

RESOLUTION 2017 - 27

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON, APPROVING  
ACCEPTANCE OF GRANT FROM THE  
OFFICE OF PUBLIC DEFENSE**

**WHEREAS**, the City of Sunnyside received the grant offer from the Washington State Office of Public Defense (OPD); and

**WHEREAS**, such grant funding consists of \$50,000.00 for 2018 Budget cycle and \$50,000.00 for the 2019 Budget cycle to be pursuant to the terms of such grant; and

**WHEREAS**, the City Council finds and determines that acceptance of such grant for the purpose of improving the quality of public defense services, and in accordance with the Grant Agreement attached hereto as Exhibit "A" and incorporated herein by this reference; and

**WHEREAS**, the City Council finds and determines that such approval 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 grant offer and Grant Agreement from the OPD attached hereto as Exhibit "A" and incorporated herein by this reference, for the purpose of improving the quality of public defense services, is hereby accepted and approved; and the City Manager is hereby authorized to accept such offer and to execute and administer such agreement for and on behalf of the City of Sunnyside.

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

**PASSED** this 23<sup>th</sup> day of October, 2017.

  
\_\_\_\_\_  
JAMES A. RESTUCCI, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
DEBORAH ESTRADA, CMC, CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
KERR LAW GROUP, LLP  
Attorneys for the City of Sunnyside

FACE SHEET

WASHINGTON STATE OFFICE OF PUBLIC DEFENSE

<p><b>1. Grantee</b>                  City of Sunnyside                  818 East Edison Ave.                  Sunnyside, WA 98944</p>	<p><b>2. Grantee Representative</b>                  Don Day                  City Manager                  818 East Edison Ave.                  Sunnyside, WA 98944</p>
<p><b>3. Office of Public Defense (OPD)</b>                  711 Capitol Way South, Suite 106                  PO Box 40957                  Olympia, WA 98504-0957</p>	<p><b>4. OPD Representative</b>                  Joanne I. Moore                  Director                  Office of Public Defense                  711 Capitol Way South, Suite 106                  PO Box 40957                  Olympia, WA 98504-0957</p>
<p><b>5. Grant Amount</b>                  \$100,000</p>	<p><b>6. Grant Period</b>                  January 1, 2018 through December 31, 2019</p>
<p><b>7. Grant Purpose</b>                  The Chapter 10.101 RCW city grants are competitive grants for the purpose of improving the quality of public defense services in Washington municipalities. (See Chapter 10.101 RCW.)</p>	
<p>The Office of Public Defense (OPD) and Grantee, as defined above, acknowledge and accept the terms of this Grant Agreement and attachments and have executed this Grant Agreement on the date below to start January 1, 2018 and end December 31, 2019. The rights and obligations of both parties to this Grant are governed by this Grant Agreement and the following other documents incorporated by reference: Special Terms and Conditions of the City Grant Agreement, General Terms and Conditions of City Grant Agreement, and Exhibits A, B, and C.</p>	
<p><b>FOR THE GRANTEE</b></p> <p>_____</p> <p>Name, Title</p> <p>_____</p> <p>Date</p>	<p><b>FOR OPD</b></p> <p>_____</p> <p>Joanne I. Moore, Director</p> <p>_____</p> <p>Date</p>

**SPECIAL TERMS AND CONDITIONS OF THE CITY GRANT AGREEMENT**

1. **GRANT MANAGEMENT**

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Grant.

- a. The Representative for OPD and their contact information are identified on the Face Sheet of this Grant.
- b. The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

2. **GRANT AWARD AMOUNT**

The Grantee is awarded one hundred thousand and 00/100 Dollars (\$100,000) to be used for the purpose(s) described in the USE OF GRANT FUNDS below. One-half of the award amount shall be disbursed to Grantee in January, 2018 for use during calendar year 2018. The remaining one-half shall be disbursed to Grantee in January, 2019 for use during calendar year 2019.

3. **PROHIBITED USE OF GRANT FUNDS (as adopted in OPD Policy County/City Use of State Public Defense Funding)**

- a. Grant funds cannot be used to supplant local funds that were being spent on public defense prior to the initial disbursement of state grant funds.
- b. Grant funds cannot be spent on purely administrative functions or billing costs.
- c. Grant funds cannot be used for cost allocation.
- d. Grants funds cannot be used for indigency screening costs.
- e. Grant funds cannot be used for city or court technology systems or administrative equipment.
- f. Grant funds cannot be used for city attorney time, including advice on public defense contracting.

4. **USE OF GRANT FUNDS**

- a. Grantee agrees to use the grant funds for the following:
  - i. Adding attorneys to reduce public defense caseloads
  - ii. Providing quality monitoring by an attorney coordinator who monitors contract attorneys providing public defense
  - iii. Adding investigator services
  - iv. Adding expert services
  - v. Increasing public defense attorney compensation
  - vi. Providing public defense services at preliminary appearance calendars
  - vii. Providing interpreter services for attorney-client communications
- b. Grantee agrees to obtain OPD's written permission before funds are used for any purpose other than those listed in Section 4a above.
- c. Grantee agrees to use the first disbursement of funds in calendar year 2018, and the second disbursement of funds in calendar year 2019. If Grantee is unable to use the funds in the year for which the funds are disbursed, the Grantee agrees to notify OPD to determine what action needs to be taken.
- d. Grantee agrees to deposit the grant check within fourteen days of receipt.

5. **OVERSIGHT**

- a. Grantee agrees to submit written reports to OPD. The first report shall be submitted to OPD no later than June 30, 2018 using the template found in Exhibit A. The second report shall be submitted to OPD no later than December 15, 2018 using the template found in Exhibit B. The third report shall be submitted to OPD no later than June 30, 2019 using the template found in Exhibit C. Where indicated, reports must be submitted along with the Grantee City's public defense attorneys' contracts, certifications of compliance, and other required documentation.
- b. Over the duration of the grant term, OPD will conduct site visits for purposes of addressing improvements to public defense and ensuring the use of grant funds for their specified purposes. At OPD's request, Grantee will assist in scheduling such site visits and inviting appropriate attendees such as, but not limited to: public defense attorneys, judicial officers, and city representatives.

6. **ORDER OF PRECEDENCE**

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes, regulations, and court rules
- Special Terms and Conditions Of the City Grant
- General Terms and Conditions of the City Grant

**GENERAL TERMS AND CONDITIONS OF THE CITY GRANT AGREEMENT**

1. **ALL WRITINGS CONTAINED HEREIN**

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

2. **AMENDMENTS**

This Grant may be amended by mutual agreement of the parties. Such amendment shall not be binding unless it is in writing and signed by personnel authorized to bind each of the parties.

3. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 29 CFR Part 35.**

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

4. **ASSIGNMENT**

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of OPD.

5. **ATTORNEY'S FEES**

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys fees and costs.

6. **CONFORMANCE**

If any provision of this Grant violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

7. **ETHICS/CONFLICTS OF INTEREST**

In performing under this Grant, the Grantee shall assure compliance with the Ethics in Public Service, Chapter 42.52 RCW and any other applicable court rule or state or federal law related to ethics or conflicts of interest.

8. **GOVERNING LAW AND VENUE**

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. **INDEMNIFICATION**

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, OPD, all other agencies of the state and all officers, agents and employees of the state, from and against all claims or damages for injuries to persons or property or death arising out of or incident to the performance or failure to perform the Grant.

10. **LAWS**

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, court rules, policies of local and state and federal governments, as now or hereafter amended.

11. **NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part.

12. **RECAPTURE**

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of the Grant, OPD reserves the right to recapture funds in an amount to compensate OPD for the noncompliance in addition to any other remedies available at law or in equity.

13. **RECORDS MAINTENANCE**

The Grantee shall maintain all books, records, documents, data and other evidence relating to this Grant. Grantee shall retain such records for a period of six (6) years following the end of the grant period. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

14. **RIGHT OF INSPECTION**

At no additional cost all records relating to the Grantee's performance under this Grant shall be subject at all reasonable times to inspection, review, and audit by OPD, the Office of the State Auditor, and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Grant. The Grantee shall provide access to its facilities for this purpose.

15. **SEVERABILITY**

If any provision of this Grant or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Grant that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Grant and to this end the provisions of this Grant are declared to be severable.

16. **WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing.

EXHIBIT A  
Exhibit A

Washington State Office of Public Defense  
Public Defense Improvement Program  
City Grant Report #1

All City grant recipients are required to submit a completed copy of this report, along with corresponding documentation, to the Washington State Office of Public Defense by June 30, 2018.

City: \_\_\_\_\_  
Date Completed: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email Address: \_\_\_\_\_

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

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

- a. Amount spent on attorney salaries and benefits, and contract attorney amounts including conflict attorneys: \$ \_\_\_\_\_
  - b. Amount spent on investigators, experts, and other indigent defense costs: \$ \_\_\_\_\_
- 2017 Total:** \$ \_\_\_\_\_

Does the above amount include state grant funds? \_\_\_\_\_

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

- a. Amount budgeted for attorney salaries and benefits, and contract attorney amounts including conflict attorneys: \$ \_\_\_\_\_
  - b. Amount budgeted for investigators, experts, and other indigent defense costs: \$ \_\_\_\_\_
- 2018 Total:** \$ \_\_\_\_\_

Does the above amount include state grant funds? \_\_\_\_\_

**Section II: Case Assignments**

**2.1 In 2017, attorneys providing indigent defense representation had the following caseloads:**

*Fill in section 2.1(a) if the city has a public defender agency or contracts with a county public defender agency or non-profit public defense firm. Fill in section 2.1(b) for list appointments or contracts with private attorneys.*

**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 cases assigned to conflict counsel:

---

**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:

---

Average per-attorney caseload, if available:

---

**Section III: Grant Funds**

**3.1**

Grant Amount Awarded for 2018:

--	--

**3.2**

Amount of Annual Grant Funding Spent to Date:

--	--

**3.3**

Permissible Use(s) of Grant Funds (See Section 4 of Grant Agreement *Special Terms and Conditions*):

--	--

**3.4**

Description of How Grant Funds Have Been Used to Date:	
--------------------------------------------------------	--

**3.5**

Plans for Utilizing Remaining Funds by End of Calendar Year (If Applicable):	
------------------------------------------------------------------------------	--

**3.6**

Description of Impact State Funds Have Had on Local Public Defense Services:	
------------------------------------------------------------------------------	--

**3.7**

Is there any particular technical assistance that OPD can provide your city?	
------------------------------------------------------------------------------	--

## Section IV: Attachments and Tables

- 4.1 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 CD or email attachment. Failure to provide current contracts could result in an incomplete report.
- 4.2 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*).
- 4.3 If the City has adopted any new public defense policies, ordinances, or resolutions within the last year, please attach them to this report.
- 4.4 Provide copies of attorneys' 2018 quarterly Certificates of Compliance.





EXHIBIT A  
Exhibit B

Washington State Office of Public Defense  
Public Defense Improvement Program  
City Grant Report #2

*All City grant recipients are required to submit a completed copy of this report to the Washington State Office of Public Defense by December 31, 2018. Failure to timely submit this report could delay disbursement of 2019 grant funds.*

<b>City:</b>	
<b>Report Date:</b>	
<b>Contact - Name:</b>	
<b>Email:</b>	
<b>Phone:</b>	
<b>Address:</b>	
<b>2018 Award Amount:</b>	
<b>Amount Spent to Date:</b>	
<b>Permissible Use(s) of Grant Funds (See Section 4 of Grant Agreement <i>Special Terms and Conditions</i>)</b>	
<b>Description of How Grant Funds Have Been Used in 2018:</b>	

EXHIBIT A

<b>Plans for Utilizing 2019 Grant Funds:</b>	
<b>Description of Impact State Funds Have Had on Local Public Defense Services</b>	
<b>Is there any particular technical assistance that OPD can provide your city?</b>	

EXHIBIT A  
Exhibit C

Washington State Office of Public Defense  
Public Defense Improvement Program  
City Grant Report #3

*All City grant recipients are required to submit a completed copy of this report, along with all public defense attorneys' 2019 quarterly Certificates of Compliance to the Washington State Office of Public Defense by June 30, 2019.*

<b>City:</b>	
<b>Report Date:</b>	
<b>Contact - Name:</b>	
<b>Email:</b>	
<b>Phone:</b>	
<b>Address:</b>	
<b>2019 Award Amount:</b>	
<b>Amount Spent to Date:</b>	
<b>Permissible Use(s) of Grant Funds (See Section 4 of Grant Agreement <i>Special Terms and Conditions</i>)</b>	
<b>Description of How Grant Funds Have Been Used to Date:</b>	

EXHIBIT A

<b>Plans for Utilizing Remaining Funds by End of Calendar Year (If Applicable)</b>	
<b>Description of Impact State Funds Have Had on Local Public Defense Services</b>	
<b>Is there any particular technical assistance that OPD can provide your city?</b>	