

## Questions and Answers

### RFP: Regional Immigration Assistance Centers

Date Posted: December 9, 2014

- (1) **Question:** May a county contract with more than one existing immigration provider in a particular region? The upstate regions are large in area and having more than one provider would help facilitate the provision of services to all the indigent legal service providers in the area.

**Answer (revised October 21st):** The purpose of the RFP is to “support the development of a network of Regional Immigration Assistance Centers,” with one Center per region and “[e]ach Center . . . expected to serve the providers within each county in its designated region,” and, critically, “that services provided by Centers be available to every indigent legal service provider within their region” (see pages 1, 2 and 5 of the RFP). A county may subcontract with one or more providers within a designated region in order to accomplish these objectives.

- (2) **Question:** If the answer to number 1 is yes, will it be required that the county in which each immigration provider is located be a formal partner in the grant?

**Answer:** No, counties may not submit joint proposals. However, proposals that “encourage collaboration among providers, other legal service providers, community-based organizations” and other entities, such as counties, are encouraged (see page 6 of the RFP).

- (3) **Question:** In some cases, providing accurate legal advice about the immigration consequences of a conviction will require determining what the actual status of the defendant is (i.e. U.S citizen by acquisition or derivation). May funds appropriated under this grant be used by immigration providers to both determine what the defendant’s status is and to file any necessary applications with USCIS to establish that status?

**Answer (revised October 21st):** Yes, funding may be used to assist providers of Indigent Legal Services to determine the defendant’s immigration status, including assisting providers with the filing of any necessary applications with USCIS, so long as these costs are “reasonable and necessary,” fit within the stated purposes of the RFP and are “consistent with the proposal action plan” (see pages 14 and 15 of the RFP).

- (4) **Question:** Under data collection (page 13 of the RFP), it is required that each funded program report on the use of a computerized data management system maintained by each indigent legal services providers which tracks client immigration status and advice provided, and on the current status of data collection capabilities. How will funded programs perform those obligations without violating the attorney-client privilege of the clients of the providers?

**Answer:** The RFP requests that the Centers work with the providers in their designated region to determine whether each identified provider has access to the use of a computerized case management system to track the immigration status of their clients. All other data relating to how providers track the immigration status of their clients is requested in quantitative form only (i.e., the number and percentage of noncitizen clients served by each provider, the number of clients, by county, served by the Center, the number of referrals received, etc.) (see pages 13 and 14 of the RFP).

- (5) **Question:** Will the Resource Centers be expected to provide assistance and support to attorneys assigned to children (i.e., often referred to as “attorneys for the children”) in Article 6 family court proceedings?

**Answer:** No, funding under this grant may only be used to provide support to “indigent legal service providers” (i.e., as defined on page 2 of the RFP) within their responsibilities of providing effective and meaningful representation of persons who are legally entitled to counsel but cannot afford to hire an attorney as authorized pursuant to New York County Law Article 18-B.

- (6) **Question:** Does ILS intend that staff hired under this grant are to be considered employees of the lead county or agency? Or will the lead agency have to subcontract with cooperating counties or agencies for project staff located outside of their jurisdiction?

**Answer:** Funding under this grant may be used to hire staff as employees of the award county or the county may subcontract for such services. Award counties may also enter into inter-governmental agreements to obtain such services. Applicants must complete Attachment A, Budget Form, with information about any proposed subcontracting or inter-governmental agreements (see page 21 of the RFP).

- (7) **Question:** Will training and support be provided by ILS to staff hired to operate the regional Immigration Assistance Centers and will these trainings and support be provided free of charge?

**Answer:** Funding from this RFP may be used to provide training to staff hired to operate regional Immigration Assistance Centers or to subcontractees, so long as costs for such training are “reasonable and necessary” and “consistent with the proposal action plan” (see pages 14 and 15 of the RFP).

- (8) **Question:** May we assume that private attorneys, who are being compensated by their clients, are ineligible for technical assistance under this contract? Will an assistance center be penalized if technical assistance is given inadvertently to such an attorney? Will there be a way we can confirm whether an attorney is an 18b attorney or a private one when they call?

**Answer:** Regional Immigration Assistance Centers will be responsible to ensure that providers of indigent legal services within their designated region have access to the training and legal support necessary to provide competent advice to noncitizen clients as to the potential immigration consequences of a criminal or family court proceeding (See page 2 of the RFP). Centers must identify the affiliation of attorneys seeking assistance from the Center and report annually on the “number of requests for legal assistance broken down by affiliation of the attorney concerned (i.e., public defender, conflict defender, legal aid attorney or 18-b assigned counsel).” (See page 14 of the RFP). Penalties are not contemplated in this RFP for inadvertently providing legal assistance to privately compensated attorneys.

- (9) **Question:** Once the proposal is filed by a county, what are ILS’s expectations of the role of the county in administering the grant? Does a service provider report to the county or to ILS?

**Answer:** An award will be made to the county in each designated region that submits the highest ranking proposal; as part of the grant award process, the award county and ILS Office will establish a mutually agreed upon final budget and work plan, which will become the contract deliverables (See

page 16 of the RFP). The award county is responsible for administering the grant contract, including any staffing requirements, subcontracting of services and/or proposed collaborations necessary to support the efforts of the Regional Immigration Assistance Center.

**10. Question:** Does ILS know what is the potential population in each region of noncitizen defendants?

**Answer:** There were several factors that ILS considered in the construction of this RFP which included, but was not limited to, the potential population of noncitizen clients that may require assistance from 18-B counsel in each of the designated regions. The RFP has been designed to provide an equitable distribution of services and support to 18-B counsel in each of the designated regions. Notwithstanding, the RFP requests that each applicant describe the need to provide immigration support to indigent legal service providers within the designated region and to identify what immigration resources, if any, are currently available within the applicant's designated region. (See page 10 of the RFP).

**11. Question:** With respect to the requirement that the regional center collaborate with the other regional centers (RFP - paragraph two, page 2), what is contemplated? Would this involve creating uniform protocols, training curricula and forms collectively so that there are uniform practices statewide; or is it more a matter of sharing experiences and ideas and supporting each other in a more general way?

**Answer:** Centers are "expected to . . . collaborate and consult . . . with other Centers across the state on implementing the constitutional mandate introduced in *Padilla v. Kentucky*" (see page 2 of the RFP). The RFP does not specify a particular model for such collaboration and consultation, instead leaving Centers with flexibility to accomplish this task. In particular, Question #12 of the "Plan of Action" section of the RFP (see page 12 of the RFP) asks the applicant to describe how they would propose collaborating with other Centers "in the analysis of regional trends, collection of data and development of best practices and attorney protocols for effective *Padilla* compliant representation."

**12. Question:** With respect to the requirement that the regional center collaborate with ILS (RFP – paragraph 2, page 3), what is contemplated? Is it a matter of having ongoing communication with and support from ILS, or more of a formal oversight relationship where ILS must approve curricula and individual service plans, etc. prior to implementation?

**Answer:** Centers are "expected to . . . collaborate and consult with this Office . . . on implementing the constitutional mandate introduced in *Padilla v. Kentucky*" (see page 2 of the RFP). The RFP does not specify a particular model for such collaboration and consultation, instead leaving Centers with flexibility to accomplish this task. In particular, Question #12 of the "Plan of Action" section of the RFP (see page 12 of the RFP) asks the applicant to describe how they would propose collaborating with this Office "in the analysis of regional trends, collection of data and development of best practices and attorney protocols for effective *Padilla* compliant representation."

**13. Question:** With respect to the requirement to provide periodic needs assessments (RFP – iii, page 5), will the regional center have the flexibility to customize a needs assessment for each target group (family attorneys, trial defenders, appellate defenders) and discretion with respect to frequency of needs assessments and follow-up assessments? Will ILS provide criteria?

**Answer:** Each Center is expected to develop a plan suitable for conducting periodic assessment of the needs of indigent legal service providers within each designated region that will ensure access to necessary training, competent legal advice and assistance in developing defense strategies to address the immigration consequences of a criminal conviction, family court disposition or post-conviction and/or appellate matter (see page 11 of the RFP). The RFP does not specify a particular model for conducting periodic assessments, instead leaving applicants with the flexibility needed to devise a plan that is best suited for their designated region.

- 14. Question:** With respect to the requirement that the regional center consult with the director of regional immigration initiatives before making hiring decisions (RFP – iii, page 5), what is contemplated? Relatedly, does ILS contemplate that immigration attorneys staffing the regional centers will have specific expertise in criminal-immigration law (as opposed to only general immigration law or only criminal law)? If attorneys providing Padilla trainings and consultations do not have extensive experience in criminal-immigration law, does ILS contemplate that they should be supervised or supported by criminal-immigration law experts?

**Answer:** Question #17 of the “Plan of Action” section of the RFP (see page 14 of the RFP) asks applicants to “identify the staffing and other resources necessary to support the successful implementation of this project.” The RFP does not contain specific staffing requirements, instead leaving Centers with the flexibility to propose a staffing structure that is best suited to ensure successful implementation of this RFP in their designated region. When hiring professional staff, Centers are expected to consult with the Director of Regional Initiatives.

- 15. Question:** In addition to offering training and support to mandated providers, can the regional center offer training and support to non-mandated providers who represent immigrants in family court, e.g. law school clinics and non-profit law offices with family law programs that are not appointed by the family court?

**Answer:** Funding under this grant may only be used to provide support to "indigent legal service providers" (i.e., as defined on page 2 of the RFP) within their responsibilities of providing effective and meaningful representation of persons who are legally entitled to counsel but cannot afford to hire an attorney as authorized pursuant to New York County Law Article 18-B.

- 16. Question:** Does ILS require the regional center to use a specific database system, or can the regional center and providers use the system of their choosing so long as they collect and report the required data?

**Answer:** Each Center is expected to have a plan for developing and maintaining a database suitable for tracking and monitoring required data as described in *Data Collection, Performance Measurement, and Evaluation* on pages 12-14 of the RFP. This RFP does not specify the type of database system that must be used by each Center nor does it require that a specific database system be utilized by indigent legal service providers within each region.