

Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

Decision Package

Agency	Administrative Office of the Courts
Decision Package Title	Telephonic Interpreting for Language Access To Court Services
Budget Period	2015-2017 Biennial Budget
Budget Level	Policy Level

Agency Recommendation Summary Text

Funding is requested to provide funding to offset costs associated with on-demand telephonic interpretation to ensure that limited English proficiency is not a barrier to full participation in court services. In-person interpreting is not typically available for the many instances when individuals call or visit the courts to file paperwork, pay fines, or request information.

Fiscal Detail

Operating Expenditures	FY 2016	FY 2017	Total
001-1 General Fund State	\$ 662,000	\$ 662,000	\$ 1,324,000
Staffing	FY 2016	FY 2017	Total
FTEs (number of staff requested)	.5	.5	.5

Package Description

Introduction

State and federal laws require Washington courts to provide meaningful access to court proceedings and court services for persons who have limited English proficiency. Failure to provide clear, concise interpretation denies these individuals that opportunity, leading to mistrust, confusion, administrative inefficiencies and potentially incorrect judicial orders and verdicts.

According to the U.S. Census the number of foreign-born, limited English proficient (LEP) persons age 5 and older in Washington increased by 50.1% between 2000 and 2010 from 279,497 to 419,576. This shift in Washington's population has directly impacted local courts resources, and their ability to fund state and federal requirements to provide interpretation services.

Legal Obligations

RCW Chapter 2.43.10 identifies the legislative intent for ensuring language access:

"It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them."

In 2007, the Legislature enacted specific standards instructing each trial court to develop language assistance plans which address the provision of language access both inside and outside of the courtroom. Such plans shall include "a process for providing timely communication with non-English speakers by all court employees who have regular contact with the public and meaningful access to court services, including access to services provided by the clerk's office." RCW 2.43.090 (1)(d).

Meaningful access to all court programs and activities, both inside and outside the courtroom, is also required by the U.S. Department of Justice for indirect and direct recipients of federal funding. Non-compliance with federal standards may result in the withdrawal of federal funding. As stated by Thomas E. Perez, Assistant Attorney General, in an August 26, 2010 letter addressed to all chief justices and state court administrators:

"Some states provide language assistance only for courtroom proceedings, but the meaningful access requirement extends to court functions that are conducted outside the courtroom as well... Access to these points of public contact is essential to the fair administration of justice, especially for unrepresented LEP persons. DOJ expects courts to provide meaningful access for LEP persons to such court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom."

Current Situation

Currently, courts regularly provide interpreting during legal proceedings, and in some instances the interpreters are available to interpret for litigants outside of the courtroom when interacting with staff. In rare situations, courts may have bilingual staff able to provide direct services in a language other than English. In most situations, however, customers call or come to court on an unscheduled basis, and the court has no advance warning when interpreting is needed for LEP persons. In these cases, courts frequently ask the LEP persons to return with friends or family members to act as interpreters. Since these family members are untrained and untested, it is questionable how accurately they understand and interpret the information, and whether their personal biases infuse the communication. Similarly, given the sensitive nature of why many people access the courts, persons (e.g. domestic violence victims) may face scrutiny or shame in asking acquaintances to serve as their interpreters.

Description of Program

This request is to obtain state funding to offset 50% of the local cost for contracted telephonic interpreting services for non-courtroom interactions. The State of Washington administers contracts with national telephonic interpreting companies, and all trial courts are eligible to obtain services at these rates. Participant courts will enter into contracts with the Administrative Office of the Courts for reimbursement of telephonic interpreting costs for court interactions outside of courtroom proceedings. Courts will submit appropriate invoices to the AOC Court Interpreter Program detailing their telephonic interpreting usage,

and qualifying expenses will be reimbursed at 50%. Data will be submitted electronically, so that the AOC can track statewide trends for telephonic interpreting based on court location and language.

Narrative Justification and Impact Statement

This package contributes to the Judicial Branch Principle Policy Objectives as identified below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.

Public trust and confidence in the courts begins, at a minimum, with the public being able to effectively access and participate in the judicial process. Such participation is not possible for LEP individuals without quality interpretation services. Full access to court services and effective management of court cases require communication between litigants and court staff outside of the courtroom.

Accessibility. *Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.*

With the far majority of court staff, services, websites and documents being provided in English only, LEP individuals have limited opportunity to access court services. Further, LEP individuals who are required to bring their own family or friends to interpret risk preserving accuracy in communication, or may be hindered due to the sensitive nature of the matters leading them to court.

Commitment to Effective Court Management. *Washington courts will employ and maintain systems and practices that enhance effective court management.*

On-demand telephonic interpreting services will assist court staff in more effectively serving the LEP public, and processing their cases. Interpretation from objective language experts will avoid confusion or misunderstandings, and ensure that parties are informed of their rights and responsibilities.

Measure Detail

Impact on clients and service

With the availability of State funding, many courts will continue to rely on LEP persons bringing their own family and friends to interpret.

Impact on other state services

None

Relationship to Capital Budget

None

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None

Alternatives explored

With limited budgets, courts must currently prioritize the use of limited interpreting funds. Priorities lie with in-person courtroom interpretation.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Telephonic interpreter funding will be an ongoing cost, fluctuating based on immigration trends in the Washington population.

Effects of non-funding

Courts will continue to provide interpreting services when possible, but prioritization of resources will remain focused on courtroom proceedings. The absence of structure for ensuring interpretation in non-courtroom services will run afoul of both state and federal requirements.

Expenditure calculations and assumptions and FTE assumptions

The average per minute cost with these companies is \$.90, and may vary based on the language. In the majority of requested languages, the companies will connect the requester with an interpreter upon demand.

Currently there are approximately 15,200 cases in Washington courts which have an interpreter assigned to them. It is estimated that each litigant for each case will have an average of nine encounters at non-courtroom related operations, such as calling the court with questions, setting up payment plans, completing forms or other paperwork, meeting with facilitators, etc. These conversations typically last 5 minutes, but when are interpreted, take at least twice the amount of time. The anticipated full annual cost for telephonic interpreting is \$1,231,200:

15,200 cases x 9 encounters x 10 minutes x \$.90/minute = \$1,231,200

With a 50% State reimbursement component, this would also constitute the full amount needed for the biennium. The request also includes .5 FTE for AOC for administrative work in contracts and fiscal.

Object Detail	FY 2016	FY 2017	Total
Staff Costs	\$ 46,000	\$ 46,000	\$ 92,000
Non-Staff Costs	\$ 616,000	\$ 616,000	\$ 1,232,000
Total Objects	\$ 662,000	\$ 662,000	\$ 1,324,000