

## Overview and Initial Issues Identification

### Office of Labor Standards and Minimum Wage

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#### **Introduction:**

In 2014 the Council and Mayor formed a Labor Standards Advisory Group (LSAG) comprised of representatives from business, labor, and community organizations. The LSAG was asked to provide recommendations to the Mayor and Council on ways the City could strengthen and increase compliance with the city's recently enacted labor standards laws: Paid Sick and Safe Leave, Wage Theft, Job Assistance and the City of Seattle Minimum Wage.

The LSAG's report and recommendations were presented to the Mayor and Council in September 2014. Their recommendations include:

- 1) establish a single, centralized City entity that businesses, workers and the general public would understand is the place to go for information and assistance with the City's labor standards;
- 2) implement a comprehensive education and outreach effort that includes partnerships with non-governmental organizations;
- 3) focus investigations and penalties on repeat offenders or sectors with systemic violations; and
- 4) the first year after the minimum wage ordinance goes into effect the city should focus on education and outreach, and if violations are found seek a make whole remedy that reimburses workers for lost back pay and interest.

#### **Mayor's 2015-2016 Proposed Budget.**

The Mayor's 2015-2016 Proposed Budget establishes a new Office of Labor Standards (OLS) as a division of the Office for Civil Rights (OCR). Minimum wage implementation and enforcement originally placed in the Finance and Administrative Department (FAS) will be transferred to the new OLS.

The OLS will provide a centralized focal point for the City's efforts on labor standards and has three main functions:

- Promote compliance with labor standards through outreach and education
- Collect and analyze data on the city's workforce and workplaces
- Administer the City's labor standards ordinances.

*Funding:* \$510,693 is provided in 2015 and \$660,440 in 2016 in the OCR budget for this work. This includes \$100,000 in 2015 and \$50,000 in 2016 to support outreach, including partnerships with business and community stakeholders. There is also \$159,000 available to OCR for outreach work in 2014 (this funding is from the \$250,000 that was allocated to FAS for labor standards work in 2014). Any unused funds from 2014 will be carried over to 2015. The process for use of which funds will be developed after the establishment of OLS.

The 2015 proposed budget for the Office for Economic Development (OED) includes a related but separate \$210,000. OED plans to hire a consultant to assist small businesses who have been impacted by the new minimum wage requirements and other recent business regulations.

*Staffing.* The OLS Division Director will be appointed by the OCR director and report to the OCR Director and the Mayor. The table below shows the proposed staffing for OLS and a proposed organization chart is Attachment 1 to this memo.

**2014 - Existing Staff in OCR**

0.5 FTE business outreach liaison
1.0 FTE investigator
<b>1.5 FTEs Total</b>

**2015 – Proposed New FTEs**

1.0 FTE OLS Director
0.5 FTE business outreach liaison (increase from 0.5 FTE to 1.0 FTE)
1.0 FTE community outreach liaison
1.0 FTE lead investigator
<b>3.5 FTEs Total New FTEs</b>
<b>5.0 FTEs Total (including existing OCR staff)</b>

An OCR administrative staff person will also provide some administrative support to OLS

**2016 – Proposed New FTEs**

2.0 FTE investigators
<b>7 FTEs Total (including existing OCR staff and 2015 adds)</b>

*Labor Standards Advisory Commission.* A new 15 member Labor Standards Advisory Commission (Commission) will be established with 7 members appointed by the Mayor, 7 by the City Council and the 15<sup>th</sup> member appointed by the Commission. Commission members will be representative of employers, employees, and community members with a demonstrated concern and background in labor standards. The Commission will advise the OLS Director on labor standards generally and specifically on the implementation of the City labor standards ordinances and provide an annual report to the Mayor and Council.

Legislation. Three pieces of legislation on this issue have been submitted:

- A. **OCR Office of Labor Standards Ordinance.** This ordinance would create a new Office of Labor Standards within the Office of Civil Rights. The ordinance also creates a Labor Standards Advisory Commission, pursuant to direction provided by the Council in Resolution 31524.
- B. **OCR Office of Labor Standards Amendments Ordinance.** The minimum wage ordinance (Ord. 124490) tasked the FAS director with implementation and enforcement of the new minimum wage requirements. The proposed ordinance would:
- transfer minimum wage implementation and enforcement from FAS to OLS;
  - change the reference from OCR to the OLS in the Paid Sick and Safe Leave and Job assistance ordinances; and
  - makes a series of non-substantive, technical amendments to the minimum wage ordinance.
- C. **OCR Wage and Tip Compensation Ordinance.** This ordinance would create an administrative process and civil penalty for wage and compensation complaints to augment the City's existing criminal wage theft ordinance. This ordinance parallels the City's other labor standards ordinances and provides for enforcement through an advisory letter, individual complaint, or Director's charge. Appeal is to an administrative hearing; and the statute of limitations is 3 years. The remedies parallel those in the minimum wage ordinance and include back wages, interest and penalties. Similarly there is an affirmative duty on the employer to provide notice and retain records; and there is an explicit prohibition against retaliation.

Issues:

1. Should the funding to support small businesses impacted by recent city labor standards laws in the Office of Economic Development (OED)'s budget (\$210,000) remain in the OED's budget or be combined with the outreach and education funding in OCR's budget (\$100,000 in 2015 plus the \$159,000 remaining from 2014 and \$50,000 in 2016)?

The purpose of OLS was to provide a centralized City entity responsible for outreach and education on the City's labor standards requirements and the business liaison in OCR will be increased to full-time.

The proposed 2015 budget tasks OED with providing technical support to businesses now that the City has passed the new minimum wage law. The Executive notes this funding and work was placed in OED because of OED's experience in helping businesses develop strategies for business development, revenue growth, and marketing and OED's knowledge

of economic development strategies. They feel this work is different from OCR's work in educating businesses about the requirements of the new laws and if OCR provides technical assistance to businesses it may compromise the perception of OCR as a neutral party.

Option A. Transfer the \$210,000 in OED's budget to OCR's budget.

Option B. Approve the Mayor's proposal without changes.

2. Does Council support emphasizing education/outreach during 2015 and waiting until 2016 to hire the additional 2.0 FTE investigators?

Option A. Increase OCR's 2015 budget by \$150,000 and add position authority to hire the two additional investigators in 2015.

Option B. Approve the Mayor's proposal without changes.

3. The LSAG did not consider and the Mayor's proposed ordinance does not change any of the existing remedies provided in the City's labor standards laws.

Is any Councilmember interested in changes to accomplish the following:

- Reconsider and possibly change the use of Advisory Letters not just in Paid Sick and Safe Leave but in all labor standards ordinances;
- Increase fines/penalties; and/or
- Impose a lien to enforce a judgment against an employer? Note, the City already has authority to do so but has not pursued this remedy.

Option A: Request that the newly formed Labor Standards Advisory Commission provide a recommendation to the Mayor and Council on these or other potential changes to labor standards remedies.

Option B: Approve the Mayor's proposal without changes.

### **Minimum Wage Evaluation**

Resolution 31524 was passed concurrently with the City's new Minimum Wage ordinance. One of the items included in the Resolution was a request that the City Auditor contract with academic researchers to:

- Establish baseline data
- Conduct a 2017 evaluation
- Conduct a 2019 evaluation (two and four years after implementation.)

The evaluation is to analyze existing data sources and use stakeholders interviews to assess the impact of the legislation on:

- employment among different classes of workers;
- rates of business openings and closures;
- prices;
- business profits;
- compliance rates;
- whether other worker benefits have reduced or remained unaffected;
- consumer spending;
- worker turnover and productivity;
- demand for state and local public assistance;
- purchasing power of employees covered by the law;
- gender and racial income disparities; and the
- economic security of immigrant and refugee workers.
- pay particular attention to the immigrant-owned businesses and small manufacturers,
- frequency of non-compliance, using City and other relevant data sources.

The City Auditor released a Request for Proposals in fall 2014. They had only one response, from a team of researchers at the University of Washington. Their proposal requested \$1.6 million for this work.

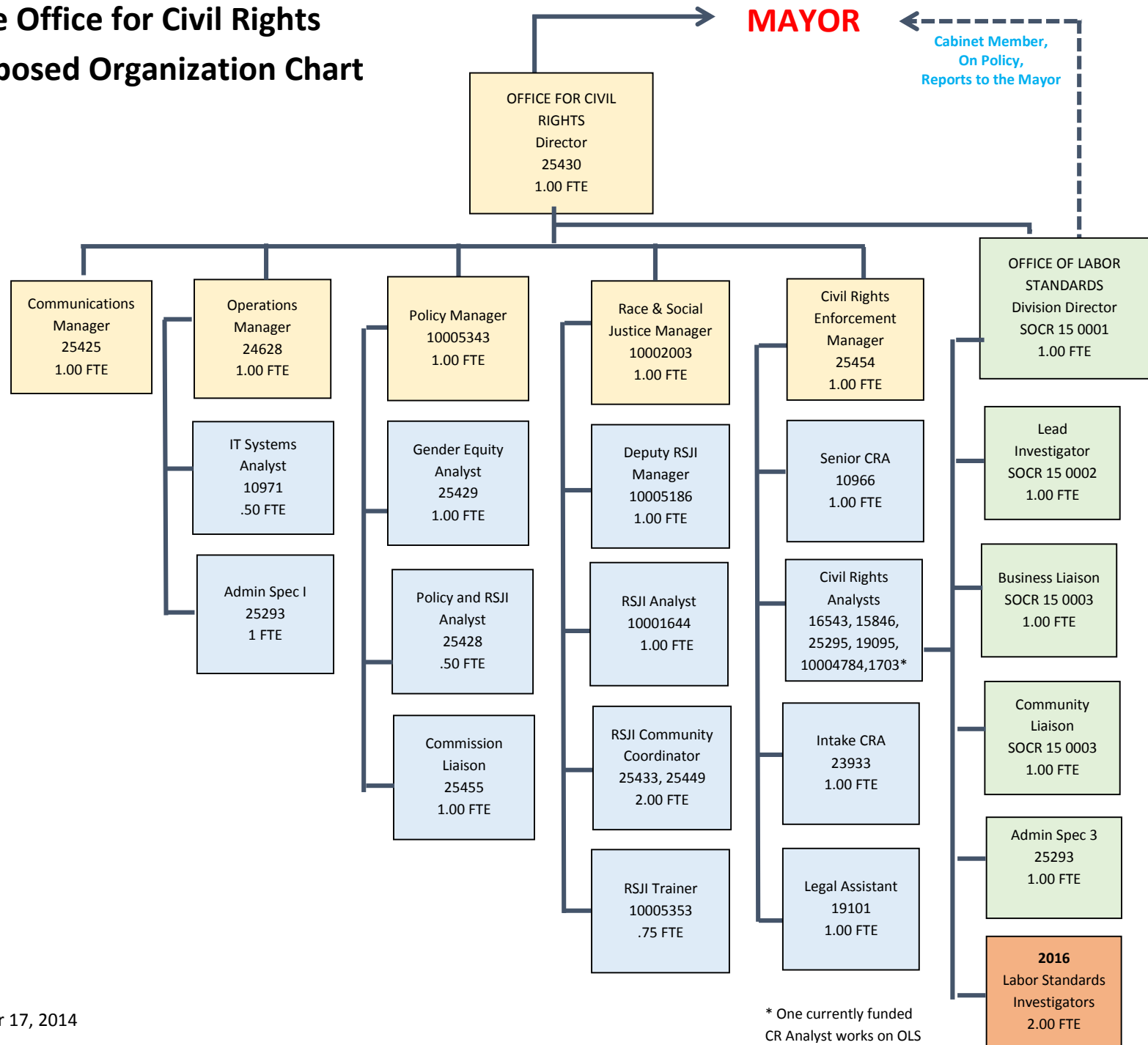
**Issue:**

Is the \$100,000 in the Mayor's Proposed 2015-2016 budget sufficient to begin this work? While this is a multi-year study, there are advantages to having one research team compile both the baseline and both evaluations and having an overall plan for the evaluation effort. Capturing the baseline data is of most concern at this point.

Option A: Increase the funding to a level in excess of \$100,000.

Option B Approve the Mayor's proposed budget without changes.

# Seattle Office for Civil Rights 2015 Proposed Organization Chart



\* One currently funded CR Analyst works on OLS