

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
DF-46 (REV 08/16)

Fiscal Year 2017-18	Business Unit 0820	Department California Department of Justice	Priority No. 2
Budget Request Name 0820-401-BCP-2017-MR		Program LEGAL SERVICES DIVISION	Subprogram

Budget Request Description

Defending California Against Unconstitutional Laws and Legislation (D-CAL)

Budget Request Summary

The California Department of Justice (DOJ) requests a two-year limited-term General Fund augmentation of \$6.5 million and an increase of thirty-one (31.0) positions in the Legal Services Division in order to help increase DOJ's capacity to address new unfunded workload stemming from overbroad Federal directives that threaten the constitutional rights of California's citizens.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. Project Approval Document: Approval Date:

If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By	Date	Reviewed By	Date
Department Director	Date	Agency Secretary	Date

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☐ Workload Budget per Government Code 13308.05

PPBA	ORIGINAL SIGNED BY: MARK TOLLEFSON	Date submitted to the Legislature 5/11/17
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A. Budget Request Summary

In order to help increase the DOJ's capacity to address new unfunded workload stemming from overbroad Federal directives that threaten the constitutional rights of California's citizens, the Legal Services Division requests an increase of nineteen (19.0) Deputy Attorney General (DAG) positions along with the Legal Complement of twelve (12.0) Legal Secretaries, and a two-year limited-term General Fund augmentation of \$6.5 million.

B. Background/History

The California Constitution (Article V, Section 13) identifies the Attorney General as the chief law officer of the State and is vested with supervisory authority over local law enforcement agencies. It is the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced and that California statutes protecting the rights and priorities of all its citizens are properly interpreted and not undermined by Federal executive actions. Additionally, Section 11040 of the California Government Code provides that the citizens of California are best served by providing DOJ with the resources to develop and maintain the Attorney General's capability to provide his client agencies with competent legal representation.

Under the leadership of Governor Jerry Brown over the last seven years, California has staked out a position as a leader on environmental protection, expansion of access to quality and affordable health care, and immigrant rights. These hard fought forward-leaning changes are currently under threat from a hostile Federal government. It is clear that if the goals of the current presidential administration are realized that it would threaten California's climate change goals to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions, risk the well-being of 4.6 million Californians that are currently able to access health care through financial assistance made possible by the Affordable Care Act, and violate the rights of many immigrants currently protected by the TRUST and TRUTH Acts from cruel and costly immigration detention and persecution.

Beginning on January 20, 2017, President Trump and his administration issued several Executive Orders that effectively challenged the dual sovereignty of our federal system and presented a significant impact to a vast area of public policy, including public safety, healthcare, the environment, consumer affairs, civil rights, and various general constitutional issues.

As outlined in Table 1, the Attorney General's Office (AGO) within the Department of Justice has expended over 13,000 hours of legal time on Federal Administration matters during the period of January 20, 2017 through May 8, 2017. Annualized, these hours equate to approximately 19 attorneys and approximately \$6.5 million in unfunded work $((13,000 * 3) / 1,776 \text{ hours per PY})$.

Generally, these hours include conducting legal investigations on complex statutory and constitutional issues, engaging in factual development, crafting legal arguments, preparing and filing pleadings, consulting with fellow State Attorneys General's offices and other governmental entities, and outreach to civil rights organizations and other stakeholders.

Please refer to Attachment 1 for a list of the various matters opened since January 20, 2017.

It is important to note that in addition to one-time and ongoing costs that these actions have generated, DOJ anticipates additional budgetary resources will be needed to support future Federal actions that will significantly impact the people of California:

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- U.S. Attorney General Jeff Sessions has recently signaled that under his leadership, the U.S. Department of Justice will be pulling back on law enforcement oversight efforts, including engaging in pattern or practice investigations of local law enforcement agencies or demanding compliance with consent decrees. This will have a significant and broad impact on law enforcement agencies.
- U.S. Department of Education Secretary Betsy DeVos has stated that she will de-emphasize the protection of civil rights in the context of education and rollback protections for student loan borrowers. Ensuring the rights of students and constituents will require more resources from the DOJ.
- The new Administration has taken an aggressive approach in pulling back existing regulation and enforcement of consumer protection laws. To ensure the people of California are protected, DOJ will need to take additional action to enforce consumer protection and unfair competition laws to compensate for cuts to and policy shifts affecting the Federal Trade Commission, Consumer Financial Protection Bureau, Food and Drug Administration, and U.S. Department of Education.
- The overall fear and anxiety provoked by the new Administration's threatened immigration enforcement policies are making our immigrant communities even more vulnerable to immigration consultant scams. As a result, DOJ anticipates a need for education, outreach and other preventive measures to protect against fraud. This will also increase the need for investigative and prosecutorial resources to combat such fraud.

Table 1		
Federal Administration Matters - All Sections Hours Summary		
January 20, 2017 Through May 8, 2017		
Section	Hours	Subject Matter
Bureau of Children's Justice	1,311	Federal/Executive Actions
Civil Rights Enforcement	3,600	Immigration, Healthcare
Consumer Law	1,156	Immigration Fraud
Employment & Administrative Mandate	49	Immigration
Environment	2,027	Environment
Government Law Section	1,686	Immigration, Healthcare, Constitutional Issues
Health, Education and Welfare	208	Immigration, Healthcare
Licensing	15	Licensing
Natural Resources	2,272	Environment, Immigration
Office of Solicitor General	744	Environment, Immigration
Total Hours	13,068	

C. State Level Considerations

In California, the Attorney General is the State's chief law officer and is vested with supervisory authority over local law enforcement agencies. It is in the best interest of the State to see that California statutes protecting the rights and priorities of all its citizens are properly interpreted and enforced, and are not undermined by overbroad and unconstitutional federal directives.

D. Justification

DOJ is facing unique circumstances that are challenging the very mission of the Department to protect and defend the laws and people of California. Furthermore, none of the workload generated by the Federal Administration matters were anticipated during the development of the 2017-18 Governor's Budget.

We would note that the amount of resources requested pales in comparison to the amount of money California stands to lose should these Federal actions go unchallenged. The unintended consequence of these restrictions and reductions limits DOJ from effectively fulfilling its mission. DOJ is requesting a two-year, limited-term General Fund augmentation of \$6.5 million for legal services resources and thirty-one (31.0) positions (including legal support staff) in order to respond to the many issues now emanating from Washington D.C.

E. Outcomes and Accountability

By authorizing this augmentation, the Attorney General and DOJ will be able to continue to serve and protect and ensure the fair and impartial enforcement and application of law to preserve justice, safety, liberty, economic prosperity, and equality for Californians, and help the State in preserving natural and financial resources for future generations to come. Without the full resources through the approval of this request, DOJ will be forced to limit or refuse new legal casework, redirect resources intended for existing workload, and hinder the DOJ's capability from effectively providing legal services to the public.

F. Analysis of All Feasible Alternatives

Alternative 1:

Approve the proposal as requested to provide an augmentation of \$6.5 million General Fund and thirty-one (31.0) positions.

Alternative 2:

Approve the Department's request at a reduced level. Approving DOJ's request at a reduced level will force DOJ to limit or refuse new legal casework and redirect resources intended for existing workload which will jeopardize current operations and lead to the stacked workload on staff already operating at full capacity.

Alternative 3:

Deny this proposal. Staffing shortages and increased workloads would lead to attrition and work quality issues that would fall under heavy scrutiny from the public.

G. Implementation Plan

The new positions will commence on July 1, 2017.

H. Supplemental Information

None

I. Recommendation

Alternative 1:

Approve the Department's request for a General Fund augmentation of \$6.5 million and the addition of thirty-one (31.0) legal services positions.

Fiscal Summary

(Dollars in thousands)

BCP No. 2	Proposal Title Defending Cal. Against Unconstitutional Laws and Legis (D-CAL)			Program Legal Services Division		
Personal Services	Positions			Dollars		
	CY	BY	BY + 1	CY	BY	BY + 1
Total Salaries and Wages ¹		31.0	31.0		\$3,275	\$3,275
Total Staff Benefits ²					1,658	1,658
Total Personal Services	0.0	31.0	31.0	\$0	\$4,933	\$4,933
Operating Expenses and Equipment						
General Expense					178	178
Printing					14	14
Communications					76	76
Postage					11	11
Travel-In State					66	66
Travel-Out of State						
Training					25	25
Facilities Operations					194	194
Utilities						
Consulting & Professional Services: Interdepartmental ³					4	4
Consulting & Professional Services: External ³					301	301
Data Center Services						
Information Technology					62	62
Equipment ³						
Other/Special Items of Expense: ⁴						
Insurance						
Departmental Services					636	636
Total Operating Expenses and Equipment					\$1,567	\$1,567
Total State Operations Expenditures				\$0	\$6,500	\$6,500
Fund Source	Item Number					
	Org	Ref	Fund			
General Fund	0820	001	0001		\$6,500	\$6,500
Special Funds ⁵						
Special Funds ⁵						
Federal Funds						
Other Funds (Specify)						
Reimbursements						
Total Local Assistance Expenditures				\$0	\$0	\$0
Fund Source	Item Number					
	Org	Ref	Fund			
General Fund						
Special Funds ⁵						
Federal Funds						
Other Funds (Specify)						
Reimbursements						
Grand Total, State Operations and Local Assistance				\$0	\$6,500	\$6,500

¹ Itemize positions by classification on the Personal Services Detail worksheet.² Provide benefit detail on the Personal Services Detail worksheet.³ Provide list on the Supplemental Information worksheet.⁴ Other/Special Items of Expense must be listed individually. Refer to the Uniform Codes Manual for a list of standard titles.⁵ Attach a Fund Condition Statement that reflects special fund or bond fund expenditures (or revenue) as proposed.

Personal Services Detail

(Whole dollars)

BCP No.	Proposal Title	Program
2	Defending Cal. Against Unconstitutional Laws and Legis (D-CAL)	Legal Services Division

Salaries and Wages Detail

Classification ^{1 2}	Positions			Salary Range	Dollars		
	CY	BY	BY + 1		CY	BY	BY + 1
Deputy Attorney General IV		19.0	19.0			\$2,727,336	\$2,727,336
Legal Secretary		12.0	12.0			\$548,076	\$548,076
Total Salaries and Wages ³	0.0	31.0	31.0		\$0	\$3,275,412	\$3,275,412

Staff Benefits Detail

	CY	BY	BY + 1
OASDI		\$250,569	\$250,569
Health/Dental/Vision Insurance		489,842	489,842
Retirement		875,452	875,452
Worker's Compensation		42,580	42,580
Industrial Disability Leave			
Non-Industrial Disability Leave			
Unemployment Insurance			
Other:			
Total Staff Benefits ³	\$0	\$1,658,443	\$1,658,443
Grand Total, Personal Services	\$0	\$4,933,855	\$4,933,855

¹ Use standard abbreviations per the Salaries and Wages Supplement. Show any effective date or limited-term expiration date in parentheses if the position is not proposed for a full year or is not permanent, e.g. (exp 6-30-13) or (eff 1-1-13)

Note: Information provided should appear in the same format as it would on the Changes in Authorized Positions.

² If multiple programs require positions, please include a subheading under the classification section to identify positions by program/element.

³ Totals must be rounded to the nearest thousand dollars before posting to the Fiscal Summary.

Supplemental Information

(Dollars in thousands)

BCP No. 1	Proposal Title Defending Cal. Against Unconstitutional Laws and Legis (D-CAL)	Program Legal Services Division
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Equipment	CY	BY	BY +1
Standard Complement			
Total	\$0	\$0	\$0

Consulting & Professional Services			
Total	\$0	\$0	\$0

Facility/Capital Costs			
Total	\$0	\$0	\$0

One-Time/Limited-Term Costs		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>			
Description	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
2-Year Limited-Term Costs						-6,500
	0.0	\$0	0.0	\$0	0.0	-\$6,500

Full-Year Cost Adjustment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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Provide the incremental change in dollars and positions by fiscal year.

Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0	\$0	0.0	\$0	0.0	\$0

Future Savings	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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Specify fiscal year and estimated savings, including any decrease in positions.

Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0	\$0	0.0	\$0	0.0	\$0

Attachment 1

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE
1300 I STREET, SACRAMENTO, CA 95814



Federal Administration Matters Category
Transactions for All Matters and Professionals
Jan. 20, 2017 to May 8, 2017

CV-EAM-196		
Matter ID	Matter Description	Total Hours
FR2017704091	Federal Use of National Guard	49.00
CV-EAM-196 - Total		49.00
CV-GOV-120		
Matter ID	Matter Description	Total Hours
SA2016104550	Advice to Exec re 10th Amendment Compulsion	35.50
SA2017105346	Advice to Exec re Limits on Federal Executive Actions	275.25
SA2017105452	Omnibus Common Interest Agreements, Joint Defense and Conflicts When	165.00
SA2017105593	Advice to Exec re Authority of Legislature to Hire Counsel or	10.50
SA2017105622	Statewide Federal Administration Matters	330.50
SA2017105623	Executive Order Re: Travel Ban (1/27/17)	1.50
SA2017105624	State of Washington, et al. v. Trump, et al. (D.Ct)	60.50
SA2017105625	State of Hawaii, et al. v. Trump, et al. (Amicus - D.Ct.)	15.25
SA2017105928	Review of Trust Act and Truth Act Law Enforcement Bulletin	2.75
SA2017105930	Travel Ban 2.0	164.50
SA2017105932	Review of SB 54	27.25
SA2017105933	Law Enforcement Guidance on Sanctuary Cities Working Group	274.25
SA2017105953	Planned Parenthood Defunding	12.75
SA2017106000	Advice to Exec re CWAG Briefing to Trump Administration	9.25
SA2017106137	Emoluments Clause Advice	171.50
SA2017106138	Advice Re Border Wall Construction Challenges	60.50
SA2017106328	Intl Refugee Assistance Project, et al. v. Donald J. Trump, et al.	7.00
SA2017106365	Government Law - Federal Administration Matters - Miscellaneous	31.25
SA2017106872	Religious Liberty Executive Order	31.00
CV-GOV-120 - Total		1,686.00
CV-HEW-140		
Matter ID	Matter Description	Total Hours
SA2017105979	Healthcare Task Force	189.00
SA2017106331	Immigration Task Force	18.50
CV-HEW-140 - Total		207.50
CV-LIC-110		
Matter ID	Matter Description	Total Hours
LA2017603770	Zhong, John Zilei (OTHER)	15.25



Federal Administration Matters Category
Transactions for All Matters and Professionals
Jan. 20, 2017 to May 8, 2017

		CV-LIC-110 - Total	15.25
EX-OSG-079			
Matter ID	Matter Description	Total Hours	
SA2016104431	Exec Working Group - Immigration EX-OSG	85.50	
SA2016104433	Exec Working Group - Health Care EX-OSG	28.00	
SA2016104964	Jennings v. Rodriguez, 15-1204 (U.S.) - Amicus	155.25	
SA2017105526	Washington v. Trump, 17-35105 (9th) - Amicus	75.75	
SA2017106223	Intl Refugee Assistance v. Donald J. Trump (4th Cir.) - Amicus	14.25	
SA2017106362	Planned Parenthood of Greater Ohio v. Hodges (6th Cir.) - Amicus	10.75	
SA2017106502	House v. Price (D.C. Circuit) 16-5202	374.25	
		EX-OSG-079 - Total	743.75
PR-BCJ-478			
Matter ID	Matter Description	Total Hours	
LA2017603275	Federal/Executive Actions	1,177.00	
LA2017603484	Flores v. Sessions, et al. (9th Cir.) Case No. 17-55208	134.25	
		PR-BCJ-478 - Total	1,311.25
PR-CON-450			
Matter ID	Matter Description	Total Hours	
SD2016602857	People v. Oswaldo Cabrera	1,156.00	
		PR-CON-450 - Total	1,156.00
PR-CRE-470			
Matter ID	Matter Description	Total Hours	
LA2011600254	CRES Immigration Initiatives and Related Issues	509.75	
LA2014512115	The TRUST and TRUTH Acts	49.50	
LA2017603282	Darweesh, et al. v. Donald Trump, et al.	51.25	
LA2017603308	Aziz v. Trump, (1:17-cv-116) (E.D. Va.) - Amicus	15.75	
LA2017604011	Sanctuary Jurisdictions 9th Cir amicus (SC/SF)	5.50	
OK2016602783	Gloucester County School Board v. G.G.	41.00	
OK2016900769	Presidential Transition - 2017	274.25	
OK2017603178	Reproductive Health Services - Federal Funding	394.50	
OK2017900926	Immigration Executive Orders on Travel 2017	289.25	
OK2017900935	Sanctuary Jurisdictions 2017	1,195.25	
OK2017901019	SB 54 -Values Act	349.75	
OK2017901052	Health Care Initiatives 2017	51.00	



Federal Administration Matters Category
Transactions for All Matters and Professionals
Jan. 20, 2017 to May 8, 2017

Matter ID	Matter Description	Total Hours
OK2017901067	Planned Parenthood v. Hodges	10.00
OK2017901130	W. Alabama Women's Center v. Miller	337.75
SA2014902830	Immigration Related PIU Inquiries	25.50
PR-ORE-470 - Total		3,600.00

PR-ENV-430		
Matter ID	Matter Description	Total Hours
LA2017303794	Investigation of Presidential 2-for-1 Executive Order Re Regulations	155.75
LA2017950032	EPA Methane Rule re Oil and Natural Gas Sector	97.00
OK2015950030	Clean Air Act 111(b) New Power Plant GHG Litigation (NSPS)	406.50
OK2015950031	Clean Power Plan 111(d) Power Plant GHG Litigation	51.50
OK2016302732	Offshore Fracking	111.25
OK2016950017	Murray Energy Corp. v. EPA (MATS III)	46.75
OK2016950028	Methane and Waste Prevention Rule Litigation	157.00
OK2017304070	Litigation Against DOE Secretary Perry related To Delay of Final Rule	39.25
OK2017304088	DOE 45-Day Rules Litigation	30.25
OK2017304228	Pruitt Ethics Investigation	34.00
OK2017950034	DOE investigation energy efficiency standards	382.50
OK2017950035	Valuation Rule Delay Challenge	167.75
OK2017950036	Monitoring and Investigation of Trump Administration Actions on	256.25
OK2017950041	People v. Zinke	91.75

PR-ENV-430 - Total		2,027.50
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PR-NRS-420		
Matter ID	Matter Description	Total Hours
LA2016601552	North Dakota, et al. v. US EPA, et al. (oil and gas methane rule)	119.75
OK2010400235	American Chemistry Council v. U.S. Environmental Protection Agency (Sta	0.75
OK2015900779	West Virginia v. US EPA (Clean Power Plan)	108.25
OK2015900781	North Dakota v. US EPA (Carbon Pollution Standards of New Power	54.00
OK2017202537	Truck Trailer Manufacturers Association, Inc. v. USEPA, et al. (ARB	40.25
OK2017202978	Alliance of Automobile Manufacturers v. U.S. Environmental Protection	47.25
SA2009311603	Bay Delta Conservation Plan (BDGP) EIR advice	688.00
SA2016302835	Restore Hetch Hetchy (State Water Board Amicus)	287.00
SA2017304112	NRLS Federal Administration Matters	34.25
SA2017304384	U.S. Dept of Agriculture Administrative Subpoena [CANNABIS]	1.50
SD2017303783	Border Wall Construction Challenges	523.75



Federal Administration Matters Category
Transactions for All Matters and Professionals
Jan. 20, 2017 to May 8, 2017

Matter ID	Matter Description	Total Hours
SF2012204076	Clean Air Act Coordination & Potential Litigation (CARB-Advice)	36.25
SF2016201214	Murray Energy Corporation v. United States Environmental Protection	58.75
SF2017202967	California Water Fix Validation (twin tunnels) Advice	60.75
SF2017203082	CA Energy Commission on Rules Relating to Energy Efficiency Standards	211.25
PR-NRS 420 - Total		2,271.75
Overall - Total		13,068.00

Summary of Hours by Section

Area of Law	Total Hours
CV-EAM:196	49.00
CV-GOV:120	1,686.00
CV-HEW:140	207.50
CV-LIC:110	15.25
EX-OSG:079	743.75
PR-BCJ:478	1,311.25
PR-CON:450	1,156.00
PR-CRE:470	3,600.00
PR-ENV:430	2,027.50
PR-NRS:420	2,271.75
Overall - Total	13,068.00