



**NEW YORK CITY COUNCIL
FINANCE DIVISION**

Tanisha S. Edwards, Esq.
Chief Financial Officer and
Deputy Chief of Staff

Nathan Toth
Deputy Director

Eisha N. Wright
Deputy Director

Paul Scimone
Deputy Director

Dohini Sompura
Assistant Director

John Russell
Unit Head

Sebastian Palacio Bacchi
Principal Financial Analyst

Hon. Adrienne Adams
Speaker of the Council

Hon. Sandra Ung
Chair of the Committee on Governmental Operations

**Report on the Fiscal 2023
Preliminary Plan and the Fiscal 2022
Mayor's Management Report for the
Office of Administrative
Trials and Hearings**

March 22, 2022

(Report prepared by Sebastian Palacio Bacchi)

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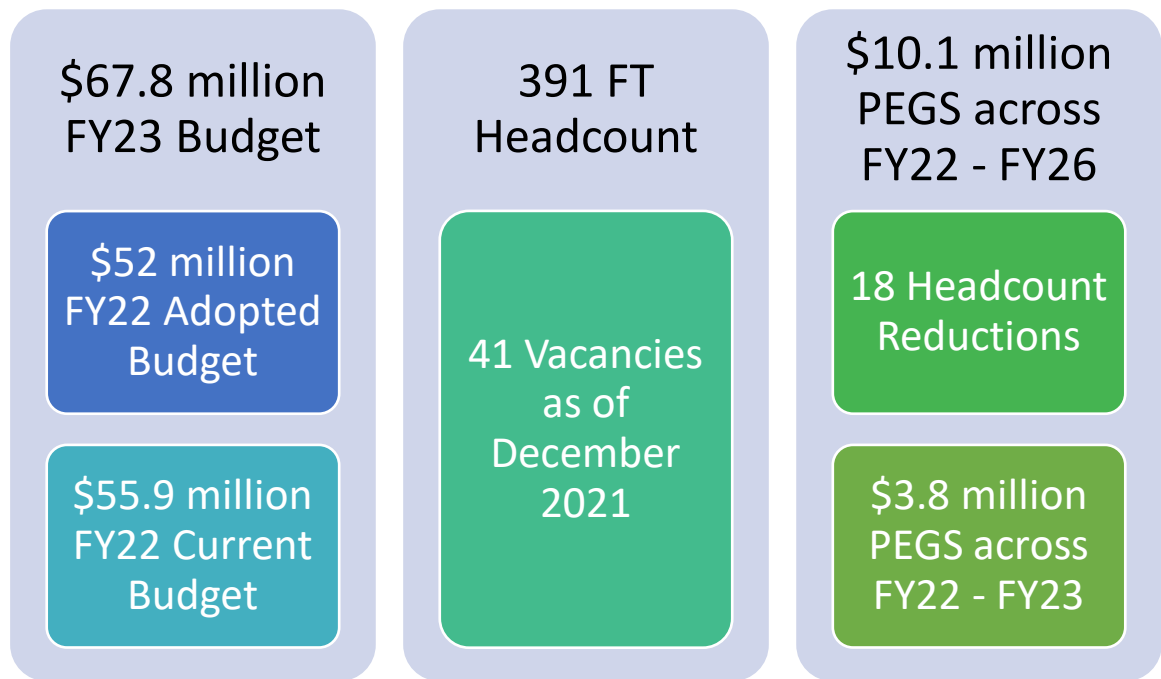
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Office of Administrative Trials and Hearings Fiscal 2023 Budget Snapshot



Office of Administrative Trials and Hearings Financial Plan Overview

The Office of Administrative Trials and Hearings (OATH) is the City's central, independent administrative law court. OATH has two divisions – the Hearings Division and the Trials Division. The Hearings Division conducts hearings on summonses issued by enforcement agencies for alleged violations of City rules and regulations. The Trials Division adjudicates a wide range of issues that can be referred by any City agency, board or commission. These hearings include disciplinary cases brought by City agencies against civil service employees, matters pertaining to licensing, regulatory and enforcement authority, among others. OATH's Fiscal 2023 budget is less than one percent of the City's entire Fiscal 2023 Preliminary Budget. Additionally, OATH's Program to Eliminate the Gap (PEG) savings, totaling \$10.1 million across the five-year plan period, equates to three percent of its City-funded budget, which is in line with the PEG target set by the new Administration.

Financial Plan Summary

OATH's Fiscal 2023 Preliminary Budget totals \$67.8 million, including \$47.3 million in Personal Services (PS) funding to support 391 full-time (FT) positions and 160 full-time equivalent (FTE) positions. The entirety of OATH's Fiscal 2023 budget is funded through City tax-levy funding. While OATH's operations are separated into the Hearings and Trials Divisions, the agency's budget is organized into two Units of Appropriation (U/A), which include one for PS and one for Other Than Personal Services (OTPS)¹.

¹ Units of Appropriation are the subdivisions of the City expense budget that the City Council votes upon.

OATH Financial Summary						
<i>Dollars in Thousands</i>	FY20	FY21	FY22	Preliminary Plan		**Difference
	Actual	Actual	Adopted	FY22	FY23	FY23-FY22
Personal Services						
Additional Gross Pay	\$541	\$1,134	\$468	\$552	\$468	\$0
Full-Time Salaried - Civilian	22,885	22,219	23,958	27,661	34,016	\$10,058
Unsalaries & PS Other	10,890	8,636	13,856	11,436	12,749	(\$1,107)
Overtime - Civilian	59	125	50	50	50	\$0
SUBTOTAL	\$34,375	\$32,114	\$38,332	\$39,699	\$47,283	\$8,951
Other Than Personal Services						
Contractual Services	\$2,451	\$1,438	\$4,201	\$5,741	\$9,544	\$5,343
Fixed and Misc Charges	2	0	0	0	0	\$0
Other Services & Charges	6,180	7,521	7,534	8,334	8,850	\$1,316
Property & Equipment	277	271	327	607	327	\$0
Supplies & Materials	1,419	816	1,644	1,525	1,758	\$114
SUBTOTAL	\$10,329	\$10,046	\$13,706	\$16,207	\$20,479	\$6,773
TOTAL	\$44,704	\$42,160	\$52,038	\$55,906	\$67,762	\$15,724
Funding						
City Funds			\$51,922	\$55,615	\$67,762	\$15,840
Federal - Other			116	291	0	(\$116)
TOTAL	\$44,704	\$42,160	\$52,038	\$55,906	\$67,762	\$15,724
Budgeted Headcount						
Full-Time Positions - Civilian	302	283	306	391	391	85

**** The difference of Fiscal 2022 Adopted compared to Fiscal 2023 Preliminary Budget**

OATH's Fiscal 2023 Preliminary Budget totals \$67.8 million, with \$47.3 million in PS funding to support 391 FT positions. OATH's Fiscal 2023 budget is \$15.7 million higher than its Fiscal 2022 Adopted Budget of \$52 million. This is primarily due to the fact that in the November 2021 Financial Plan, hearings associated with Carter Cases were moved from the Department of Education (DOE) to OATH, which included the transfer of resources and headcount to OATH's budget. Furthermore, as of the release of the Preliminary Plan, OATH will generate savings of \$10.1 million across the five-year plan period, which will be discussed in greater detail in the following section of the report. For additional information regarding OATH's budgetary actions since the Fiscal 2022 Adopted Budget, please refer to Appendix A.

Fiscal 2023 Preliminary Budget Changes

This section will provide an itemized list of significant budget actions that impact OATH's budget as of the release of the Fiscal 2023 Preliminary Plan.

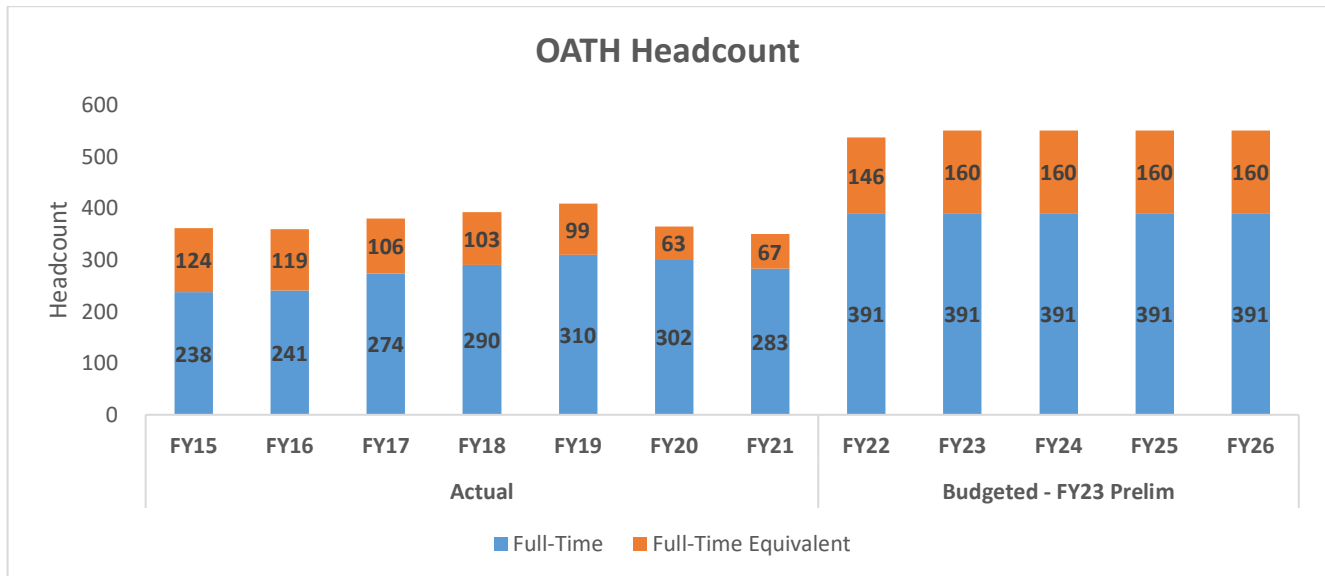
PEG Savings

The Fiscal 2023 Preliminary Plan includes savings of \$10.1 million across the five-year plan period, and includes the following.

- **PS Savings.** OATH will generate budgetary savings of \$1.2 million in Fiscal 2022 and baselined savings of \$1.1 million beginning in Fiscal 2023 through PS accruals in the Department's Hearings Division.

- **Vacancy Reduction.** OATH will generate budgetary savings of \$494,000 in Fiscal 2022 and baselined savings of \$989,000 beginning in Fiscal 2023 through the reduction of 18 vacant clerical positions across the agency, primarily from its Hearings Division. The Office of Management and Budget (OMB) has stated this would not impact the lawyers that work in OATH's Hearings Division.

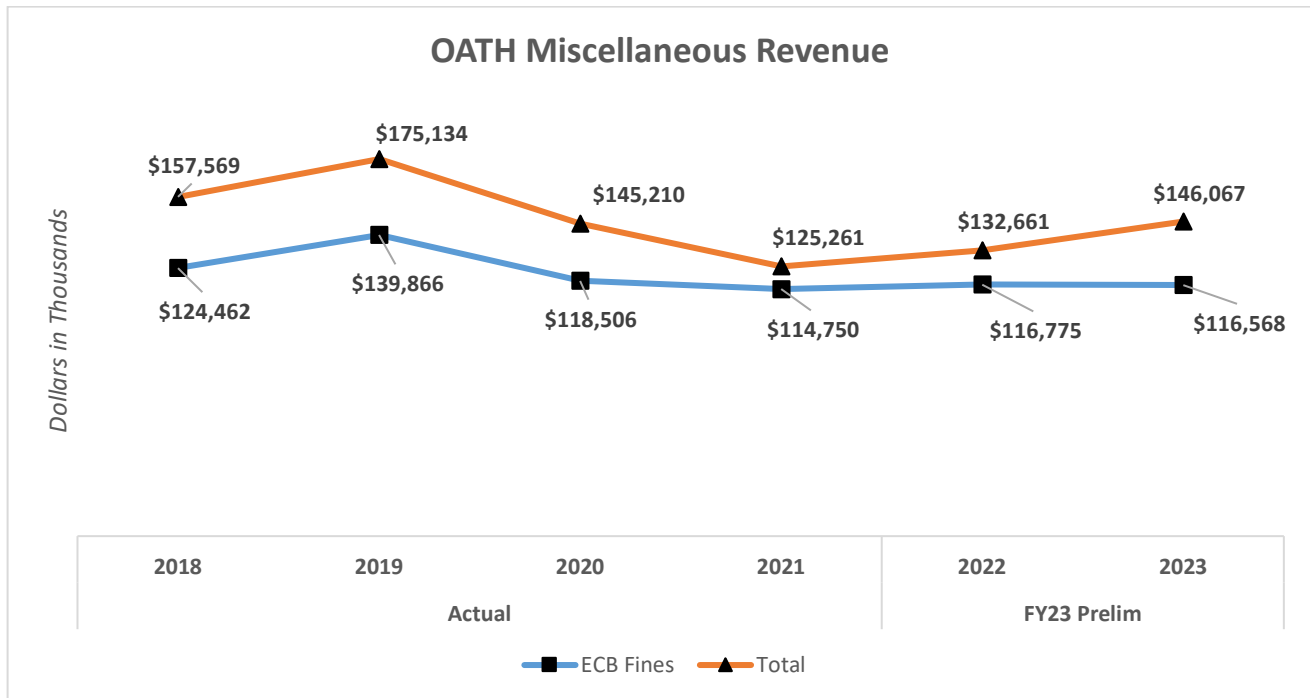
Headcount



In the Fiscal 2023 Preliminary Plan, the OATH's PS Budget includes \$47.3 million to support 391 FT positions and 160 FTE positions. As of December 2021, OATH had 41 vacancies, equivalent to a 12.9 percent vacancy rate. OATH's headcount has expanded over the last several fiscal years in order to accommodate several changes to the agency, including the new Center for Creative Conflict Resolution, accommodate increasing caseloads following the passage of the Criminal Justice Reform Act, and most recently, hearings associated with Carter Cases, which were previously held in DOE. For additional information regarding OATH's headcount, please refer to Appendix B.

Miscellaneous Revenue

The OATH Hearings Division generates revenues for the City through the collection of fines issued for various violations. Revenue generated from Hearings Division fines are subdivided by the types of cases the tribunals adjudicate. In addition to fine revenue, a smaller share of agency revenue is generated through fees charged at the OATH Hearings Division.



It is projected that OATH will generate miscellaneous revenue of \$146.1 million in Fiscal 2023. ECB fine revenue stems from violations issued by the Department of Sanitation (DSNY), the Department of Buildings (DOB), the Department of Environmental Protection (DEP), the Fire Department (FDNY), the Police Department (NYPD), the Department of Transportation (DOT), among other agencies. Revenue generated from ECB fines is expected to amount to approximately 80 percent of OATH's total miscellaneous revenue in Fiscal 2023, a percentage that is in line with actual revenue generation in the past fiscal years. For additional information on OATH's miscellaneous revenue streams, please refer to Appendix C.

Fiscal 2023 Preliminary Mayor's Management Report

The Preliminary Mayor's Management Report (PMMR) for Fiscal 2022 was released in February 2022, and contains information regarding City agencies/offices that allow the public to better understand how NYC programs are performing. OATH's PMMR report includes numerous metrics, which provide high-level information regarding OATH's operations, including the total number of summonses received from the issuing agency at its Hearings Division, the number of summonses with a decision rendered at the Hearings Division, among others. The report contains valuable information, however, many of the metrics do not contain specified targets, and OATH should strive to include certain targets, based on historical performance rates. Some notable performance metrics provided by OATH in the Fiscal 2022 PMMR include the following.

- **Hearings Division.** The PMMR states that the Hearings Division received 28 percent more summonses, conducted 21 percent more hearings, conducted 32 percent more pre-hearing activities, and issued 37 percent more decisions in the first four months of Fiscal 2022 when compared to the same time period last fiscal year. These increases were the result of City enforcement agencies issuing more summonses during this period of time.
- **Center for Creative Conflict Resolution.** OATH's Center for Creative Conflict Resolution (CCCR) showed an uptick in caseloads and conducted 42 percent more mediations for employees in workplace conflict, and doubled the number of conflict resolution trainings that it provided to

City employees during the first four months of Fiscal 2022 when compared to the same time period last fiscal year.

For additional information regarding OATH's Fiscal 2022 performance metrics, please refer to the Fiscal 2022 Preliminary Mayor's Management report found here:

https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022_pmmr.pdf

Budget Issues and Concerns

Environmental Control Board

As part of its miscellaneous revenue streams, OATH issues Environmental Control Board (ECB) fines, however, this figure underrepresents the quantity of fines levied in ECB courts because a major share of OATH fines are not collected. Unpaid fines are re-categorized as OATH/ECB debt, which the NYC Department of Finance (DOF) is responsible for collecting.

The DOF has been more assertive in its efforts to collect OATH/ECB debt, which debt collections rising from \$41.5 million in Fiscal 2014 to \$70.7 million in Fiscal 2021. The amount DOF collected in Fiscal 2021 represents a decrease of \$1.6 million, or 2.1 percent, over the previous year, as DOF collected \$72.3 million in Fiscal 2020. This slight decrease has been brought on by the COVID-19 pandemic. For example, the number of judgements referred to DOF by OATH decreased by 30 percent, from 218,781 in Fiscal 2020 to 153,445 in Fiscal 2021, as City agencies issued fewer violations over the course of the pandemic. Additionally, DOF's collection rate for OATH/ECB debt totaled 61.6 percent. However, as shown in the report, the total cumulative amount due in unpaid OATH/ECB debt totals approximately \$1.1 billion, which takes into account an allowance for bad debt of \$253 million. For additional information on DOF's efforts to collect ECB debt, please refer to the *"Fiscal 2021 Annual Report on DOF Collection of ECB Judgement Debt"*, which is a report the DOF must submit to the Council on a yearly basis following the passage of Local Law 11 of 2015. This report can also be found on DOF's website².

² *"Annual Report on Environmental Control Board (ECB) Debt – Adjudicated Judgements"*.
<https://www1.nyc.gov/assets/finance/downloads/pdf/22pdf/ecb-annual-report-2021.pdf>

Appendices

A. Budget Actions in the November and Preliminary Plans

<i>Dollars in Thousands</i>	FY22			FY23		
OATH Budget as of the Adopted 2022 Budget	City	Non-City	Total	City	Non-City	Total
	\$51,922	\$116	\$52,038	\$51,438	\$0	\$51,438
New Needs						
DOE Hearings to OATH	5,654	0	5,654	17,280	0	17,280
Trials Division Expansion	926	0	926	1,331	0	1,331
Vaccine Incentive	12	0	12	0	0	0
Subtotal New Needs	\$6,592	\$0	\$6,592	\$18,611	\$0	\$18,611
Other Adjustments						
Collective Bargaining	81	0	81	82	0	82
Enhanced Space Mgmt	(138)	0	(138)	(275)	0	(275)
PS Savings	(1,122)	0	(1,122)	0	0	0
Other Intra-City Adjustments	0	174	174	0	0	0
Subtotal Other Adjustments	\$(1,179)	\$174	\$(1,005)	\$(193)	\$0	\$(193)
Total All Changes	\$5,413	\$174	\$5,587	\$18,418	\$0	\$18,418
OATH Budget as of the November 2021 Budget	\$57,334	\$290	\$57,624	\$69,857	\$0	\$69,857
New Needs	0	0	0	0	0	\$0
Other Adjustments						
PS Savings	(1,226)	0	(1,226)	(1,107)	0	(1,107)
Vacancy Reduction	(494)	0	(494)	(989)	0	(989)
Subtotal Other Adjustments	\$(1,720)	\$0	\$(1,720)	\$(2,096)	\$0	\$(2,096)
Total All Changes	\$(1,720)	\$0	\$(1,720)	\$(2,096)	\$0	\$(2,096)
OATH Budget as of the FY23 Prelim Plan	\$55,614	\$(290)	\$55,324	\$67,761	\$0	\$67,761

B. OATH Headcount

	Actual				Budgeted - FY23 Prelim				
	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
Full-Time	290	310	302	283	391	391	391	391	391
Full-Time Equivalent	103	99	63	67	146	160	160	160	160
Total	393	409	365	350	537	551	551	551	551

C. OATH Miscellaneous Revenue

<i>Dollars in Thousands</i>	Actual				FY23 Prelim	
	2018	2019	2020	2021	2022	2023
OATH Hearing Fees	\$17	\$25	\$7	\$37	\$11	\$11
DOHMH Fines	29,722	32,230	24,375	7,893	12,675	26,288
ECB Fines	124,462	139,866	118,506	114,750	116,775	116,568
Taxi Fines	3,368	3,013	2,322	2,581	3,200	3,200
Total	\$157,569	\$175,134	\$145,210	\$125,261	\$132,661	\$146,067

D. OATH Fiscal 2023 Preliminary Contract Budget

<i>Dollars in Thousands</i>	FY22 Adopted		FY23 Prelim	
Category	# of Contracts	Amount	# of Contracts	Amount
Contractual Services General	18	\$2,194	18	\$3,934
Telecommunications Maint	1	153	1	153
Maint & Repair General	1	35	1	35
Office Equipment Maint	1	54	1	54
Printing Contracts	1	51	1	51
Security Services	2	1,006	2	1,006
Temporary Services	1	75	1	75
Cleaning Services	2	540	2	540
Training Prgm for City Employees	1	8	1	111
Professional Svcs: Direct Education Services	1	22	1	22
Professional Svcs: Other	1	62	1	3,562
Total	30	\$4,200	30	\$9,543