

# Washington State Judicial Branch

## 2023-25 Biennial Budget

### Civil Legal Aid Vendor Rate Adjustment

**Agency:** Office of Civil Legal Aid (OCLA)

**Decision Package Code/Title:** AA – Civil Legal Aid VRA

#### Agency Recommendation Summary Text:

A vendor rate adjustment to protect existing client service delivery capacity at the Northwest Justice Project and subcontracted volunteer attorney and specialty legal aid providers from significant erosion in the wake of known and measurable cost increases during FY 2024-25 biennium. (General Fund-State)

#### Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
<b>Staffing</b>						
<b>FTEs</b>	0.00	0.00	<b>0.00</b>	0.00	0.00	<b>0.00</b>
<b>Operating Expenditures</b>						
<b>Fund 001-1</b>	\$1,487,600	\$2,913,140	<b>\$4,400,740</b>	\$4,396,155	\$5,939,560	<b>\$10,335,715</b>
<b>Total Expenditures</b>						
	<b>\$1,487,600</b>	<b>\$2,913,140</b>	<b>\$4,400,740</b>	<b>\$4,396,155</b>	<b>\$5,939,560</b>	<b>\$10,335,715</b>

#### Package Description:

In 2015, the Washington State Supreme Court published its comprehensive [Civil Legal Needs Study](#) (CLNS) documenting the depth and breadth of the civil justice gap experienced by low-income individuals and families throughout Washington State. The CLNS documented overall needs by substantive issue area as well as differential needs experienced by distinct demographic sub-groups.

Responding to the CLNS findings, the bipartisan legislative Civil Legal Aid Oversight Committee in 2016 prepared and published a [Civil Justice Reinvestment Plan](#) (CJRP). The CJRP outlined a multi-year strategy to reinvest in civil legal aid capacity to achieve a “minimum access” objective of 1 FTE civil legal aid attorney (or pro bono service commitment) for every 5,000 people living at or below 125% of the federal poverty level. OCLA presented the CJRP to the Legislature through a series of budget requests beginning in 2017. Between 2017 and 2020, the Legislature responded with consistent significant increases in funding necessary to make progress toward the “minimum access” objective. This funding enabled the OCLA-contracted [Northwest Justice Project](#) (NJP) to establish physical presence in all geographic areas of the state and to upgrade client service capacity in areas disproportionately understaffed on the basis of poverty population percentages. While “minimum access” had not yet been achieved, this progress was interrupted by the COVID-19 pandemic and emergency efforts by the Office of Civil Legal Aid to address critical pandemic-driven legal problems such as unemployment, domestic violence, access to income assistance, employment conditions for essential workers, etc.

NJP addresses the general civil legal needs of low income people through its statewide legal hotline ([CLEAR](#)), statewide self-help legal resources website ([WashingtonLawHelp](#)), and 21 regional and satellite client service offices throughout the state. A list of office locations is [here](#). In addition, NJP subcontracts a portion of funds made available through its contract with OCLA to support the state-eligible civil legal aid efforts of 16 local programs that recruit, train, support, and refer clients to volunteer private attorneys and four (4) legal aid providers that have unique expertise in providing

legal aid services to members of specific demographic cohorts (TeamChild) or have special expertise in certain areas of legal representation (Unemployment Law Project, Solid Ground Benefits Legal Assistance, and Benefits Law Center).<sup>1</sup>

This decision package seeks a vendor rate adjustment to address known and measurable personnel and operating costs that, if unaddressed, will result in significant client service capacity losses at NJP and further erode the client service capacity and infrastructure of the volunteer and specialty legal aid providers that receiving funding made available through NJP's OCLA-authorized subcontract with the Legal Foundation of Washington.

#### 1. NJP Vendor Rate Adjustment

The portion of the vendor rate adjustment attributable to NJP is necessary to maintaining that organization's current professional infrastructure. NJP's workforce is unionized - represented by the Office of Professional Employees International Union – Local 8. The vendor rate adjustment stems from the recently negotiated three-year Collective Bargaining Agreement (2022-2024) which requires NJP to pay various increases effective January 1<sup>st</sup> in each of 2022, 2023 and 2024, detailed in the supporting. Despite a highly inflationary bargaining environment, NJP held COLA increase to an average 3.5% - 4% over the 2023-2025 biennium, plus experience increases averaging 1.5%. A detailed, line-item outline of the vendor rate adjustment calculation is attached.

#### 2. Vendor Rate Adjustment for Volunteer and Specialty Legal Aid Provider

The subcontracted legal aid programs have not received pass-through relief from increasing expenses from prior vendor rate adjustments for NJP (the most recent being in the FY 2019-21 biennium). During the 2019-2022 period, personnel costs have increased by more than 22%, while facilities costs (rents, etc.) have increased by 20.5%.

This decision package ensures equity of treatment of all basic field state-funded legal aid providers. Consequently, included in the NJP calculation is an adjustment to the subcontract through which state legal aid funding helps underwrite eligible civil legal aid services provided by the 16 volunteer attorney program and four specialty legal aid providers. The FY 2022 subcontracted amount is \$3,494,000. OCLA seeks a vendor rate adjustment of \$285,000 in FY 2024 and \$328,000 in FY 2025 (\$898,000 for the biennium) to assist these programs maintain current levels of client service.

#### **Fully describe and quantify expected impacts on state residents and specific populations served:**

The scope and substance of legal problems experienced by low-income people in Washington State was studied and is most recently documented in the 2015 CLNS. These areas substantially mirror those for which state legal aid funding is authorized in RCW 2.53.030(2).<sup>2</sup> State civil legal aid funding appropriated pursuant to RCW 2.53 underwrites a comprehensive system that annually provide information, self-help assistance, advice, brief services, and extended legal representation to tens of thousands of low-income clients (and their household members) to address some of the most compelling legal problems experienced by individuals and families. In calendar year (CY) 2021, NJP provided direct legal

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<sup>1</sup> RCW 2.53.030(2) and (3) require that OCLA contract in the first instance with the qualified legal aid provider that receives federal funding from the Legal Services Corporation or was a direct recipient of state legal aid funding prior to 1997. By longstanding practice (pre-dating the establishment of OCLA), OCLA has authorized NJP to subcontract a portion of contracted funding to support the state-eligible activities of volunteer and specialty legal aid providers. For ease of administration and to ensure accountability, NJP subcontracts the funds to the Legal Foundation of Washington (LFW). LFW in turn includes these funds as a percentage of its overall annual commitments to the volunteer and specialized legal aid program. Extensive efforts are made to ensure fund segregation and accounting in accordance with state requirements and best fiscal practices.

<sup>2</sup> (a) Domestic relations and family law matters, (b) governmental assistance and services, (c) health care, (d) housing and utilities, (e) mortgage foreclosures, (f) consumer, financial services, credit, and bankruptcy, (g) employment, (h) rights of residents of long-term care facilities, (i) wills, estates, and living wills, (j) elder abuse, (k) guardianship, (l) disability rights, (m) education including special education, (n) administrative agency decisions, and (o) discrimination prohibited by local, state, or federal law.

assistance and representation to 11,760 individual households and the volunteer and specialty legal aid providers assisted 11,936 individual households.

Funding requested in this decision package will ensure continuity of collective capability to maintain the capacity to provide these services in the face of an environment of high inflation and corresponding significant increases in personnel, overhead (including rents), technology, and related costs as well as continued increases in demand for civil legal assistance in the wake of the COVID-19 pandemic.

**Explain what alternatives were explored by the agency and why they were rejected as solutions:**

There are two principal underwriters of civil legal aid in Washington State – the Office of Civil Legal Aid and the federal [Legal Services Corporation](#) (LSC). Despite significant national efforts led by the Legal Services Corporation’s Board of Directors and championed by a bipartisan Congressional Access to Legal Aid Caucus, funding appropriated for FFY 2022 did not significantly increase above baseline levels and falls far short of that necessary to maintain the current basic client service footprint here in Washington State, where LSC funding represents only 30% of total basic field support.

While private funding generated through the statewide [Campaign for Equal Justice](#) (which raises about \$2M/yr.) can and does play an important role in helping support the legal aid system, all available funds are invested in and help support the current delivery system. There is little prospect of increases sufficient to help address the funding shortfall that, if unaddressed, will result in significant erosion of the basic civil legal aid system’s current capacity.

**What are the consequences of not funding this request?**

Cost increases will continue to erode client service delivery capacity, resulting in substantial harm to individuals and families across the state, and effectively backtracking from the legislative commitment made in the wake of the 2015 CLNS to underwrite implementation of the Civil Justice Reinvestment Plan.

In the case of NJP, failure to fund the vendor rate adjustment will result in *a reduction of state supported attorney staffing by 7FTEs in Y1 (FY-24), and 14 FTEs in Y2 (FY-25)*. These reductions will have an immediate and detrimental impact on the wellbeing of thousands of Washingtonians over the biennium.

Historically, family safety and housing cases make up between 65-70% of cases annually, with consumer and health/public benefits cases making up another 20% of cases handled by attorney staff. Based on current caseloads and attorney staffing, in 2022 the average NJP attorney will handle 71 cases over the course of a year.

Absent the requested vendor rate adjustment, NJP attorney FTE reductions would result in the following:

**In FY-24 (Y1):** A 7FTE attorney reduction means NJP would not handle nearly 500 (497) cases in FY-24. These cases comprise households with 1,150 individuals (children and adults) who will not benefit from or have access to vital legal protections affecting fundamental human needs.

- This reduction would result in 770 individuals would face domestic violence or threats to their housing without attorney assistance to access court protections.
- Additionally, more than 225 persons would be deprived of legal help to prevent consumer abuse and/or not have access to public benefits or health care.

**In FY-25 (Y2):** An additional 7FTE attorneys for a total of 14 FTE attorney reductions. NJP attorneys would thus handle nearly 1,000 fewer cases (994 cases) including more than 3,000 household members.

- This reduction would result in more than 2,000 persons facing domestic violence or threats to their housing without attorney representation to access court protections.

- Additionally, in more than 600 persons being deprived of legal protections to prevent consumer abuse and/or not have access to public benefits or health care.

Absent a vendor rate adjustment, pro bono and specialty provider staff will reduction in core staff, resulting in proportionate reductions in clients served. While individualized programmatic impacts are difficult to predict, without the vendor rate adjustment, overall state funded pro bono and specialty programs project a reduction of more than 1,800 households served (approx. 8% each or more than 900 each year).

**Is this an expansion or alteration of a current program or service?**

No. The entire purpose of this vendor rate adjustment is to protect current legislatively authorized levels of basic civil legal aid services in Washington State. Full funding of this request will not result in any expansion or change in program services.

**Decision Package expenditure, FTE and revenue assumptions:**

<b>Expenditures by Object</b>	<b><u>FY 2024</u></b>	<b><u>FY 2025</u></b>	<b><u>FY 2026</u></b>	<b><u>FY 2027</u></b>
C Personal Service Contracts	1,487,600	2,913,140	4,396,155	5,939,560
<b>Total Objects</b>	<b>1,487,600</b>	<b>2,913,140</b>	<b>4,396,155</b>	<b>5,939,560</b>

A detailed outline of expenditure requirements by fiscal year is attached.

**How does the package relate to the Judicial Branch principal policy objectives?**

Funding this package will serve the following judicial branch policy objectives:

- Fair and Effective Administration of Justice
- Accessibility
- Access to Necessary Representation
- Sufficient Staffing and Support

**Are there impacts to other governmental entities?**

No.

**Stakeholder response:**

This request is strongly supported by the entire Alliance for Equal Justice, the Access to Justice Board, the Equal Justice Coalition. No opposition is anticipated.

**Are there legal or administrative mandates that require this package to be funded?**

No.

**Does current law need to be changed to successfully implement this package?**

No.

**Are there impacts to state facilities?**

No.

**Are there other supporting materials that strengthen the case for this request?**

See attached budget sheet.

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**Are there information technology impacts?**

No.

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		Fiscal Year Increase
<b>OCLA FY23 Contract Amount:</b>	<b>\$22,279,000</b>	
<b>Personnel:</b>		
FY24 CBA COLA 3.75% (1/2 yr 3.5% & 1/2 yr 4%)	634,000	OCLA FY23 \$18,785,000 (22,279,000 FY23 - 3,494,000 LFW Subcontract FY 23) * .90 Personnel * 3.75% COLA's = \$634,000
FY24 Average Steps 1.50%	253,600	OCLA FY23 \$18,785,000 (22,279,000 FY23 - 3,494,000 LFW Subcontract FY 23) * .90 Personnel * 1.50% Steps = \$253,600
Bilingual Pay (OCLA Share)	105,000	\$150,000 * 70% OCLA = \$105,000
Lived Experience and Other Credit (OCLA Share)	105,000	\$150,000 * 70% OCLA = \$105,000
<b>Non-Personnel:</b>		
Min 3% CPI (5 mil X .3% CPI X 70% OCLA)	105,000	
<b>Funding Partnership Contracting:</b>		
LFW Subcontract VRA Request	285,000	
<b>OCLA FY24 Fiscal:</b>	<b>\$23,766,600</b>	<b>\$1,487,600</b>
FY25 CBA COLA 4%	719,555	OCLA FY 24 \$19,987,600 (23,766,600 FY24 - 3,779,000 LFW Subcontract FY 24) * .90 Personnel * 4% COLA's = \$719,555
FY25 Average Steps 1.50%	269,835	OCLA FY 24 \$19,987,600 (23,766,600 FY24 - 3,779,000 LFW Subcontract FY 24) * .90 Personnel * 1.5% Steps = \$269,833
<b>Non-Personnel:</b>		
Min 3% CPI (5.15 mil X .3% X .70% OCLA)	108,150	
<b>Funding Partnership Contracting:</b>		
LFW Subcontract VRA Request	328,000	
<b>OCLA FY25 Fiscal:</b>	<b>\$25,192,140</b>	<b>\$1,425,540</b>
<b>Proposed Biennial Contract FY24 / FY25</b>	<b>\$48,958,740</b>	
<b>Biennial Contract FY22 / FY23</b>	<b>\$43,735,000</b>	
<b>Biennial Contract Increase FY24 / FY25</b>	<b>\$5,223,740</b>	
<b>OCLA FY 25 Est. Carryover:</b>	<b>\$25,192,140</b>	
<b>Personnel:</b>		
FY26 CBA COLA 4%	759,065	OCLA FY 25 \$21,085,140 (25,192,140 FY25 - 4,107,000 LFW Subcontract FY 25) * .90 Personnel * 4% COLA's = \$759,065
FY26 Average Steps 1.50%	284,650	OCLA FY 25 \$21,085,140 (25,192,140 FY25 - 4,107,000 LFW Subcontract FY 25) * .90 Personnel * 1.5% Steps = \$284,650
<b>Non-Personnel:</b>		
Min 3% CPI (5.3 mil X .3% X .70% OCLA)	111,300	
<b>Funding Partnership Contracting:</b>		
LFW Subcontract VRA Request	328,000	
<b>OCLA FY26 Fiscal:</b>	<b>\$26,675,155</b>	<b>\$1,483,015</b>
FY27 CBA COLA 4%	800,645	OCLA FY 26 \$22,240,155 (26,675,155 FY26 - 4,435,000 LFW Subcontract FY 26) * .90 Personnel * 4% COLA's = \$800,645
FY27 Average Steps 1.50%	300,310	OCLA FY 26 \$22,240,155 (26,675,155 FY26 - 4,435,000 LFW Subcontract FY 26) * .90 Personnel * 1.5% Steps = \$300,310
<b>Non-Personnel:</b>		
Min 3% CPI (5.45 mil X .3% X .70% OCLA)	114,450	
<b>Funding Partnership Contracting:</b>		
LFW Subcontract VRA Request	328,000	
<b>OCLA FY27 Fiscal:</b>	<b>\$28,218,560</b>	<b>\$1,543,405</b>