,406
FTEs	0	0	0	0	0	40	40

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$2,000, a decrease of \$7,000, or 77.8 percent, below the current fiscal year. This funding supports 40 FTEs, representing no change from the fiscal year 2013 approved level. The adjustment within the local funds budget includes a decrease \$7,000 in one-time funding related to fiscal year 2013 per pupil funding. The proposed budget represents the current services funding level over the last fiscal year and the removal of the one-time funding.

Special Purpose Revenue Funds: The Mayor’s proposed budget is \$6,406, a decrease of \$18,755 or 74.5 percent, below the current fiscal year. These funds are composed of \$6,406 in otherwise unbudgeted fiscal year 2014 budget authority to align the budget with the full amount of its certified revenues across various special purpose revenue funds.

III. COMMITTEE CONCERNS

Non-Departmental budgets for anticipated costs are not allocated to agencies. This fund had no program or structural changes proposed for fiscal year 2014.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for Non-Departmental as proposed by the Mayor.

MASTER EQUIPMENT LEASE/PURCHASE PROGRAM

Committee Recommendations - See Page 93

I. AGENCY OVERVIEW

The mission of the Master Equipment Lease/Purchase Program (the program) is to provide District agencies with access to low-cost, tax-exempt financing for short-term capital equipment needs. The program also enables the District to improve its asset/liability management by matching the useful life of the asset being financed to the amortization of the liability.

Equipment financed through the program must have a useful life of at least 5 years. The repayment (amortization) will not exceed the useful life of the equipment being financed. The maximum financing term that may be requested is 10 years. The program finances equipment such as rolling stock (e.g., automobiles, trucks, public safety vehicles) and computer hardware and software. Under the District of Columbia Home Rule Act, the District may issue various obligations to finance its capital needs.

Financing through the program begins with a financing company paying for the purchase of equipment for the District's use. The District makes lease payments to the financing company for such equipment, which are in effect principal and interest payments on the amount financed, and the District gains ownership of the equipment upon completion of the payments. As of September 30, 2010, the District had financed approximately \$332 million of its capital equipment needs through the program. Timely payments are necessary to satisfy the District's commitments to its investors and creditors and to maintain a good credit standing in the financial markets. Appropriations for the program are budgeted from local funds in amounts sufficient to meet the required payments.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget:²⁷¹

The Mayor's fiscal year 2014 budget proposal for the Master Equipment Lease/Purchase Program is \$42,667, a decrease of \$7,359, or 14.7 percent, below the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

²⁷¹ The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table EL-A: Master Equipment Lease/Purchase Program;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	29,896	38,378	43,863	48,247	49,791	50,036	42,677
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The Master Equipment Lease/Purchase Program is comprised entirely of local funds. The adjustment within the local funds budget includes a decrease of \$7,359 reflecting changes to the debt service payments to align the budget to debt service projections.

III. COMMITTEE CONCERNS

The Master Equipment Lease/Purchase Program provides financing for short-term capital equipment needs. This program had no program or structural changes for fiscal year 2014.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Master Equipment Lease/Purchase Program as proposed by the Mayor.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

Committee Recommendations See Page 95

I. AGENCY OVERVIEW

The mission of the Emergency and Contingency Reserve Funds are to maintain the required fund balances established under section 450A of the District of Columbia Home Rule Act (D.C. Official Code, § 1-204.50a). The amount in these funds is 6 percent of operating revenues and thus grows over time. The Emergency and Contingency Reserve Funds were established to provide for nonrecurring or unforeseen needs that arise during the fiscal year.

The Emergency Cash Reserve Fund may be used for unanticipated and non-recurring extraordinary needs of an emergency nature such as natural disasters or unexpected obligations required by federal law. The Contingency Cash Reserve Fund can be used for non-recurring or unforeseen needs arising during the fiscal year, also including disasters and unexpected obligations. Other contingency needs may include public safety or health needs identified after the budget process has occurred. Both funds are used for cash flow management purposes.

Funding is budgeted on an as-needed basis, to replenish the Emergency and Contingency Reserve Funds for expenditures made from the funds in the previous years. The Emergency and Contingency Reserve Funds were established to provide for nonrecurring or unforeseen needs that arise during the fiscal year.

In fiscal year 2005, the following changes were adopted:

- Modified the calculation of the Emergency and Contingency Reserve Funds by using prior year actual expenditures from Local funds as defined in the annual Comprehensive Annual Financial Report (CAFR), and removed expenditures related to payment of debt service from the calculation of actual expenditures
- Changed the required funding levels from 7 percent to 6 percent of operating expenditures (Emergency Reserve Fund at 2 percent and Contingency Reserve Fund at 4 percent); and
- Changed the replenishment requirements from 1 to 2 years, with no less than 50 percent replenished in the first year.

II. MAYOR'S PROPOSED BUDGET

Mayor's Proposed Fiscal Year 2014 Operating Budget.²⁷²

The Mayor's fiscal year 2014 budget proposal for Emergency and Contingency Reserve Funds for the Fiscal Year 2014 is \$5,500, an increase of \$2,500 or 83.3 percent, above the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

²⁷² The Mayor's proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

**Table SV-A: Emergency and Contingency Reserve Funds;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	0	0	0	0	0	3,000	5,500
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$5,500, an increase of \$4,750 or 633.3 percent, above the fiscal year 2013 approved budget of \$750. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The adjustment to the local funds budget includes a decrease of \$750 because the previous outstanding amount from the Contingency Reserve was repaid during the close of fiscal year 2012. The adjustment also includes and an increase of \$5,500 for repayment of the Contingency Cash Reserve Fund.

Federal Funds: The Mayor’s proposed budget is \$0, an decrease of \$2,250 or 100.0 percent, from the fiscal year 2013 approved budget of \$2,250. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The policy initiatives within the federal funds budget includes a decrease of \$2,250 because the previous outstanding amount from the Contingency Reserve was repaid during the close of fiscal year 2012.

III. COMMITTEE CONCERNS

The Emergency and Contingency Reserve Fund provides for the replenishment of the funds for allocations made in previous years. The Fund has no program or structural changes for fiscal year 2014.

In fiscal year 2012, the Emergency Cash Reserve Fund increased from \$109.9 to \$110.0 million at fiscal year-end as a result of investment earnings.²⁷³ Over the same period, the Contingency Cash Reserve Fund increased from \$228.7 million to \$229.1 million as a result of investment earnings, offset by several draws.²⁷⁴ Those draws are detailed in the following table:

²⁷³ Letter from Chief Financial Officer Natwhar M. Gandhi, to Mayor Vincent C. Gray and Chairman Phil Mendelson, Re: Fourth Quarter, FY 2012 Status Report on the Emergency and Contingency Reserve Funds, at 2 (Feb 15, 2013).

²⁷⁴ *Id.*

**Table SV-B: Fiscal Year 2012 Contingency Cash Reserve Report;
Fourth Quarter Ending 9/30/2012**

as of 2/3/2013		(\$ in 000s)
Fiscal Month	Transactions/Balances	CAFR Basis Restricted Fund Balance (1)
Sept, 2011	FY 2011 ending balances:	228,728
Oct	Draw: Dept. of General Services (AM0), earthquake repair	(6,000)
Oct	Investment earnings	76
Nov	Investment earnings	1
Dec	Draw: Department of Motor Vehicles (KV0), costs required to continue ticket collection	(1,300)
Dec	Investment earnings	1
Dec	First Quarter ending balances	221,507
Jan, 2012	Investment earnings	1
Jan	Deposit to increase balance to the new required level	0
Feb	Investment earnings	66
Mar	Investment earnings	23
Mar	Second Quarter ending balances	221,597
Apr	Investment earnings	74
Apr	Draw: DC Charter Schools (GC0), advance of Supplemental Budget Request Act	(6,971)
Apr	Draw: Unemployment Compensation Fund (BH0), advance of Supplemental Budget Request Act	(3,500)
May	Draw: Unemployment Compensation Fund (BH0), advance of Supplemental Budget Request Act	(4,500)
May	Draw: Charter Schools (GC0), enrollment pressures by English Language Learner students	(1,215)
May	Draw: Charter Schools (GC0), enrollment pressures by English Language Learner students	(4,888)
May	Draw: Not-For-Profit Hospital Corp. subsidy (HX0), finance operations, including payroll	(4,000)
May	Draw: Dept of Motor Vehicles (KV0), unforeseen ticket collection costs	(1,000)
May	Investment earnings	7
Jun	Draw: Dept of Health Care Finance (HT0), extend MCO contracts in DC Alliance programs	(4,227)
Jun	Draw: Mass Transit Subsidies (KE0), pay Metro for 4th Quarter, FY 2012	(3,330)
Jun	Draw: Dept of Transportation (KA0), new costs to award parking meter maintenance contract	(3,000)
Jun	Replenishment: DC Charter Schools (GC0), from Supplemental BRA	6,971
Jun	Replenishment: Unemployment Compensation Fund (BH0), from Supplemental BRA	6,000
Jun	Investment earnings	8
Jun	Third Quarter ending balances	200,828
Jul	Replenishment: Dept of Health Care Finance (HT0), extend MCO contracts	4,227
Jul	Replenishment: Dept of Transportation (KA0), new costs to award parking meter contracts	3,000
Jul	Investment earnings	27
Jul	Draw: Office of Contracting and Procurement (PO0), cover costs of Derecho storm disaster	(4,445)
Aug	Draw: Not-For-Profit Hospital Corp. subsidy (HX0), finance operations, including payroll	(3,700)
Aug	Replenishment: DMV (KV0): ticket collection contract	1,300
Aug	Replenishment: DC Charter Schools (GC0), enrollment pressures by English Language Learners	1,215
Aug	Replenishment: WMATA (KE0), pay Metro for 4th quarter	3,330
Aug	Investment earnings	8
Sep	Investment earnings	93
Sep	Replenishment: DMV (KV0): ticket collection contract	1,000
Sep	Replenishment: DC Charter Schools (GC0), enrollment pressures by English Language Learners	4,888
Sep	Replenishment: Office of Contracting and Procurement (PO0), derecho storm disaster	1,395
Sep	Replenishment: Department of General Services (AM0), continuing earthquake repair	6,000
Sep	Replenishment: Not-For-Profit Hospital Corporation Subsidy (HX0), finance operations	7,700
Sep	Replenishment: Office of Contracting and Procurement (PO0), derecho storm disaster	3,050
Sep	Year-end balances	229,113
Sep	Investment earnings, October - September	384

Source: Office of the Chief Financial Officer Quarterly Report²⁷⁵

²⁷⁵ Id. at Enclosure.

As of December 31, 2012 (end of first quarter fiscal year 2013), the Emergency Cash Reserve Fund included \$110.0 million. The Contingency Reserve Fund had \$181.3 million as a result of several draws on the fund in the first quarter of fiscal year 2013.²⁷⁶

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Emergency and Contingency Reserve Fund as proposed by the Mayor.

PAY-AS-YOU-GO CAPITAL FUND

Committee Recommendations - See Page 99

I. AGENCY OVERVIEW

The mission of the Pay-As-You-Go Capital Fund is to provide cash funding in lieu of borrowing with debt service for capital projects.

The Mayor and Council can request the use of Pay-As-You-Go Capital funds following the determination and certification by the Chief Financial Officer that the funds are available and necessary for the designated purpose. In addition, other operating funds may be transferred to the capital fund through a Pay-As-You-Go capital budget transfer to support the Capital Improvements Plan. The proposed FY 2014 budget includes such a transfer.

²⁷⁶ Letter from Chief Financial Officer Natwhar M. Gandhi, to Mayor Vincent C. Gray and Chairman Phil Mendelson, Re: First Quarter, FY 2013 Status Report on the Emergency and Contingency Reserve Funds, at 2 (Apr 4, 2013).

II. MAYOR’S PROPOSED BUDGET

Mayor’s Proposed Fiscal Year 2014 Operating Budget:²⁷⁷

The Mayor’s fiscal year 2014 budget proposal for the Pay-As-You-Go Capital Fund is \$35,645, a decrease of \$158, or 0.4 percent, below the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

**Table PA-A: Pay-As-You Go Capital Fund;
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	140,737	20,002	14,933	31,726	80,878	35,803	35,645
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$9,137, an increase of \$4,967, or 114.0 percent, above the fiscal year 2013 approved budget of \$4,270. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The policy initiatives within the local funds budget include an increase of \$5,137 to support a transfer to capital funds for the District’s Great Streets Initiative and an increase \$3,000 for the new Integrated Tax System. In addition, increased revenue from the federal Department of Transportation’s Payment-In-Lieu-of-Taxes program will support \$700 for the DDOT Greenspace project and \$300 for the Department of Parks and Recreation Yards Park project.

Special Purpose Revenue Funds: The Mayor’s proposed budget is \$26,508, a decrease of \$5,025, or 15.9 percent, below the fiscal year 2013 approved budget of \$47,148. This funding supports 0 FTEs, representing no change from the fiscal year 2013 approved level. The special purpose revenue funds budget includes a decrease of \$5,025 due to a lower Rights-of-Way Fee revenue to transfer to capital funds for the District’s Local Transportation fund projects.

III. COMMITTEE CONCERNS

Pay-As-You-Go Capital allows for the transfer of revenue and budget authority between the operating funds budget (General Fund) and the capital funds budget (Capital Improvements Fund). This fund had no program or structural changes proposed for fiscal year 2014.

²⁷⁷ The Mayor’s proposed budget provides numbers rounded to dollars in thousands; therefore, all figures presented here are dollars in thousands. Percent change is based on whole dollars.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for the Pay-As-You-Go Capital Fund as proposed by the Mayor.

DISTRICT RETIREE HEALTH CONTRIBUTION

Committee Recommendations – See Page 100

V. AGENCY OVERVIEW

The mission of District Retiree Health Contribution is to contribute to the funding of the District's other post-employment benefits (OPEB) liabilities.

District government retirees who were first employed after September 30, 1987 (post-87) may obtain health insurance (pursuant to D.C. Official Code § 1-622) and life insurance (pursuant to D.C. Official Code § 1-623) from the District. The federal government is responsible for funding OPEB costs for District government retirees who were first employed prior to October 1, 1987 (pre-87).

In 1999, the Council of the District of Columbia established the Annuity Health and Life Insurance Employer Contribution Trust Fund (Trust Fund) to pay the District's portion of post-87 retirees' health and life insurance premiums. Through FY 2007, the District contributed to the Trust Fund from available funds. Since FY 2008, the Governmental Accounting Standards Board requires state and local governments, including the District, to recognize any OPEB liability in their financial statements. The District is budgeting an actuarially determined annual OPEB contribution to gradually reduce its unfunded accrued liability.

As of May 28, 2013, the amount in the Trust Fund is \$748,810,055.²⁷⁸ The unfunded accrued liability, as of September 30, 2011, is \$355,000,000.²⁷⁹ As reported in a March 2012 actuarial report, as of October 1, 2011, the Trust Fund is 59% funded.

²⁷⁸ The figures in this paragraph were provided by the Office of the Chief Financial Officer's Office of Finance and Treasury, which administers the Trust Fund.

²⁷⁹ According to the Office of Finance and Treasury, a study is currently being conducted that will produce a more updated figure.

The proposed budget of the District Retiree Health Contribution represents the District’s fiscal year 2013 contribution to the funding of its OPEB liabilities.

The District passed permanent legislation effective in fiscal year 2011 changing the calculation of its contribution to the cost of health, vision and dental insurance premiums for retirees and their dependents to a scale based on the amount of creditable service of the retiree, with a maximum contribution of 75 percent, the same contribution as for current employees.

VI. MAYOR’S PROPOSED BUDGET

The Mayor’s fiscal year 2014 budget proposal for the District of Columbia Retiree Health Contribution is \$107,800, representing no change from the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the fiscal year 2013 approved level.

**Table RH-A: District Retiree Health Contribution
 Total Operating Funds Budget FY 2008-2014**

	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Actual 2012	Budget 2013	Mayor 2014
Total Funds	110,907	81,100	90,700	94,200	109,800	107,800	107,800
FTEs	0	0	0	0	0	0	0

Source: Budget Books (dollars in thousands)

Local Funds: The funding for this account is comprised entirely of local funds.

VII. COMMITTEE CONCERNS

District Retiree Health Contribution provides the contribution to the funding of the District’s OPEB liabilities. This fund had no program or structural changes proposed for fiscal year 2014.

VIII. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2014 budget for District Retiree Health Contribution as proposed by the Mayor.

FISCAL YEAR 2014 BUDGET REQUEST ACT APPROPRIATION LANGUAGE RECOMMENDATIONS

On Friday, March 29, 2013, Council Chairman Phil Mendelson introduced, at the request of Mayor Vincent C. Gray, Bill 20-198, the Fiscal Year 2014 Budget Request Act of 2013 (BRA). The entirety of the BRA is under the jurisdiction of the Committee of the Whole. However, other committees may also comment on sections of the bill which are relevant to their jurisdiction.

The Committee recommends that the BRA be amended to reflect the recommendations within this report for the agencies under the Committee's purview.

FISCAL YEAR 2014 BUDGET SUPPORT ACT APPROPRIATION LANGUAGE RECOMMENDATIONS

On Friday, March 29, 2013, Council Chairman Phil Mendelson introduced, at the request of Mayor Vincent C. Gray, Bill 20-199, the Fiscal Year 2014 Budget Support Act of 2013. The following subtitles of Bill 20-199 were referred to the Committee of the Whole:

Title I	Subtitle B	One City Fund Establishment Act of 2013
Title III	Subtitle C	Automated Traffic Enforcement Enhancement Amendment Act of 2013
Title VII	Subtitle A	Subject to Appropriations Repealers Amendment Act of 2013

In addition to the above-listed subtitles, the Committee recommends that the following subtitles be included in Bill 20-199:

Title - -	Subtitle - -	Tax Revision Commission Extension and Procurement Streamlining Amendment Act of 2013.
Title - -	Subtitle - -	University of the District of Columbia Student Debt Recovery Amendment Act of 2013
Title - -	Subtitle - -	University of the District of Columbia Community College Accreditation Amendment Act of 2013

The Committee provides comments, recommended amendatory language, and explains the rationale for any proposed change below for each of the above subtitles.

A. SUBTITLES REFERRED TO THE COMMITTEE:

Title I, Subtitle B
One City Fund Establishment

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to establish the One City Community Building Fund, to be used to support community non-profit organizations through sub-grants from a third party grant manager. The subtitle authorizes the Mayor to make a grant to the Community Foundation for the National Capital Region (Community Foundation), which in turn would sub-grant to local non-profits between FY 2014 and FY 2016. The Community Foundation would retain 6 percent of the grant from the District as an administrative fee. The effect of this subtitle would be additional grant resources provided by the District to community non-profits for the betterment of District residents.

II. COMMITTEE REASONING

As a result of the downturn in the national economy, reduced government funding, and decreased private giving, many non-profit organizations have struggled to provide important services to the community. Nonprofits are a vital part of the District's delivery of services through partnerships directly with agencies. They also fill gaps in areas where there are little to no government resources.

In order to provide competitive funds to these organizations, the Mayor has recommended \$15 million in one-time funding to support the One City Fund. The funds would be awarded by the Community Foundation in amounts not to exceed \$100,000. The subtitle includes provisions regarding application requirements, oversight, and limits on duration for different types of grants. The Deputy Mayor for Human Services would serve as the District's lead on implementing the provisions of this subtitle.

The Committee has concerns over several technical aspects of the proposed subtitle as submitted by the Executive in the Fiscal Year 2014 Budget Support Act of 2013. These technical addressed by the Committee, and include the addition of language to ensure the One City Fund does not supplant or conflict with grants made by the Children's Youth Investment Trust Corporation (CYITC). The CYITC provides similar grants focused on youth. According to testimony by the Executive, the creation of the One City Fund was modeled on the CYITC.

Additional analysis and concerns surrounding the funding proposed by the Mayor can be found in the Agency Fiscal Year 2014 Budget Recommendations for the One City Fund found on page 31 of this report.

III. SECTION-BY-SECTION ANALYSIS

Sec. 111. Short title.

Sec. 112. Defines the terms “fund” and “grant managing entity.”

Sec. 113. Establishes the One City Fund. This section requires the Mayor to make a grant to a grant managing entity to provide sub-grants for specific purposes and specific types of non-profits as specified in subsections (b) and (c). The sub-grants are to be awarded on a competitive basis, not to exceed \$100,000, and not to exceed one year, except in the case of a program development sub-grant which may extend up to three years. The funds are to be used to serve District residents, will be awarded through the use of independent review panels, and subject to all relevant District transparency laws.

Sec. 114. Requires certain documentation to be provided by the sub-grantee to the grant managing entity, in addition to any other documentation which the grant managing entity may require.

Sec. 115. Requires the submission of an annual report to the Mayor and Council with specific information regarding the fund.

Sec. 116. Specifies that the Community Foundation for the National Capital Region is designated as the grant managing entity for FY 2014 – FY 2016.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

TITLE I, SUBTITLE B. ONE CITY FUND ESTABLISHMENT

Sec. 111. Short title.

This subtitle may be cited as the “One City Fund Establishment Act of 2013”.

Sec. 112. Definitions.

For the purposes of this subtitle, the term:

- (1) “Fund” means the One City Fund established in section 112.

(2) "Grant managing entity" means the Community Foundation for the National Capital Region pursuant to section 116.

Sec. 113. One City Fund, established.

(a) There is established a One City Fund ("Fund") to provide sub-grants to nonprofit organizations in education, job training, health, services for seniors, arts, public safety, and the environment.

(b) The Mayor shall make a grant to a single grant managing entity of which at least 94% shall be used to make sub-grants for the purpose of promoting a growing economy, educational improvement, increasing sustainability, and improving the quality of life for all residents. The remaining 6% shall be utilized for administrative expenses and evaluation of the Fund.

(c) The Fund is designed to provide sub-grants to non-profits in education, job training, health, services for seniors, arts, public safety, and the environment. The funds shall be available for conveyance to a grant managing entity for the purposes identified in section (b).

(d) Sub-grants shall be awarded, subject to the availability of funding, as follows:

- (1) All sub-grants shall be awarded on a competitive basis;
- (2) The sub-grants shall not exceed \$100,000 per year;
- (3) Capacity building sub-grants are one-time and can be carried over for a maximum of three years;
- (4) Program development sub-grants are limited to a maximum of three years and contingent on first year grant outcomes;
- (5) The sub-grant funds shall be used exclusively to serve District of Columbia residents;
- (6) Independent review panels shall be used as part of the sub-grant selection process; and
- (7) All sub-grants shall be subject to District transparency requirements such as Freedom of Information Act requests.

Sec. 114. Required information before approval.

(a) To be eligible to receive a sub-grant from the grant managing entity pursuant to section 113, a sub-grantee shall submit the following required documentation to the grant managing entity as well as any additional information required by the grant managing entity:

(1) Internal Revenue Service certification that the organization is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(2)(A) The organization's most recent financial audit, not more than 2 years old; or

(B) A recent financial statement, not more than 1 year old, prepared by a certified accountant that shows that the organization is in good financial standing and which delineates its:

(i) Existing assets and liabilities;

(ii) Pending lawsuits, if any; and

(iii) Pending and final judgments, if any;

(3) Internal Revenue Service Form 990 covering the organization's most recently completed fiscal year;

(4) A notarized statement from the sub-grantee certifying that:

(A) The organization is current on District and federal taxes;

(B) The grant managing entity is authorized to verify the organization's tax status with the District of Columbia Office of Tax and Revenue and the Office of Tax and Revenue is authorized to release this information to the grant managing entity;

(C) The grant managing entity shall have access to each of the sub-grantees financial, administrative, and operational records, including specific consent for the grant managing entity to access its books, accounts, records, findings, and documents related to the sub-grant; and

(D) The sub-grantee is registered with the District of Columbia Department of Consumer and Regulatory Affairs.

(5) A comprehensive program statement that includes a detailed:

- (A) Scope of work; and
- (B) Budget that describes how the sub-grant funds shall be spent.

Sec. 115. Reporting requirements.

Beginning January 2, 2015, the grant managing entity shall submit an annual report to the Mayor and the Council of all District funds allocated, which includes:

- (1) Detailed sub-grantee data;
- (2) Performance measures and performance outcomes under each sub-grant;
- (3) The specific services provided under each sub-grant;
- (4) The entity providing the services, if one other than the sub-grantee;
- (5) The time period of delivery of the services;
- (6) The type of service provided;
- (7) The actual amount paid for the services; and
- (8) The amount of other expenditures under the sub-grant, if any.

Sec. 116. Authorization for grant-managing entity.

For Fiscal Years 2014, 2015 and 2016, the Community Foundation for the National Capital Region (“Community Foundation”) is designated as the grant managing entity. The Community Foundation shall be required to enter into an Memorandum of Understanding (“MOU”) with the District of Columbia government. The MOU shall set forth certain administrative requirements for the Community Foundation to abide by when it obtains District funds and awards sub-grants involving District funds, and will clarify and reaffirm the Community Foundation’s responsibility and obligation with respect to District funds, including monitoring the use of District funds.

Sec. 117. Limitation on duplicative projects

- (a) The grant managing entity shall take steps to avoid awarding sub-grants to a non-profit that has been awarded or is being awarded funds from the DC

Children and Youth Investment Trust Corporation (“Trust”) for the same or similar program purposes for which it is applying for funding from the Fund.

(b) Within 30 days after the effective date of the MOU, the grant managing entity shall provide to the Mayor, or his or her designee, and the Council, a plan that sets forth procedures for avoiding the award of duplicative funds from the Trust and the Fund.

* * *

Title III, Subtitle C Automated Traffic Enforcement Enhancement

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to amend section 604c of the Emergency and Non-Emergency Number Telephone Calling Systems Fund Act of 2000 in order to restore the deposit of aggregate automated enforcement revenue in excess of fiscal year projections into the E-911 Fund.

II. COMMITTEE REASONING

The Fiscal Year 2001 Budget Support Act of 2000²⁸⁰ established the Emergency and Non-Emergency Number Telephone Calling Systems Fund, or E911 Fund (“Fund”). Sources of revenue for the Fund include a tax on all local exchange carriers, including wireline and wireless carriers.²⁸¹ The Fiscal Year 2011 Budget Support Act of 2010 added revenue from a tax on prepaid wireless telecommunications services to the Fund.²⁸² The statute states that “[t]he Fund shall be used solely to defray personnel and nonpersonnel costs incurred by the District of Columbia and its agencies and instrumentalities in providing a 911 system, and direct costs incurred by wireless carriers in providing wireless E911 service.”²⁸³ The law also provides that after October 1, 2008, the Fund shall not be used to defray personnel costs, and after October 1,

²⁸⁰ D.C. Law 13-172 (eff. Oct. 19, 2000).

²⁸¹ See D.C. OFFICIAL CODE § 34-1803 (2011 Supp.).

²⁸² See D.C. Law 18-223, § 3002(d); D.C. OFFICIAL CODE § 34-1803.02 (2011 Supp.).

²⁸³ D.C. OFFICIAL CODE § 34-1802(b) (2011 Supp.).

2010, the fund shall not be used to defray nonpersonal costs related to overhead, “including energy, rentals, janitorial services, security, or occupancy costs.”²⁸⁴ Rather, “[t]he Fund shall be used solely to defray technology and equipment costs directly incurred by the District of Columbia and its agencies and instrumentalities in providing a 911 system and direct costs incurred by wireless carriers in providing wireless E-911 service. The fund shall not be used for any other purpose.”²⁸⁵

Prior to repeal in 2011, the law provided that revenues from various other sources, in excess of the annual budgeted revenue level for each source, were to be deposited into the Fund. Those transfers, repealed in the Fiscal Year 2012 Budget Support Act of 2011,²⁸⁶ were as follows:

- (1) The Fire and Emergency Medical Services Department Special Events Fund;
- (2) The Fire and Emergency Medical Services Department Ambulance Revenue;
- (3) Steam (including arrearage payments) for the Correctional Treatment Facility;
- (4) Federal reimbursement for emergency planning and security costs; and
- (5) Photo enforcement (red light and speeding).²⁸⁷

The law also provided that revenues from the District of Columbia Consumer Protection Fund, now repealed, would transfer to the E-911 Fund.²⁸⁸

In the Fiscal Year 2013 Budget Support Act of 2012, the Committee on the Judiciary restored funding to the E-911 Fund from two of the sources that were previously available: “(1) Steam (including arrearage payments) for the Correctional Treatment Facility received by the District since October 1, 2007; and (2) Aggregate revenues in excess of \$88 million received in any one fiscal year beginning on or after October 1, 2012, from fines paid due to automated photo enforcement; except, that in fiscal year 2014, it shall be in excess of \$92.5 million.”²⁸⁹ The Committee on the Judiciary, in restoring the funding, noted in its report that:

Both revenue sources are related to the public safety cluster. The steam payments (which have yet to be fully paid despite the lease requirement with the owner of the Correctional Treatment Facility) are estimated to total less than \$1 million per year. The photo enforcement revenues are estimated by the CFO to be less than \$56 million in FY 2013, and to decline every subsequent year. However, the trend has been just the opposite, and

²⁸⁴ *Id.* § 34-1802(b-1); 34-1802(b-2).

²⁸⁵ *Id.* § 34-1802(b-2) (emphasis added).

²⁸⁶ *See* D.C. Law 19-21, § 9052 (eff. Sept. 14, 2011).

²⁸⁷ *See* D.C. Law 17-20, Fiscal Year 2008 Budget Support Act of 2007, § 3022 (eff. Sept. 18, 2007).

²⁸⁸ *See id.*

²⁸⁹ D.C. Law 19-168, § 3042(b) (eff. Sept. 20, 2012).

the revenue from this public safety endeavor ought to be redirected to pay necessary public safety communications expenses – the purpose of the E911 Fund.²⁹⁰

The subtitle, in the Fiscal Year 2014 Budget Support Act as submitted by the Mayor, would leave the steam revenue transfer intact, but would repeal the provision transferring excess automated traffic enforcement revenues to the E-911 Fund. However, in order to ensure that the mandate of the E-911 Fund—to defray technology and equipment costs incurred by the District in providing a 911 system—is met, the Committee is restoring the transfer of funds in excess of anticipated automated enforcement revenue to the E-911 Fund. Ensuring that the District’s 911 call system is functioning in the most efficient and technologically-progressive manner is essential to public safety in the city. Given the higher-than-projected revenues from automated traffic enforcement, due to increased automated enforcement initiatives across the city, the baseline revenue for each fiscal year is being increased. Revenue at or below the revenue estimate will go to the General Fund, and revenues above the estimate will transfer to the E-911 Fund.²⁹¹

III. SECTION-BY-SECTION ANALYSIS

Sec. 321. Short title.

Sec. 322. Amends section 604(c)(2) of the Emergency and Non-Emergency Number Telephone Calling Systems Fund Act of 2000 to provide that revenues in excess of specific amounts from fines paid due to automated photo enforcement in any one fiscal year shall be deposited into the E-911 Fund. Specifically, this section provides that the amounts of aggregate revenues in excess of: \$106 million in fiscal year 2013; \$141 million in fiscal year 2014 and in each fiscal year thereafter, except as otherwise provided; \$156 million in fiscal year 2015; and \$148 million in fiscal year 2016 shall transfer into the E-911 Fund.

Section 604(c)(2) was added in the Fiscal Year 2013 Budget Support Act of 2012.²⁹² This subtitle, as submitted by the Mayor, would have struck section 604(c)(2) such that all automated enforcement revenues would be deposited into the General Fund. The Committee’s revision will restore the transfer to the E-911 Fund, based on the Office of the Chief Financial Officer’s revised estimates for automated enforcement revenues.

²⁹⁰ COUNCIL OF THE DISTRICT OF COLUMBIA, COMM. ON THE JUDICIARY, REPORT AND RECOMMENDATIONS OF THE COMMITTEE ON THE JUDICIARY ON THE FISCAL YEAR 2013 BUDGET AND CORRESPONDING BUDGET SUPPORT ACT 146 (2012).

²⁹¹ The Committee uses the February 2013 revenue estimates published by the Office of the Chief Financial Officer—the same estimates upon which the Fiscal Year 2014 budget is based.

²⁹² See D.C. Law 19-168, § 3042(b) (eff. Sept. 20, 2012).

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

TITLE III, SUBTITLE C. AUTOMATED TRAFFIC ENFORCEMENT ENHANCEMENT.

Sec. 321. Short title.

This subtitle may be cited as the “Automated Traffic Enforcement Enhancement Amendment Act of 2013”.

Sec. 322. Section 604c(2) of the Emergency and Non-Emergency Number Telephone Calling Systems Fund Act of 2000, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 34-1803.03(2)), is amended to read as follows:

“(2) From fines paid due to automated photo enforcement in any one fiscal year:

“(A) Aggregate revenues in excess of \$106 million in fiscal year 2013;

“(B) Aggregate revenues in excess of \$141 million in fiscal year 2014 and in each fiscal year thereafter, except as otherwise provided in this paragraph;

“(C) Aggregate revenues in excess of \$156 million in fiscal year 2015; and

“(D) Aggregate revenues in excess of \$148 million in fiscal year 2016.”.

* * *

Title VII, Subtitle A
Subject to Appropriations Repealers

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to repeal subject to appropriations provisions from the following laws that authorize tax abatements or expenditures:

- The Land Acquisition for Housing Development Opportunities Program Amendment Act of 2010²⁹³
- The UNCF Tax Abatement and Relocation to the District Assistance Act of 2010²⁹⁴
- Carver 2000 Low-Income and Senior Housing Project Act of 2011²⁹⁵
- Elizabeth Ministry, Inc. Affordable Housing Initiative Real Property Tax Relief Act of 2012²⁹⁶
- King Towers Residential Housing Real Property Tax Exemption Clarification Act of 2012²⁹⁷
- Taxicab Service Improvement Amendment Act of 2012²⁹⁸
- The 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012²⁹⁹
- Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012³⁰⁰
- Israel Senior Residences Tax Exemption Act of 2012³⁰¹
- Families Together Amendment Act of 2010³⁰²
- Adoption Reform Amendment Act of 2010³⁰³

II. COMMITTEE REASONING

Each year, the Council passes several laws which have provisions which are subject to the inclusion of appropriations in an approved budget and financial plan. Until funding is identified and appropriated, these provisions of law are not in effect.

²⁹³ D.C. Law 18-260; D.C. OFFICIAL CODE § 47-1005.01 (eff. Dec. 3, 2010).

²⁹⁴ D.C. Law 18-211; D.C. OFFICIAL CODE § 47-4635 (eff. Aug. 6, 2010).

²⁹⁵ D.C. Law 19-151; D.C. OFFICIAL CODE § 47-4605 (eff. July 13, 2012).

²⁹⁶ D.C. Act 19-589; D.C. OFFICIAL CODE § 47-4657 (enacted Jan. 14, 2013).

²⁹⁷ D.C. Law 19-153; D.C. OFFICIAL CODE § 47-4639 (eff. July 13, 2012).

²⁹⁸ D.C. Law 19-184; 59 DCR 9452 (eff. Oct. 22, 2012).

²⁹⁹ D.C. Law 19-178; D.C. OFFICIAL CODE § 42-1903.01 (eff. October 22, 2012).

³⁰⁰ D.C. Act 19-591; D.C. OFFICIAL CODE § 47-4658 (enacted Jan. 12, 2013).

³⁰¹ D.C. Act 19-652; 60 DCR 2316 (eff. Apr. 27, 2013).

³⁰² D.C. Law 18-228; 57 DCR 6926 (eff. Sept. 24, 2010).

³⁰³ D.C. Law 18-230; 57 DCR 6951 (eff. Sept 24, 2010).

The Mayor's proposed budget for fiscal year 2014 includes funding for several such bills, many of which are tax abatements. When the Chief Financial Officer is able to certify that funds will become available after inclusion in the budget and financial plan, it is appropriate to repeal the provisions of the affected laws containing the subject to appropriation clauses.

The proposed subtitle would repeal subject to appropriation clauses from five tax abatements and one other bill. In addition, the General Counsel has identified two additional bills, the Families Together Amendment Act of 2010 and the Adoption Reform Amendment Act of 2010, which no longer need to be subject to appropriations.

III. SECTION-BY-SECTION ANALYSIS

Sec. 701. Short title.

Sec. 702. Repealer for Land Acquisition for Housing Development Opportunities Program Act of 2010.

Sec 703. Repealer for UNCF Tax Abatement and Relocation to the District Assistance Act of 2010.

Sec. 704. Repealer for Carver 2000 Low-Income and Senior Housing Project Act of 2011.

Sec. 705. Repealer for Elizabeth Ministry, Inc. Affordable Housing Initiative Real Property Tax Relief Act of 2012.

Sec. 706. Repealer for King Towers Residential Housing Real Property Tax Exemption Clarification Act of 2012.

Sec. 708. Repealer for Taxicab Service Improvement Amendment Act of 2012.

Sec. 708. Repealer for 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012.

Sec. 709. Repealer for Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012.

Sec. 710. Repealer for Israel Senior Residences Tax Exemption Act of 2012.

Sec 711. Repealer for Families Together Amendment Act of 2010.

Sec. 712. Repealer for Adoption Reform Amendment Act of 2010.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

TITLE VII, SUBTITLE A. SUBJECT TO APPROPRIATION REPEALERS

Sec. 701. Short title.

This subtitle may be cited as the “Subject to Appropriations Repealers Amendment Act of 2013”.

Sec. 702. Section 3 of the Land Acquisition for Housing Development Opportunities Program Act of 2010, effective December 3, 2010 (D.C. Law 18-260; 57 DCR 9632), is repealed.

Sec. 703. Section 5 of the UNCF Tax Abatement and Relocation to the District Assistance Act of 2010, effective August 6, 2010 (D.C. Law 18-211; 57 DCR 4949), is repealed.

Sec. 704. Section 3 of the Carver 2000 Low-Income and Senior Housing Project Amendment Act of 2012, effective July 13, 2012 (D.C. Law 19-151; 59 DCR 5134), is repealed.

Sec. 705. Section 4 of the Elizabeth Ministry, Inc. Affordable Housing Initiative Real Property Tax Relief Act of 2012, signed by the Mayor on January 14, 2013 (D.C. Act 19-589; 60 DCR 982), is repealed.

Sec. 706. Section 3 of the King Towers Residential Housing Real Property Tax Exemption Clarification Act of 2012, effective July 13, 2012 (D.C. Law 19-153; 59 DCR 5138), is repealed.

Sec. 707. Section 7 of the Taxicab Service Improvement Amendment Act of 2012, effective October 22, 2012, (D.C. Law 19-184; 59 DCR 9431), is repealed.

Sec. 708. Section 3 of the 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012, effective October 22, 2012 (D.C. Law 19-178; 59 DCR 9416), is repealed.

Sec. 709. Section 3 of the Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012, signed by the Mayor on January 12, 2013 (D.C. Act 19-591; 60 DCR 987), is repealed.

Sec. 710. Section 3 of the Israel Senior Residences Tax Exemption Act of 2012, signed by the Mayor on January 29, 2013 (D.C. Act 19-652; 60 DCR 2316), is repealed.

Sec. 711. Section 3 of the Families Together Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-228; 57 DCR 6926), is repealed.

Sec. 712. Section 701 of the Adoption Reform Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-230; 57 DCR 6951), is repealed.

* * *

B. ADDITIONAL SUBTITLES RECOMMENDED BY THE COMMITTEE:

Title --, Subtitle --
**Tax Revision Commission Report Extension and Procurement
Streamlining Amendment Act of 2013**

V. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to extend the deadline for the Tax Revision Commission's report on its recommendations regarding the District's tax structure, and give the Commission limited and streamlined procurement authority to allow it to contract for services that will be needed temporarily until the conclusion of its work. The effect of this subtitle would be to give the Commission adequate time to complete its recommendation report. The impact on existing law is to amend the completion date in Section 47-462(d) of the District of Columbia Official Code, and exempt the Tax Revision Commission from certain competitive contracting laws in Section 2-351 of the Code.

VI. COMMITTEE REASONING

The purpose of the Tax Revision Commission is to conduct a broad and deep review of the District's tax laws, tax expenditures, revenues, tax base, and economy, and to provide the Council and the Mayor with recommendations for reform. The Commission is required by law to submit its recommendations in the form of a report similar in form and scope as those transmitted by the District of Columbia Tax Revision Commission in 1998.

Under current law (D.C. Official Code § 47-462(d)), the Tax Revision Commission was given nine months to produce its report. This deadline was extended in subsequent emergency³⁰⁴ and temporary³⁰⁵ legislation by the Council on February 15, 2013. The original Tax Revision Commission required two years between passage of the legislation and the publication of its well-researched and in-depth report in 1998.

The members of the Commission are of the opinion that an extension of the time for the Commission to publish its report would result in a publication of both depth and breadth comparable to the 1998 report and which would better inform policy decisions in the coming years. The extension would provide the Commission with the necessary time to conduct studies externally and produce the best and most thoughtful product.

³⁰⁴ Act 20-19, 60 DCR 3974 (enacted Mar 1, 2013).

³⁰⁵ Law 20-05, 60 DCR 4667 (eff. Mar. 20, 2013).

The work of the Commission will be most effective if the deadline for the report is extended to the end of calendar year 2013, or December 31, 2013. Additionally, the Commission has experienced difficulty in attempting to execute quick procurements for expert research into particular topics of tax law and policy. With the reporting deadline approaching, the Commission has an urgent need for expedited contracting.

Exempting certain procurements from the requirements of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 et seq.), will allow the Commission to accomplish its statutory mandate within the deadline set forth in the Tax Revision Commission Report Extension and Procurement Streamlining Emergency Act of 2013.

The Tax Revision Commission Report Extension and Procurement Streamlining Act of 2013 would allow the Commission to procure goods and services independent of the Chief Procurement Officer pursuant to a streamlined small-purchase procurement process for contracts for goods and services not exceeding \$40,000. Limiting the Commission's independent procurement authority to contracts of such a small amount will ensure that the District's policy of favoring competitive procurements is not undermined.

VII. SECTION-BY-SECTION ANALYSIS

Sec. --. Short title.

Sec. --. Amends the statute governing the reporting date for the findings of the Tax Revision Commission.

Sec. --. Amends the Procurement Practices Reform Act of 2010 to allow for streamlined procurement authority.

VIII. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

SUBTITLE --. TAX REVISION COMMISSION EXTENSION

Sec. --. Short title.

This subtitle may be cited as the "Tax Revision Commission Extension and Procurement Streamlining Amendment Act of 2013".

Sec. --. Section 47-462(d) of the District of Columbia Official Code is amended by striking the phrase "9 months after the Commission's appointment" and inserting the phrase "December 31, 2013" in its place.

Sec. --. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 et seq.), is amended as follows:

(a) Section 201(b) (D.C. Official Code § 2-352.01(b)) is amended by adding a new paragraph (1A) to read as follows:

"(1A) The Tax Revision Commission, pursuant to section 407;"

(b) Section 407 (D.C. Official Code § 2-354.07) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

"(a-1) The Tax Revision Commission may establish a streamlined noncompetitive process for entering into contracts for goods and services not exceeding \$40,000."

(2) Subsection (b) is amended by striking the phrase "this section" and inserting the phrase "this section or the \$40,000 limitation of subsection (a-1) of this section" in its place.

* * *

Title --, Subtitle --
**University of the District of Columbia Student Debt Recovery
Amendment Act of 2013**

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to align collection of the University of the District of Columbia's (UDC) delinquent debts with the University's current practices. Instead of transferring its unpaid student tuition, student fees, and student loans within 60 days of them becoming delinquent—as required by the Delinquent Debt Recovery Act of 2012—the University will be allowed to transfer and refer these debts within one year of the end of the

semester in which the debts were incurred.³⁰⁶ Additionally, UDC will retain collected funds in its accounts instead of having the funds deposited into the District's General Funds.

II. COMMITTEE REASONING

The University of the District of Columbia is the District's only public university and is an independent agency. In this capacity, the University is subject to the same laws and regulations as other District agencies, including those that govern the recovery of delinquent debts. Thus, UDC is currently required to send delinquent debts—including student tuition, loans, and fees—to the Central Collection Unit ("Unit") established in the Fiscal Year 2013 Budget Support Act of 2012.³⁰⁷ This unit is housed within the Office of the Chief Financial Officer.

Under the "Delinquent Debt Recovery Act of 2012," ("Act") a delinquent debt is defined as "any financial obligation owed by a person to a District agency [including UDC] that remains unpaid more than 90 days after it is due."³⁰⁸ Within 60 days of the delinquent debt accruing, the agency must notify the Central Collection Unit of the debt, at which point the Unit will seek to recover payment of the debt.³⁰⁹ Any recovery collected by the Unit is then deposited into the District's General Fund. While this system makes sense for most District agencies, the unique nature of the debts associated with a university—such as student tuition, loans, and fees—makes it impractical for UDC to subscribe to the precise debt collection timelines outlined in the Act.

UDC bills its students for tuition and fees when a student registers but allows a student to wait until the end of the semester to settle out his or her account for that semester.³¹⁰ For example, during April, a student may register for his upcoming fall semester and is billed for that upcoming semester, but he does not have to pay for the fall semester in full until after he has completed it (i.e. in December). Generally, a student will not receive his or her financial aid until the beginning of the semester for which it will be used—hence a student receiving financial aid for the fall semester will not receive his or her money until August. Thus, UDC's current billing arrangement allows students the opportunity to receive their financial aid and any other financial assistance, such as private grants, loans or scholarships, that they may need to pay their tuition and fees before they are required to settle the semester's bill.

³⁰⁶ Currently UDC must transfer its debt to the Central Collection Unit, which is housed within the Office of Finance and Treasury of the Office of the Chief Financial Officer.

³⁰⁷ D.C. Law 19-168.

³⁰⁸ Sec. 1042 of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

³⁰⁹ Sec. 1043 of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

³¹⁰ See Memorandum from Dr. Rachel Petty, Chief Operating Officer, University of the District of Columbia to Phil Mendelson, Chairman, Council of the District of Columbia 2 (Feb. 12, 2013) [hereinafter 2.13.13 Petty Memo] (on file with the Committee of the Whole).

Under the Act, students will not have the opportunity to defer payment until the close of the semester, as the unpaid tuition and fees is considered a delinquent debt if the University has not received payment within 90 days of billing the student, and UDC must send the student's information and debt over to the Central Collection Unit for collection. This creates a hardship for students, who are not purposefully neglecting to pay their tuition and fees but simply are waiting to receive their financial aid.

To prevent this hardship, this proposed BSA subtitle aligns the Act with the UDC's current collection practice of not referring the student's account for collection until one year after the end of the semester in which the debt was incurred. Thus, if a student fails to pay tuition for the Fall 2013 semester, the University will not have to transfer the unpaid tuition to the Central Collection Unit until the end of the Fall 2014 semester.

Additionally, the University requested that any recovered student debt be returned to the University as opposed to being placed in the District's General Fund. The University accounts for this revenue in its budget. In fiscal year 2012, for example, approximately 16 percent of UDC's total revenue came from tuition.³¹¹ Given UDC's current financial status, losing even a portion of this 16 percent is detrimental to the University, its ability to prepare for its upcoming accreditations, and its ability to run successfully a flagship and a community college simultaneously. Moreover, the Committee has urged UDC to explore increasing tuition as a way for the University to cover costs associated with its impending accreditations and as a way to alleviate the subsidy amount given by the District to the University. To then take away a portion of this revenue solely because the University has not collected it within 90 days is counterproductive to this independent agency.

Thus, the Committee believes that the Delinquent Debt Recovery Act should be amended to align it with UDC's current practices and to allow UDC to retain funds collected by the Central Collection Unit on the University's behalf. Such funds are to be deposited in the University of the District of Columbia Debt Collection Fund, which is established through the proposed BSA amendment. UDC has approximately \$7.3 million in outstanding student debt,³¹² a significant amount. Unlike parking or speeding tickets, tuition compensates the University for services that it has directly provided to its students. If UDC is unable to recoup these expenses, it is placed at a greater financial disadvantage, making the University more reliant upon the District for funding. This would frustrate the Council's mandate to the University to right-size and become more self-sufficient. To avoid this outcome, the Committee recommends the adoption of this BSA subtitle.

III. SECTION-BY-SECTION ANALYSIS

³¹¹ In fiscal year 2012, UDC's net revenue from tuition was \$24,218,108. UDC 5.3.13 Responses, *supra* note ____, at 10.

³¹² See 2.13.13 Petty Memo, *supra* note 4, at 1.

Sec. --. Short title.

Sec. --. Creates the University of the District of Columbia Debt Collection Fund. Since this BSA amendment proposes that the University be allowed to keep all funds collected on its behalf by the Central Collection Unit, these funds must be deposited into a particular fund or else will be deposited into the District's General Fund. Thus, this BSA amendment creates a non-lapsing special purpose fund into which the Central Collection Unit shall deposit all funds collected on the University's behalf.

Sec. --. Amends the statute governing the recovery of delinquent debts to align collection of delinquent student tuition, fees, and loans with the University's current practice and to allow UDC to retain any funds collected by the Central Collection Unit on its behalf.

Subsection (a) indicates that UDC will have one year from the end of the semester in which the debt is incurred, as opposed to 60 days after the debt becomes delinquent, to transfer and refer the matter to the Central Collection Unit. This will align the Act with the current collection process used by the University.

Subsections (b) and (c) allow the University to retain all funds collected by the Central Collection Unit on its behalf instead of having those funds deposited into the Delinquent Debt Fund within the District's General Fund.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

SUBTITLE --. UDC STUDENT DEBT RECOVERY

Sec. --. Short title.

This subtitle may be cited as the "University of the District of Columbia Student Debt Recovery Amendment Act of 2013".

Sec. --. Establishment of the University of the District of Columbia Debt Collection Fund.

(a) There is established as a special fund the "University of the District of Columbia Debt Collection Fund," which shall be administered by the University of the District of Columbia in accordance with subsection (c) of this section.

(b) The fund shall consist of the revenue from the collection of unpaid student tuition, student fees, and student loans by the Central Collection Unit in

accordance with the District of Columbia Delinquent Debt Recovery Act, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1.350.01 *et seq.*).

(c) The Fund shall be used for expenses associated with the operations of the University of the District of Columbia.

(d) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year, or at any other time.

Sec. --. The District of Columbia Delinquent Debt Recovery Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-350.01 *et seq.*), is amended as follows:

(a) Section 1043 (D.C. Official Code § 1-350.02) is amended by adding a new subsection (a-1) to read as follows:

“(a-1) The University of the District of Columbia shall transfer and refer unpaid student tuition, student fees, and student loans to the Central Collection Unit within one year after the end of the semester in which the student tuition, student fees, and student loans were incurred.”

(b) A new section 1043a-1 is added to read as follows:

“Sec. 1043a-1. Collection on behalf of the University of the District of Columbia.

“Funds collected and recovered by the Central Collection Unit, beginning in fiscal year 2014 and continuing in the following fiscal years, arising out of delinquent debts transferred and referred to the Central Collection Unit by the University of the District of Columbia for collection, net of cost and fees, shall be deposited into the University of the District of Columbia Debt Collection Fund established pursuant to this Act, by the Central Collection Unit within 60 days following the then current fiscal year.”

(c) Section 1045 (D.C. Official Code § 1-350.04) is amended by striking the phrase “all delinquent debts collected by the Central Collection Unit,” and inserting the phrase “all delinquent debts collected by the Central Collection Unit, except those

amounts collected by the Central Collection Unit described in section 1043a-1” in its place.

* * *

Title --, Subtitle --
University of the District of Columbia Community College
Accreditation Amendment Act of 2013

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to twofold: 1) to add four non-voting members with expertise in community colleges to the University of the District of Columbia (UDC) Board of Trustees; and 2) to require UDC to develop a timeline for making the University of the District of Columbia Community College (UDC-CC) “separately accreditable.”

II. COMMITTEE REASONING

In January 2009, the UDC Board of Trustees established the UDC-CC, with the intent that the Community College operate as a “branch” campus of the UDC flagship.³¹³ Independent of the Board’s actions, then-Chairman Vincent Gray called for a feasibility study to be conducted with regard to the creation of a UDC community college.³¹⁴ The study concluded that the newly established Community College needed to achieve independent accreditation and become autonomous from the UDC flagship.³¹⁵ In response to this finding, and in response to a public roundtable held by the Committee of the Whole on the results of the feasibility study,³¹⁶ the Council provided funds to the University so that it could develop a strategic plan for moving the Community College towards independence.³¹⁷ This strategic plan was completed in October 2010.³¹⁸

Despite the feasibility study and the strategic plan, UDC-CC continued as an academic division of the UDC flagship, without a distinct path as to how separate accreditation would be

³¹³ See *supra* notes _____ and accompanying text.

³¹⁴ See *supra* note _____.

³¹⁵ See *supra* note _____.

³¹⁶ This roundtable was held on November 20, 2009.

³¹⁷ COMMUNITY COLLEGE TRANSITION PLAN, *supra* note _____, at 3.

³¹⁸ *Id.*

achieved and without a clear definition of “independence.”³¹⁹ Thus, in 2011, the Council passed the “Community College of the District of Columbia Plan for Independence Act of 2011,” which established a five member UDC-CC Transition to Independence Advisory Board (Transition Board).³²⁰ The Transition Board, in conjunction with the President of UDC, the Chairman of the UDC Board of Trustees, and the Chief Executive Officer (CEO) of UDC-CC, was tasked with the development of a transition plan for establishing UDC-CC as an independent community college.³²¹ Although the plan was to be submitted to the Council no later than November 28, 2011, this did not occur.³²² Therefore, the Council passed the “University of the District of Columbia Community College Autonomy Act of 2012.”³²³ This Act mandated UDC to petition Middle States Commission on Higher Education (Middle States) for a substantive change to reclassify UDC-CC as a branch campus of UDC by November 1, 2012.³²⁴ Additionally, it placed the daily responsibility for UDC-CC with the CEO of UDC-CC in order to create more autonomy for the Community College.³²⁵

In September 2012, the Transition Board released its plan, in which it reaffirmed the need for UDC to seek to have UDC-CC be recognized by Middle States as a branch campus.³²⁶ Additionally, the Transition Board recommended that once UDC-CC had obtained that status, it work to be recognized by Middle States as “separately accreditable.”³²⁷ To that end, the Transition Board made several recommendations, most of which are included in the BSA amendment language below, as to how UDC can enable the Community College to be able to meet Middle States’ criteria.³²⁸

In addition to the Transition Board’s recommendations, the Committee suggests the addition of four non-voting members, who have expertise in community colleges, to the Board of Trustees. Thus, in total, the Board will be comprised of 19 members—15 of whom have voting power and 4 whom are non-voting. The four non-voting members will advise the Board on how to ready UDC-CC so that it can be deemed “separately accreditable.” Currently the Board has no members with community college expertise, and while the Board does have a Community College subcommittee, this subcommittee struggles to obtain a quorum. Thus, the Community

³¹⁹ *Id.* at 3-4.

³²⁰ Sec. 4702 of D.C. Law 19-21, the Fiscal Year 2012 Budget Support Act of 2011.

³²¹ Sec. 4703 of D.C. Law 19-21, the Fiscal Year 2012 Budget Support Act of 2011.

³²² *See id.*

³²³ D.C. Law 19-168.

³²⁴ Sec. 4042 of D.C. Law 19-168, the Fiscal Year 2013 Budget Support Act of 2012.

³²⁵ *See id.*

³²⁶ COMMUNITY COLLEGE TRANSITION PLAN, *supra* note _____, at 9-10.

³²⁷ *See id.* at 14. The Community College cannot seek its own separate accreditation from Middle States until it has been deemed as such. *Id.*

³²⁸ The Committee chose not to pursue the option of UDC-CC having its own procurement authority at this time. While the Transition Board made this suggestion, it also noted that “the additional cost of procuring . . . services is not included in UDC-CC’s direct budget, [so] the Board [would have to] determine how . . . services for the college would be funded.” *Id.* at 15. Given UDC’s already precarious financial state, the Committee believes that this option should be held off until after UDC has completed its right-sizing.

College is essentially left with no representation on UDC's Board. Adding these four members to the Board will provide UDC-CC with advocates on the Board and ensure that the Board is aware of and considering the best interests of the Community College when making decision.

Given that UDC-CC was awarded branch campus status in January 2013, UDC must act expeditiously to prepare UDC-CC to be deemed "separately accreditable" by Middle States. While the Committee would prefer for UDC to take these actions without a mandate from the Council, the University's past actions have demonstrated that prodding by the Council is necessary. Thus, the Committee puts forth the addition of the four non-voting Board members and requires UDC to submit to the Council a timeline for separate accreditation of UDC-CC. It has been four years since the Community College was created. If UDC had worked diligently to aid UDC-CC in this process, the Community College's accreditation process would be almost complete. Thus, the Committee recommends adoption of this BSA subtitle, so that UDC-CC may be one step closer to obtaining its own accreditation.

III. SECTION-BY-SECTION ANALYSIS

Sec. --. Short title.

Sec. --. Adds four non-voting members to the UDC Board of Trustees, bringing the total number of Board of Trustees to 19. These members are to have an expertise in community colleges and are to provide guidance on how to ready UDC-CC so that it can obtain separate accreditation from the UDC flagship. As the sole reason for these members is to advise the Board on how to obtain UDC-CC's initial accreditation, which should be completed within the next four years, this provision sunsets on September 30, 2017.

Sec. --. Requires UDC to establish a timeline for making the UDC-CC "separately accreditable," as defined by Middle States. The nine areas to be addressed in the timeline align with Middle States' 10 affiliation requirements and 14 accreditation standards. These requirements and standards must be met in order for Middle States to deem UDC-CC as "separately accreditable," and in order for UDC-CC to seek independent accreditation.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

SUBTITLE --. UDC COMMUNITY COLLEGE ACCREDITATION

Sec. --. Short title.

This subtitle may be cited as the "University of the District of Columbia Community College Accreditation Amendment Act of 2013".

Sec. - -. Section 201 of the District of Columbia Public Postsecondary Education Reorganization Act, effective October 26, 1974 (88 Stat. 1423; D.C. Official Code § 38-1202.01) is amended as follows:

(a) The lead in language of subsection (c) is amended to read as follows:

“(c) The Board of Trustees shall consist of 15 voting members, selected in accordance with this subsection, and 4 non-voting members, selected in accordance with subsection (o) of this section:”

(b) A new subsection (o) is added to read as follows:

“(o)(1) Beginning with fiscal year 2014, the Board of Trustees shall include 4, non-voting members, who have an expertise in community colleges. These 4 members shall provide guidance to the Board in the accreditation process for the University of the District of Columbia Community College and shall be nominated by the Mayor with the advice and consent of the Council.

“(2) This subsection shall expire on September 30, 2017.”

Sec. - -. Section 4042 of the University of the District of Columbia Community College Autonomy Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 38-1271.01, note), is amended by adding a new subsection (c) to read as follows:

“(c) By December 1, 2013, the University of the District of Columbia shall submit to the Council a timeline, using existing resources, for the separate accreditation of the University of the District of Columbia Community College. This timeline shall address the following areas:

“(1) Transition of financial and administrative independence in the areas of student affairs and academic affairs of the University of the District of Columbia Community College from the University of the District of Columbia;

“(2) Ability of the University of the District of Columbia Community College to obtain self-sufficiency in the areas of admissions and financial aid;

“(3) A separate personnel classification of University of the District of Columbia Community College employees;

“(4) Ability for the University of the District of Columbia Community College to initiate and sustain its own academic programs;

“(5) A policy for the University of the District of Columbia Community College Chief Executive Officer to regularly report to the University of the District of Columbia’s Board of Trustees regarding the University of the District of Columbia Community College’s affairs;

“(6) A fully operational University of the District of Columbia Community College foundation;

“(7) A financial plan for the University of the District of Columbia Community College that addresses funding, resource planning, and allocation responsibilities;

“(8) Approval of degree-granting authority from the Office of the State Superintendent for Education; and

“(9) Other evidence that the University of the District of Columbia Community College is effectively fulfilling its mission and serving students in a manner consistent with Middle States Commission on Higher Education’s 10 requirements of affiliations and 14 accreditation standards.”

* * *

COMMITTEE ACTION

On Thursday, May 9, 2012, at 4:11 p.m. the Committee of the Whole met to consider and vote on the proposed fiscal year 2014 budget for the agencies and programs under its jurisdiction. After ascertaining a quorum (Chairman Mendelson and Councilmembers Alexander, Barry, Bonds, Bowser, Catania, Cheh, Graham, Grosso, McDuffie, Orange and Wells present; Councilmember Evans absent), Chairman Mendelson presented the Committee Report and summarized the Committee's primary recommendations and comments. He then moved the draft report as previously circulated as well as revised summary tables to properly reflect the actions of the Committee. After moving the revised report, he called for discussion.

Councilmember Grosso led off the discussion by highlighting the provisions regarding the University of the District of Columbia Community College and accreditation. He expressed support for the BSA subtitles affecting UDC, including the reporting requirement and board of trustees expansion. He also expressed his support for the policy recommendations regarding training at the Office of Contracting and Procurement (OCP).

Councilmember Orange moved an amendment to the Committee Report to accept an intra-committee transfer of funds from the Committee on Business, Consumer, and Regulatory Affairs to add \$100,000 to the Council of the District of Columbia to provide additional funds for Emancipation Day activities. After a brief discussion, in which Chairman Mendelson asked whether the issue could be addressed during consideration of the budget by the full Council, the Chairman accepted the amendment.

Councilmember Barry raised concern over past staffing shortages at OCP and thanked the Committee for the inclusion of additional positions, as proposed by the Mayor. He went on to express his support for UDC and the community college, and expressed his frustration with the university's ongoing financial and management challenges. In response to the comments of Councilmember Barry regarding contracting staff, Chairman Mendelson reiterated the recommendations contained in the report, noting the importance of certification for contracting staff, as well as training. Councilmember Barry went on to thank the Chairman for his emphasis on training.

After opportunity for further discussion, Chairman Mendelson moved the report with leave for staff to make technical and editorial changes. The report was approved unanimously (Chairman Mendelson and Councilmembers Alexander, Barry, Bonds, Bowser, Catania, Cheh, Graham, Grosso, McDuffie, Orange and Wells voting aye; Councilmember Evans absent).

The meeting adjourned at 4:32 p.m.