



**WASHINGTON STATE**  
**OFFICE OF PUBLIC DEFENSE**

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**TO:** City Officials and Municipal Court Judges

**FROM:** Joanne Moore, Director

**DATE:** August 30, 2018

**RE:** Limited Grant Opportunity – Quality Indigent Defense Assessments

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Since 2006 the Washington State Office of Public Defense (OPD) has distributed state funding to support improvements to municipal public defense services in accordance with RCW 10.101.050-080. This year OPD will award special grant funds to three cities to contribute towards the cost of participation in a pilot program, Quality Indigent Defense (QID) that will evaluate the quality of indigent defense services in the cities.

**QID Assessments:**

In recent years cities have made substantial improvements to their public defense systems in response to changes in Washington Supreme Court Rules addressing indigent defense and the *Wilbur*<sup>1</sup> decision. For example, many cities have adopted or amended local standards to incorporate the new caseload limits and direction from *Wilbur* resulting in increased attorney compensation as well as detailed reporting regarding the delivery of indigent defense services. To complement these efforts, cities and courts have asked OPD to develop a standardized process for evaluating the quality of legal representation provided by cities' contracted public defense attorneys.

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<sup>1</sup> [Wilbur, et. al., v. City of Mount Vernon, et. al.](#), 989 F.Supp.2d 1122 (W.D. Wash 2013).

QID Assessments apply state and national public defense standards to evaluate attorney performance using third-party public defense experts (Monitors) utilizing tools such as checklists, templates, and evaluation tools developed by OPD. The Monitors will contract with the city for the limited purpose of carrying out the evaluation. Data analysis, courtroom observation, in-person interviews, and development of a final report are all components of the QID Assessment process. Assessment results will help city administrators understand the strengths and opportunities for advancing local public defense services.

After the conclusion of the QID Pilot Programs, OPD will train additional Monitors on the QID assessment process. A list of these trained Monitors will be made available to Cities statewide.

#### **QID Assessment Grants:**

OPD is seeking three cities to serve as pilot sites for QID assessments. The total cost for a QID assessment in most cities is expected to range from \$7,000 - \$15,000 depending on the scope of the assessment and the size of the jurisdiction. OPD has a total of \$30,000 to divide among three cities to offset most or all of the cost of a QID Assessment.

To apply, complete and submit the attached application to [Nicole.Dodge@opd.wa.gov](mailto:Nicole.Dodge@opd.wa.gov) by October 12, 2018. Cities that currently receive Chapter 10.101 RCW funding from OPD need only complete section I of the application. All other applying cities must complete the entire application. Completed applications must be signed and include required attachments. Selected cities will be notified by October 26, 2018. Selected cities will:

1. Enter into a Grant Agreement with OPD.
2. Receive State funds upon execution of the Grant Agreement.
3. Collaborate with OPD in the selection of the Monitor to carry out the QID Assessment. OPD must approve the Monitor.
4. Enter into a contract with the Monitor.
5. Provide the Monitor existing documentation, court data, and contact information to assist with the Assessment.
6. Receive a final Assessment Report summarizing local strengths, challenges, and recommendations for improvement.

7. Report back to OPD on the usefulness of the process and results.

OPD will provide technical assistance to the participating cities and the Monitor throughout the grant phase.

#### Timeline:

<b>October 12, 2018</b>	Application deadline
<b>October 26, 2018</b>	Notification of application results
<b>November 9, 2018</b>	Grant Agreements sent to awarded cities. Payment sent after Agreements are fully executed
<b>November-January 2018</b>	Selection of QID Monitor and commencement of QID Assessment
<b>June 30, 2019</b>	Conclusion of grant-funded QID Assessment

#### Eligibility Requirements:

Only city governments that contract with private attorneys or law firms for public defense services are eligible for a QID grant. Factors considered by OPD in evaluating city applications will include:

- Applicant's compliance with the statutory requirements of [Chapter 10.101 RCW](#).
- Applicant's commitment to providing a professional level of compensation for public defense attorneys and caseloads that meet Standards adopted by the Washington Supreme Court.
- Applicant's commitment to ensuring quality client representation.
- The scope of the evaluation needed, and how effective state funding will be in adequately addressing the need.
- Whether the applicant has previously received grant funds from OPD, and if so, whether the applicant substantially complied with the terms of the previous grant agreement and achieved improvements in public defense.
- Demographic and geographic factors, including population, local poverty level, and location.

To apply, please complete the attached application and submit electronically to [Nicole.Dodge@opd.wa.gov](mailto:Nicole.Dodge@opd.wa.gov) by **October 12, 2018**. If you have any questions, please contact Katrin Johnson at 360-586-3164 ext. 108 or [Katrin.Johnson@opd.wa.gov](mailto:Katrin.Johnson@opd.wa.gov).

Washington State Office of Public Defense  
Grant Application  
Quality Indigent Defense Pilot Project Assessments

Applying City: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

State Vendor Number to be used if city is awarded a grant: \_\_\_\_\_

*NOTE: Complete applications must be received at OPD by October 12, 2018.*

**Section I: Grant Funds**

**1.1 Has the city ever conducted an assessment of performance of its contracted public defense attorney(s)? If yes, please provide a narrative description outlining when it was done, who conducted it, what the assessment included, and what steps the city took with the results. (Use additional pages if needed.)** Yes  No

**1.2 Describe why the city is interested in participating in the QID Pilot Program. (Use additional pages if needed.):** Yes  No

**1.3 Describe the calendaring of public defense cases for your city.** For example, "Our Municipal Court conducts hearings on Thursdays. The public defense contract attorneys appear at the morning and afternoon calendar."

**1.4 When was the last time that the City engaged in an RFP/RFQ process for public defense services?**

**Cities currently receiving Chapter 10.101 RCW grant funds from OPD are not required to complete additional questions because they have already submitted this information to OPD. Please skip to and complete the Declaration on page 14.**

**Section II: Public Defense Expenditures/Budget**

**2.1 In 2017, the city paid indigent defense expenses as follows:**

- a. Amount spent on contract attorneys, including conflict attorneys: \$ \_\_\_\_\_
- b. Amount spent on investigators, experts, and other indigent defense costs: \$ \_\_\_\_\_
- Total dollar amount spent on indigent defense in 2017:** **\$ \_\_\_\_\_**

**2.2 For 2018, the city budgeted indigent defense expenses as follows:**

- a. Amount budgeted for payment to contract attorneys, including conflict attorneys: \$ \_\_\_\_\_
- b. Amount budgeted for investigators, experts, and other indigent defense costs: \$ \_\_\_\_\_
- Total dollar amount budgeted for indigent defense in 2018:** **\$ \_\_\_\_\_**

**Section III: Case Assignments**

**3.1 In 2017, attorneys providing indigent defense representation had the following caseloads:**  
*(Municipal Court misdemeanors and gross misdemeanors only)*

- Number of cases assigned to public defense attorneys: \_\_\_\_\_
- Number of probation violations and other miscellaneous post sentencing hearings assigned: \_\_\_\_\_
- Number of attorneys with public defense contracts or on court's appointment list: \_\_\_\_\_

3.2 Has the city adopted a case-weighting policy as allowed for in Standard 3 of the [Standards](#) adopted by the Washington state Bar Association and the Washington State Supreme Court ([CrRLJ 3.1](#))? If yes, please attach the city's case-weighting policy.

Yes  No

a. If yes, what is the city's method of counting probation violations and other post-sentencing hearings?

### Section IV: Court/City Information

4.1 Has the city adopted or recently updated local public defense standards, as required by [RCW 10.101.030](#)? If yes, please attach a copy.

Yes  No

If no, please explain the situation:

4.2 Does the city or municipal court administer any pre-filing or post-filing diversion programs, including relicensing programs?

Yes  No

If yes, please describe the program(s):

4.3 Please describe the city's indigency screening procedure ([RCW 10.101.010 – 020](#)) and attach any related written city policies and screening documents used:

4.4 Does the city contract with the county or another city to provide municipal court services?

Yes  No

If yes, please describe the situation:

4.5 Who is the appropriate person(s) to contact with questions about public defense caseloads in your city?

**Section V: Washington State Bar Association Standards for Indigent Defense Services**

*RCW 10.101.060* requires cities that receive state funds to document to the Washington State Office of Public Defense that they are meeting the [WSBA Standards for Indigent Defense Services](#), or that the funds are being used to make “appreciable, demonstrable improvements in the delivery of public defense services.” The following questions address many of the provisions set forth in statute and the WSBA Standards for Indigent Defense Services.

**Standard One: Compensation**

5.1 Do the city’s public defense contracts require the contract attorneys to compensate conflict counsel, investigators or experts from the proceeds of the contract? Yes  No

If yes, please explain the situation:

5.2 Are contract attorneys provided extra compensation in cases of extraordinary complexity? Yes  No

If no, please explain the situation:

5.3 Are compensation amounts for contracted attorneys sufficient to cover administrative costs such as travel, telephone, technology, office space, supplies, and training? Yes  No

If no, please explain:

**Standard Two: Duties and Responsibilities**

5.4 Are defense attorneys present and representing defendants at:  
a. In-custody first appearance hearings where bail is addressed? Yes  No

If no, please describe when and how defendants have access to counsel:

b. Out-of-custody first appearance hearings? Yes  No

If no, please describe when and how defendants have access to counsel:

### Standard Three: Caseload Limits

5.5 Do the city's public defense contracts (and subcontracts, if applicable) specify the maximum number of cases each attorney shall be expected to handle? Yes  No

If no, please explain:

5.6 Are the caseloads of the public defense attorneys (including private cases and public defense cases from other jurisdictions) within the limits set by the Washington Supreme Court ([CrRLJ 3.1](#))? Yes  No

If no, please explain:

### Standard Four: Responsibility for Expert Witnesses

5.7 Does the city identify funds specifically for the purpose of paying defense experts? Yes  No

If no, please explain the situation:

### Standard Five: Administrative Costs

5.8 Do the city public defense attorneys have offices or access to private meeting space to accommodate confidential meetings with clients? Yes  No

If no, please explain:

### Standards Six and Seven: Investigators and Support Services

**5.9 Does the city identify funds specifically for the purpose of paying defense investigators?**

Yes  No

If no, please explain the situation:

**5.10 In 2017, did the public defense attorneys use investigative services?**

Yes  No

If no, please explain:

### Standard Eight: Reports of Attorney Activity

**5.11 Do the public defense attorneys maintain a case reporting and case management system?**

Yes  No

If yes, do the attorneys report the following to the city?

- a. Number and type of cases?
- b. Attorney hours?
- c. Dispositions?

Yes  No

Yes  No

Yes  No

Please describe any other reported data:

### Standard Nine: Training

**5.12 Does the city require attorneys who provide public defense services to attend seven hours of public defense training at least once a calendar year? (Please note, this is required by [RCW 10.101.050](#).)**

Yes  No

If no, please explain the situation: *(See attached OPD Training Policy.)*

### Standards Ten and Eleven: Supervision, Monitoring and Evaluation of Attorneys

**5.13 CrRLJ 3.1** requires public defense attorneys to submit to the court quarterly certifications that they comply with the Supreme Court Standards for Indigent Defense. Which individual/entity maintains the attorney certifications filed in your municipal court?

How are the certification forms made available for public review?

**5.14** Apart from filing certification forms, how is the city monitoring attorney compliance with the Supreme Court Standards for Indigent Defense and other contract requirements (e.g. caseloads, case-related qualifications, scope of representation, scope of work)?

### Standard Twelve: Substitution of Counsel

**5.15** Do any of the contracted public defense attorneys sub-contract with another firm or attorney to provide representation? Yes  No

If yes, please describe any practices put in place by the city to ensure that subcontracted attorneys meet professional standards:

**5.16** Please describe what procedure is followed for providing continued representation of existing clients after a contract has been terminated:

**Standard Thirteen: Limitations on Private Practice**

**5.17 Does the city require private attorneys who contract (or subcontract) to provide public defense services to report all of their public defense contracts and “hours billed for nonpublic defense legal services including number and types of private cases?” [RCW 10.101.050](#)**

Yes  No

If no, please explain the situation: *(See attached OPD Time Reporting Policy.)*

**Standard Fourteen: Qualifications of Attorneys**

**5.18 Do all attorneys providing public defense services in the city meet the qualification requirements as identified in Standard Fourteen of the [WSBA Standards for Indigent Defense Services](#)?**

Yes  No

If no, please explain:

**Standard Fifteen: Disposition of Client Complaints**

**5.19 Who does the city designate to receive and investigate complaints about public defense services?** Please provide the name and contact information for the person/office:

**5.20 How are indigent clients notified of the complaint policy and procedure?** Please provide a copy of the city’s complaint procedure, complaint form, or any other relevant documentation.

**Standards Sixteen, Seventeen, and Eighteen: Termination/Removal, Non-Discrimination, and Guidelines for Awarding Defense Contracts**

**5.21 Do the contracts for public defense attorneys include non-discrimination clauses?**

Yes  No

If no, please explain:

**5.22 Briefly describe the process and criteria used for selection of contract public defense attorneys:**

**5.23 Are city attorneys, county prosecutors, or law enforcement officers involved in the selection of public defense attorneys?**

Yes  No

If yes, please describe:

**Section VI: Improvements to and Challenges with Public Defense Services**

**6.1 In recent years, what have been some specific changes implemented by the City that have improved public defense?**

**6.2 In recent years, what have been challenges to delivering public defense services? Have those challenges been resolved? Please describe.**

## Section VII: Attachments and Tables

- 7.1 If the city has public defense contracts, fill out the Table of Public Defense Contracts (Table I), and provide a copy of each *current contract* in alphabetical order by attorney name.** If possible, please provide scanned copies of contracts by email attachment. Failure to provide current contracts could result in an incomplete application.
- 7.2 If the court appoints public defense attorneys from a list, provide the name of each attorney and the compensation paid per case or per hour in the Table of List-Appointed Public Defense Attorneys (Table II).**
- 7.3 Please include the following items with the city’s application. Failure to include any of the required items could result in an incomplete application.**
- Case-weighting policy, if applicable (*see question 3.2*)
  - City’s public defense standards (*see question 4.1*)
  - Indigency screening form and related documents (*see question 4.3*)
  - Policy/Procedures for monitoring attorney performance under the city’s public defense contracts (*see question 5.14*)
  - Complaint procedure, forms or other relevant documentation (*see question 5.20*)
  - Currently effective public defense contracts (*see question 7.1*)
  - Other relevant information (*applicant’s discretion*)

### Declaration

*I declare under penalty of perjury under the laws of the State of Washington that the foregoing information is true and correct.*

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Signature

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Date

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Printed Name

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Title

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Place



