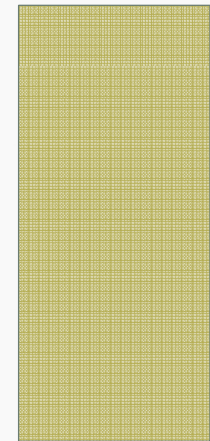


TROY CITY ATTORNEY'S OFFICE

EFFICIENT AND EFFECTIVE REPRESENTATION



FINDINGS

- ICMA/IMLA: Outsourcing is not supported at this time
 - Cost of City Attorney services appear generally lower than the rates for legal services in the community
 - Cost of City Attorney services are substantially lower than comparable costs for insurance defense
 - Efficiencies and advantages of in house services outweigh advantages of outsourcing



ICMA AND IMLA'S CHARGE

- The City Attorney's Office was reviewed as part of the organizational restructuring review performed by the International City Manager's Association (ICMA). The ICMA requested assistance from the International Municipal Lawyer's Association (IMLA).
- IMLA is a non-profit professional organization, founded in 1935, with over 2500 member communities.



ICMA AND IMLA'S PROCESS

- Assessment
 - Identify all department functions and activities
 - Determine why the function is performed (mandated, essential, discretionary, or administrative)
 - Determine which functions/ activities are “core functions” related directly to the City or department mission.
 - Define and quantify each of the activities (indicate what staffing is required to produce each output)
 - Group functions by output (what goods/benefits are provided?)
 - Identify who benefits and how from each function/activity



ICMA AND IMLA'S PROCESS

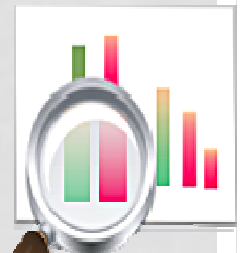
- Evaluation

- Determine whether the function/activity needs to be done and what are the consequences if not
- Determine whether the function can be done better/less expensively by the private sector or another entity
- Determine the consequence of eliminating, outsourcing, or reducing the service



ASSESSMENT

- 34 departmental functions were identified as mandated services, required by City Charter, Code, or law
- 7 departmental functions were administrative or essential services (basic function of government)
- Less than 0.0050% of the regular work hours are devoted to administrative or non-mandated services
- Department budget is \$1,009,386 (82% personnel)
- There are 7 full time employees budgeted for the department, for a total of 14,560 base hours. The Department has one legal secretary/office coordinator, two paralegals, and four attorneys.
- Attorney overtime is regularly required. Attorneys receive a base salary (no overtime)



EVALUATION

- “Based on our review, Troy’s City Attorney’s office holds an enviable reputation in Michigan for its talent. The City Attorney garners the respect of her peers and holds positions of leadership in various legal organizations. Her staff is likewise well respected. Based on the size of the City and its various operations, the City operates the Attorney’s Office at a barely sustainable level. . . . The available data do not support outsourcing the City’s legal services at this time.”



CHARTER MANDATES



- Troy City Charter, Section 3.17- Attorney: Functions and Duties:
 - The Attorney shall act as legal adviser to, and be attorney and counsel for the Council and shall be responsible solely to the Council. He shall advise any officer or department head of the City in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.
 - The Attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the council may request. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

CHARTER MANDATES



- Troy City Charter, Section 3.17- Attorney: Functions and Duties, Continued:
 - The Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments, which are submitted to him by the Council, and shall promptly give his opinion as to the legality thereof.
 - The Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the City.
 - The Attorney shall perform such other duties as may be prescribed for him by this charter or by the Council.
 - Upon the recommendation of the Attorney, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the Attorney therein.

CHARTER MANDATES



- Defend the City when sued
- File lawsuits on behalf of the City
- Prosecute misdemeanor criminal cases
- Provide advice and legal counsel to all other City departments when requested
- Prepare or review all ordinances, contracts, etc.
- Keep updated and educate and inform City officials and employees as to changes in legislation or case law
- Other duties as directed by Council or the Charter

REPRESENT PEOPLE OF THE CITY OF TROY IN CRIMINAL PROSECUTIONS

- Represent the People of the City of Troy in misdemeanor criminal matters (drunk driving, shoplifting, assault and battery, drug cases) and traffic matters
- Issue warrants/ citizen complaint process
- Approximately 45% of Department function



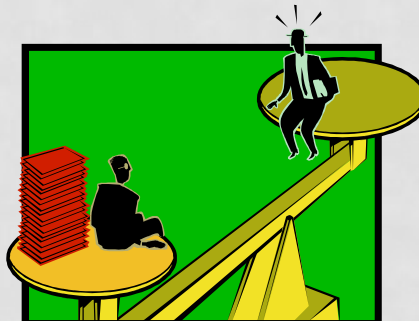
PROSECUTION

- Most time consuming element of work load- 3 judges; increasing motions; assisting victims; obtaining restitution
- Paralegals provide maximum efficiency
- ICMA/IMLA: “Of the various benefits generally associated with outsourcing a function of government, outsourcing this function yields only one specific benefit and that is cost savings if the Council can obtain bids at prices less than what it now spends.”
 - ICMA/IMLA calculates hourly rate at **\$83.03**
 - Bids in surrounding communities all have higher hourly rates



PROSECUTION

- ICMA/IMLA: “Some of what normally are advantages to outsourcing will likely become disadvantages as work quality may suffer. That is because prosecution involves significant judgment regarding which cases to pursue vigorously and whether a case should be tried; contracting out this service can change the dynamic of city policy on crime. To briefly explain, if the prosecuting attorney in private practice receives the same pay regardless of how much time the attorney spends in prosecuting cases, the attorney has an incentive to conclude the prosecutions quickly.”



DEFENSE OF CITY

- Defend the City in all cases where the City or its officials or employees have been sued in the course of their duties
 - Civil rights allegations filed against police officers or others
 - Zoning challenges
 - Contract disputes
 - Personal injury cases resulting from alleged defective public buildings or public roadways or sidewalks



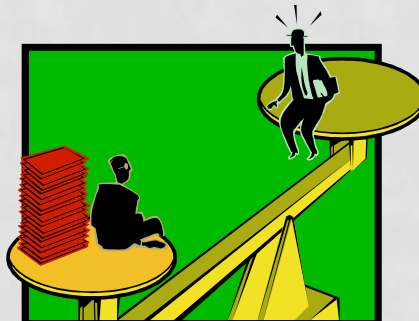
DEFENSE OF CITY

- Hard to predict actual number of lawsuits and exposure of City on an annual basis
- Estimated at 20% of total department function
- The City could potentially transfer this function to attorneys hired by the City's insurance carrier, at a reduced fee of \$135 per hour
- ICMA/IMLA calculates Troy's hourly rate as **\$83.03**



DEFENSE OF CITY

- MMRMA : “We subjectively believe that the City benefits from having inside legal services and that outside legal services would cost more.”
- ICMA/IMLA: “While these matters can be outsourced to private counsel, their nature and complexity often affect the expertise necessary for the defense and therefore the rates and cost of defense. Structuring an RFP to seek bids on these types of services in the abstract will be difficult. Thus, the Council may not be able to fully understand the cost that outsourcing this aspect of the City Attorney’s functions will be until the first bills come in.”



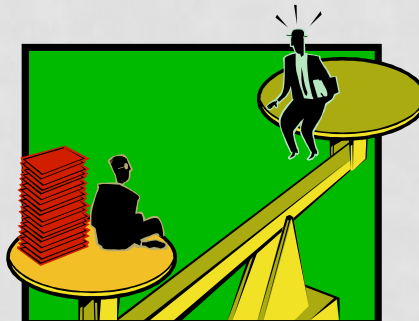
REPRESENT CITY AS PLAINTIFF

- File lawsuits on behalf of the City of Troy (contract disputes, collection matters, dangerous buildings, administrative matters, nuisance abatement, condemnation cases, environmental matters, utility and cable matters, miscellaneous)
- Approximately 10% of department function
 - Lawyer's weekly median litigation rate- \$195/hour
 - City Attorney's Office hourly rate- **\$83.03**/hour



REPRESENT CITY AS PLAINTIFF

- ICMA/IMLA: “... outsourcing can risk creation of negative publicity as each of these types of cases involve tactful consideration and treatment of the Defendant.”
- ICMA/IMLA: “...Structuring an RFP to seek bids on these types of services in the abstract will be difficult. Thus, the Council may not be able to fully understand the cost that outsourcing this aspect of the City Attorney’s functions will be until the first bills come in.”



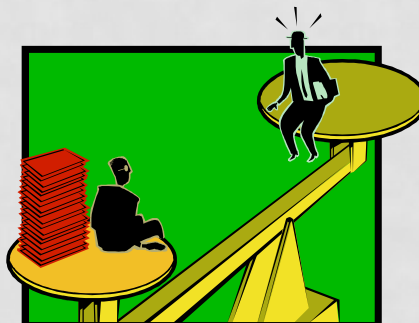
ADVISING CITY OFFICIALS AND EMPLOYEES

- Approximately 25% of Department Function
- Provide advice and legal counsel to all other City departments when requested (daily)
- Keep updated and educate and inform City officials and employees as to changes in legislation or case law (fast paced changes)
- Draft or review contracts (138)
- Ordinance drafting or amendment (21)
- Attendance at Council and Board meetings (92)
- Address Official, Employee, Citizen & Media Inquiries
- Training- City officials, committee members, employees
- Administrative matters



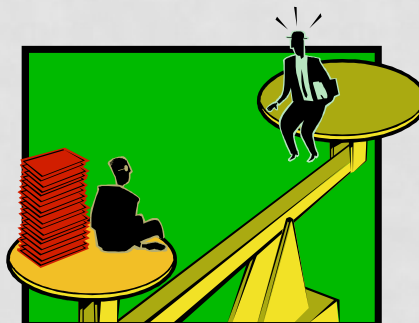
ADVISING CITY OFFICIALS AND EMPLOYEES

- ICMA/IMLA: “While outsourcing just the advice and counsel function and retaining other functions may be theoretically possible, IMLA does not see this option as having any practical benefit or advantage to the Council. Without doubt, the Council could direct that the City Attorney hire private attorneys to provide advice to the Council, the City Manager and the City’s agencies, but any savings will likely be lost in inefficiency.”



ADVISING CITY OFFICIALS AND EMPLOYEES

- ICMA/IMLA: “Attorneys offer their expertise and knowledge as their service. As attorneys often disagree over the intent, meaning and purpose of a law as well as how to handle a matter or case, having too many attorneys advising the Council can only lead to battles over advice and policy. While these battles might foster a new spectator sport, they are unlikely to save the Council money.”



SUSTAINABILITY

- ICMA/IMLA: “The City of Troy has recently downsized its law office to 7.0 FTEs. While the City Attorney can maintain certain services at this level, any change in the workload will put a strain on its ability to provide the city an optimum level of legal services. Thus, the IMLA is concerned about the sustainability of the current staffing level and believes that some city programs may be underserved. “



INTANGIBLES

- Avoids conflict of interest
- Institutional memory
- Familiarity with function of other departments (and the employees), and City's Charter and ordinances
- Accessibility
- Flexibility
- Experience
- Risk Mitigation
- Accountability



CONCLUSION

- ICMA/IMLA: Outsourcing is not supported at this time; but a future analysis as to some of the departmental functions may be prudent if there is continuing decreased revenues and downsizing
- City Attorney's Office provides legal services at a cost much lower than the market rate- **\$83.03** hourly rate vs. \$195 median hourly rate
- There are significant intangible benefits from having in house services
- Zucker Report- "The average score of 4.28 was the highest of all the functions. .. These are some of the best scores we have seen." 2/4/2008
- Efficient and effective legal team

