

CRIMINAL JUSTICE & PUBLIC SAFETY COMMITTEE

PUBLIC DEFENDER

AGENDA

August 2017

Committee Members: Supervisors Montesi, Geraghty, Brock, Simpson, Vanselow, Braymer, Seeber, MacDonald

- I. Committee meeting called to order by Chairman
- II. Motion to approve the minutes of the prior meeting
- III. Action Agenda/New Business Items:
 1. Request to submit a grant proposal for Second Upstate Quality Improvement Caseload Reduction Grant
- IV. Referrals/Pending Items:

None
- V. Discussion Items:

None
- VI. Privilege of the floor to discuss any additional item to come before the Committee

- VII. Motion to adjourn

Attachments:

NYS Office of Indigent Legal Services Funding Announcement

RESOLUTION REQUEST FORM NO. 5

Request to Apply for a Grant Application and Grant Agreement

DEPARTMENT NAME: Warren County Public Defender

DATE: 8/18/2017

- (a) Purpose of Grant: **Second Upstate Quality Improvement and Caseload Reduction**
- (b) Name of Grantor: **New York State Office Of Indigent Legal Services**
- (c) Address of Contractor: **80 S. Swan Street, 11th Floor, Albany, NY 12210**
- (d) Grantor's Contact Person and Telephone Number:
Jennifer Colvin (518)486-9713
- (e) Has or Will the Grant Application or Grant Agreement be provided, if so, Please Attach? **No**
- (f) Effective Date of Grant: **January 1, 2017**
- (g) Termination Date of Grant: **December 31, 2019**
- (h) Total Dollar Amount Involved (not to exceed): **\$300,000**
- (i) Deadline to Submit Grant Application and/or Grant Agreement: **ASAP**
- (j) Is a Budget amendment required? If yes, also complete and submit Form No. 7.
- (k) Are the funds to go into a Capital Project or Capital Reserve Project? If yes, also complete and submit Form No. 8 or Form No. 9, as applicable.
- (i) Is a Local Share Required? If Yes, Where are the Funds? List Budget Code, Object Code, Full Title* and Amount **OR** Capital Project **OR** Capital Reserve Project Number and Title and Amount:

**Sample: A.1010 470 Legislative Board – Contract \$xx.xx
Capital Project No. H289.9550 480 – Old Jail Renovations \$xx.xx**

*as listed in budget and LOGOS

New York State Office of Indigent Legal Services

Funding Announcement

Second Upstate Quality Improvement and Caseload Reduction Grant

NYS Office of Indigent Legal Services Request for Proposals

The Office of Indigent Legal Services (Office) and nine-member Indigent Legal Services Board (Board) were created by legislation enacted in 2010, found in Executive Law Article 30, sections 832 and 833. As part of its statutory mission "to monitor, study and make efforts to improve the quality of services provided pursuant to Article 18-B of the county law," the Office, operating under the direction and pursuant to policies established by the Board, assists county governments in the exercise of their responsibility to provide effective and meaningful representation of persons who are legally entitled to counsel but cannot afford to hire an attorney. The assistance provided by the Office and Board includes distributing state funds and targeting grants to counties in support of innovative and cost-effective solutions to enhance the quality of indigent legal services.

Timelines for This Request for Proposals

RFP Release Date	Thursday, July 27, 2017
Questions Due By	Thursday, August 11, 2017
Answers Posted By	Thursday, August 25, 2017
Proposal Due Date	Friday, September 8, 2017; 5:00 p.m. EST
Award Announcement	October 2017
Tentative Contract Start Date	July 1, 2017

Intent of this Request for Proposals

The New York State Office of Indigent Legal Services (Office) is announcing the availability of funds and soliciting proposals from New York State counties to continue and improve effective programs funded under the Office's first Upstate Quality Improvement and Caseload Reduction Grant and develop new, innovative programs or practices to improve the delivery of indigent defense services, including reduced attorney caseloads and improved supervision of attorneys and staff.

new attorney staff, or to recruit investigative, social worker, or administrative staff to free up attorneys' time for their core duty of providing representation. Providers have indicated to us that such recruitment would improve client representation by facilitating more frequent attorney-client visitation, increased vertical representation, more likely representation at first appearance, and less frequent continuances due to attorney scheduling conflicts. Benefits to clients may also accrue through improved supervision of attorneys within offices, enhanced range and depth of expertise among staff and more time available for preparation.

We are encouraged by the outcomes of several research projects which have shown the benefits that accrue from reducing caseloads in institutional providers for the representation clients receive. Two pilot projects in Washington State which reduced caseloads for providers of indigent criminal defense and family representation respectively showed a range of benefits in both contexts. In criminal courts, reduced caseloads were associated with increased numbers of jury trials, swifter appearance of counsel, and increased diversion away from incarceration and toward drug treatment for criminal defendants.⁴ In family court, the reductions resulted in increased rates of family reunification, improved engagement by parents with their attorneys, and speedier case resolution.⁵ A Harvard study of the Federal Defender system showed that caseload pressures were related to higher rates of guilty pleas and lengthier sentences for clients of institutionalized providers.⁶ In New York, meanwhile, a 1997 study of the Harlem's Neighborhood Defender Service suggested that the reduced caseloads of its attorneys was one of the components which allowed that program to reduce the time its clients spent incarcerated.⁷ These examples encourage ILS to believe that similar empirically demonstrable gains may be realized in New York's counties.

Assigned counsel programs represent a second, equally important system of indigent legal service provision in the state. Represented in every single county in some form, assigned counsel systems may also suffer from caseload issues when they are forced to make excessive numbers of assignments to certain attorneys, or find that it is necessary to curtail services to clients in an effort to control costs. The American Council of Chief Defenders has stressed that individual assigned counsel attorneys may become unable to provide quality representation when appointed to large numbers of cases – a problem which may be compounded where the attorney also has large numbers of paying clients.⁸ Assigned counsel programs may also suffer from unique challenges unrelated to caseload concerns. Due to resource constraints, attorneys in these programs may lack ready access to investigative or social services, and may receive inadequate training, support or oversight. As such, assigned counsel attorneys are at least as

⁴ Luchansky (2010) *The Public Defense Pilot Projects: Washington State Office of Public Defense*, available at http://www.opd.wa.gov/Reports/TrialLevelServices/1006_PilotProject.pdf.

⁵ Harper, Brennan, MSW, and Szolnoki (2005). *Dependency and Termination Parents' Representation Program Evaluation Report 2005*, available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2005%20Evaluation%20Report.pdf>

⁶ Ivengar (2007). *An Analysis of the Performance of Federal Indigent Defense Counsel*. National Bureau of Economic Research, working paper series # 13187, available at <http://www.nber.org/papers/w13187>

⁷ Anderson, David C. (1997). *Public Defenders in the Neighborhood: A Harlem Law Office Stresses Teamwork, Early Investigation* available at: <https://www.ncjrs.gov/pdffiles/163061.pdf>.

⁸ American Council of Chief Defenders (2010). *Implementation of the A.C.C.D.'s Ten Principles in Assigned-Counsel Systems*, available at: http://www.nlada.org/Defender/Defender_ACCD/DMS/Documents/1285271312.2/NLADA%20best%20prac%209-12-10ml%20final.pdf.

Proposals that rely for their implementation on statutory changes *will not be funded.*

Funding of this proposal is limited to the provision of Article 18-B services. Specifically, proposals are sought for the provision of mandated representation to eligible persons that would continue and improve effective existing programs funded under the Office's first Upstate Quality Improvement and Caseload Reduction Grant, enhance existing services or create new and innovative approaches which address the quality of representation, including reduced attorney caseloads and improved supervision of attorneys and staff, by means such as:

- Reduced caseloads: Proposals that will not only reduce excessive caseloads for attorneys providing 18-B mandated representation but ensure that the quality of such representation is enhanced are strongly encouraged. Such enhancements may relate to, for example, facilitating more frequent attorney-client visitation, increased vertical representation, more likely representation at first appearance, increased filing of motions, and less frequent continuances due to attorney scheduling conflicts.
- Supervision and Oversight: Proposals that promote increased oversight or supervision of attorneys and staff by supervisors or administrators who are thereby better able to promote and assess quality representation.
- Compliance with ILS standards: Proposals that include ways for an institutional provider or assigned counsel program to achieve greater compliance with ILS standards.
- Increase resources: Proposals that involve recruitment of administrative, investigative or social worker resources are encouraged. Recruitment of such staff may free up attorneys' time for their core duty of providing representation, and will also directly contribute to the improved representation of clients through increased attention to all aspects of the case.

Because the purpose of this RFP is twofold – to alleviate the burden of excessive caseloads and to explore the most efficient and effective ways of supporting improvements in quality of representation in upstate indigent legal service provider programs – counties need not propose solutions that cover a provider's entire program of providing mandated representation.

Applicants should state the bases upon which the determination was made to select those parts of the provider's program that were chosen to be included in the proposal, such as representation for certain classifications of cases (felony or misdemeanor/ criminal or family court), representation in specialty courts, geographic considerations, or amenability to collaboration among the criminal justice entities involved in the proposal. No one specific basis is required nor do the bases noted here constitute an exclusive list.

Funding and Contract Period

The total available funds for award are \$12,535,974 (\$4,178,658 per year for each of three years). The total available funds will not necessarily be divided equally, nor will selected applicants be guaranteed the entire amount requested.

Instructions for Submitting This Request for Proposals

RFP Application format:

The following components must be included in the application for the submission to be complete:

1. Project Summary (less than one page)
2. Proposal Narrative (less than 10 pages)
3. Itemized Budget (less than 4 pages)
4. Budget Justification (1-2 pages)
5. Budget Form (1-2 pages)

Application Submission by Mail or Hand Delivery:

If submitting proposals by mail or hand delivery, this RFP requires the submission of **one (1) original, and four (4) copies (for a total of five)**. All submissions must contain the complete application.

All applications must be received by Friday, September 8, 2017 by 5:00 p.m. Eastern Standard Time (EST).

We are unable to consider applications that are received after this deadline (date and time).

Only complete applications will be reviewed and evaluated.

All applications must be delivered to:

By Mail:

Jennifer Colvin, Grants Manager
Office of Indigent Legal Services
Alfred E. Smith Bldg., 11th Floor
80 South Swan St.
Albany, NY 12210

Hand Delivery:

Please call the Office of Indigent Legal Services in advance to arrange for building security clearance (518-486-2028 or 518-486-9713) if delivering in person.

Jennifer Colvin, Grants Manager
Office of Indigent Legal Services
Alfred E. Smith Building (directly behind the State Capitol Building)
11th Floor, Suite 1147
80 South Swan Street

Albany, NY 12210

RFP Application format:

The following components must be included in the application for the submission to be complete:

1. Project Summary (less than one page)
2. Proposal Narrative (less than 10 pages)
3. Itemized Budget (less than 4 pages)
4. Budget Justification (1-2 pages)
5. Budget Form (1-2 pages)

Application Submission for Electronic Delivery:

Electronic copies will be accepted.

All applications must be received by Friday, September 8, 2017 by 5:00 p.m. Eastern Standard Time (EST).

We are unable to consider applications that are received after this deadline (date and time).

Only complete applications will be reviewed and evaluated.

Electronically submitted proposal applications must be submitted to UpstateQuality2@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook).

All required documents or attachments must be included in the electronic submission.

Indicate in the *Subject* area of the electronic transmission that the submission is for the **Second Upstate Quality Improvement and Caseload Relief RFP.**

After you submit your application at UpstateQuality2@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook), you will receive an e-mail confirming receipt of the application. If you do not receive an e-mail confirming receipt, you should contact Jennifer Colvin at (518) 486-9713.

Proposal Application

I. PROJECT SUMMARY (not scored)

Please provide:

- Identification of the county requesting funds;
- Contact person, telephone, fax and email for this grant;
- Fiscal intermediary name and address (identify the department and/or individual responsible for fiscal reporting for this project);
- Amount of funding requested; and

- A one or two paragraph description of the proposed project.

II. PROPOSAL NARRATIVE

A. Plan of Action (54 points)

Please address every question item listed and do so in the order and format in which they are presented, i.e., responses should be made in the same order as requested and each response should identify the specific item being addressed. Applicants will be evaluated on the information they provide. *Please do not submit any information that was not specifically requested.*

Project Rationale

Problem Statement

1. Describe the issue or problem in providing quality 18-B mandated representation that your plan is intended to improve or correct, including, but not limited to, the impact of excessive caseloads in providing such quality representation, or lack of adequate supervision or monitoring of attorneys or staff.
2. Document the nature and extent of the problem to be addressed, including any data collection or analysis related to the problem.

Plan Implementation

3. Describe how you will implement a plan to address these obstacles to providing quality improvement. The plan must specify the specific problem(s) being addressed (e.g. excessive caseloads, absence of ancillary services available to attorneys, such as investigative, paralegal, social worker or mental health services, inadequate supervision and monitoring of attorneys and staff, etc.).
4. Please describe how you will structure your professional and non-professional staffing to implement your plan, including whether existing staff will perform tasks, or if new staff will need to be hired.
5. Identify any training or mentoring you may need to accomplish your plan objectives, how you intend to acquire or provide such training/mentoring, and which positions, including supervisory staff, will receive the training/mentoring.
6. Describe how you will assure the program is feasible, and will monitor the program such that obstacles to implementation can be identified and necessary adjustments made.

Plan Objectives

7. Specify how the project will improve the quality of representation that clients receive and achieve greater compliance with ILS standards.

B. Data Collection, Performance Measurement, and Evaluation (20 points)

This section will discuss how you will measure the impact of your project. Descriptions of what data will be collected and how data will be collected are required in this section.

Implementation

8. Describe how you will demonstrate that your plan has been successfully implemented, or, if already implemented, describe how it will be continued. For example, if your plan will reduce caseloads, specify how you will measure caseloads in a way that is appropriate to verify the implementation of your plan. Alternatively, if your plan will increase support staff or other resources for attorneys, specify how you will show that these resources, or attorney access to them, were increased. If your plan will improve the quality of supervision and monitoring of attorneys or staff, specify how you will show that such supervision and monitoring has improved, including, if applicable, the ratio of supervisors to attorneys. Please also provide 'baseline' information on any quantitative measures you propose, or a narrative account if appropriate, describing relevant features of your program as it stands at present.

Evaluation and Impact

9. Describe the expected improvements in quality of representation that will result from your plan, and how these will also be measured. Such measures should reflect attorney behaviors that you expect will change when your plan is implemented. Examples include the average number of attorney visits with clients or client families per case, the average number of hours attorneys spend preparing cases, attorney requests for investigative, social work, mental health or other support resources and the number of such requests that were granted, if applicable, the average number of motions, by type, filed per case, average number of attorney requests for continuances, the rate at which attorneys are present at a defendant's first appearance in court, the rate at which attorneys are able to provide vertical representation to clients or other measures as appropriate to the quality goals of your plan. Please also provide 'baseline' figures for the measures you will use which reflect the situation in your program as it stands at present, if they are available.

Infrastructure

10. Describe how you plan to track relevant data in relation to points 8 and 9 above for every case in ways that are valid, accurate and reliable and who will input the data.
11. Describe any changes you would need to make to track required data, and how these would be accomplished.

C. Applicant Capability and Personnel (6 points)

12. Who will be the lead person(s) responsible for project implementation?
13. Describe how and to what extent you consulted with the leader of each provider of criminal defense and family court representation under Article 18-B of the County Law. If applicable, describe the willingness of other agencies to cooperate in the implementation of the program.

D. Budget and Cost (20 points)

Grant applications will be evaluated and rated on efficient use of funds and overall cost-effectiveness, which includes budget plans that are consistent with the proposed action plan, administrative costs, justification for each requested budget line and cost benefit. Complete the attached Budget Form and return with the proposal, being sure to address the following:

14. *Budget*: Provide a detailed, **annualized three-year budget** containing reasonable and necessary costs. The budget for the proposed project must be consistent with the terms of the RFP and provide a justification for all expenses.
15. *Subcontracting*: Describe whether the proposed budget will include subcontracting with another service provider in order to complete the terms described in this RFP and, if so, provide a brief description of the purpose of the subcontract.
16. *Budget Justification*: Include a brief narrative for each budget line justifying the budget request and relating the requested line budget amount to the plan of action and expected results. The narrative should be mathematically sound and correspond with the information and figures provided in the Budget Form.
17. The *Budget Justification* must also describe how the county will monitor expenditures during the life of the grant to ensure that the project stays within the budget.

Complete the attached Budget Form and return with the proposal.

Review and Selection Process

The Office will conduct a two-level review process for all submitted proposals:

- The first level entails a Pass/Fail review, conducted by Office staff, of the submitted proposals to ensure that the application is responsive to the conditions set forth in the RFP. The Office will reject any applications that do not clearly and specifically address the purposes of this funding opportunity and/or fail to meet any of the following criteria:
 1. The RFP was submitted within the designated time frames;
 2. The RFP was submitted consistent with the format requested by the Office;
 3. The applicant is an eligible entity as specified within the RFP;
 4. The proposal purpose is for that intended by the RFP;
 5. The proposal included a budget submission.
- The second level consists of a scored comprehensive proposal review that involves a thorough review of the submitted proposal specifically related to the project work plan, performance measurement and evaluation, organizational capability, overall strength of plan, and the budget and corresponding budget narrative. The proposal review and rating will be conducted using the criteria stated in this Funding Announcement. The Office will typically use staff, and others with expertise in the RFP topic area, to comprise the proposal review team. Each reviewer will assign a score up to a maximum of 100 points to each application; individual scores will be averaged to determine the applicant's score. The

Office reserves the right to conduct follow-up discussions with applicants to clarify information in the submitted proposal. In addition, in the event there are any remaining funds after making awards in accordance with the Review and Selection Process, the Office reserves the right to allocate the grant funds in a manner that best suits program needs as determined by the Office. Such a plan will be subject to review and approval by the Office of the State Comptroller.

Awarding of Grants

Contract Development Process

It is anticipated that applications will be reviewed and that successful applicants will be notified of funding decisions on or about October 2017. All commitments are subject to the availability of state funds. The proposal review team will recommend to the Office the highest ranked proposal(s) that fully meet the terms of the RFP. The funds will be awarded in rank order from the highest to the lowest proposal scores. The final total applicant score will be the cumulative total of the second level review.

If two final total applicant scores are tied, the award shall go to applicant with the highest Plan of Action score (See Proposal Application IIIA).

The contract process and final contracts are subject to the approval of the State Attorney General and the Office of State Comptroller (OSC). Upon such approvals, the grant process will begin, and all terms of the contract become public information.

As part of the grant award process, the grantee and the Office will establish a mutually agreed upon final budget and work plan, which become the contract deliverables.

As part of the contract with the Office, grantees will be required to submit annual progress reports to the office. These reports should include narrative descriptions of successes achieved, obstacles encountered during implementation, and efforts to overcome these obstacles. Additionally, applicants should anticipate that data collected by the program in accordance with the requirements of section B of the proposal will be required to be reported in aggregate form to the office as a means of understanding the impact of the program, its successes, and the challenges that remain. ILS staff will be available to assist grant recipients with how to best collect these data in ways that are convenient to the program's capabilities, clearly assess the goals of the project, and assure the collection of information that is of the highest possible quality. The Office may suggest the use of a specific data collection protocol, or work with programs to employ existing, in-house case tracking software to produce data.

The Office reserves the right to:

- Reject any applications that do not meet the intent of this RFP.
- Seek clarifications and revisions of proposals.
- Reduce the award amount of any application based on reasons that include but are not limited to: cost effectiveness and reasonableness of proposed budget, demonstrated need, or inconsistent appropriation levels.
- Negotiate with applicants, prior to award, regarding work plans, budget line levels, and other issues raised within the RFP review to achieve maximum impact from the grant award, and serve the best interests of New York State and ensure that budgets are consistent with proposed action plans; and

- If unable to negotiate the contract with the selected applicants within 60 days, the Office may begin contract negotiations with the next highest scoring qualified applicant(s)

Debriefings

Unsuccessful applicants may, within ten (10) business days of notification of non-selection, request a debriefing with the Office to discuss the evaluation of their proposal. Such request may be submitted in writing to QA@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook) or via telephone by calling (518) 486-9713 and should be directed to Jennifer Colvin.

Payment

Grantees may receive 25% of the total first year's award as a budget advance following contract approval by the Attorney General and the State Comptroller. No payments will be made until the contract is fully executed and approved by the State Attorney General and the State Comptroller.

Funding Requirements

Indigent Legal Services funds distributed by the Office of Indigent Legal Services are intended to supplement county resources for supplying indigent defense services and to ensure proper legal representation for indigent defendants pursuant to Article 18-B of the County Law.

Supplanting is prohibited: Any funds awarded to a county pursuant to this RFP shall be used to supplement and not supplant any local funds, as defined in paragraph (c) of subdivision 2 of section 98-b of the State Finance Law, or state funds, including any funds distributed by the Office of Indigent Legal Services, which such County would otherwise have had to expend for the provision of counsel and expert, investigative and other services pursuant to Article 18-B of the County Law.

The issuance of this request for proposals does not obligate the Office of Indigent Legal Services to award grants.

Budget Form

County	
Budget Contact Person's Name	
Phone	
E-mail address	

Line Item	Year 1	Year 2	Year 3
Personal Service:			
Position (specify)			
Salary:			
Fringe Benefits:			
Personal Service Subtotal			
Contractual Services			
Contractual Subtotal			
Equipment (specify)			
Equipment Subtotal			
Other Than Personal Service (OTPS) (specify)			
OTPS Subtotal			
Miscellaneous			
Miscellaneous Subtotal			
TOTAL			
TOTAL THREE-YEAR BUDGET			