



Washington State Office of Civil Legal Aid

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MS 41183
360-704-4135

James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

To: Civil Legal Aid Oversight Committee

From: Jim Bamberger, Director

Re: Report on Program Activities 1-1-19 through 6-15-19

Date:

This memo outlines the principal activities of the Office of Civil Legal Aid during the period from January 1, 2019 through June 15, 2019. Major activities focused on:

- OCLA's FY 2019-21 budget request to the Legislature
- Other legislative action relating to kinship caregiver services and support, the ongoing children's representation study, and consideration of a proposal to assess the impact of appointed attorneys for tenants in eviction cases
- Two VOCA-related audits
- The 2020-2022 VOCA planning and grant reduction process
- OCLA's regular biennial review of NJP
- Contract development and execution for FY 2020
- Development of FY 2020 supplemental budget requests
- Development of a process and related documents for the Oversight Committee's regular review of the OCLA Director's performance

Each of these activities will be briefly outlined. Relevant materials will be attached. However, before moving forward, I'd like to take a moment of personal privilege to thank my long-time colleague and friend, Judge Greg Tripp (Ret.), for his decades of service to the civil legal aid effort including, most recently, his six years of service on the Civil Legal Aid Oversight Committee. Judge Tripp's contributions have been numerous. His service as a member and Chair of the Access to Justice Board, member and Chair of the Legal Foundation of Washington's Board of Trustee's, and most recently as a member and Chair of the Oversight Committee (not to mention DMCJA and other relevant bodies), speaks to his passionate commitment to fairness and justice. Thank you, Judge Tripp, for your support, wise counsel, and leadership over these many years.

1. The Legislative Session - Budget

The Washington State Legislature convened on January 9, 2019 and adjourned sine die on April 28th. Much legislation was passed, including a new two-year operating budget. During the session OCLA staff met with leaders and rank and file members of all four caucuses to inform them of the substance, rationale, and urgency of the need for the funding we requested. OCLA worked closely with non-partisan and partisan staff as well as the Members of Color Caucuses in both the House and the Senate. There was substantial interest and support for OCLA's budget request as reflected in sign-on letters in the Senate Republican and House Democratic Caucuses, budget priority letters forwarded by the House and Senate Members of Color Caucuses, and general conversations within each of the caucuses.

An overview of the outcome of the session relative to OCLA-related interests was forwarded to stakeholders on April 29th. A copy is attached (Attachment 1). Briefly, the Legislature funded:

- The full vendor rate adjustment requested to ensure continuity of existing services provided by NJP (\$3.1M)
- 20 of the 40 requested Phase 2 Civil Justice Reinvestment Plan (CJRP) attorneys (\$3.0M)
- A small vendor rate adjustment to help address salary comparability problems that result in significant staff recruitment and retention issues experienced by state-funded pro bono programs (\$300,000)
- The new Kinship Caregiver Legal Aid Coordinator established by [SB 5651](#) (Laws of 2019, ch. 465)(\$200,000)
- A study of the impact of appointed attorneys for tenants in unlawful detainer (eviction) cases (\$600,000)
- An extension of capacity development funding for the International Families Justice Coalition (\$300,000)
- An extension of the Children's Representation Study through the end of December 2020 (\$505,000 in reappropriated FY 2019 funding)
- An increase in funding for representation of legally free children needed to address significant caseload increases (\$175,000 in the FY 2019 supplemental and \$400,000 in the FY 2019-21 operating budgets)

I want to especially thank the Oversight Committee's legislative members for their efforts in achieving the very positive outcomes in this year's session. Thank you Rep. Stokesbary for making the amendment in the House Appropriations Committee to increase the initial proposed Phase 2 CJRP expansion from 10 to 20 attorneys. Thank you Rep. Jinkins for working within the House Appropriations Committee and with leadership to make sure that we secure the 20 CJRP's in the final operating budget. Thank you Sen. Rivers for working with your colleagues in the Senate Republican Caucus to deliver a letter to Sen. Braun signed by more than half of your caucus members. And thank you Sen. Frockt – the man who was in the room where it happened – for ensuring that the final budget funded the 20 CJRP positions. Without your individual and collective efforts, we would not have realized the gains that we did.

2. The Legislative Session – Policy

OCLA worked with sponsors of three bills that directly affected our statutory responsibilities:

- a. SB 5651 – Prime sponsored by Sen. Curtis King (R-14) This bill established a new statewide Kinship Caregiver Legal Aid Coordinator at the Office of Civil Legal Aid. The Coordinator will work with key stakeholder groups including, but not limited to, the Kinship Care Oversight Committee (RCW 74.13.621) to develop, expand and deliver training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers on matters that relate to their ability to meet the physical, mental, social, educational, and other needs of children and youth in their care; and to identify and facilitate the development of local and regional kinship care legal aid initiatives. OCLA worked with Sen. King and stakeholders on the language, including the inclusion of authority for OCLA to contract out the duties of the Coordinator. OCLA will contract with the King County Bar Association's Pro Bono Services Program, which has long operated a county-based Kinship Care Mentor Program.
- b. HB 1653 – Prime sponsored by Rep. Beth Doglio (D-22), this bill is designed to engage OCLA in efforts to help provide legal assistance to domestic violence, sexual assault, trafficking and other victims enrolled in the Secretary of State's Address Confidentiality Program to purchase and own real property without having to disclose their identities or location. As revised with OCLA's involvement, the bill requires OCLA and the Secretary of State's Office to enter into an interagency agreement to facilitate these objectives. A final interagency agreement was executed between OCLA and the Secretary of State's Office in May (Attachment 2).
- c. SB 5907 – Prime sponsored by Sen. Patty Kuderer (D-48), the bill would have directed OCLA to undertake a comparative study of the impact of appointed attorneys for tenants in unlawful detainer proceedings. While the bill did not move forward, the direction and funding for the study was included in OCLA's appropriation.

3. VOCA Audits

During the past year OCLA has been involved in two audits of its role as an agency subgrantee of the Department of Commerce's federal Victim of Crime Act (VOCA) grants. Since 2016, OCLA has received VOCA funding through the interagency grant agreement. We subgrant these funds to specific legal aid programs in accordance with the [Integrated Statewide Legal Aid to Crime Victims Plan](#) (rev. June 2019). The first was an audit by the State Auditor's Office as part of the 2019 A-133 Single Audit process. The second is an ongoing audit of the Department of Commerce being conducted by Office of Inspector General of the US Department of Justice. The state audit was closed in January. The federal audit is continuing.

The state audit resulted in two findings. The auditor determined that OCLA had not required submission of A-133 audit reports for the three subgrantees that receive more than \$750,000 in federal funding on an annual basis, and that OCLA did not undertake the level of subgrantee risk analysis that is required by 2 CFR Part 200. OCLA accepted these audit findings and immediately took action to correct them. Corrective action was completed by March 2019. The findings and OCLA's response to them are attached (Attachment 3).

4. FY 2020-2022 VOCA State Planning and Grant Reduction Process

In the fall of 2018, the Office of Crime Victims Advocacy (OCVA) undertook an extensive process to update its 2016-19 VOCA State Plan. The process resulted in reaffirmation of OCVA's commitment to funding civil legal aid as a core component of its crime victim service mix. For FY 2020-2022, OCLA will continue to receive 8.7% of available VOCA funding.

Simultaneously, OCLA commenced a process to review and update the Integrated Statewide Civil Legal Aid to Crime Victims Plan. This effort is extensively reviewed in the [Updated State Plan](#) adopted on June 10, 2019. This updated plan outlined a range of gaps in the statewide crime victim legal aid footprint and a series of recommendations for expanded future investment.

Unfortunately, volatile congressional funding for VOCA has resulted in substantial uncertainty over the FY 2020-2022 timeline. Recognizing this and with the intent of providing as much stability as possible, OCVA developed a three-year funding level for its VOCA programs that is based on average historic funding levels. This resulted in a funding level for civil legal aid programs in FY 2020 of \$4.53M. This is \$966,000 below the level needed to maintain current crime victim legal aid services. OCLA worked with its subgrantees to develop the most strategic approach to downsizing the VOCA-funded legal aid footprint consistent with the primary objectives and strategies that had been recently affirmed in the revised state plan. This led to difficult decisions to reduce 10 FTE positions effective July 1, 2019. The ten positions eliminated include four (4) at Northwest Justice Project (Spokane, Yakima, Aberdeen, CLEAR*CV), five (5) at Northwest Immigrant Rights Project (Granger, Wenatchee, Seattle, Tacoma), and one (1) at Snohomish County Legal Services. FY 2020 subgrants will be executed by July 1, 2019.

5. Contract Development and Execution

OCLA is in the process negotiating/executing the following contracts:

- a. FY 2019-21 Master Statewide Legal Aid Contract with Northwest Justice Project
- b. FY 2020 Subgrant agreement between NJP, the Legal Foundation of Washington and OCLA (approval only) pursuant to which state appropriated funding is used to support state eligible activities at sixteen pro bono and four specialized legal aid providers
- c. FY 2019-21 Contract with King County Bar Association for the Kinship Caregiver Legal Aid Coordinator
- d. FY 2020 Contracts with each of the remaining six VOCA-funded legal aid programs
- e. FY 2020 Contracts with all Children's Legal Representation Program attorneys, including wind-down agreements with the CRP Study attorneys
- f. FY 2019-21 VOCA Interagency Grant Agreement with the Department of Commerce for VOCA funded crime victim legal aid services
- g. FY 2019-21 Contract with NJP for homeowner representation under the state Foreclosure Fairness Program
- h. FY 2019-21 Interagency Agreement with the Administrative Office of the Courts for space, fiscal, administrative, budget and related support

6. Biennial Review of Northwest Justice Project

As part of its due diligence and contract management duties, OCLA conducts a biennial review of NJP's fiscal, administrative, and client service-related systems to ensure (a) compliance with applicable law and the OCLA-NJP contract, (b) effective governance and administrative systems, (c) appropriate fiscal and related systems to ensure proper accounting of activities underwritten with state dollars including case management and cost accounting systems and practices, and (d) systems employed to ensure quality of client services.

NJP will undergo an extensive review this fall by the Legal Services Corporation's Office of Compliance and Enforcement this fall the scope of which will include many of the areas of focus that are normally subject to OCLA's biennial review. After reviewing the materials related to the LSC-OCE review and confirming that relevant materials generated through that review will be available to OCLA, we decided to strategically downsize our review process this year to focus only on those areas directly related to compliance with applicable state law and our contract. A copy of the template used to conduct this review is attached (Attachment 4). The review will be completed in early FY 2020.

7. FY 2020-21 Supplemental Budget Process

The Supreme Court manages the annual budget development process for the entire judicial branch, including the Office of Civil Legal Aid. This process started in April with the release of the supplemental budget instructions under [cover letter](#) signed by the Chief Justice. Pursuant to these instructions, OCLA developed and submitted preliminary decision packages for the FY 2020 and 2021 supplemental budgets. Two of these packages are offered for the Oversight Committee's initial review and comment during the June 20, 2019 conference call. These are:

- a) Request to reappropriate \$160,000 in funding for the family law forms automation project that will be unspent in FY 2019 but needed in FY 2020. As outlined in the preliminary decision package, the project is moving forward and on-budget, but early timelines shifted as the Project Manager and contractors began to implement the project. This request does not involve new funding.
- b) Request for legislative authorization and funding for an Assistant Director for the Office of Civil Legal Aid. As outlined in the preliminary decision package, it is my judgement that OCLA – which now manages more than \$52M in biennial state and federal funding – is compromised in its ability to perform essential functions and lacks necessary redundancy and cross-training to ensure effective continuity of operations should any of the existing staff members – especially the OCLA Director -- be unable to perform work related activities for an extended period of time. This is a request for new funding. Total requested is \$139,000 in FY 2021, with an annual continuing cost of about \$131,000.

A third potential request was submitted to the Supreme Court. This responds to a request received from the legislatively created [Washington Statewide Reentry Council](#). The Reentry Council is appointed by the Governor and housed in the Department of Commerce.

In May the Reentry Council sent a letter to the Governor's policy office requesting that OCLA be asked to seek funding for a statewide reentry legal aid project. The project would be charged with developing capacity, resources, and support for attorneys – including state-funded legal aid attorneys – to provide legal aid services to the more than 8,000 individuals reentering society from correctional institutions each year. In June OCLA met with the Governor's Policy Advisor and Assistant General Counsel to discuss the Reentry Council's request. OCLA made clear that, while it would develop a conditional decision package for this project, it would not submit the proposal absent a clear communication from the Governor that such a proposal was a priority component of and furthered his reentry policy as outlined in EO 16-05. Consistent with this position, the draft decision package is made expressly conditional on "receipt of a communication from the Governor's office indicating that this request is consistent with the Governor's reentry related priorities and advising of the Governor's support for this supplemental budget request."

OCLA's May 30, 2019 letter to the Chief Justice and preliminary decision packages are attached (Attachment 5).

8. OCLA Director's Performance Review

RCW 2.53.010(4) requires the Civil Legal Aid Oversight Committee to review the performance of the OCLA Director. The last performance review was conducted in 2016. Much has changed since then.

Historically the review has been conducted by the Executive Committee, (Chair, Vice Chair, designated legislative member (Rep. Stokesbary)). The Executive Committee undertakes the initial data gathering and information processing functions. It identifies themes, areas of performance strength and corresponding areas of weakness, and develops draft recommendations. These are shared with the full Oversight Committee in executive session or via e-mail followed up with a specially called conference call. Upon reaching a consensus regarding the main findings, the Chair or the Chair's designee meets with the OCLA Director to review the feedback, identify areas of performance improvement or growth and, as appropriate, a performance improvement plan.

Over the past few weeks I worked with Judge Tripp and Mr. Wonhoff to develop a template and list of relevant indicators the review (Attachment 6). Under cover of a communication from the Chair, the template and indicators will be sent to individuals with whom I am actively engaged in each of the core areas of internal and external responsibility. Responses will be forwarded to the Executive Committee members for their review and action. The process will be confidential. OCLA's Senior Administrative Assistant, Hope Hough, will support the Executive Committee through the survey process.

ATTACHMENT 1



Washington State Office of Civil Legal Aid

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James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

To: Alliance Members and Stakeholders

From: Jim Bamberger, Director

Re: Civil Legal Aid Funding in FY 2019-21

Date: April 29, 2019

The Legislature has completed its work on the FY 2019-21 operating budget and the FY 2019 supplemental operating budget. The results for civil legal aid and other programs administered by the Office of Civil Legal Aid were very positive. In the civil legal aid area, the Legislature:

1. Protected gains in previous years by funding a \$3.1 million vendor rate adjustment for the Northwest Justice Project. This ensures that NJP will be able to maintain existing levels of client service capacity (including the 15 additional FTE's funded in the FY 2017-19 biennium) and meet its legal obligations under its new collective bargaining agreement.
2. Provided \$3.0 million in new funding for 20 (of 40 requested) additional Civil Justice Reinvestment Plan attorneys. These will be phased in on a schedule with 10 new attorneys coming on line in January 2020 and 10 more in January 2020. While substantial planning has already occurred, OCLA will be coordinating with stakeholders on its implementation plan.
3. Provided \$300,000 to help address the compensation comparability issues faced by local volunteer attorney programs. This is one-half of the funding requested. OCLA will work with the Legal Foundation of Washington and the Pro Bono Council to develop an investment plan.
4. Provided \$600,000 for a one-time study of the impact of legal representation of tenants in eviction cases. This is part of a comprehensive legislative strategy developed by key legislators and tenant advocates to address unfairness in the eviction process. In addition to the study funding, multiple bills passed significantly changing the eviction process. Thanks to Senator Kuderer and Rep. Macri for proposing and securing funding for the study. OCLA will be contracting with the Evans School of Public Policy to undertake this study and establishing an advisory group to help guide it.
5. Provided \$200,000 to fund the statewide kinship care legal aid support and training coordinator position established by passage of [SB 5651](#). Thanks to Sen. King (R-Yakima) for sponsoring the bill and to the kinship caregiver community for encouraging its passage and supporting required funding. OCLA will contract with the King County Bar Associations Pro Bono Services program to staff this position.

6. Provided \$300,000 in capacity development funding to continue building the International Families Justice Coalition which provides pro and low-bono services to immigrant women brought into the country who find themselves isolated and powerless in family law matters when their spouses initiate divorce or related family law proceedings.

In the Children's Representation arena, the Legislature:

1. Addressed a caseload-driven shortfall in funding for legal representation of children who remain dependent six months following termination of their parents' legal rights. (\$175,000 in the FY 2019 supplemental budget and \$400,000 in the FY 2019-21 operating budget).
2. Extended the duration of and re-appropriated \$505,000 in funding for the study looking at the impact of early appointment of attorneys to represent children in dependency cases (at the shelter care hearing).

Finally, the Legislature passed [SHB 1643](#) that directs OCLA and the Office of the Secretary of State to enter into an interagency agreement to develop and make available self-help information, forms, and legal assistance to participants in the Secretary of State's Address Confidentiality Program who seek to acquire real property but need to maintain confidentiality of their identification and addresses to protect their safety. OCLA and the Secretary of State's Office are close to agreement on the terms of the interagency agreement and OCLA has recruited Joanna Plichta Boisen of Davis Wright Tremaine to represent it on the Secretary of State's Address Confidentiality Home Ownership Task Force that will be meeting over the next few months.

In an absolute sense this was an extraordinary session. When considered against the backdrop of the budget and revenue challenges faced by the budget writers and the hyper-partisan environment, it was even more so. Civil legal aid remained a fully-bipartisan effort. As examples, a majority of Senate Republicans asked for full funding of the Civil Justice Reinvestment Plan and the House Republican budget lead (Rep. Stokesbary) successfully argued for an amendment doubling the number of CJRP attorneys proposed in the initial House budget. Further, we made new friends and allies. Both the House and Senate Members of Color Caucuses embraced civil legal aid as a critical component of the effort to address the equity and justice needs of communities of color, asking that their budget writers fully fund OCLA's Civil Justice Reinvestment Plan request. Finally, it is an affirmation that the Civil Justice Reinvestment Plan remains the legislatively endorsed roadmap to addressing and remedying the challenges documented in the 2015 Civil Legal Needs Study.

We have many people to thank – and will do so in the coming days, weeks, and months. Thanks to the legislative members of the Civil Legal Aid Oversight Committee, the Equal Justice Coalition, the cities of Spokane, Yakima, and Bellingham (which made legal aid funding a legislative priority) and all of you who assisted with this effort. Equity and justice is alive in well in large part due to our collective efforts.

Jim

ATTACHMENT 2

INTERAGENCY AGREEMENT
BETWEEN
THE WASHINGTON STATE OFFICE OF THE SECRETARY OF STATE
AND
THE WASHINGTON STATE OFFICE OF CIVIL LEGAL AID

Whereas, the Secretary of State is a constitutionally established executive branch official whose functions are specified in Article III, Section 17 of the Washington State Constitution and Chapter 43.07 RCW; and that the duties and functions of the Secretary of State are conducted through the Office of the Secretary of State; and

Whereas, among the functions assigned by the Legislature to the Office of the Secretary of State (OSOS) is hosting and staffing of the Address Confidentiality Program established in RCW 40.24 which ensures address confidentiality for victims of domestic violence, sexual assault, trafficking, or stalking; and

Whereas, the OSOS has established and operates the Address Confidentiality Program in accordance with the requirements of RCW 40.24 and WAC 434-840; and

Whereas, the OSOS issues authorization cards for applicants who properly complete applications for participation in the Address Confidentiality Program, which cards include the participant's name, authorization code, substitute mailing address, certification expiration date, and applicant's signature; and

Whereas, applicants who are received into the Address Confidentiality Program are authorized to use an alternative address maintained by the OSOS for official purposes and, with some exceptions, to have their actual addresses protected from disclosure by public entities in order to prevent their assailants or probable assailants from finding them; and

Whereas, under applicable laws the identity of an owner of real property must be disclosed on official records and deeds maintained by county auditors, and that Address Confidentiality Program participants who acquire, hold, and occupy real property may not be protected from having their personal information, including address, disclosed to third parties; and

Whereas, the Secretary of State has established an Address Confidentiality Housing Task Force, the purpose of which is to develop approaches that may enable Address Confidentiality Program participants to receive, purchase, own, and reside in their homes without fear of disclosure of their identity and location through a search of public records; and

Whereas, the Office of Civil Legal Aid (OCLA) is an independent judicial branch agency established and operated pursuant to Chapter RCW 2.53; and that the Office of Civil Legal Aid underwrites a statewide integrated system of legal aid providers who have experience and expertise in providing civil legal assistance to victims of domestic violence, sexual assault, trafficking, stalking, and other crimes that place them at risk of harm; and

Whereas, the principal legal aid provider funded by OCLA is the non-profit Northwest Justice Project (NJP), which maintains local legal aid offices in 19 locations throughout the state, operates a statewide civil legal aid information, advice, education and referral system (CLEAR), and hosts a statewide self-help resources website (www.washingtonlawhelp.org) on which hundreds of self-help materials and forms are available addressing a wide range of substantive legal problems including, but not limited to, issues arising from domestic violence, sexual assault, trafficking, and stalking; and

Whereas, through its CLEAR call center, NJP receives direct requests for legal assistance from victims, and through its CLEAR*CV system, NJP receives direct referrals of victims in need of legal assistance from community-based providers and community-based Applicant Assistants who assist victims secure participation in the Address Confidentiality Program; and

Whereas, NJP is positioned to assist in the development and posting of forms and related self-help resources for mechanisms developed through the Address Confidentiality Housing Task Force that are designed to enable victims to receive, own, and reside in real property without fear of identity or address disclosure; and

Whereas, ESHB 1643 (Laws of 2019, Ch. 122), directs the Secretary of State to enter into an interagency agreement with the office of civil legal aid to develop and make available information, online self-help resources, and other legal aid services to help participants to own property in the state without public disclosure of such ownership; and that such resources shall include information to help participants purchase property in the name of a nonprofit organization or corporation, without public disclosure of ownership, in order to establish a safe house for other participants or for sex trafficking victims;

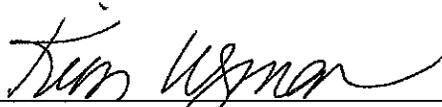
NOW THEREFORE, it is agreed that:

1. The Office of Civil Legal Aid will designate a representative to participate on the Address Confidentiality Housing Task Force; and
2. The Office of Civil Legal Aid and its designated representative(s) will work with the Northwest Justice Project, and will confer with Address Confidentiality Housing Task Force participants and others as appropriate, to facilitate development of forms, instructions, and other self-help materials designed to enable Address Confidentiality Program participants to acquire, own, and reside in their homes without fear of identity or address disclosure; and the Office of Civil Legal Aid will contractually require that NJP post such forms, instructions, and self-help materials

- on a separate tab in the Family & Safety: Domestic Violence section of www.washingtonlawhelp.org; and
3. The Office of the Secretary of State will include a link on its Address Confidentiality Program web page to the Housing Address Confidentiality materials hosted on www.washingtonlawhelp.org; and
 4. The Office of the Secretary of State and the Office of Civil Legal Aid will work with the Northwest Justice Project to ensure that registered Applicant Assistants at community based non-profit organizations are trained on and made aware of the resources available through Northwest Justice Project's CLEAR and CLEAR*CV intake and referral components and the materials available to help victims posted on www.washingtonlawhelp.org.

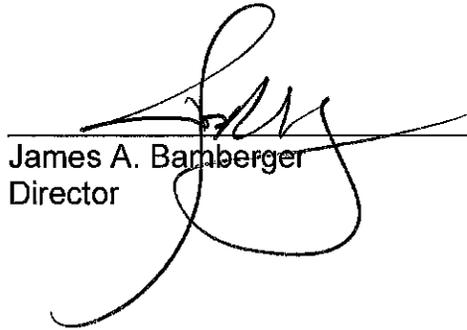
Dated this 30th day of April, 2019.

OFFICE OF THE SECRETARY OF STATE



Kim Wyman, Secretary of State

OFFICE OF CIVIL LEGAL AID



James A. Bamberger
Director

ATTACHMENT 3

2018-009

The Office of Civil Legal Aid did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Crime Victim Assistance program received required audits.

Federal Awarding Agency: Department of Justice
Pass-Through Entity: None
CFDA Number and Title: 16.575 Crime Victim Assistance
Federal Award Number: 2015-VA-GX-0031
2016-VA-GX-0044
Applicable Compliance Component: Subrecipient Monitoring
Known Questioned Cost Amount: None

Background

The Office of Civil Legal Aid (Office) receives federal funding for Crime Victim Assistance through an interlocal agreement with the Department of Commerce. It subsequently subawards federal funds to seven nonprofit subrecipients to provide legal advice, assistance and representation to victims of crime in Washington. Each nonprofit is funded under its own subrecipient contract. The Office spent \$4.6 million in federal funds for Crime Victim Assistance in state fiscal year 2018. Of that amount, about \$4.4 million was passed through to subrecipients as subawards.

Federal regulations require the Office to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend \$750,000 or more in federal awards during a fiscal year obtain a single audit. Further, for the awards it passes on to its subrecipients, the Office must follow up and ensure its subrecipients take timely action on all deficiencies detected through audits, onsite reviews and other means, and must issue a management decision for audit findings within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

Description of Condition

The Office did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Crime Victim Assistance program received required audits. During the subaward process, subrecipients are notified of the requirement to submit all single audit reports timely once completed. However, management said the Office does not track when audits are due or confirm that they were either performed or not required. Management also said that of the seven subrecipients, it expects only two will meet the \$750,000 required threshold for needing to obtain and submit an audit and they are expected to provide those audits to the Office.

We found the Office did not have adequate internal controls in place to verify:

- Subrecipients received required audits
- Findings were followed up on and management decisions were issued when due

We found six of the seven subrecipients of the Crime Victim Assistance program were not monitored to ensure their compliance with requirements for obtaining single audits. Of these six, two required an audit. We reviewed the two audits that were not collected and determined one subrecipient received an audit finding related to the program that included questioned costs. The Office was required to issue a management decision to the subrecipient for this finding and ensure the issue was corrected. Because it was not aware of this finding, the Office did not perform the required follow-up.

We consider these internal control weaknesses to constitute a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Office did not establish policies or procedures to verify whether each subrecipient required a single audit, monitor audit results, or ensure it issued timely management decisions when required.

Effect of Condition

Without establishing adequate internal controls, the Office cannot ensure all subrecipients that met the threshold for an audit complied with federal grant requirements. In addition, one subrecipient never received a management decision for one of its findings.

Recommendations

We recommend the Office:

- Establish policies and procedures related to subrecipient audit monitoring
- Verify all required audits occurred
- Follow up on subrecipient audit findings related to the program and issue a management decision promptly

Office's Response

The Office of Civil Legal Aid has received this audit finding. We concur with both the finding and SAO's recommendations. Effective January 31, 2019, action was taken to: (a) establish appropriate policies and procedures to ensure subrecipient audit monitoring and review, and (b) review and follow up on audit findings, if any, for those subrecipients that are subject to the Single Audit requirement and have received audit findings.

Auditor's Concluding Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
 - (1) Reviewing financial and performance reports required by the pass-through entity.
 - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.
- (f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: ...

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

2018-010

The Office of Civil Legal Aid did not have adequate internal controls over and did not comply with requirements to ensure subrecipients of the Crime Victim Assistance Program received required risk assessments.

Federal Awarding Agency: Department of Justice
Pass-Through Entity: None
CFDA Number and Title: 16.575 Crime Victim Assistance
Federal Award Number: 2015-VA-GX-0031
2016-VA-GX-0044
Applicable Compliance Component: Subrecipient Monitoring
Known Questioned Cost Amount: None

Background

The Office of Civil Legal Aid (Office) receives federal funding for Crime Victim Assistance through an interlocal agreement from the Department of Commerce. It subsequently subawards federal funds to seven nonprofit subrecipients to provide legal advice, assistance and representation to victims of crime in Washington. Each nonprofit is funded under its own subrecipient contract. The Office spent \$4.6 million in federal funds for Crime Victim Assistance in state fiscal year 2018. Of that amount, about \$4.4 million was passed through to seven subrecipients as subawards.

To determine the appropriate level of monitoring, federal regulations require the Office to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward.

Description of Condition

The Office did not have adequate internal controls over and did not comply with requirements to ensure subrecipients received required risk assessments for the Crime Victim Assistance Program.

While the Office had procedures for performing subrecipient monitoring, it did not require staff to perform a risk assessment of each subrecipient to determine the appropriate level of monitoring as required by federal regulations. Subsequently, no risk assessments were performed for any of the Office's seven subrecipients.

We consider this internal control deficiency to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The Office had no policies or procedures in place that address how risk assessments of subrecipients should be performed and documented. Management said they thought the Office was already meeting the requirement through its onsite monitoring process.

Effect of Condition

By not performing risk assessments of subrecipients, the Office is less likely to perform adequate monitoring that would detect whether subrecipients comply with grant terms and federal regulations. Without written policies and procedures, the Office cannot ensure risk assessments are performed consistently and analyze the proper criteria, which would ensure consistency in determining the appropriate amount of monitoring for each subrecipient.

Recommendations

We recommend the Office:

- Establish adequate internal controls, including policies and procedures, to ensure required risk assessments are performed
- Maintain documentation to show the required risk assessments were performed, which would allow management to monitor the results and demonstrate compliance with federal requirements
- Ensure the results of the risk assessments are used to determine how much and what type of monitoring of subrecipients will be performed, as required by federal law

Office's Response

The Office of Civil Legal Aid has received this audit finding. We concur with both the finding and SAO's recommendations. Effective January 31, 2019, action was taken to increase internal controls by adopting a formal risk assessment protocol, developing and employing a risk assessment tool, and adopting a risk assessment schedule that will allow timely assessment of and action necessary to mitigate any risks associated with existing and future proposed subrecipients of federal VOCA funding.

Auditor's Concluding Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in

“Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient's prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, as follows:

.11 For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows: ...

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow

management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200 – Frequently Asked Questions

.331-10 Requirements for Pass-Through Entities. Timing of Subrecipient Risk Assessments, states in part:

Section §200.331 (b) indicates that pass-through entities must “evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring...” Are pass-through entities required to assess the risk of non-compliance for each applicant prior to issuing a subaward?

No. While section §200.331 (b) requires risk assessments of subrecipients, there is no requirement for pass-through entities to perform these assessments before making subawards. Under the Uniform Guidance, the purpose of these risk assessments is for pass-through entities to determine appropriate subrecipient monitoring. Pass-through entities may use judgment regarding the most appropriate timing for the assessments. Regardless of the timing chosen, the pass-through entity should document its procedures for assessing risk. Section §200.331 (b) (1)– (4) includes factors that a pass-through entity may consider when assessing subrecipient risk.

ATTACHMENT 4

**FISCAL, REGULATORY AND CLIENT SERVICE SYSTEMS REVIEW
FY 2017-19 BIENNIUM**

This is the template for the biennial review of fiscal, regulatory, administration, client service delivery and performance issues relevant to Northwest Justice Project’s (NJP’s) discharge of its responsibilities under OCLA Contract No. PSC 18001. Please provide the documents and information requested along with any comments NJP wishes OCLA to consider. In addition to the information requested below, please provide a current copy of NJP’s Policy Manual and identify specific policies that may be undergoing active review and likely board amendment.

INQUIRY AREA NO. 1:

RCW 2.53.030(2) Authorized Areas of State Funded Legal Aid Services and Client Eligibility: Any money appropriated by the legislature for civil representation of indigent persons shall be administered by the office of civil legal aid established under RCW 2.53.020, and shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance and health care, (c) housing and utilities, (d) social security, (e) mortgage foreclosures, (f) home protection bankruptcies, (g) consumer fraud and unfair sales practices, (h) rights of residents of long-term care facilities, (i) wills, estates, and living wills, (j) elder abuse, and (k) guardianship. Documents requested here go to NJP’s process for determining client eligibility with respect to income and legal problem code, and the system that NJP uses to allocate costs and charge state funds for that portion of program operations.

A copy of NJP’s current policies for determining income eligibility for state-funded civil legal aid services consistent with definition of “indigent” set forth in the Definition Section of the General Terms and Conditions of NJP’s contract with the OCLA. If the policies are included in the Policy Manual please so indicate and note the relevant policy number(s). If the policy has not changed since the 2015-17 review, please advise. If they have, please note the changes.

Document Provided? [] Y [] N
Comments:

<p>Revised eligibility protocols developed to implement legislative changes in areas of state authorized legal aid activity following enactment of SHB 2308 in 2018. Please provide relevant instructions to intake staff and ‘screen shots’ that reflect how such revised protocols operate. Please also provide documentation related to any other change in intake systems or protocols used to determine eligibility for state legal assistance since the FY 2015-17 biennial review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>A current list of CSR problem codes and special legal problem codes embedded into the Legal Server case management system, identifying those that code to “OCLA-Yes” and “OCLA-No” respectively.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Documents relating to any changes in NJP’s cost allocation system or the methodology by which costs are assigned to OCLA funding governed by PSC 18001. If the cost allocation system has not changed since FY 2015-17, please advise.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Any changes to NJP’s most recent Accounting Procedures Overview and Accounting Manual since the FY 2015-17 biennial review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 2:</p> <p>RCW 2.53.030(4) Maximizing Geographic Access: When entering into a contract with a qualified legal aid provider under this section, the office of civil legal aid shall require the provider to provide legal aid in a manner that maximizes geographic access throughout the state.</p>	
<p>A roster of all legal advocates broken down by location by geographic region and statewide function (e.g., CLEAR, Field, CAP) as of January 1, 2019. Include for each whether they are funded in whole or in part with OCLA funding (state appropriations) or whether they are directly charged to specific grants or contracts.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>A copy of NJP’s 2016 Narrative Report on Geographic Proportionality (PSC 18001, Section 11)</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>

INQUIRY AREA NO. 3:

RCW 2.53.030(5)(a) Lobbying:

(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, rule-making activity, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient of funds under this section.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee.

Any changes since the FY 2015-17 biennial review to NJP's written policies and instructions implementing the prohibition against lobbying and establishing the procedure by which NJP staff seek authorization to engage in allowable lobbying activities.

Document Provided? Y N
Comments:

A copy of NJP's semi-annual legislative and administrative advocacy reports submitted to the Legal Services Corporation for activities conducted during the FY 2017-19 biennium. Please also provide a statement describing the process by which NJP allocates 100% of direct and indirect costs associated with legislative and administrative representation to sources other than funds provided under PSC 18001.

Document Provided? Y N
Comments:

Please complete the attached form for NJP staff involvement in state legislative activities during the 2018 and 2019 legislative session

Document Completed? Y N

<p>Copies of complaints or allegations, from whatever source, alleging that NJP staff violated state rules or internal NJP policies regarding lobbying during FY 2017-19. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against lobbying.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 4:</p> <p>RCW 2.53.030(5)(b) Grassroots Lobbying: (b) Grass roots lobbying. For purposes of this section, "grass roots lobbying" means preparation, production, or dissemination of information the purpose of which is to encourage the public at large, or any definable segment thereof, to contact legislators or their staff in support of or in opposition to pending or proposed legislation; or contribute to or participate in a demonstration, march, rally, lobbying campaign, or letter writing or telephone campaign for the purpose of influencing the course of pending or proposed legislation.</p>	
<p>Documentation of changes, if any, to NJP's written policies and instructions implementing the prohibition against grass roots lobbying since the FY 2015-17 review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Copies of complaints or allegations, from whatever source, that NJP staff violated the policy or prohibition against grass roots lobbying. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against grass roots lobbying.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 5:</p> <p>RCW 2.53.030(5)(c) Class action lawsuits:</p>	
<p>Documentation of changes, if any, to NJP's written policies and instructions implementing the policy or prohibition against the use of state funding for class actions since the FY 2015-17 biennial review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>

<p>Copies of complaints or allegations, from whatever source, that NJP staff violated the policy or prohibition against filing or participating in class actions. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against filing or participating in class actions.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 6:</p> <p>RCW 2.53.030(5)(d) Political Activities: Participating in or identifying the program with prohibited political activities. For purposes of this section, "prohibited political activities" means (i) any activity directed toward the success or failure of a political party, a candidate for partisan or nonpartisan office, a partisan political group, or a ballot measure; (ii) advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure; or (iii) voter registration or transportation activities.</p>	
<p>Documentation of changes, if any, to NJP's written policies and instructions implementing the prohibition on engaging in political activities since the FY 2015-17 biennial review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Copies of complaints or allegations, from whatever source, that NJP staff violated the policy or prohibition against engaging in political activities. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against engaging in political activities.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>

INQUIRY AREA NO. 7:

RCW 2.53.030(5)(e) Representation in fee-generating cases: For purposes of this section, "fee-generating" means a case that might reasonably be expected to result in a fee for legal aid if undertaken by a private attorney. The charging of a fee pursuant to subsection (6) of this section does not establish the fee-generating nature of a case.

A fee-generating case may be accepted when: (i) The case has been rejected by the local lawyer referral services or by two private attorneys; (ii) neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; (iii) after consultation with the appropriate representatives of the private bar, the program has determined that the type of case is one that private attorneys do not ordinarily accept, or do not accept without prepayment of a fee; or (iv) the director of the program or the director's designee has determined that referral of the case to the private bar is not possible because documented attempts to refer similar cases in the past have been futile, or because emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

Documentation of changes, if any, in NJP's written policies and instructions implementing the prohibition against representation in fee generating cases since the FY 2015-17 biennial review.

Document Provided? Y N
Comments:

Copies of complaints or allegations, from whatever source, that NJP staff violated the policy or prohibition against representing clients in fee generating cases. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against representing clients in fee generating cases.

Document Provided? Y N
Comments:

INQUIRY AREA NO. 8:

RCW 2.53.030(5)(f) Representation of Unions: Organizing any association, union, or federation, or representing a labor union. However, nothing in this subsection (5)(f) prohibits the provision of legal aid to clients as otherwise permitted by this section.

Documentation of changes, if any, to NJP's written policies prohibiting the use of state funding to organize labor associations, unions or federations and prohibiting NJP staff from representing unions since the FY 2015-17 review.

Document Provided? Y N
Comments:

<p>Copies of complaints or allegations, from whatever source, that NJP staff violated the policy or prohibition embodied in RCW 2.53.030(5)(f). Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against labor organizing or representing labor unions.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 9: RCW 2.53.030(5)(g) Representation of undocumented aliens:</p>	
<p>Documentation of changes, if any, to NJP’s written policies and instructions governing the provision of legal services to aliens, including the process by which alien eligibility status is determined since the FY 2015-17 biennial review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Documentation of changes, if any, in NJP’s approach for determining eligibility of aliens for <i>state-funded</i> (state-appropriated funding) legal aid services and the systems employed by NJP to ensure that state-appropriated funding is not used to serve persons who are not citizens <i>and</i> who are in the United States and subject to removal.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Copies of complaints or allegations, from whatever source, that NJP staff used state-appropriated funding to represent persons who are not citizens and are not in the United States under color of federal legal authority. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff used state-appropriated funding to represent persons who are not citizens and are not in the United States under color of federal legal authority.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 10: RCW 2.53.030(5)(h) Picketing, demonstrations, strikes, or boycotts.</p>	

<p>Documentation of changes, if any, in NJP written policies and instructions prohibiting the use of state funds to underwrite directly or indirectly any of the activities prohibited by RCW 2.53.030(5)(h).</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Copies of complaints or allegations, from whatever source, that NJP engaged in activities prohibited by this section. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff violated the policy or prohibition against participating in picketing, demonstrations, strikes or boycotts.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 11:</p> <p>RCW 2.53.030(5)(i) Engaging in inappropriate solicitation. For purposes of this section, "inappropriate solicitation" means promoting the assertion of specific legal claims among persons who know of their rights to make a claim and who decline to do so. Nothing in this subsection precludes a legal aid program or its employees from providing information regarding legal rights and responsibilities or providing information regarding the program's services and intake procedures through community legal education activities, responding to an individual's specific question about whether the individual should consult with an attorney or take legal action, or responding to an individual's specific request for information about the individual's legal rights or request for assistance in connection with a specific legal problem.</p>	
<p>Documentation of changes, if any, in NJP's written policies and instructions prohibiting NJP staff from engaging in inappropriate solicitation of clients as defined by 2.53.030(5)(i) since the FY 2015-17 biennial review.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>Copies of complaints or allegations, from whatever source, that NJP staff engaged in inappropriate solicitation of clients or potential clients. Copies of any reports or communications relating or responding to complaints or allegations that NJP staff engaged in inappropriate solicitation of clients or potential clients.</p>	<p>Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:</p>
<p>INQUIRY AREA NO. 12:</p> <p>RCW 2.53.030(5)(j) Conducting training programs that: (i) Advocate particular public policies; (ii) encourage or facilitate political activities, labor or anti-labor activities, boycotts, picketing, strikes, or demonstrations; or (iii) attempt to influence legislation or rule making. Nothing in this subsection (5)(j) precludes representation of clients as otherwise permitted by this section.</p>	

Copies of agendas for NJP-sponsored training programs supported in whole or in part with state-appropriated funds during the FY 2017-19 biennium.	Documents Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:
ADDITIONAL AREAS OF INQUIRY:	
A. Board Governance and Administrative Capacity	
Current board roster and contact information	Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:
A list of standing and special committees	Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:
Please provide a narrative update or progress report on NJP's implementation of its administrative reorganization, including progress to date and a timeline for completion. In addition, please provide an updated list of and current description of responsibilities for each member of NJP's statewide and administrative teams.	Information Provided <input type="checkbox"/> Y <input type="checkbox"/> N Comments:
B. Quality, Efficiency and Responsiveness of Client Representation	
Please provide a table documenting each client grievance filed since 7/1/17 by number, substance of client grievance (Denial of Service, Quality of Service, Discriminatory Treatment, Other) and disposition, including at what level – e.g., staff, Director, Board -- that grievance was resolved.	Document Provided? <input type="checkbox"/> Y <input type="checkbox"/> N Comments:
Please provide updates or changes to NJP's strategic plan since the FY 2015-17 biennial review.	Documents Provided <input type="checkbox"/> Y <input type="checkbox"/> N Comments:

<p>Please indicate whether there have been significant changes in the systems or approaches used by NJP to provide oversight, supervision and accountability of client service delivery since 2017. If there have been, please provide a description of such changes.</p>	<p>Information Provided [] Y [] N Comments:</p>
<p>Please indicate whether there have been significant changes to the systems or strategies to encourage and support professional development of attorney and non-attorney staff since 2017. If there have been, please provide a description of such changes.</p>	<p>Information Provided [] Y [] N Comments:</p>
<p>Have there been significant changes in the systems or approaches (including but not limited to case specific outcome tracking) through which NJP monitors, aggregates or otherwise evaluates the impact and effectiveness (qualitative or quantitative) of its client service efforts? If so, please outline such changes.</p>	<p>Information Provided [] Y [] N Comments:</p>
<p>Please provide narrative descriptions of action, if any, taken in response to OCLA’s site visit reports resulting from visits to the Vancouver, Bellingham, and Spokane offices in 2017 and 2018.</p>	<p>Information Provided [] Y [] N Comments:</p>
<p>C. Inclusion, diversity, compliance with applicable non-discrimination requirements, ADA and ATJ Technology Principles</p>	
<p>Please outline changes, if any, since the FY 20115-17 biennial review in NJP’s staff hiring, retention, and training and support policies and practices resulting from NJP’s adoption of the Race Equity and Justice Initiative’s Acknowledgments and Commitments and NJP’s internal inclusion, diversity and equity related initiatives. Please also describe any changes in NJP’s external (community engagement, case priorities, case acceptance, and related client service focus) activities as a result of NJP’s adoption of the REJI Acknowledgments and Commitments and NJP’s internal inclusion, diversity and equity related initiatives.</p>	<p>Information Provided [] Y [] N Comments:</p>
<p>Please provide an updated list of NJP staff by position title (w/o names) showing the following characteristics (where such information is known): Racial Identity: White (W), Black or African American (B), American Indian or Alaska Native (AI/AN), Asian (AS), Native Hawai’ian or Other Pacific Islander (NH/PI) and Hispanic or Latino/a (H/L). Age: Over 39 (>39); Under 40 (<40) Gender Identity: Female (F), Male (M), Transgender (T), Other/Unknown (O/U)</p>	<p>Document Provided? [] Y [] N Comments:</p>

Disability: Disclosed Disability Requiring Reasonable Accommodation (D-RA)	
Military Service: Active Member or Honorably Discharged Veteran (Mil)	
Please provide a list of training events that NJP hosted, provided or sponsored for staff or board members on inclusion, diversity and equity during the FY 2017-19 biennium.	Information Provided [<input type="checkbox"/>] Y [<input type="checkbox"/>] N Comments:
Please describe any changes since the FY 2015-17 biennial review in NJP's approach to consideration of the ATJ Technology Principles in technology project development efforts, including LSC-TIG and other grant-funded projects.	Information Provided [<input type="checkbox"/>] Y [<input type="checkbox"/>] N Comments:
E. Oversight of Subcontracts	
Please describe any changes in NJP's approach to managing its subcontract with the Legal Foundation of Washington to ensure that state funds are used by each entity that receives them exclusively to support the provision of civil legal aid services to eligible clients on matters falling within the areas of authorized activity set forth in RCW 2.53.030.	Information Provided [<input type="checkbox"/>] Y [<input type="checkbox"/>] N Comments:
F. Third Party Complaints and Grievances	
Please provide a table documenting all written complaints filed with NJP since the 2015-19 biennial review by third parties who are not clients or prospective clients documenting (a) identity of the complaining party, (b) the nature of the complaint, and (c) the disposition of the complaint.	Document Provided? [<input type="checkbox"/>] Y [<input type="checkbox"/>] N Comments:
Please provide a table documenting (a) all complaints known to NJP that were filed against NJP or any employee thereof with the Legal Services Corporation, the Washington State Bar Association or other funding or regulatory entities during the FY 2017-19 biennium, and (b) the disposition of such complaints. This request does not seek information that is protected from disclosure under the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct or other legal authority. If NJP asserts a right not to disclose the existence of any such complaint, allegation or grievance, please identify the source of legal authority for the same.	Document Provided? [<input type="checkbox"/>] Y [<input type="checkbox"/>] N Comments:

ATTACHMENT 5



Washington State Office of Civil Legal Aid

1112 Quince St SE
Olympia, WA 98504
MS 41183
360-704-4135

James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

May 30, 2019

Hon. Mary Fairhurst, Chief Justice
Washington State Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Re: FY 2020 Supplemental Budget
Draft Decision Packages

Dear Chief Justice Fairhurst,

Consistent with the instructions set out in your memo dated April 8, 2019, please find attached OCLA's initial (very draft) decision packages for the FY 2020 supplemental budget. Please note that one of the decision packages (Statewide Reentry Civil Legal Aid Project) originates from a request from the Governor's Statewide Reentry Council and is currently under review by the Governor's policy team. This request will only be submitted if OCLA receives a formal written request from the Governor's office to submit the same. The second request involves reauthorizing and reappropriating \$160,000 in existing appropriations for work related to the statewide Technology Assisted Forms Project. The final request addresses an increasingly urgent need for expanded professional capacity at the Office of Civil Legal Aid.

Please note that these requests have not yet been reviewed or endorsed by the Civil Legal Aid Oversight Committee. The Oversight Committee next meets on June 20, 2019 during which time members will have an initial opportunity to review and discuss the proposals. Final Oversight Committee action is scheduled for the September quarterly 2019 meeting.

I am happy to schedule a meeting should you have any questions or concerns.

Sincerely,

OFFICE OF CIVIL LEGAL AID

James A. Bamberger
Director

C: Ramsey Radwan

Washington State Judicial Branch
2020 Supplemental Budget
Decision Package

Agency: Office of Civil Legal Aid

Decision Package Title: **Statewide Reentry Legal Aid Project**

Budget Period: **2020 Supplemental Budget**

Budget Level: Policy Level

Agency Recommendation Summary Text: On formal request of the Governor’s office, OCLA seeks \$492,000 to establish a statewide reentry legal aid program under contract with the Public Defender Association in Seattle. This request originates from a recommendation by the Governor’s Statewide Reentry Council. [This request is provisional pending receipt of letter from the Governor’s office asking that OCLA seek funding for this project.]

Summary:

Operating Expenditures	FY 2020	FY 2021	FY 2022	FY 2023
Fund 001	\$492,000	\$507,000	\$522,000	\$538,000
Fund	\$Click here to enter text.			
Total Cost	\$Click here to enter text.			
Biennial Total		\$		\$
Staffing	FY 2020	FY 2021	FY 2022	FY 2023
FTEs	0	0	0	0
Revenue	FY 2020	FY 2021	FY 2022	FY 2023
Fund	\$Click here to enter text.			
Fund	\$Click here to enter text.			
Total Revenue	\$	\$	\$	\$
Object of Expenditure	FY 2020	FY 2021	FY 2022	FY 2023
Obj. E	\$Click here to enter text.			

Package Description:

Funding is requested to establish a statewide reentry legal aid project to provide legal assistance and support for the 8,000 individuals reentering civil society from incarceration each year. This proposal was developed by the Governor's Statewide Reentry Council after consultation with the Office of Civil Legal Aid and other stakeholders. By letter dated _____, the Governor's office formally requested that OCLA seek funding for this project and administer it through a contract with the Public Defender Association in Seattle. The Reentry Council's recommendation is attached (Attachment 1) and **the letter from the Governor's office is pending.**

Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service.

N/A

Decision Package expenditure, FTE and revenue assumptions, calculations and details:

The project will include 3 FTE attorneys and one .5 FTE paralegal housed at the Public Defender Agency in Seattle. The project budget is set forth in Attachment 2. OCLA assumes a 3% cost increase per year.

Decision Package Justification and Impacts

How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?

Fair and Effective Administration of Justice.

N/A

Accessibility.

N/A

Access to Necessary Representation.

As outlined in the Reentry Council's letter, there are no dedicated legal aid resources for individuals reentering society in Washington State. Establishing a statewide legal aid services and support program will ensure that some level of legal assistance is available for the 8,000 individuals who reenter society each year and enhance the capacity of existing legal aid programs throughout Washington State to provide assistance at the community based level.

Commitment to Effective Court Management.

N/A

Sufficient Staffing and Support.

N/A

What is the impact on other state agencies?

N/A

What is the impact to the Capital Budget?

None

Is change required to existing statutes, Court rules or contracts?

No

Is the request related to or a result of litigation?

No

What alternatives were explored by the agency and why was this option chosen?

No alternatives were considered. As a matter of inter-branch comity, OCLA has agreed to submit this request to the Legislature, understanding that it will be principally promoted and supported by the Governor's Statewide Reentry Council and other stakeholders.

What are the consequences of not funding this request?

Continuation of the status quo relative to the lack of legal aid services to individuals reentering society from incarceration.

Other supporting materials:

Letter from the Governor's Office [receipt pending], Statewide Reentry Council Letter, Budget Breakdown from Public Defender Association.

Information technology: Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No

Yes



State of Washington
STATEWIDE REENTRY COUNCIL

1011 Plum Street SE - PO Box 42525 - Olympia, Washington 98504-2525 - (360) 725-4000

May 22, 2019

Ms. Sonja Hallum
Senior Policy Advisor
Office of Governor Jay Inslee

Dear Ms. Hallum,

The Washington Statewide Reentry Council appreciates the efforts of both the Legislature and the Governor's office over the last two years to effectively remove barriers to reentry. The Legislature and Governor's office have helped our state make significant strides by reforming Washington's broken system of legal financial obligations, creating a certificate of restoration of opportunity (CROP), and by expanding eligibility of formerly incarcerated individuals to vacate criminal records. Each successful piece of legislation and executive policy initiative offers people reentering a renewed sense of hope and opportunity. However, the relief available as a consequence of these significant policy changes is not self-executing. For many, if not most of the individuals attempting to achieve successful reentry, the obstacles are huge, and the services available limited.

Our experience demonstrates a clear need for expanded civil legal assistance should we wish to realize the full extent of the benefits of these initiatives. In particular, individuals need legal information and hands-on help both before and following their release from incarceration. Only with such dedicated assistance will these individuals be able to learn about the new legal rights available to them and take action to receive the benefits of the same.

Despite this clear need, the Reentry Council has been unable to identify targeted civil legal aid available to provide reentry-related education and corresponding individualized civil legal aid services in the areas of housing, employment, family reunification, debt, driver's licenses, and a variety of other problems that serve as obstacles to successful reentry. In order to fully secure the promise of recent and future policy changes designed to remove barriers to and enhance the opportunity for individuals to successfully reenter society, the Washington Statewide Reentry Council therefore recommends that the Governor's office request that the Office of Civil Legal Aid seek funding from the Legislature in the FY 2020 supplemental budget to establish a dedicated Statewide Reentry Civil Legal Aid Project.

The project would consist of a team of three attorneys who will work out of the Public Defender Association (PDA). The team will work in partnership with Civil Survival (which will be hosted at the PDA), to educate individuals reentering from incarceration about their legal rights and how to identify civil legal issues that serve as barriers to successful reentry, train local legal aid attorneys and an expanded community of volunteer attorneys to handle these cases, and conduct legal aid clinics in partnership with community-based groups throughout Washington State. This dedicated team of



State of Washington

STATEWIDE REENTRY COUNCIL

1011 Plum Street SE - PO Box 42525 - Olympia, Washington 98504-2525 - (360) 725-4000

attorneys will work alongside people who have successfully reentered from incarceration and who have identified continued systemic barriers. Taken as a whole, the program will continue to move Washington State forward with best practices and policies to continue our work to reduce recidivism and promote public safety. This work strongly aligns with the Governor's EO 16-05, as it promotes building strong communities through successful reentry and will help to safely reduce the prison population. The total cost per year for the 3 FTE attorneys and a .5 FTE paralegal will be \$492,000.

Simultaneously, we are recommending that the Governor's office and the Office of Civil Legal Aid work together to secure legislation expanding the scope of authorized state legal aid activity (RCW 2.53.030(2)) to expressly include "on civil matters that affect successful reentry of formerly incarcerated persons." This will ensure that the project will be able to address the full scope of civil legal problems experienced by people reentering into society without having to try to pigeon-hole each problem into one of the currently enumerated subject matter areas.

We have spoken with the Office of Civil Legal Aid and have been advised that this judicial branch agency would favorably consider a request or recommendation from the Governor's office relative to the issues and suggestions outlined above.

Thank you for your time and consideration of our request. We look forward to working with you and the Office of Civil Legal Aid to bring life to this initiative.

Sincerely,

A handwritten signature in black ink that reads "Daniel J. Satterberg".

Dan Satterberg, co-chair, King County Prosecutor

A handwritten signature in black ink that reads "Tarra Simmons".

Tarra Simmons, co-chair, Executive Director,
Civil Survival Project

Washington State Judicial Branch
2020 Supplemental Budget
Decision Package

Agency: Office of Civil Legal Aid

Decision Package Title: Automated Document Assembly System

Budget Period: 2020 Supplemental Budget

Budget Level: Maintenance Level

Agency Recommendation Summary Text: OCLA requests that the Legislature reauthorize and re-appropriate \$160,000 in unspent FY 2019 funding for the family law automated forms project. This is not a request for new funding.

Summary:

Operating Expenditures	FY 2020	FY 2021	FY 2022	FY 2023
Fund 001	\$160,000	\$0	\$0	\$00
Fund	\$Click here to enter text.			
Total Cost	\$160,000	\$0	\$0	\$0
Biennial Total		\$		\$
Staffing	FY 2020	FY 2021	FY 2022	FY 2023
FTEs	0	0	0	0
Revenue	FY 2020	FY 2021	FY 2022	FY 2023
Fund	\$Click here to enter text.			
Fund	\$Click here to enter text.			
Total Revenue	\$	\$	\$	\$
Object of Expenditure	FY 2020	FY 2021	FY 2022	FY 2023
Obj. E	\$Click here to enter text.			

Package Description:

The Legislature authorized funding of a project to automate the mandatory family law forms. The project is a technology guided, consumer directed on-line program designed

to enable unrepresented litigants to properly select and complete needed family law forms.

OCLA contracted with Pro Bono Net, the largest national non-profit that hosts automated self-help forms for unrepresented litigants. Pro Bono Net in turn subcontracted with Capstone Practice Systems to serve as the principal forms programmer using the Abacus HotDocs document assembly software system. The project is managed by attorney Laurie Garber at the Northwest Justice Project. First forms have been developed and posted at [Washington Forms Online](#). While the project is expected to be completed on time and within budget by June 30, 2020, early expenditures have not been at the level projected, and funding will need to be carried forward to FY 2020. OCLA projects this amount to be \$160,000.

Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service.

Reauthorization and re-appropriation of funding will ensure completion of this project consistent with prior legislative intent and direction.

Decision Package expenditure, FTE and revenue assumptions, calculations and details:

OCLA currently expects to underspend the FY 2019 appropriation level by \$160,000. Final numbers will be known in July 2019 and this request will be updated accordingly.

Decision Package Justification and Impacts

How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?

Fair and Effective Administration of Justice.

Completion of the project will add substantial capacity for the fair administration of justice in family law matters involving unrepresented litigants.

Accessibility.

The system is being developed consistent with the Supreme Court's ATJ Technology Principles and applicable accessibility standards for on-line programs and services.

Access to Necessary Representation.

The system will not substitute for legal representation but will enhance the ability of unrepresented litigants in family law cases to secure proper and just outcomes in their cases.

Commitment to Effective Court Management.

N/A

Sufficient Staffing and Support.

N/A

What is the impact on other state agencies?

N/A

What is the impact to the Capital Budget?

None

Is change required to existing statutes, Court rules or contracts?

No

Is the request related to or a result of litigation?

No

What alternatives were explored by the agency and why was this option chosen?

None

What are the consequences of not funding this request?

Failure to complete and bring on-line the legislatively authorized family law automated document assembly system.

Other supporting materials:

[Click here to enter text.](#)

Information technology: Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No

Yes

Washington State Judicial Branch
2020 Supplemental Budget
Decision Package

Agency: Office of Civil Legal Aid

Decision Package Title: Assistant Agency Director

Budget Period: 2020 Supplemental Budget

Budget Level: Policy Level

Agency Recommendation Summary Text: Funding is requested to establish and fund the position of Assistant Director for the Office of Civil Legal Aid.

Summary:

Operating Expenditures	FY 2020	FY 2021	FY 2022	FY 2023
Fund 001	\$Click here to enter text.	\$139154	\$131724	\$131724
Fund	\$Click here to enter text.			
Total Cost	\$Click here to enter text.			
Biennial Total		\$		\$
Staffing	FY 2020	FY 2021	FY 2022	FY 2023
FTEs	1	1	1	1
Revenue	FY 2020	FY 2021	FY 2022	FY 2023
Fund	\$Click here to enter text.			
Fund	\$Click here to enter text.			
Total Revenue	\$	\$	\$	\$
Object of Expenditure	FY 2020	FY 2021	FY 2022	FY 2023
Obj. E	\$Click here to enter text.			

Package Description:

The Office of Civil Legal Aid is responsible for managing more than \$52M in state and federal funding during the FY 2019-21 biennium. The agency has four employees. These include:

Agency Director (Attorney) (RCW 2.53.020) – Responsible for all agency operations including but not limited to internal policy development; budget development and fiscal oversight; strategic planning; contracting; legislative relations; external relations and communication; staff recruitment, support, and performance assessment; interagency relations within the judicial branch and with the executive branch; support for the Civil Legal Aid Oversight Committee (RCW 2.53.010); manage, monitor and oversee contracts and subcontracts for the general civil legal aid program (RCW 2.53.030); coordinate with the Supreme Court’s Access to Justice Board and its relevant committees and subcommittees.

Children’s Representation Program Manager (Attorney) – Dedicated full-time to managing the Children’s Representation Program assigned to the Office of Civil Legal Aid in RCW 2.53.045; identifies, provides training for, contracts with, and oversees attorneys throughout Washington State to provide standards-based legal representation for children who remain dependent six months following termination of their parents’ legal rights; manages and oversees the contract for the legislatively directed study on the impact of early representation of children in dependency proceedings.

Crime Victims Legal Aid Program Manager (Attorney) – Dedicated full-time to managing and overseeing the federally funded Crime Victims Legal Aid Program (\$4.2M/yr.) operated pursuant to an interagency agreement with the Department of Commerce; executes and monitors performance of subgrants with six non-profit providers of civil legal aid services to victims of crime in Washington State.

Senior Administrative Assistant (Non-Attorney) – Dedicated .5 FTE to fiscal management and monitoring of contracts with Children’s Representation Program attorneys and agency providers; .1 FTE to supporting the Crime Victims Legal Aid Program Manager; .4 FTE to general agency administrative support.

To achieve maximum efficiency (and significant fiscal savings), reduce risk, and avoid unnecessary duplication of fiscal and administrative staffing capacity within the judicial branch, OCLA secures fiscal, budget, administrative, HR, and limited technology support through an interagency agreement with the Administrative Office of the Courts.

Since the agency’s creation in 2005, nearly all general agency functions (including oversight of the Children’s Representation and Crime Victims Program) have been carried out by the Agency Director. The programs contract and oversight functions (i.e., general civil legal aid, children’s legal representation, crime victims legal assistance) are siloed by virtue of the very lean staffing model, with little or no capacity for cross-training or operational backup between them. The program managers are exclusively dedicated to the tasks associated with each of their programs. The OCLA Director has no operational backup and there is no executive staff capability or redundancy for key components of the Director’s job. While OCLA has not experienced professional staff turnover, the risks associated with an unanticipated extended interruption in the availability of the Director or either of the program managers would create significant operational challenges and possibly compromise continuity of critical agency operations. This creates unnecessary risk to the agency, those served by the agency, and the State of Washington.

To address this situation, OCLA seeks funding for a permanent Assistant Director position. The Assistant Director will enhance the ability of the agency to properly administer and oversee all state and federal programs assigned to it develop critical agency policies, protocols, and procedures; ensure continuity of core agency operations in the event of an unanticipated and extended absence of any of the agency's core staff; expand the agency's capacity to undertake essential planning, oversight, and support for agency programs and operations; and address matters that, because of the lack of executive level staff and the substantial expansion of the agency's roles and responsibilities, have gone unattended in recent years.

Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service.

This is a new position.

Decision Package expenditure, FTE and revenue assumptions, calculations and details:

A detailed budget for this position is attached.

Decision Package Justification and Impacts

How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?

Fair and Effective Administration of Justice.

N/A

Accessibility.

N/A

Access to Necessary Representation.

N/A

Commitment to Effective Court Management.

N/A

Sufficient Staffing and Support.

By any measure, OCLA is professionally understaffed. The addition of an Assistant Director would increase the agency's entire staffing to 5 FTE.

What is the impact on other state agencies?

N/A

What is the impact to the Capital Budget?

None

Is change required to existing statutes, Court rules or contracts?

No

Is the request related to or a result of litigation?

No

What alternatives were explored by the agency and why was this option chosen?

OCLA is already among the leanest agency in state government, and certainly is so from a staff-to-agency budget analysis. OCLA manages more than \$52M in biennial contracts with attorneys, agency service providers and others; or \$13M per employee per year. OCLA's increased portfolio of responsibilities with functionally the same level of general agency staffing leads to significantly enhanced risk. OCLA approaches this request reluctantly but has concluded that there are no alternatives but to enhance executive level staffing.

What are the consequences of not funding this request?

Continuing and ever increasing risk to agency operations.

Other supporting materials:

[Click here to enter text.](#)

Information technology: Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No

Yes

ATTACHMENT 6



Washington State Civil Legal Aid Oversight Committee

1206 Quince St. SE
Olympia, WA 98504
MS 41183
360-704-4135

Hon. Greg Tripp, Chair (Spokane County Dist. Ct. Ret.)
Rep. Drew Stokesbary (R-31)
Rep. Laurie Jenkins (D-27)
Sen. David Frockt (D-46)
Sen. Ann Rivers (R-18)
Taylor Wonhoff (Office of the Governor)
Hon. G. Helen Whitener (Pierce County Superior Court)
Hon. Rebecca Pennell (Ct. of App., Div. 3)
Sarah Augustine (Yakima)
Theodore Grammount (Longview)

Office of Civil Legal Aid Director Performance Review

The Office of Civil Legal Aid (OCLA) is an independent judicial branch agency charged with securing and administering funding to underwrite civil legal aid services to low-income people in Washington State and to contract with attorneys to represent legally free children in dependency cases. As the Legislature declared in OCLA's enabling legislation, "[t]he provision of civil legal aid services to indigent persons is an important component of the state's responsibility to provide for the proper and effective administration of civil and criminal justice."

The OCLA Director is the chief executive officer of the agency, charged with ensuring fidelity to the agency's statutory charge. The OCLA Director is effectively the trustee of the state's investment in the civil equity and justice effort. The Director is called upon to ensure that state-funded services are strategically invested consistent with applicable statutory and legal requirements to ensure (a) geographic equity of access, (b) fidelity to the Access to Justice Board's State Plan for the Delivery of Civil Legal Aid Services, and (c) compliance with applicable standards for the delivery of civil legal aid. The OCLA Director is also required to ensure that the agency's Children's Representation Program is consistent with the statutory requirements set forth in RCW 13.34.100(6) and RCW 2.53.045, is compliant with applicable standards for representation of children in dependency cases and adhere to legislatively approved caseload standards. Finally, the OCLA Director is responsible for ensuring that federal Victims of Crime Act funding is administered in a manner consistent with applicable federal laws and administrative guidelines and ensures effective and equitable access to civil legal assistance for victims of crime within resource constraints.

The Civil Legal Aid Oversight Committee (Oversight Committee) established in RCW 2.53.010 is charged with reviewing the performance of the Director of the Office of Civil Legal Aid. Because you have worked with OCLA Director Jim Bamberger in one way or another over the past three years, we are asking for your help in reviewing his performance. We ask that you help us evaluate Mr. Bamberger's leadership of the Office of Civil Legal Aid over the past three years. Below we offer you the opportunity to review and share your observations relating to Mr. Bamberger's performance in the principal areas of his responsibility over the past three years.

Thank you in advance for your assistance in helping the Civil Legal Aid Oversight Committee review Mr. Bamberger's performance as Director of the Office of Civil Legal Aid.

Name and title (if any) of person completing the performance review: _____

Date Completed: _____

A. Agency Leadership Expectations and Competencies (please provide narrative responses):

1. The Director is able to define and effectively promote the strategic mission and purpose of the Office of Civil Legal Aid:
2. The Director is able to understand and navigate complex systems and relationships; exercises informed judgment in developing and executing strategic and tactical decisions; understands and anticipates intended and unintended consequences of decisions:
3. The Director enables and empowers agency staff to operate effectively within their respective programmatic areas; identifies and makes available relevant training and support; appreciates the strengths of working as a team in service of the agency's mission, statutory, and programmatic responsibilities.
4. The Director is able to work effectively with people representing diverse perspectives on matters of common interest; appropriately consults with and incorporates input received from others with a stake in key decisions:

5. The Director appreciates the value of inclusion, diversity and equity, and the imperative to manage agency programs and initiatives through a race equity lens; takes initiative to identify internal and external systems, practices, structures that cause or perpetuate disparate treatment or disproportionately negative outcomes for people and communities of color and others whose identity characteristics make them vulnerable to such treatment or outcomes.
6. The Director promotes and supports leadership among staff, peers, and others using a race equity lens:
7. The Director demonstrates self-awareness; seeks appropriate opportunities to grow personally and professionally; accepts, learns from and acts upon input received from others:
8. The Director is aware of external dynamics that could affect OCLA's capacity to perform its statutory, contractual, and programmatic duties; able to anticipate the need for and take action to implement change necessary to deliver on the agency's strategic intent

B. Specific Areas of Agency Executive Responsibilities (please respond in those areas where you have personal knowledge of the Director’s performance):

1	2	3	4	5	N/A
Unsatisfactory	Needs improvement	Meets expectations	Significantly exceeds expectations	Outstanding	Not applicable or do not know

Area of Performance Focus	Rating	
1. Management of Agency Operations and Administration, Including Technology, Fiscal and Administrative Functions and Strategic Planning	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The Director has a basic understanding of state governmental operations, policies and practices; an understanding of strategic budgeting and budget management; ability to review and monitor agency expenditures over time; establish and maintain an appropriate technology plan; and be able to initiate, develop and execute the agency’s core strategic agenda.</p> <p>The Director maintains agency operations in accordance with agency operational policies and procedures, that are consistent with judicial branch standards (where they exist) and otherwise with state laws and practices. The Director establishes and maintains effective records production and retention policies.</p> <p>The Director recruits and manages agency staff in a manner that facilitates the agency’s ability to perform statutory and related functions, is empowering to staff, promotes strategic and effective delivery of standards-based client services, and ensures the highest level of accountability.</p>		

2. Personnel Management, Recruitment, Training, Support, Empowerment	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The Director effectively recruits, trains, supports, and empowers staff to meet performance expectations consistent with position descriptions and the mission, values, statutory and contractual responsibilities of the agency and the agency’s commitment to inclusion, diversity, and equity.</p>		
3. Contract Development, Negotiation, Monitoring and Oversight	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The Director effectively manages all agency contracting responsibilities including contract development, negotiation, management and oversight; establishes and maintains effective and appropriate relations with public and private entities with which the agency contracts; ensures contractor accountability for timely performance of duties consistent with contract terms; develops and executes fiscal and performance oversight and monitoring of contractors; understands and applies relevant state and national standards for civil legal aid delivery in performance monitoring; and maintains transparent systems and protocols and properly reviews, investigates and responds to complaints about state-funded civil legal aid providers or other with respect to other agency related matters.</p>		

4. Budget Development and Legislative Relations	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The Director develops and provides appropriate justification for biennial and supplemental budgets for consideration by the Washington State Legislature. The Director develops and maintains effective relations with legislative staff (including non-partisan and caucus staff) in both chambers and with appropriate staff in the Governor’s office and the Office of Financial Management. In addition, the Director maintains effective bipartisan relations with legislative leadership and members of key budget and policy committees.</p> <p>The Director develops and presents effective documentation in support of the budget requests and in response to legislator or staff inquiries.</p> <p>The Director coordinates messages and strategies around civil legal aid funding with judicial branch agency peers and through consultation with the Equal Justice Coalition and other key stakeholders.</p> <p>The Director ensures that the biennial and supplemental budget requests associated with the Children’s Representation Program (CRP) are sufficient to fully fund representation of all eligible legally free children as required by statute and to fund necessary training, technical assistance and expert support to enable CRP contract attorneys meet basic standards for legal representation.</p>		

5. Support for the Civil Legal Aid Oversight Committee	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The OCLA Director provides appropriate levels of staff support for and facilitates the ability of the Civil Legal Aid Oversight Committee to perform its statutory oversight and policy making functions. The Director timely keeps the Civil Legal Aid Oversight Committee and ATJ Board and staff informed of the work of the other and that, where appropriate, the work of the two bodies is coordinated. The Director timely provides notices of Oversight Committee meetings, and ensures accommodations for individuals with disabilities at Oversight Committee meetings.</p>		
6. Coordination With The Access to Justice Board, the Legal Foundation of Washington and the Broader Alliance for Equal Justice	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The Director serves as an effective liaison to the ATJ Board for the agency and the Oversight Committee. The Director participates, as appropriate, on ATJ committees and work groups that develop or oversee policies and strategic initiatives that inform or affect the state-funded civil legal aid delivery system.</p> <p>Within the scope of the agency's statutory authority, the Director initiates, underwrites or otherwise supports ATJ Board priority statewide support initiatives. The Director effectively coordinates with the Legal Foundation of Washington on matters of common concern in the areas of funding, oversight and accountability of entities that receive state legal aid funding (directly or through subcontracts).</p>		

7. Coordination With Judicial Branch Agencies	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The Director must maintains awareness of applicable judicial branch policies and participates in key judicial branch planning and strategic initiatives. The Director establishes and maintains appropriate working relationships with the leadership of the Board for Judicial Administration, Washington State Bar Association, Administrative Office of the Courts (including the Management Services Division), the Office of Public Defense, the Supreme Court, Court of Appeals, Commission on Judicial Conduct and Law Library. The Director also establishes and maintains appropriate relationships with the leadership of the Superior Court Judges Association and the District and Municipal Court Judges Association, Clerks Association and other entities that interface with the judicial branch.</p>		
8. Effective Relations With Executive Branch Agencies	1 2 3 4 5 N/A	Comments
<p><u>Description:</u> The OCLA Director works to inform, promote, and effectively integrate civil legal aid into important executive branch programs and policies that affect low-income people. To this end, the Director establishes and maintains effective relations with key leaders and staff in the Governor’s office, the Office of Financial Management (budget and policy), executive branch agencies (e.g., Commerce, Corrections, DCYF, others), the Office of the Attorney General and other governmental agencies as appropriate.</p>		

OCLA Director's strengths:

Areas that the OCLA Director could improve upon:

Suggestions for the OCLA Director's performance goals?

OCLA DIRECTOR PERFORMANCE REVIEW PERFORMANCE AREA RELEVANT INDICATORS

Performance Area 1: Management of Agency Operations

Indicators:

- Director has established and maintains basic fiscal and administrative systems to ensure the effective operation of the Office of Civil Legal Aid.
- The Office of Civil Legal Aid performs its statutory and administrative tasks timely and efficiently.
- Director protects agency integrity, is knowledgeable of and complies with applicable ethics requirements, and otherwise complies with applicable rules and regulations.
- Director effectively plans for agency leadership succession and continuity of core agency operations in the event of Director's extended unavailability.

Performance Area 2: Personnel Management

Indicators:

- Agency recruitment practices.
- Clarity of Director's expectations of staff work responsibilities and degree to which Director provides staff with the equipment, resources, training and support to perform consistent with expectations.
- Quality and frequency of Director's engagement with staff
- Director's willingness to accept feedback, criticism, suggestions, etc. on matters relating to agency operations and activities within in the respective spheres of staff responsibility.
- Director's interpersonal communications skills.
- Director's ability to work effectively with staff members who bring a range of lived experience and professional competencies to their work.
- Director's approach to performance review, collaborative professional development planning, and creating opportunities for staff to access relevant training.
- Director encourages and fosters staff professional growth and development.

Performance Area 3: Contract Management

Indicators:

- Quality and substance of the contracting documents and systems to manage and oversee the civil legal aid program.
- Quality and substance of the contracting documents and systems established to manage the Children's Representation Program.
- Quality and substance of the grant documents and systems established to manage the Civil Legal Aid to Crime Victims Program.
- Director's relationships with public and private agencies and contractors
- Contract negotiation and execution, oversight of contract performance, adherence to sound contract management practices

Performance Area 4: Budget Development and Legislative Relations

Indicators:

- Director demonstrates an understanding of the state budget and appropriations process
- Director coordinates with other judicial branch agency initiatives and key support organizations
- Director establishes and maintains effective relationships with legislative members and staff, is timely and responsive to requests for information, generates fiscal notes on time, and protects the non-partisan character of civil legal aid work funded through the agency.
- Director's approach to budget development (substantive rationale and strategy employed) is effective in securing necessary appropriations for civil legal aid.
- Director's approach to budget development (substantive rationale and strategy employed) is effective in securing necessary appropriations for the Children's Representation Program.

Performance Area 5: Support for Civil Legal Aid Oversight Committee

Indicators:

- Director provides timely support and assistance to Oversight Committee members and leadership.
- Director provides relevant information to the Oversight Committee.
- Director's periodic reports to the Oversight Committee are complete and comprehensive and enhance the ability of the Oversight Committee to perform its statutory functions.
- Oversight Committee meetings are timely scheduled and are appropriately planned (both substantively and logistically).

Performance Area 6: Coordination With ATJ Board and Other Stakeholders

Indicators:

- Quality of Director's engagement with the ATJ Board, ATJ staff and ATJ committees and entities (e.g., Pro Bono Council) on matters relevant to the provision of state funded civil legal aid service.
- Director's role in identifying and working with partners to identify and secure expanded non-traditional sources of funding for civil legal aid in Washington State.
- Director's role in identifying and helping develop initiatives to expand the capacity of the ATJ system to meet client needs, promote ATJ Board priorities, and promote coordination of legal aid related efforts consistent with the ATJ Board's State Plan.
- Director's role in supporting essential infrastructure including, but not limited to, resources and training capacity to operationalize the ATJ Board's State Plan.
- Director's capacity to work effectively with leaders of other interested entities on matters relevant to the provision of state-funded civil legal aid services.

Performance Area 7: Coordination With Judicial Branch Agencies

Indicators:

- Director adheres to judicial branch budget development process and timelines
- Director coordinates, as necessary and appropriate, with the Supreme Court, Board for Judicial Administration, SCJA, DMCJA, Administrative Office of the Courts, Office of Public Defense, Supreme Court Commissions (Gender and Justice, Minority and Justice, Children in Foster Care), ATJ Board and WSBA on matters relating to the work of the Office of Civil Legal Aid.

Performance Area 8: Relations With Executive Branch Agencies

Indicators:

- Quality and effectiveness of Director's relations with key staff in the Governor's office, OFM, the Office of the Attorney General and other executive branch agencies.
- Director's effectiveness at establishing or expanding civil legal aid funding opportunities within executive branch programs affecting low-income people.