



**WASHINGTON STATE  
OFFICE OF PUBLIC DEFENSE**  
Larry Jefferson, Director

Email: [opd@opd.wa.gov](mailto:opd@opd.wa.gov)

(360) 586-3164  
FAX (360) 586-8165

**TO:** City Officials  
**FROM:** Larry Jefferson, Director  
**DATE:** June 6, 2023  
**RE:** Applications for state public defense grants for calendar years 2024 and 2025

### Grant Program Overview:

[RCW 10.101.050](#) establishes a state-funded grant program to improve public defense services in cities. Pursuant to anticipated legislative appropriation in the 2024-2025 state operating budget, the Washington State Office of Public Defense (OPD) is offering grants to cities for the 2024 and 2025 calendar years totaling more than one million dollars. Over the past two years [33 cities](#) received competitive grants ranging from \$2,000 to \$93,000.

Per [RCW 10.101.060](#), cities in receipt of state funds must document that they are meeting the [WSBA Standards for Indigent Defense Services](#) or that the funds are being used to make appreciable, demonstrable improvements to public defense services. Some cities have used grant funds to provide additional attorneys to reduce caseloads, to add attorneys to represent indigent defendants at first appearance/arraignment calendars, or to increase attorney compensation, among other approved uses. A list of approved and prohibited uses is attached. Examples of permissible expenses include increases to attorney compensation or adding attorneys for caseload reductions. State grant funds cannot be used to supplant city funds that were being spent on public defense services prior to the initial disbursement of state funds. Previously-awarded cities are welcome to reapply to continue sustaining grant-funded initiatives.

### Two Year Disbursements:

Cities should apply for one lump sum, half of which will be disbursed each year. For example, an award of \$20,000 will be distributed in equal amounts of \$10,000 in January 2024 and January 2025. While the disbursement amounts will be the same each year, awarded cities may use the funds for the same or different public defense initiatives each year. For example, a city may use grant funds in both years to increase attorney compensation, while another city may opt to use the first year's grant funds to train attorneys, and the second year's funds to increase attorney compensation.

### Application Timeline:

Completed applications are **due to OPD by 5 p.m. Friday, August 25, 2023**. OPD will send preliminary notification of grant awards and denials by late September. Signed, completed applications and corresponding documentation should be submitted as an email attachment to Lindsey Townsend at [lindsey.townsend@opd.wa.gov](mailto:lindsey.townsend@opd.wa.gov). *Please do not leave any answers blank.*

## Application Definitions

**Case** - The filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed to provide representation.

**Case weighting** – A system for accounting for complexity, seriousness, or other extraordinary time commitments of certain types cases and, therefore, adjusting the number of maximum case assignments. A weighting system may compensate for a case type by increasing or decreasing the weight given to a case type. Case weighting systems may only be used if the local government entity adopts and publishes written policies and procedures for implementing such a system.

**Defendant** – The person answering or responding to a criminal charge. The state has accused these people of committing a crime, and they are defending themselves against the accusations. In certain cases, the defendant is referred to as the respondent.

**Diversio**n – An agreement or program in which a defendant agrees to participate for some benefit. Typically, a defendant agrees to certain conditions (e.g., not commit any other crimes, abstain from alcohol, stay away from a particular person or place, engage in some sort of treatment evaluation and follow-through) with the understanding that the charge the defendant is facing will either be dismissed or reduced.

**Indigent** – Suffering from extreme poverty. A legal determination of whether someone is indigent is made by a judicial officer in accordance with RCW 10.101.010. Generally, someone is indigent if they receive certain public assistance, involuntarily committed to a public mental health facility, receiving income 125% below the federal poverty level, or unable to pay the anticipated costs of defending themselves against the accusations.

**Judicial Officer** – Includes judges, court commissioners, and those acting in a temporary and limited judicial capacity (i.e., judges pro tem).

**Public Defense / Public Defense Services** – The entire system of providing legal representation and other services to indigent defendants/respondents. Public defense services encompass administration, investigative, social work, community support, as well as traditional trial defense representation. In Washington, public defense services also include non-criminal matters such as in dependency.

**Public Defender** – A licensed attorney who represented indigent persons in court proceedings at public expense. A public defender works in a government public defense agency, a non-profit public defense agency, a private firm or solo practice on a contractual basis, or by court appointment.

**RALJ** – From the acronym “Rules for Appeals from Courts of Limited Jurisdiction.” RALJ appeals are cases in which there is an appeal to the county’s superior court from the county’s district court or a municipal court.

**Supplanting Funds** – Use of state funds to replace existing city funds for public defense. For a simple example, if the jurisdiction budgets \$100,000 for public defense, and subsequently receives RCW 10.101 funds in the amount of \$20,000, jurisdictions are prohibited from reducing their county-funded public defense budgets by \$20,000 during the period for which it receives funds.

**WSBA** – Washington State Bar Association.

### **Evaluation of City Applications:**

The attached document provides details on the evaluation factors considered by OPD in selecting grant recipients and determining grant award amounts. Factors considered include, but are not limited to, the following:

- The city’s compliance with statutory requirements;
- The city’s commitment to improving public defense services;
- The proposed improvement(s) based on the city’s needs; and
- The city’s demographic and geographic factors, including poverty level.

### **Technical Assistance for Public Defense Services:**

OPD managing attorneys are available to work with cities (including those not applying for or receiving grant funds) regarding compliance with Chapter 10.101 RCW as well as applicable case law and court rules, including the Washington Supreme Court’s Standards for Indigent Defense (Standards). OPD has also made available a variety of [resources for assistance in implementation of the Standards](#) and caseload limits, such as an FAQ on the Standards, web tutorials, sample caseload calculators, and a customizable model misdemeanor case weighting policy.

For information regarding the improvement of public defense services or this application process, contact OPD Public Defense Services Managers Geoffrey Hulse, [geoffrey.hulse@opd.wa.gov](mailto:geoffrey.hulse@opd.wa.gov), 360-586-3164 ext. 147 or George Yeannakis, [george.yeannakis@opd.wa.gov](mailto:george.yeannakis@opd.wa.gov), 360-586-3164 ext. 102.

We look forward to working with you to improve public defense services in Washington State.

## 2023 City Application for Chapter 10.101 RCW Public Defense Improvement Funds

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

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

Primary Contact Title: \_\_\_\_\_

Primary Contact Email: \_\_\_\_\_

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

Secondary Contact Title: \_\_\_\_\_

Secondary Contact Email: \_\_\_\_\_

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

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

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

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

For more information see: <https://ofm.wa.gov/it-systems/accounting-systems/statewide-vendorpayee-services>

**NOTE: Complete applications must be received at OPD by 5 p.m. August 25, 2023.**

### Section I: Public Defense Expenditures/Budget

**1.1 In 2022, the city paid indigent defense expenses as follows:**

	City Funds	Chapter 10.101 RCW State Grant Funds (if applicable)	Other Funds (if applicable)
Attorney salaries and benefits, contract and conflict attorney compensation	\$	\$	\$
Investigators, experts, interpreters, social workers, and other professional services	\$	\$	\$
Other public defense expenses	\$	\$	\$
<b>Total</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**1.2 For 2023, the city *budgeted* indigent defense expenses as follows:**

	City Funds	Chapter 10.101 RCW State Grant Funds (if applicable)	Other Funds (if applicable)
Attorney salaries and benefits, contract and conflict attorney compensation	\$	\$	\$
Investigators, experts, interpreters, social workers, and other professional services	\$	\$	\$
Other public defense expenses	\$	\$	\$
<b>Total</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**Section II: Case Assignments**

**2.1 In 2022, the total number of cases assigned to public defense counsel were the following:**

*Fill in section 2.1(a) if the city has or contracts with a government or non-profit public defender agency. Fill in section 2.1(b) for case assignments to contract or assigned counsel attorneys.*

*(Municipal misdemeanors and gross misdemeanors only)*

**a. Cities using public defender agencies.**

- Number of cases assigned to public defender agency  
(not including conflict counsel): \_\_\_\_\_
- Number of probation violations and other  
miscellaneous post sentencing hearings assigned: \_\_\_\_\_
- Number of full-time-equivalent public defenders: \_\_\_\_\_
- Average per-attorney caseload, if available: \_\_\_\_\_
- Number of appeals to Superior Court (RALJ) \_\_\_\_\_

**b. Cities using list appointments or contracts with private attorneys.**

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: \_\_\_\_\_  
Number of appeals to Superior Court (RALJ) \_\_\_\_\_

**2.2 Does the city use a case-weighting policy as allowed for in Standard 3 of the Standards adopted by the WSBA 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 III: Grant Funds**

**3.1 Did the city receive [RCW 10.101.080](#) grant money for use during calendar years 2022 and 2023?**

Yes  No

If yes, how much? (Two-year total) \$

**3.2 How much grant funding total is the city requesting for the combined two-year period of 2024 and 2025? (Note: one-half of awarded funds will be disbursed in January 2024, and the second half will be disbursed in January 2025.)** \_\_\_\_\_ \$

*Indicate in the table below how the city intends to use public defense grant funding in 2024 and 2025, **and attach a narrative paragraph** detailing how the city will use the grant funding to improve indigent defense services. (The table below reflects the most common uses of funds. See the attached policy for an expanded list of allowed and prohibited uses.) Note that grants cannot be used to supplant city funds that were being spent on public defense services prior to the initial disbursement of state funds.*

<b>Common Allowed Uses of Grant Funding:</b>	
Additional attorneys to reduce caseloads	<input type="checkbox"/>
Increased compensation for public defense service providers	<input type="checkbox"/>
Reimbursement of training costs for public defense service providers	<input type="checkbox"/>
An attorney coordinator to oversee public defense services (e.g. selecting attorneys, handling complaints, and quality-control monitoring).	<input type="checkbox"/>
Professional evaluation of attorney performance by a public defense expert	<input type="checkbox"/>
Public defense representation at preliminary appearance calendars	<input type="checkbox"/>
Investigator and/or expert services	<input type="checkbox"/>
Social worker services to assist public defense attorneys	<input type="checkbox"/>
Interpreter services for attorney-client interviews and communications	<input type="checkbox"/>
Other (please explain)	

**Section IV: Court/City Information**

**4.1 Has the city adopted local public defense standards, as required by [RCW 10.101.030](#)? If yes, please attach the current standards.**

Yes  No

If no, please explain the city’s plan to come into compliance:

**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 indigency screening procedure ([RCW 10.101.010 – 020](#)) for municipal defendants and attach any related written 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 If attorney costs are ordered or assessed, is there a standard recoupment amount or does it vary?**

- Standard Amount: \$ \_\_\_\_\_
- Amount Varies (typical range): \$ \_\_\_\_\_
- Recoupment of attorney costs is rarely or never ordered

**4.6 Does the city contract with another city or county public defender agency to provide the city’s public defense?**

Yes  No

If yes, please describe:

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

*[RCW 10.101.060](#) requires each city that receives state funds to document to the Washington State Office of Public Defense that it is 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 (including sub-contracts and assigned counsel policies) require the attorneys to compensate conflict counsel, investigators or experts?**

Yes  No

If yes, please explain the situation:

**5.2 Are contract/assigned counsel attorneys provided extra compensation in cases of extraordinary complexity?**

Yes  No

If no, please explain the situation:

**5.3 If public defense is provided by attorneys employed by a public defense agency, are job classifications, compensation and benefit levels comparable to local prosecuting attorneys?**

Yes  No  N/A

If no, please explain:

**5.4 Are compensation amounts for contracted, sub-contracted, and assigned counsel attorneys sufficient to cover administrative costs such as travel, telephone, technology, office space, supplies, and training?**

Yes  No

If no, please explain:

**5.5 What is the average compensation rate for contract or assigned counsel? (Please use additional pages if needed.)**

Contract Type	Amount	Base Rate	Additional Compensation (e.g. trial days)
Primary Defense	\$	<input type="checkbox"/> Per Hour <input type="checkbox"/> Per Case <input type="checkbox"/> Per Month, Average Monthly Caseload: _____ <input type="checkbox"/> Other: _____	
Conflict Defense	\$	<input type="checkbox"/> Per Hour <input type="checkbox"/> Per Case <input type="checkbox"/> Per Month, Average Monthly Caseload: _____ <input type="checkbox"/> Other: _____	

**Standard Two: Duties and Responsibilities**

**5.6 Are defense attorneys present and representing defendants at:**

a. In-custody first appearance hearings where bail is addressed (as defined by [CrRLJ 3.2.1](#))? 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:

c. Are public defense attorneys made available to consult with clients prior to first appearance or arraignment hearings? Yes  No

**Standard Three: Caseload Limits**

**5.7 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:

**5.8 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  Not Sure

If yes was not selected, please explain:

#### Standard Four: Responsibility for Expert Witnesses

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

Yes  No

If no, please explain the situation:

**5.10 In 2022 did the public defense attorneys use expert witnesses?**

Yes  No

If no, please explain the situation:

#### Standard Five: Administrative Costs

**5.11 Do the city public defense attorneys (including contract, sub-contracted, and assigned counsel attorneys) have offices or access to private meeting space to accommodate confidential meetings with clients?**

Yes  No

If no, please explain:

**5.12 If your city has a public defense agency (government or non-profit), is there a ratio of one full-time supervisor for every ten full-time staff attorneys?** Yes  No  N/A

If no, please explain:

**5.13 Does your city have written criteria for the monitoring and evaluation of attorney performance?** Yes  No

If no, please explain how monitoring and evaluation is conducted.

If yes, please attach a copy.

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

**5.14 Does the city identify funds specifically for the purpose of paying defense investigators?** Yes  No

If no, please explain the situation:

**5.15 In 2022, did the public defense attorneys use investigative services?** Yes  No

If no, please explain:

**5.16 How do public defense attorneys get access to investigator services? Please describe the steps that attorneys (agency employees and contract/assigned counsel) must take to access these services.**

**5.17 Are all public defense attorneys (employees, contractors and assigned counsel) permitted to request additional funds in specific cases for the below-listed professional services?**

**Legal assistants:** Yes  No

<b>Social Worker, Mitigation Experts:</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>
<b>Mental Health Professionals:</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>
<b>Interpreters for out-of-court meetings:</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>

**Describe the request process:**

**Standard Eight: Reports of Attorney Activity**

**5.18 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? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| b. Attorney hours?           | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| c. Dispositions?             | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| d. Trials?                   | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

Please describe any other reported data:

If available, please attach a template or sample report.

**Standard Nine: Training**

**5.19 Does the city require attorneys who provide public defense services to attend seven hours of OPD-approved 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**

**5.20 Which individual/entity maintains the attorney certifications filed in your municipal court?**

How are the certification forms made available for public review?

**5.21 Has someone from the city verified that all attorneys that provide public defense representation in your city filed Certifications for the first and second quarters of 2023?**

Yes  No

\*Please provide copies of all Certifications filed for the 2nd Quarter of 2023. (It is not necessary to provide Certifications of staff attorneys employed at government or non-profit public defense agencies.)

**Standard Twelve: Substitution of Counsel**

**5.22 Do any of the contracted or assigned counsel 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:

**5.23 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**

**5.24 Does the city require contract and subcontract public defense attorneys to report on public defense caseloads from other jurisdictions, 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

**5.25 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

**5.26 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:

**5.27 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, Eighteen, and Nineteen: Termination/Removal, Non-Discrimination, Guidelines for Awarding Defense Contracts, and Independence and Oversight

**5.28 Does your city experience challenges in recruiting and/or retaining a sufficient pool of defense attorneys?**

Yes  No

If yes, please describe:

**5.29 Do the contracts for public defense attorneys include non-discrimination clauses?** Yes  No

If no, please explain:

**5.30 Briefly describe the process and criteria used for selection of contract and/or assigned counsel defense attorneys:**

**5.31 Who in the city is responsible for overseeing contract attorneys, sub-contract attorneys and assigned counsel attorneys? What is their title/position?**

**5.32 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)?**

**5.33 Are city attorneys, prosecutors, judges, court administrators or law enforcement officers involved in the selection of public defense attorneys? [WSBA Indigent Defense Services Standard 19](#); [RCW 10.101.040](#); [GR 42](#)** Yes  No

If yes, please describe:



**5.34 Does your city public defense system include Rule 9 interns, and/or collaborate with law schools?**

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.**

**6.3 Are the public defense attorneys (employee/contractor/assigned counsel) in your city currently experiencing a backlog or higher-than-usual level of pending cases resulting from the COVID-19 pandemic court closures and jury trial suspensions? If so, what are the city's plans for addressing the pending workload?**

**6.4 With the passage of 2E2SSB 5536, OPD anticipates an increase in filings of criminal cases centered around possession of controlled substance charges. How many cases does the city believe will be filed as a result?**

## 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. 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. Each required attachment must be labeled with the question number(s) to which it corresponds. If attachments are submitted as separate documents, please ensure the question number is referenced in the file name as well as inside on the document itself. Failure to include any of the required items could result in an incomplete application.**

- Case-weighting policy, if applicable (*see question 2.2*)
- Narrative detailing city’s proposed use for grant funding (*see question 3.2*)
- City’s public defense standards (*see question 4.1*)
- Indigency screening form and related documents (*see question 4.3*)
- Written criteria for monitoring and evaluating attorney performance (*see question 5.13*)
- Sample template or report for monthly or quarterly attorney activity, if applicable (*see question 5.18*)
- 2nd Quarter 2023 Certifications filed (*see question 5.21*)
- Complaint procedure, forms or other relevant documentation (*see question 5.27*)

- Policy/Procedures for monitoring attorney performance under the city’s public defense contracts, if applicable (*see question 5.32*)
- 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.*

---

Signature

---

Date

---

Printed Name

---

Title

---

Place



