



MEMORANDUM

TO: Honorable Mayor & City Council

FROM: Erin Roseman
Director of Finance

SUBJECT: FY 2024-25 Midcycle Budget
General Purpose Fund Deficit Questions/
Responses #1

DATE: May 7, 2024

PURPOSE

The purpose of this memorandum is to transmit to the full City Council and public, responses to questions raised by City Councilmembers and the public related to the Fiscal Year (FY) 2024-25 Midcycle Budget General Purpose Fund Deficit. To the extent additional information becomes available on any of the responses below, updates will be provided.

For questions, please contact Bradley Johnson, Budget Administrator, at (510) 207-5730.

Respectfully submitted,

/s/

ERIN ROSEMAN
Director of Finance

QUESTIONS AND RESPONSES

Questions from Council President Bas:

1. A Written Explanation That Answers Why There Is A Gap On Liens In Rental Properties

The OMC 5.04.420 prescribes that the City Administrator shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent business tax charges consisting of the delinquent business taxes, penalties, and interest. Alameda County set the due date for property tax assessments to be received by the County for inclusion on the property tax assessment roll no later than August 10th of each year.

In complying with the OMC and to ensure due process and appropriateness, accounts are fully vetted, assessed, properly noticed, public hearing provided, approved by Council, and validated by the Citywide Liens Unit for inclusion on the tax roll. At the culmination of this process then a lien is placed on the next property tax assessment, usually the following tax year and fiscal year. During a fiscal year and in the normal day to day operations of the revenue staff, accounts are worked moving them through the required process and the work is continuous.

At any time prior to the next property tax assessment, the Revenue Bureau through The City Administrator will bring to Council a list of delinquent properties as a Notice of Hearing of Lien of accounts that should be included on the next property tax assessment roll. The Revenue staff, through the City Administrator, have had a historical practice of bringing accounts for lien to City Council for public hearing on a quarterly basis, or six-month basis taking into consideration the time impact on a City Council meeting if the volume were to be large. Additionally, there is a historical pattern of a public hearing for liens at City Council in late June. For FY2022-23, the historical pattern diverged and created a perceived gap in business tax liens. On December 6, 2022, a list of delinquent rental properties was brought to Council and approved for liens. There was not another list of accounts that had completed the entire due process to have a public hearing or be heard by City Council for inclusion on the next property tax assessment roll. On August 10, 2023, 172 of the accounts presented in December 2022 were not resolved and subsequently turned over to the County of Alameda for inclusion on the property tax assessment roll.

[Follow-up Questions to Bas's Question #1](#)

[A. Understanding the impacts of the ransomware attack, most city operations were functional by May of 2023; Why weren't these liens processed with the county by August?](#)

The system may have been available but there were 2–3-month data gaps and challenges to then overcome to rebuild a comprehensive body of work. While systems were restored after the ransomware attack, the systems were restored to the February data marker or an earlier data marker, based upon available data back-ups. The data gap within the original HDL database then had to be constituted by manual entries of paper renewal, a data

conversion from the alternative HDL off-premises system and reconciled manually to ensure a complete database of renewal applications.

Delinquent Business Tax Renewals from 2023 require the due process. The timing of this due process under normal circumstances and lacking complexity would not terminate until the following year in time for the August Tax Roll of 2024. In short, the delinquency process is no less than a year.

B. [When was the last time that a proactive enforcement discovery process \(comparing city data with the IRS data\) conducted for rental properties?](#)

The Audit Division in the Revenue Bureau proactively audits businesses as a regular course. In the Auditing process, a taxpayer, may be required to submit federal and state tax returns, financial statements, book entries as proof and substantiation of the appropriate tax of calculation and payment. The Finance, Revenue Bureau, Audit Division staff follow the guidance outlined in the OMC 5.04.430 for Audit procedures.

2. The Process In Timeline For The Business License Tax, In Terms Of The Deadlines, The Notice Of Delinquency, The Notice Of Liens Etc.

The OMC 5.04 prescribes dates for the business tax and the Revenue Management Bureau follows them. The timeline below depicts a normal year. Between these finite dates, a number of activities take place depending on taxpayer’s response and information provided.

--Note for FY22-23, Business tax year 2023, the dates diverge due to effective dates of the new ballot measure (January 28, 2023), and the ransomware attack, (due date adjusted to April 17, 2023).

<u>All Business License Tax Accounts</u>	
Timeline	
Date	Task
January 1-	Annual Renewal of business tax license commences
March 1-	Annual renewal of business tax license due
March 2 nd	Identify Non-Renewing Taxpayers
Mid-March	Renewal reminder notices sent to Non-Renewing Taxpayers
May 1 st	Identify Taxpayers Who Did Not Renew to Prepare for Noticing
August 10th	Submit Accounts on the Tax Roll to Alameda County for Lien

<u>Non-Rental Accounts Timeline</u>	
<u>No.</u>	<u>Task</u>
1.	Notice of Determination (NOD) Sent to Taxpayer
2.	Taxpayer's 20-Day Period to Respond
3.	Re-Determination Period
4.	Notice of Violation (NOV) Sent to Taxpayer
5.	Taxpayer's 5-Day Period to Respond
6.	City Refers Delinquent Tax to Collections

[Follow-up Questions to Bas's Question #2](#)

A. Why are delinquent businesses excluded from renewal notices sent to Business License accounts?

Renewal notices are provided to the taxpayers as a courtesy and as a best practice and not a requirement of the OMC, Section 5.04.620- Notice Not Required.

In practice, the status of the account from the prior year is a determiner in the inclusion of the account in the renewal notice process. If a Business Tax Account was "delinquent" in the year prior, and the reason is still to be determined or it is unclear as to the amount owed a courtesy renewal notice may signal to the taxpayer an incorrect amount. We want to ensure that we provide accurate information from which the taxpayer can pay.

B. Why haven't monthly invoices to taxpayers who have a balance owed been reinstated?

Any notices that are provided to the taxpayers are as a courtesy and as a best practice and not a requirement of the OMC, Section 5.04.620- Notice Not Required, unless explicitly required by other sections of the code.

Practically speaking, providing monthly notices would require significant staffing and additional administrative resources, while providing minimal benefit compared to other collection methods available in the code.

C. The chart for question 11* includes Notice of Assessment dates for calendar year 2021 and 2022 and Notice of Determination dates for calendar year 2023. Were these notices sent in other years? If so, when were they sent?

HONORABLE MAYOR AND CITY COUNCIL

Subject: FY 2024-25 Midcycle Budget GPF Deficit Questions/Responses #1

Date: May 6, 2024

Notice Type	Date Notices Mailed
NOLH	11/5/2013
NOLH	5/6/2014, 11/4/2014
NOLH	5/6/2015
NOLH	5/11/2016
NOLH	5/9/2017
NOLH	4/27/2018, 6/27/2018, 10/5/2018, 12/17/18
NOLH	1/25/2019, 5/10/2019, 10/4/2019
NOLH	2/7/2020, 10/5/2020
NOLH NOA & NOIL	NOHL 2/19/2021, NOA 7/29/2021, NOIL 9/3/2021
NOA & NOIL	NOA 10/7/2022, NOIL 11/14/2022
NOD	10/21/23, 10/28/23, 11/18/23, 12/9/23
Cannabis Reminder	2/6/2024
Cannabis Delinquent	3/26/2024

Note: NOLH "Notice of Lien Hearing" was replaced by NOIL "Notice of Intent to Lien"

Yes, there are additional dates, additional dates of delinquency notices that were mailed in prior years (2022 and prior) are being pulled by the City's software vendor and staff and will be available later. For tax year 2023, business tax year notices were mailed as work was completed and compiled in batches. The first group of work was completed on October 21, 2023, and the last group was completed on December 9, 2023. Instead of waiting until all work was completed on December 9, 2023, accounts were grouped and mailed out in batches on 4 separate dates.

3. Regarding The [INFO] Memo Published on 4/16/24, Of the Three Years In Tables 1-3,

[Follow-up Questions to Bas's Question #3](#)

A. What is the total # of delinquent accounts across the 3 years?

While we have access to business account information by year and across multiple years for each business, the data is stored in a fashion in which aggregating this information longitudinally for uniqueness is not readily available. This type of data extraction and analysis requires the assistance of our software vendor. The vendor considers this a custom query, and it would be at a cost to pull this data. Conversely, if staff were to pull data manually, it would take months to compile and analyze. What we can infer from sampling the data sets available and considering the limitations of the electronic system, is that it is highly likely that there are many redundant accounts across the various years in the categories. We feel confident in that inference due to the system limiting electronic renewals for a single year when there are previous outstanding years.

B. How does Finance intend to deal with the total number of delinquent accounts?

The Finance Department expects to send all notices and provide due process to the taxpayers to compel payment of the business tax, penalties, and interest, or to record the termination of

business. We intend to use all of the available tools such as liens and judgments as enforcement mechanisms.

C. What does it mean for a Business License Tax account to be “brought into compliance”?

The phrase “Brought into Compliance” means that the business tax account either, pays the outstanding tax, provides a notice of termination, enters into the appeal process, or any other remedy provided by the OMC code.

D. Does compliance include bringing the account into the current calendar year (2024)? If not, why not?

The level of compliance on any business tax account is unique to the business. The activities would bring the business tax account into compliance to the extent allowable and based on the individual taxpayers’ circumstances.

E. For question 11, how many accounts were sent the notices of Lien Hearing for those dates?

The accounts that have matriculated through its due process were sent Notices of Assessments, which informed the taxpayer of their options and provided for an Administrative Hearing. There are various days that the Revenue Bureau conducts Administrative Hearings. We are currently conducting Administrative Hearings with the next one occurring May 14, 2024. After the Administrative Hearing, then “lien notices” will be sent to those remaining accounts and the final list prepared by the City Administrator for delivery and review for Lien Placement by the City Council.

Questions from Council Member Ramachandran:

1. How many business accounts have expiration date 12/31/2023?

There are approximately 56K accounts that have a business tax certificate with the expiration date of 12/31/2023; the number fluctuates as new accounts were opened throughout the year, certificates issued after the renewal process and old accounts are closed through processing of termination notices and the compliance process.