

ORIGINAL

RESOLUTION 2011 - 50

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON,
APPROVING THE APPLICATION FOR STATE PUBLIC DEFENSE GRANTS
FOR THE 2012 CALENDAR YEAR**

WHEREAS, the City of Sunnyside operates a municipal court as previously created pursuant to city ordinance and state statute; and

WHEREAS, state and federal law require that a court provide legal representation for indigent defendants charged with certain criminal offenses; and

WHEREAS, the City seeks grant funding to assist in the City's commitment to providing fair, effective, reasonable, and professional indigent defense services as required by law; and

WHEREAS, the City Council of the City of Sunnyside finds and determines that the application, submitted on behalf of the City, for state public defense grants for the 2012 calendar year is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF
THE CITY OF SUNNYSIDE, WASHINGTON, as follows:**

SECTION 1. That the "Application for RCW 10.101 City Grants," a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, submitted on behalf of the City of Sunnyside to the Washington State Office of Public Defense, is hereby approved; and the City Manager is hereby authorized to execute such Application for and on behalf of the City of Sunnyside and to take all reasonable actions reasonable and necessary to file such application.

SECTION 2. This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

PASSED this 25th day of July, 2011.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:



MENKE JACKSON BEYER EHLIS & HARPER, LLP
Attorneys for the City of Sunnyside

EXHIBIT "A"



WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE

Internet Email: opd@opd.wa.gov

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

TO: City Officials and Municipal Court Judges
FROM: Joanne Moore, Director
DATE: May 26, 2011
RE: Applications for state public defense grants for the 2012 calendar year

RCW 10.101.050 establishes a state-funded grant program to improve the quality of public defense services in incorporated cities. Pursuant to legislative appropriation in the 2011-2013 state budget, the Washington State Office of Public Defense (OPD) is offering grants to cities for the 2012 calendar year. Last year more than 40 cities participated in the competitive grant process and 14 cities received grants ranging from \$2,500 to \$150,000.

Complete applications for the current round of city grants are due to OPD by 5 p.m. August 1, 2011. OPD will send preliminary notification of grant awards and denials by late September, and will disburse funds in December for use by the selected cities through the 2012 calendar year. An application form is attached; it also may be found at www.opd.wa.gov. Application materials may be submitted in hard copy or as an email attachment to Candace Martin at candace.martin@opd.wa.gov. (No faxes.)

Chapter 10.101 RCW requires that state grant funds be used to make appreciable, demonstrable improvements in the delivery of public defense services. Some cities have used grant funds to provide additional attorneys to lower caseloads, 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. Pursuant to statute and OPD policy, 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.

For information regarding the improvement of public defense services or this application process, contact OPD Public Defense Services Managers David DeLong, david.delong@opd.wa.gov, 360-586-3164 ext. 110 or Kathy Kuriyama, kathy.kuriyama@opd.wa.gov, 360-586-3164 ext. 114.

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

EXHIBIT "A"

APPLICATION FOR RCW 10.101 CITY GRANTS

City: of Sunnyside Contact name/title: Byron Olson, Deputy City Manager / Chief Financial Officer

Mailing address: 818 E. Edison Avenue, Sunnyside, WA 98944

Phone: (509) 836-6380 Email: bolson@ci.sunnyside.wa.us.

NOTE: Complete applications must be received at OPD by 5 p.m. August 1, 2011. Late or incomplete applications will not be accepted.

1. In 2010, the city paid indigent defense expenses as follows:

Total dollar amount spent on indigent defense: (Sum of 1A and 1B below.)	\$135,436
1A. Amount spent on attorney salaries and benefits, contract attorney amounts including conflict attorneys:	\$110,061
1B. Amount spent on investigators, experts, and other indigent defense costs:	\$25,375

2. In 2010, attorneys providing indigent defense representation had the following caseloads:

Fill in section 2(a) if the city has a public defender agency or contracts with a public defender agency, such as a department of assigned counsel or one or more non-profit public defense firm(s) whose practice is limited to public defense. Fill in section 2(b) if the city uses list appointments or contracts with private attorneys.

2(a) Cities using public defender agencies.	Number of cases assigned to public defender (not including conflict counsel)	Number of probation violations and other miscellaneous hearings assigned	Number of full-time equivalent public defenders	Number of cases assigned to conflict counsel	Average per attorney caseload, if available
Municipal Court misdemeanors and gross misdemeanors	N/A				

2(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 hearings assigned	Number of attorneys with public defense contracts or on court's appointment list	Average per-attorney caseload if available
Municipal Court misdemeanors and gross misdemeanors	1,039 Cases	404 * These hearings are part of the original assigned "case"	Three (3) attorneys	Mr. Woodard: 899 Mr. Alexander: 90 Mr. Garrison: 50

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3. In terms of attorney caseload management, what is the city's method of counting probation violations and other post-resolution hearings?

In terms of caseload management, a "case" is viewed as a criminal citation filed by the City against an indigent defendant. Probation violations and other post-resolution hearings count as part of the original "case" assigned to the respective attorney.

4. Did the city receive RCW 10.101 grant money for use during calendar year 2011? No. If so, has the city submitted its 2011 mid-year report on the use of the funds? () yes () no. If no, please explain the situation.

N/A.

5. How much grant funding is the city requesting? \$ _____. Indicate in the table below how the city intends to use public defense grant funding in 2012, **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.

Common Allowed Uses of Grant Funding:	
Creating a city or regional public defense agency	
Providing quality monitoring by an attorney coordinator who monitors contract attorneys providing public defense	
Adding attorneys to lower public defense caseloads	X
Adding investigator services	
Adding expert services	
Increasing public defense attorney compensation	X
Providing public defense services at preliminary appearance calendars	
Providing interpreter services for attorney-client interviews and communications	
Other (please explain)	

The City of Sunnyside intends to use public defense grant funding in 2012 to improve the delivery of public defense services. Specifically, the City will use the funds to add a third (3rd) primary public defender (not restricted to conflict cases) to balance out and lower public defense caseloads. The City currently has a caseload of roughly 1,000 cases per year, projected to be 1290 cases for 2011, based upon the first four (4) months of 2011. These cases are currently handled by two (2) primary public defenders and one (1) conflict case public defender. The case load distributions among these attorneys are higher than the recommended caseload. The City is committed to providing fair, effective, reasonable, and professional indigent defense services as required by law. Specifically, to strive to meet the standards as set forth by the Washington State Bar Association and Washington State Defender Association. In order to provide said services, the City of Sunnyside desires to balance out and lower public defense caseloads per attorney. The City intends to contract with a third (3rd) attorney to act as another primary public defender. This will balance out and lower the caseload for all public defenders for the City of Sunnyside. The City's budget

EXHIBIT "A"

(f) Does the city identify funds specifically for the purpose of paying defense investigators? Yes (X) No () If no, please explain the situation.

N/A.

(g) 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 (X) If yes, please explain the situation.

N/A.

9. 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.

A method to respond promptly to indigent defendant complaints is established by each respective counsel in accordance with SMC 2.42. If the attorney and client cannot resolve the complaint amicably, the attorney shall ask the court for permission to withdraw and substitute new counsel. The complaining client should be informed as to the disposition of his or her complaint within a reasonable period of time. If the client feels dissatisfied with the evaluation and response received, he or she should be advised of the right to complain to the Washington State Bar Association.

10. How are indigent clients notified of the complaint policy and procedure?

Please see answer to above question 9.

11. Does the Municipal Court administer any specialty courts or programs, such as: mental health court, drug court, diversion programs, relicensing programs, etc.? Yes () No (X) If yes, please identify the specialty court(s) or program(s).

N/A.

11. Does the Municipal Court routinely provide a public defense attorney at:

- (a) In-custody preliminary appearance (defined in CrRLJ 3.2.1) calendars? Yes (X) No ()
- (b) Out-of custody preliminary appearance calendars? Yes (X) No ()
- (c) If a defendant requests counsel at the preliminary appearance calendar, is the case continued pending appointment? Yes (X) No ()

12. Please describe the city's indigency screening procedure and attach any related written city policies and screening documents used.

In general, indigency is determined when an individual defendant is unable to pay all or a part of the costs of an attorney. Specifically, an indigency determination is made by the Municipal Court based upon information provided by the defendant and that information compared to the State Poverty Guidelines. The referenced State Poverty Guidelines are included as Attachment 5.

EXHIBIT "A"

Washington State Office of Public Defense
Table I: Public Defense Contracts

Name of attorney/firm	Number of misdemeanor/gross misdemeanor cases per contract	Method and rate of payment (per case/per hour, etc.)	Conflict cases only? Yes/No (If yes, list payment)
Alexander, Ray • Written Contract, Attachment 1.	On assignment basis	\$100.00 per case	Yes - \$100.00 per case
Garrison Law Offices, P.S. • Written Contract, Attachment 2.	On assignment basis	\$7,029.75 per month, flat rate	No
Woodard, Barry • Written Contract, Attachment 3.	On assignment basis	\$7,029.75 per month, flat rate	No
<i>No additional attorneys are currently under contract</i>			

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Washington State Office of Public Defense
Table II: List-Appointed Public Defense Attorneys

Name of Attorney/Firm	Method and rate of payment (per case/per hour, etc.)	Number of cases assigned
N/A		

Poverty Guidelines

Household Size	Federal Level*	Washington State Income Cut-Offs (at 125%)**		
		Annual	Monthly	Weekly
1	\$8,980	\$11,225	\$ 940	\$235
2	12,120	15,150	1,265	320
3	15,260	19,075	1,590	400
4	18,400	23,000	1,920	480
5	21,540	26,925	2,245	565
6	24,680	30,850	2,575	645
7	27,820	34,775	2,900	725
8	30,960	38,700	3,225	810
each additional	+3,140	+3,925	+330	+85

* Federal poverty guidelines effective 2/07/2003. These are updated periodically to reflect change in the Consumer Price Index. (Source: Federal Register, Vol. 68, No. 26; February 7, 2003, pp 6456-6458. Also appearing at <http://aspe.os.dhhs.gov/poverty/03poverty.htm>)

** RCW 10.101

Pautas de Indigencia

Tamaño de la familia	Nivel federal*	Estado de Washington Límites de Ingresos (A 125%)**		
		Anual	Mensual	Semanal
1	\$8,980	\$11,225	\$ 940	\$235
2	12,120	15,150	1,265	320
3	15,260	19,075	1,590	400
4	18,400	23,000	1,920	480
5	21,540	26,925	2,245	565
6	24,680	30,850	2,575	645
7	27,820	34,775	2,900	725
8	30,960	38,700	3,225	810
ada persona más	+3,140	+3,925	+330	+85

* Las pautas federales de indigencia, en vigor desde 7/2/2003. Se actualizan periódicamente para reflejar el cambio del Índice de Precios de los Consumidores.

** RCW 10.101

2010 POVERTY GUIDELINES*
ALL STATES (EXCEPT ALASKA AND HAWAII) AND D.C.

ANNUAL GUIDELINES

FAMILY SIZE	PERCENT OF POVERTY GUIDELINE									
	100%	120%	133%	135%	150%	175%	185%	200%	250%	
1	10,830.00	12,996.00	14,403.90	14,620.50	16,245.00	18,952.50	20,036.50	21,660.00	27,075.00	
2	14,570.00	17,484.00	19,378.10	19,689.50	21,855.00	25,497.50	26,954.50	29,140.00	36,425.00	
3	18,310.00	21,972.00	24,352.30	24,718.50	27,465.00	32,042.50	33,873.50	36,620.00	45,775.00	
4	22,050.00	26,460.00	29,328.50	29,767.50	33,075.00	38,587.50	40,792.50	44,100.00	55,125.00	
5	25,790.00	30,948.00	34,300.70	34,816.50	38,685.00	45,132.50	47,711.50	51,580.00	64,475.00	
6	29,530.00	35,436.00	39,274.90	39,865.50	44,295.00	51,677.50	54,630.50	59,060.00	73,825.00	
7	33,270.00	39,924.00	44,249.10	44,914.50	49,905.00	58,222.50	61,549.50	66,540.00	83,175.00	
8	37,010.00	44,412.00	49,223.30	49,963.50	55,515.00	64,767.50	68,468.50	74,020.00	92,525.00	

For family units of more than 8 members, add \$3,740 for each additional member.

MONTHLY GUIDELINES

FAMILY SIZE	PERCENT OF POVERTY GUIDELINE									
	100%	120%	133%	135%	150%	175%	185%	200%	250%	
1	902.50	1,083.00	1,200.33	1,218.38	1,353.75	1,579.38	1,669.63	1,805.00	2,256.25	
2	1,214.17	1,457.00	1,614.84	1,639.13	1,821.25	2,124.79	2,246.21	2,428.33	3,035.42	
3	1,525.83	1,831.00	2,029.36	2,059.88	2,288.75	2,670.21	2,822.79	3,051.67	3,814.58	
4	1,837.50	2,205.00	2,443.88	2,480.63	2,756.25	3,215.63	3,399.38	3,675.00	4,593.75	
5	2,149.17	2,579.00	2,858.39	2,901.38	3,223.75	3,761.04	3,975.96	4,298.33	5,372.92	
6	2,460.83	2,953.00	3,272.91	3,322.13	3,691.25	4,306.46	4,552.54	4,921.67	6,152.08	
7	2,772.50	3,327.00	3,687.43	3,742.88	4,158.75	4,851.88	5,129.13	5,545.00	6,931.25	
8	3,084.17	3,701.00	4,101.94	4,163.63	4,626.25	5,397.29	5,705.71	6,168.33	7,710.42	

Produced by: CMSORDEHPGDEEO

* In accordance with section 1012 of the Department of Defense Appropriations Act of 2010, the poverty guidelines published on January 23, 2009 will remain in effect until updated poverty guidelines are published in March 2010.