



Access to Justice Board Agenda

Friday, November 20, 2020 –10:00 AM to 11:30 AM

VIRTUAL MEETING ONLY

For video and audio: <https://wsba.zoom.us/j/92390583770?pwd=V01YOFcyVU1vTEd2bkRpdkgwOXhIQT09>

For audio only: **LOCAL OPTION:** (253) 215-8782 || **TOLL-FREE OPTION:** (888) 788-0099

Meeting ID: 923 9058 3770 || Passcode: 787600

Recognizing that access to the civil justice system is a fundamental right, the Access to Justice Board works to achieve equal access for those facing economic and other significant barriers.

4 min	Welcome and Introductions	Francis Adewale		
1 min	October Minutes	Francis Adewale	Action	pp 2-4
15 min	DSCo Recommendation: State Plan Extension	Michael Terasaki	Action	pp 5-6
15 min	Updates from Alliance Providers: Sexual Violence Law Center	Riddhi Mukhopadhyay	Report	
10 min	Liaison Reports	ATJ Board Members		
10 min	Equal Justice Coalition Update	Will Livesley-O’Neill	Report	
10 min	Funding Reports		Report	
	<ul style="list-style-type: none"> • Federal • Legal Foundation of WA • Campaign for Equal Justice • Office of Civil Legal Aid 	César Torres Caitlin Davis Melinda Mann See written update		pp 7-25
1 min	Other Updates and Announcements	All	Report	

ATJ Board Committee Schedules:

- Delivery System Committee – 1st Tuesday of the month at 3:30pm – 4pm. Next meeting December 1
- Technology Committee – 3rd Tuesday every other month at 12pm – 1:30pm. Next meeting December 15
- Rules Committee – 3rd Tuesday every other month at 12pm – 1pm. Next meeting January 19

The next ATJ Board meeting is on December 18, 2020



Access to Justice Board Meeting Minutes
October 23, 2020, 10:00 am – 11:30 am
VIRTUAL MEETING ONLY

Present: Sal Mungia, Esperanza Borboa, Michelle Lucas, Lindy Laurence, Mirya Munoz-Roach, Francis Adewale, Judge Fred Corbit, and Terry Price

WSBA Staff: Diana Singleton, Bonnie Sterken

Guests: Ken Henrikson, Nancy Hawkins, Jaime Cuevas, Jr, Merf Eham, Michael Terasaki, Kristin Parker, Chach Duarte White, Emily Van Yuga, Jennifer Ortega, Jim Bamberger, Claudia Johnson, Cindy Yeung, Abby Goldy, Omid Bagheri Garakani, Cesar Torres, Natalia Fior, Kirsten Barron, Janet Chung, Steven Marchese, Caitlin Davis, Melinda Mann

Minutes: The August minutes were approved without edits. The September minutes were approved without edits.

Racial Justice Action Planning Update: Espy and Laura presented the update on the project. The Board is working with Justlead and recruited folks from across the state to create an advisory group to discuss how we want to respond to addressing race equity, particularly in the current climate. The advisory group has met and includes stakeholders who are the most impacted by the legal system, including the criminal justice system and folks who work with communities who are most harmed. The Board has learned that the advisory group is not interested in just doing listening sessions, but they are interest in being a part of actions to change the justice system. The Board is trying to model how to work with community members and it's been a learning opportunity to see where we are weak and hold ourselves accountable to the community most harmed. More information will be coming from the Board as the project unfolds.

ATJ Conference Planning Update: Jaime Cuevas, Jr started with a land acknowledgment noting that he is on the Yakima Nations Reservation. Jr reported that the 2020 ATJ Conference will be entirely virtual. The first meeting of the planning committee was on October 15, which includes people from across the state. The planning committee has been divided into 10 different regions and representation is from each region. The planning committee is currently setting the monthly meetings, establishing subcommittees, and beginning to discuss the theme. They are still looking for representatives from the law schools and communities most effected by the justice system. Jr. addressed questions.

Eviction Prevention Services: Jim reported on the Court's Eviction Resolution Program. They are launching a program in 6 counties collaboration between housing justice projects, dispute resolution centers, the courts, etc. The goal is to divert cases from the courts and find solutions in the short term. The eviction moratorium is extended through the end of the year and the governor's workgroup is watching whether the moratorium should be extended beyond that. The pilot counties will issue a standing order. A Q/A

document was circulated to the Alliance listserv with more information. The rollout begins with a media strategy through AOC. Washington is one of two diversion programs in the nation. Jim addressed questions.

Michelle shared about existing representation on landlord tenant issues at the Tenant Law Center. They are seeing a lot of calls of uncertainty and folks asking what their rights are. They are fielding a lot of calls just on what is happening with the moratorium. They are also seeing lots of bad actions from landlords, using ways to make tenants want to move when they can't make payments. There is still a lot to do in the landlord tenant realm even with the moratorium. They are seeing an increase in unlawful detainer filings across the state. Jim thinks the revised moratorium provides more guidance and parameters, but issues persist.

Tenant Law Center Update: Michelle shared that a lot of cases they are seeing include evictions and working with folks in subsidized housing. Most of the cases include disability, reasonable accommodation, and criminal justice issues. Their main goal is to prevent homelessness and maintain housing stability. They have good working relationships with the housing authority and other housing agencies. The Tenant Law Center is also working with unhoused folks who are enrolled in rapid rehousing program in King County, helping them address the issues that are keeping them from being rehoused (many are legal barriers). They are working to get funding to continue those partnerships and support rapid rehousing. This is related to the pandemic since the moratorium is to prevent homelessness and to support people getting permanent housing. Michelle addressed questions.

JustLead Equity Toolkit 2.0: Omid presented about the REJI toolkit 2.0. Omid also gave his land acknowledgement on the land of the Duwamish and Coast Salish Tribes. The updated toolkit has more information on indigenous communities, settler/colonialism, and anti-blackness. The toolkit is a living document meant to be responsive to the Alliance community and REJI community. They are also trying to be responsive to the pandemic and racial uprising. Omid highlighted a few new frameworks: more explicit phases of organizational equity work; speaking to more personal work we need to do (target agent framework); and updates to the assessment itself based on past experience working with organizations. A new resource is cited in the toolkit about building legal and community partnerships. Omid also reported that in the update process they saw lots of REJI partners requesting to explore what updating the acknowledgment and commitments would look like to be responsive to the time. They are convening a REJI workgroup to explore what changes would look like and proposing those changes to REJI partners. Omid addressed questions.

Liaison Reports:

Terry reported that JISC and the CUWG had discussions on planned updates to the systems. Not having a unified court system makes systems challenging. JISC is talking about governance processes today. A list of approved projects includes e-filing. They need to discuss customer service for unrepresented litigants who might not have access to wifi or other technology. Terry brings up issues around technology obstacles for unrepresented litigants in these conversations.

Espy reported on the BJA meeting. The MJC and BJA will be working together on race equity project. Espy is seeing race equity becoming a key agenda item. And Innovative Justice Award has been created. More can be learned about it at http://www.courts.wa.gov/programs_orgs/pos_bja/?fa=pos_bja.innovatingAward.

Espy also shared about the Minority Justice Commission. The MJC is working on LFO issues, mass incarceration of girls of color, looking at legal workplaces, established a new subcommittee to create new resources on proposed legislation, and court equity in regards to reopening.

Fred attended the recent OCLA meeting. The meeting included further discussions of race equity and covid-19 emergency legal aid programs.

Francis reported on GR 9 efforts with the Interpreter Commission. They are working on a rule change that addresses instances when an interpreter is not able to attend proceedings in person during that pandemic.

Equal Justice Coalition Update: Will reported that the King County Council is engaged in a budget process and the EJC is focused on protecting those funds. The EJC will continue to hold monthly stakeholder check in calls until the end of the legislative session. They are planning to have a virtual lobby week following the week of the Goldmark instead of a lobby day.

Funding Reports:

State – Jim acknowledged he was on the land of the Nisqually. OCLA has submitted a \$11mil budget request for the next biennium, focused on carrying forward covid related civil legal aid activities. The majority will continue investments in unemployment, eviction, and foreclosure. They are also committed to maintaining contact and dialogue to ensure the investments are informed by the community of people closes to the ground.

LFW – Caitlin reported that the Covid-19 WA Immigrant Relief Fund has launched. In first 36 hours of launching website they received 40k hits. Caitlin sent a notice to the listserv directing folks to immigrantreliefwa.org for more information. Caitlin added that IOLTA revenue continues to be low and is predicted to remain low through 2023. They are seeking additional resources. Caitlin addressed questions.

Campaign: Melinda reported the fall is busy preparing for Goldmark, law firm campaigns are underway, the Rainier Cup competition is underway. The new associate's campaign has already raised 50% of its goal. The corporate counsel campaign has raised \$1.4 mil of its \$1.8 mil goal. The Endowment is about 5% away from its goal.

Federal: Will reported that the subcommittee responsible for LSC approved an increase requests. Others are asking for another \$50mil in addition to the \$50mil received from CARES act if there is another Cares Act.

Updates/Announcements: Pro Bono week starts next week. Francis noted that we are listing committee schedules on the agenda.

The meeting adjourned at 11:24am

To: Delivery Systems Committee of the ATJ Board

Re: Recommendations of the SPARC Group

October 6, 2020

The State Plan Action and Resource Committee (SPARC)'s purpose is to support implementation of the 2018-2020 State Plan for the Coordinated Delivery of Civil Legal Aid to Low Income People (the State Plan), including recommending updates, changes, and next steps towards the State Plan's goals of:

- 1) Race Equity,
- 2) Legal Education & Awareness,
- 3) Access of Underserved & Underrepresented Communities,
- 4) Holistic Client-Centered Services, and
- 5) Systemic Advocacy.

At the October 2, 2020 SPARC meeting, an assessment was made of the needs for adjustment and augmentation of the State Plan over the short-term (18 months) and the long-term (over the next several years). Per that discussion, SPARC provides the following two recommendations to the Delivery Systems Committee:

Recommendation regarding State Plan extension and development:

SPARC recommends the current State Plan be extended for another 18 months. The success of the State Plan has exceeded our expectations, and we acknowledge the remarkable efforts Alliance organizations have undertaken to further State Plan goals since 2018. However, we also note that much of the work begun or encouraged by the Plan, particularly in race equity, is ongoing, and momentum particularly over the past several months is continuing to increase. Renewed and continued endorsement of the State Plan by the ATJ Board will signal to organizations that continued efforts to promote race equity, holistic and client-centered approaches, and coordinated systemic advocacy fit into and are supported by Washington's legal aid framework.

At the same time, SPARC recognizes how drastically the environment continues to shift for providers and client communities due to the "Triple Pandemics" of COVID-19, virulent racism, and poverty exacerbated by the current economic downturn. SPARC recommends that over the next 18 months, the ATJ Board invest in developing a community-driven process to inform whatever fundamental updates and changes need to be made to the State Plan to remain responsive and relevant in this new reality that is significantly different than when the State Plan was initially created and adopted. Community input from stakeholders, including providers, community partners, clients, potential clients, etc., is the most useful way to evaluate if and how the goals of the current State Plan have been met and what additional steps are necessary moving forward. In doing so particular attention should be given to communities most harmed by the

Triple Pandemics and most affected by decisions made by the Alliance, including undocumented and tribal communities.

Sunsetting of the SPARC group, **but not** of the work of the State Plan:

SPARC recommends the work of the SPARC group be subsumed into a larger conversation at DSCo, the ATJ Race Equity Community Advisory Panel, and other venues. Accordingly, SPARC as a separate group can wind down, likely to be replaced by more focused, task-oriented groups following broader discussion. Many groups outside of SPARC are already actively engaged in conversations that move the ball forward towards the goals of the State Plan. By recommending that the discussion of carrying out and improving the State Plan be moved to a larger venue we do not suggest that the goals of the State Plan have been fulfilled or that there is no further work to be done. If anything, we suggest that a larger and more robust discussion is needed and that the tasks going forward of procuring and digesting community feedback are better suited to larger or multiple committees/groups. The State Plan has been successful and accomplished a great deal, and to continue forward momentum the work now needs to move out of SPARC and into a larger space.



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INTRODUCTION

The Office of Civil Legal Aid (OCLA) is an independent judicial branch agency established by the Legislature in 2005 to administer and oversee the delivery of state-funded civil legal aid services to eligible low-income people in Washington State. OCLA contracts with a statewide “qualified legal aid program,” the Northwest Justice Project (NJP), to provide direct and sub-contracted civil legal aid services to eligible low income clients on matters falling within the areas of authorized practice set forth in RCW 2.53.030(2). OCLA is required, among other things, to ensure that state-funded legal aid services are delivered “in a manner that maximizes geographic access throughout the state.” RCW 2.53.030(3).

In addition to basic civil legal aid services authorized by RCW 2.53.030, OCLA administers federal Victim of Crime Act (VOCA) funding to underwrite civil legal assistance to victims of crime throughout Washington State, pursuant to an interagency agreement with the Office of Crime Victims Advocacy in the state’s Department of Commerce.

Pursuant to RCW 2.53.045 and RCW 13.34.100(6), OCLA also contracts with attorneys and defender agencies to represent children who remain in foster care and subject to dependency proceedings six months following the termination of their parents’ legal rights. OCLA provides support and oversight to ensure the provision of standards-based, culturally competent legal representation to promote and protect the stated and legal interests of these children.

The Office of Civil Legal Aid is overseen by a bipartisan Civil Legal Aid Oversight Committee established and appointed pursuant to RCW 2.53.010. The Oversight Committee includes members appointed by both caucuses of the House and Senate, three representatives appointed by the Supreme Court (including a client-eligible member), two representatives appointed by the Board for Judicial Administration, a representative appointed by the Governor, and a representative appointed by the Washington State Bar Association. The Oversight Committee is chaired by Sarah Augustine, Director of the Dispute Resolution Center of Yakima and Kittitas Counties.

OCLA is staffed by an agency Director, a Children’s Representation Program Manager, a Civil Legal Aid to Crime Victims Program Manager and a full-time Senior Administrative Assistant. In June 2020, OCLA added a part time temporary staff person to manage the COVID-19 Unemployment Insurance Claimant Representation Program.

1. Basic Civil Legal Aid Program

OCLA published the 2015 Civil Legal Needs Study (2015 CLNS), which defined the scale of our state's challenge in real terms - more than seven in 10 low-income people experienced an important civil legal problem each year.¹ Yet, 76% of these people had no professional legal help to solve their problems.² Problems affect access to basic health and human services, family safety, access to and the ability to retain affordable housing, economic security, employment and freedom from economic exploitation, and a range of other issues that affect basic liberties and implicate core property rights. The study outlined a "snowball effect" of how low-income people who experience one civil legal problem on average experience nine such problems, most of which arise from a single problem or set of problems. Victims of domestic violence and sexual assault experience more problems across the entire spectrum problem areas and average about 18 problems per capita per year, most of which flow from their victimization.

The 2015 CLNS documented significant racial and other differentials in the experience of low-income people by race, immigration status, status as victims of domestic violence or sexual assault, youth, and disability. People who identify as African American or Native American experience substantial levels of discrimination and differential treatment due to their prior involvement in the juvenile or criminal justice systems and their credit history.

According to the CLSN, more than 50% of those who experience problems with a legal dimension do not understand that they could benefit from legal advice or assistance, and do not seek legal help to solve these problems. Even for those who do understand the need for legal help, most cannot obtain it because they do not have the funds, do not know where to go, and/or cannot get through to overwhelmed civil legal aid hotlines and community based legal aid providers. In the end, only 24% of those who experience one or more civil legal problems get any help at all.

The CLNS reported that low-income people have little confidence in their ability to solve problems fairly through the courts or the civil justice system. More than two-thirds of respondents said that they did not believe that people like them can effectively use the courts to protect themselves, their families, or to enforce their legal rights.

And this was all pre-pandemic.

Responding to the 2015 CLNS findings, the bipartisan Civil Legal Aid Oversight Committee adopted the 2016 Civil Justice Reinvestment Plan (2016 CJRP). The 2016 CJRP outlined a multi-biennial budget and policy agenda to increase the ability of low-income people to understand their legal problems, secure access to legal help, and develop tools to help them solve problems before they spiral out of control. The 2016 CJRP also established a baseline level of client service capacity that the state should attain to achieve equity of access for low-income people with significant legal

¹ Washington State Supreme Court Civil Legal Needs Study Update Committee, [Civil Legal Needs Study Update, Final Report](#) (October 2015).

² Discussion of the substance and prevalence of civil legal problems experienced by low-income people in this section is based on the findings of the 2015 Civil Legal Needs Study Update and related technical papers produced by Washington State University's Social and Economic Sciences Research Center (SESRC). Information relating to the 2015 CLNS Update is available at: <http://ocla.wa.gov/reports/>

problems. This “minimum access”³ baseline standard is 1 FTE attorney (or the equivalent of pro bono service) for every 5,000 people living at or below 125% of the federal poverty level (FPL). Between FY 2017 and FY 2021, the Legislature invested significant new funding to bring the statewide system to within 15% of the minimum access staffing level.

Three components make up the basic state-funded civil legal aid system in Washington: (a) the statewide full-range, full-service legal aid provider, Northwest Justice Project, (b) sixteen (16) dedicated volunteer attorney programs, and (c) four (4) specialized providers of civil legal assistance. Together, these programs provided services to eligible clients presenting state-eligible legal problems to more than 23,400 low-income households in FY 2020. Each of these components is discussed below.

The hub of the state-funded civil legal aid delivery system is the statewide Northwest Justice Project (NJP). Through its statewide legal aid hotline (CLEAR), and 21 regional and satellite offices, NJP staff attorneys and volunteers provide a full range of civil legal information, advice, assistance, and representation to low-income Washingtonians presenting state-eligible legal problems.⁴ In FY 2020, nearly 10,000 households throughout Washington state received critically needed civil legal assistance from NJP staff attorneys presenting state-eligible legal problems.

OCLA funding also supports a robust and effective system of volunteer attorney recruitment and engagement. In FY 2020, 16 local bar-sponsored (and often bar-operated) volunteer attorney programs engaged the services of thousands of private volunteer attorneys across Washington State who collectively delivered more than 22,000 hours of free legal help to more than 12,000 low-income residents eligible for state-funded civil legal aid services.⁵ At 2,000 hours per FTE attorney per year, this contribution represents the rough equivalent of 11 FTE civil legal aid attorneys.

Finally, investment in the four state-funded specialized providers of civil legal aid services that address needs of specific hard-to-serve client populations or on matters for which unique client service expertise or delivery approaches offers the most strategic response to civil legal problems in these areas.⁶ In FY 2020, 1100 individuals received legal information, advice, limited assistance, and representation from these programs on state-eligible legal matters.

2. COVID-19 Emergency Civil Legal Assistance

The COVID-19 emergency disproportionately affected low-income people, low-wage earners, and communities of color. Recognizing the waves of legal problems that would flow from the pandemic itself and its economic consequences, OCLA moved quickly to establish and secure funding for a comprehensive emergency, front-line civil legal aid response. With \$5.5M in state and federal disaster assistance OCLA looked to traditional and non-traditional partners to provide strategically targeted legal assistance statewide to individuals and households experiencing the first waves of COVID-19 related civil legal problems.

³ Minimum access was first embraced by the Board of Directors of the federal Legal Services Corporation (LSC) in 1975 to serve as the floor for federal investment in the newly created LSC. This figure was used to guide congressional appropriations from 1975-1980 (from \$75 million to \$300 million) by which time minimum access had been achieved. See, Erlich, *Giving Low-Income Americans Minimum Access to Legal Services*, 64 A.B.A.J. 696 (1978).

⁴ Authorized areas of state-funded legal assistance are set forth in RCW 2.53.030(2).

⁵ Eligibility for state-funded civil legal aid services is governed by [RCW 2.53.030](#).

⁶ These are TeamChild, the Seattle Community Law Center, the Unemployment Law Project and the Family Advocacy Program at Solid Ground.

By July 2020, targeted COVID-19 legal assistance became available to individuals and families adversely affected by the public health emergency and the corresponding economic crisis. Services are provided statewide to address issues relating to employment/unemployment insurance, shelter defense and homelessness prevention, individual and family safety, and economic security. OCLA's September Interim Report on COVID-19 emergency civil legal aid services is [here](#).⁷

3. Crime Victims Legal Representation

Beginning in FY 2017, OCLA assumed administration of a federally funded Integrated Civil Legal Aid to Crime Victims Program. Funding for this program originates from the federal Crime Victims Fund and is made available from the US Department of Justice in accordance with the federal [Victims of Crime Act \(VOCA\)](#). The Department of Commerce's Office of Crime Victims Advocacy (OCVA) is the lead agency assigned to administer VOCA funding. Pursuant to its 2015-2022 Victims of Crime Act State Plan,⁸ OCVA has continued direct VOCA funding for civil legal aid to crime victims through an interagency agreement with OCLA.

OCLA's updated statewide Civil Legal Aid to Crime Victims Plan (2019) defines the core purpose and principal guidelines and expectations of the program. The Legal Aid to Crime Victims Plan identifies the participating legal aid programs and the VOCA-funded staff positions and activities throughout the state. Under applicable federal guidelines, VOCA funding is limited to providing limited legal assistance to address the emergent civil legal problems faced by crime victims. Unlike eligibility for basic civil legal aid, eligibility for VOCA-funded services is not determined by income.

NJP provided VOCA-funded legal assistance to 2066 crime victims in FY 2020. Other OCLA-VOCA funded service providers assisted 1,724 crime victims during this same time.

4. Children's Legal Representation

At any given time, about 900 children remain in the dependency system six months following the termination of their parents' legal rights. Prior to establishment of the Children's Representation Program, these children were legally voiceless and unable to effectively promote their own interests in legal proceedings that could dictate every aspect of their future lives. The Legislature, in the enacted Laws of 2014, chapter 108, created a right to counsel at public expense for these children. Representation was to be provided consistent with legislatively endorsed practice, training, and caseload standards. RCW 13.34.100(6)(c)(i). Administration of this program was assigned to OCLA. *Id.*; RCW 2.53.045.

The object of the Children's Representation Program (CRP) is to facilitate timely and appropriate permanent placements that are consistent with the stated interests of their children and youth clients (where possible given age and capacity to understand) and their long-term well-being. The CRP contracts with private attorneys and a few defender agencies to deliver trauma-informed, [standards based](#), and culturally competent attorney representation for legally free children throughout Washington State who remain in the foster care system six months following termination of their

⁷ Unless extended, funding for these services expires June 30, 2021.

⁸ OCVA's State Plan can be found at <http://www.commerce.wa.gov/Documents/OCVA-VOCA-2015-2019-VOCA-State-Plan-FINAL.pdf>

parents' legal rights, with the goal of achieving early permanent placements consistent with the children's stated interests and relevant child well-being indicators.

STATUTORY AUTHORITY

RCW 2.53.030 outlines the substantive areas and related guidelines for operation of the basic state-funded civil legal aid program. Pursuant to RCW 2.53.020(3), the OCLA Director is to:

- (a) Contract with one or more qualified legal aid providers to provide civil legal aid services authorized by RCW [2.53.030](#);
- (b) Monitor and oversee the use of state funding to ensure compliance with this chapter;
- (c) Report quarterly to the civil legal aid oversight committee established in RCW [2.53.010](#) and the supreme court's access to justice board on the use of state funds for legal aid; and report biennially on the status of access to the civil justice system for low-income people eligible for state-funded legal aid; and
- (d) Submit a biennial budget request.

RCW 13.34.100(6) establishes the right to counsel at public expense for children who remain in a dependency proceeding six months following the termination of their parents' legal rights. RCW 13.34.100(6)(c)(i) and RCW 2.53.045 assign administration of the Children's Representation Program to OCLA.

AGENCY GOALS

OCLA works to achieve results in service of the following eight goals:

1. Funding: Secure funding necessary to meet the most important civil legal needs of low-income people as documented by the 2015 CLNS and emergency needs such as those created by the COVID-19 pandemic; continue and, where appropriate, expand funding for legal assistance to crime victims; secure sufficient funding to ensure ongoing, effective legal representation of legally free children.
2. Equity in the Design and Delivery of Civil Legal Aid Services: All OCLA programs are managed with an understanding that poverty disproportionately harms Black, brown, Indigenous and other people of color (BIPOC), that members of BIPOC communities experience disparate negative outcomes, and that the legal problems of BIPOC community members are experienced at significantly higher rates than those of the dominant cultural population. Other communities that disproportionately experience civil legal problems include individuals with disabilities, who identify as sexual and gender minorities, and immigrants. OCLA will ensure that equity considerations guide the identification of civil legal problems, development of client service delivery priorities and investment strategies, and prioritization of civil legal aid services to those who experience the greatest needs for and obstacles in accessing civil legal assistance.
3. Accountability: Ensure that state funding invested in civil legal aid delivery and infrastructure underwrites effective and economical service delivery that is consistent with applicable statutory and contractual requirements and, consistent with equity

considerations, is responsive to the most significant civil legal problems experienced by eligible low-income people within Washington State.

4. Critical Infrastructure and State Support: Provide financial and other support for efforts to establish and maintain necessary infrastructure and underwrite substantive law, legal skills, community engagement, and equity training for staff, contractors, and volunteers providing legal aid services to low-income people, victims of crime, and legally free children in the child welfare system.
5. Integration Within the Judicial Branch: Ensure that the effective and economical delivery of civil legal aid is institutionalized as an enduring responsibility and high priority of the Washington State judicial branch.
6. Oversight: Ensure effective, ongoing bipartisan oversight of the activities of the Office of Civil Legal Aid and the state-funded civil legal aid system, consistent with best practices and relevant professional standards for civil legal aid delivery.
7. Continuous Assessment and Reporting: Establish and/or support systems, data analytics, and other strategies that allow continued assessment of the social, economic and legal environment affecting low income residents and the capacity of the state-funded civil legal aid delivery system to address the civil legal needs of eligible low-income individuals and families; report and make recommendations on policies relating to the provision of state-funded civil legal aid in Washington State.
8. Agility and Responsiveness to Unforeseen Circumstances: Anticipate and position OCLA to assess and respond to unforeseen local or statewide circumstances that will result in direct, immediate, and urgent needs for civil legal assistance for affected individuals.
9. Effective, Standards-Based Representation of Legally Free Children: Develop and manage systems to monitor, oversee and effectively support standards-based representation of legally free children consistent with the directives set forth in RCW 13.34.100(2)(6).
10. Effective Legal Assistance to Victims of Crime: Implement the Statewide Civil Legal Aid to Crime Victims Plan in a manner that ensures timely, responsive legal services delivered in consultation and coordination with community-based providers of related professional services to victims of crime.

MAJOR STRATEGIES

To achieve its mission and goals the Office of Civil Legal Aid employs the following strategies:

- Establish concrete client service expectations with appropriate accountability benchmarks in all client service contracts..
- Coordinate closely with the Supreme Court’s Access to Justice Board and other key institutions to ensure the effective, efficient, and coordinated delivery of civil legal aid services in authorized areas of representation, consistent with the requirements of RCW 2.53, the ATJ Board’s 2018-2020 *State Plan for the Delivery of Civil Legal Aid*, Washington State’s Civil Equal Justice Performance Standards and other recognized national standards for delivery of civil legal aid.

- Conduct reviews of state-funded legal aid programs to ensure compliance with statutory, contractual, fiscal, equity, and service delivery expectations, requirements and limitations.
- Provide effective staff support for the bipartisan Civil Legal Aid Oversight Committee.
- Ensure that sufficient resources are invested in critical statewide capacities needed to achieve effective, efficient and consistent client service delivery, including professional skills, substantive law, and equity training; interpreter services; leadership development initiatives; regional delivery planning and coordination; case management; mapping/GIS; and other technology-based systems; etc.
- Ensure that the unmet civil legal needs of low-income people are considered and, where appropriate, incorporated into judicial and executive branch initiatives; coordinate with judicial branch partners in designing new and innovative programs that promote effective and equitable access to and the ability of unrepresented litigants to meaningfully participate in the judicial process.
- Monitor and report periodically on changes in the substance and frequency of civil legal problems experienced by low-income people in Washington State; including problems that flow from unanticipated emergencies such as the COVID-19 pandemic.
- Provide effective support and training for, and effective oversight of, attorneys appointed to represent legally free children, pursuant to RCW 13.34.100(2)(6).
- Develop and oversee an integrated system that delivers effective civil legal aid services in concert with other community-based professional service providers, to address problems that arise from criminal victimization and that will help victims of crime move beyond their victimization in ways that are consistent with their individual and family safety and well-being.

MEASURES

For the general civil legal aid program, OCLA conducts a biennial fiscal and regulatory review of NJP's operations, and conducts annual site visits to selected NJP regional field service offices. OCLA staff also participates in site visits of staff and volunteer legal aid providers that receive state-funded via subcontracts. These oversight activities are undertaken to ensure:

- Compliance with all statutory requirements set forth in RCW 2.53.030 and other governing statutes
- Equity-based focus in legal problem identification, establishment and execution of client service priorities and community-based efforts, and client service outcomes.
- Effective and efficient delivery of state-funded civil legal aid services in authorized areas of legal representation that are responsive to the needs of eligible clients, with emphasis on problems disproportionately experienced by members of discrete BIPOC and communities.
- Effective coordination of the delivery of civil legal aid services with other relevant legal, social and human services in communities throughout Washington State
- Provision of services consistent with national and state-based professional standards and best practices.⁹

The Office of Civil Legal Aid uses the following tools in evaluating the efficiency and effectiveness of state-funded civil legal aid service delivery:

⁹ The State Auditor's Office conducted an audit of OCLA's contract management and oversight activities and found them to be appropriate to the task. [SAO Report No. 1016878](#), June 9, 2016. No exceptions were noted.

- The requirements of RCW 2.53.030 and other relevant statutes
- The ATJ Board's *State Plan for the Delivery of Civil Legal Aid Services*
- The ATJ Board's *Standards for Civil Legal Aid in Washington State* (2009)
- The federal Legal Services Corporation's *Performance Criteria* (May 2007)
- The ABA's *Standards for the Delivery of Civil Legal Services to the Poor* (rev. August 2006)
- Relevant national and governmental standards for accounting and fiscal administration

In the area of children's legal representation in dependency cases, the OCLA has:

- Developed, and requires state-funded children's attorneys use, a web-based Case Activity, Reporting and Oversight System (CAROS) to monitor the performance of state-funded attorneys representing legally free children.
- Regularly provides other training, ongoing technical assistance and support, peer mentoring and other resources designed to ensure effective, standards-based legal representation.
- Conducts periodic performance reviews of contract attorneys.

In all areas of engagement, OCLA will develop greater capacity to define, track, and assess relevant indicators of impact and effectiveness, ensuring that all such indicators and the processes by which they are employed are informed by core equity considerations.

EXTERNAL ENVIRONMENT

In the present and for the foreseeable future, the COVID-19 emergency has and will continue to (a) drive substantial increases in the number of people living at or below the poverty level, (b) cause disproportionate levels of harm to low-wage and essential workers; newly un- and under-employed individuals; persons unable to remain current in rental and mortgage obligations and who face shelter dislocation and homelessness; victims of violence facing greater levels of risk and lethality; children and youth unable to access educational services; and so many others directly and indirectly affected by the emergency and the resulting economic calamity. These conditions have created and will perpetuate substantially increased need for critical civil legal assistance in every corner of the state.

STAFFING (4.25 FTE)

The Office of Civil Legal Aid is staffed by the agency Director, a Children's Representation Program Manager, a Civil Legal Aid to Crime Victims Program Manager, a full-time Senior Administrative Assistant, and a temporary .25 FTE COVID-19 Unemployment Insurance Program Manager. To maximize operational efficiency and minimize administrative expenses, OCLA contracts with the Administrative Office of the Courts for essential fiscal, budget and related support.

Through an interagency agreement, OCLA receives fiscal, HR, administrative, contract management, budget and other support from the Administrative Office of the Courts.

**Washington State Judicial Branch
2021 – 2023 Biennial Budget
Decision Package**

Agency: Office of Civil Legal Aid

Decision Package Title: Maintain COVID-19 Pandemic Legal Aid Services

Budget Period: FY 2022-2023

Budget Level: Policy

Agency Recommendation Summary Text: Funding is requested to continue front-line emergency civil legal aid services for individuals and families adversely affected by the COVID-19 pandemic.

Summary:

Operating Expenditures	FY 2022	FY 2023	FY 2024	FY 2025
Fund	\$5,440,000	\$5,000,000	\$3,000,000	\$3,000,000
Fund	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
Total Cost	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
Staffing	FY 2022	FY 2023	FY 2024	FY 2025
FTEs	1	1	1	1
Object of Expenditure	FY 2022	FY 2023	FY 2024	FY 2025
Obj. E	\$5,440,000	\$5,000,000	\$3,000,000	\$3,000,000
Obj. X	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Package Description:

From the very start, Governor Inslee, OFM leadership, state and local agency leads, and legislative leaders recognized the importance of making civil legal aid services available to individuals and families affected by the COVID-19 pandemic. By May 30th, \$3M in state Disaster Response Account and \$2.38M in federal Coronavirus Relief Funds (CARES Act) funding had been allocated to support emergency civil legal assistance in five core areas of impact: (a) unemployment insurance, (b) eviction and foreclosure defense, (c) family and individual safety, (d) employment, and (e) economic security. Of the \$2.38M in CARES Act funding, \$2.13M was allocated by OFM and \$250,000 in foreclosure assistance funding was made available through an interagency agreement between OCLA and the Department of Commerce. By mid-July, OCLA had executed all necessary contracts and launched the state’s comprehensive COVID-19 civil legal aid response.

The social, health, and economic impacts of the COVID-19 pandemic will not go away soon; they will long be felt by Washington residents – especially those that threaten basic legal rights and create or exacerbate pandemic-related civil legal problems. It is therefore critical to the health and safety of those most affected by the COVID-19 emergency – and to Washington state and local communities around the state -- to maintain support for these front-line emergency civil legal aid services. This decision package seeks \$11M in FY 2022-23 to (a) maintain, (b) allow for flexible adjustment of, (c) expand to include a dedicated foreclosure defense component, and (d) and begin to wind down COVID-19 related emergency civil legal aid services as the need for such services ebbs.

Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service. Please include current expenditure authority level and FTEs.

OCLA manages and oversees three core programs, two of which are state-funded and one of which is supported with federal Victims of Crime Act (VOCA) funds. Including a temporary .25% FTE managing the COVID-19 Unemployment Insurance Claimant Representation Program, OCLA has a total of 3.25 state-supported FTE's. One FTE is supported entirely with federal VOCA funds. Including the \$10M biennial VOCA funds, OCLA administers and oversees \$55.4M in state and federal funding during the FY 2019-21 biennium.

With DRA and federal CARES Act funding, OCLA stood up a comprehensive and coordinated emergency statewide response targeted on the most urgent and immediate civil legal problems experienced by individuals and families affected by the COVID-19 public health emergency, and the economic, health, housing, and related consequences of initial and continuing emergency orders. An outline of the services engaged, their focus, and the entities involved is set forth in the attached July 28, 2020 Interim Report (Attachment 1).

Decision Package expenditure, FTE and revenue assumptions, calculations and details: Clearly articulate the workload or assumptions used in calculating expenditure and revenue changes proposed.

Even assuming the development and prompt deployment of a safe vaccine sometime in 2021 and a gradual return of economic activity thereafter, COVID-19 related civil legal needs will continue well into the next biennium and beyond. A more detailed description of these needs with reference to supporting data sources is attached (Attachment 2).

Consequently, OCLA will maintain critically needed front-line legal aid services in the principal areas currently supported with one-time DRA and CARES Act funding. With the lifting of state and local moratoria on evictions and federal protections for homeowners unable to keep up with their mortgage payments, eviction¹ and foreclosure

¹ A portion of continued eviction defense services will be continued in FY 2022 through re-appropriation of \$568,000 in unspent FY 2020-21 funding previously appropriated for an eviction defense study that was

defense will remain priority areas of emergency legal aid focus. So, too, will unemployment insurance as many thousands of Washingtonians will continue to struggle with un- and under-employment and challenges navigating ESD's labyrinth-like review and adjudication systems. The pandemic-related increase in both the numbers and lethality of incidents of domestic violence and sexual assault will require sustained responses as well. In addition, many new types of problems will be experienced including those involving worker health and safety, employment and re-employment discrimination, health care, consumer debt collection and related problems, and a range of problems related to protecting income security for those newly finding themselves at or near the margins. Finally, national and state experts agree that over the near- and longer-term poverty rates will increase dramatically and with them, the need for full-range legal assistance in each of the priority areas outlined in the FY 2015 Civil Legal Needs Study.

As the legal problems that flow from the pandemic and its echoes change over time, so will the specific investments in legal aid capacity be required to change. Consequently, OCLA seeks funding that is dedicated to continuing COVID-19 related emergency legal assistance in ways that allow agile, flexible, and relevant responses informed by demand data and information received from community-based legal aid program staff involved in the direct delivery of these services.

Of the funds sought, OCLA will allocate \$750,000 each fiscal year to help capitalize capacity to provide emergency COVID-19 related foreclosure defense services not yet funded with federal and state emergency COVID-19 funds. This will allow the Northwest Justice Project to add 5 full-time dedicated attorneys to help address the anticipated flood of foreclosures that will result from the lifting of federal forbearance protections and the lack of any meaningful federal or state-funded foreclosure defense program.²

Consistent with the current emergency civil legal aid program, COVID-19 services delivered in FY 2022-23 will be targeted to address the needs of communities that experience disproportionate numbers of legal problems and correspondingly high levels of need for civil legal aid as a result of the pandemic – low-wage and “essential” (including immigrant) workers who more often than not lack health insurance, members of communities of color, urban and reservation-based Native Americans, and others most vulnerable to experiencing and least able to respond to COVID-19 related legal problems.

As noted above, OCLA has only 3.25 state-funded employees. While the initial COVID-19 emergency civil legal aid program was developed, contracted, and managed for the most part by the agency Director, this is not sustainable.³ OCLA must add one

terminated on legislative direction because the eviction moratoria effectively prevented evictions through the end of CY 2020. A separate decision package is submitted for this purpose.

² This will begin to address the critical shortfall in funding for civil legal aid services generated through the Foreclosure Fairness Account to meet the unprecedented number of Notices of Default that are forecasted by the industry to be issued in the spring of 2021.

³ The Legislature was advised during the FY 2020 session that, even before COVID-19, OCLA staffing placed the agency at high risk of failure and that additional executive leadership was needed. While the House budget

professional position to take over day-to-day administration and oversight of the COVID-19 emergency civil legal aid program.

Decision Package Justification and Impacts

How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?

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

Many of the pandemic related civil legal problems must be addressed in our courts. Among these are eviction, family law, domestic violence, sexual assault cases, debt collection, garnishment and related consumer cases. Civil legal aid is critical to their ability to protect their rights, their homes, their safety and fair treatment in the courts and just outcomes in their cases. In many other cases, timely and effective civil legal aid will help mitigate the problem from spiraling out of control in ways that drive other problems for which court intervention will be required.

Accessibility

Pandemic related legal problems disproportionately affect individuals and communities that experience a range of obstacles to accessing the courts. These include, but are not limited to, members of communities of color, LGBTQ+ individuals, LEP individuals, foster children and youth, individuals with physical and behavioral health challenges, and immigrants. The availability of culturally and linguistically competent civil legal aid facilitates access to and the fairness of treatment in our courts for these individuals.

Access to Necessary Representation

Since publication of the 2015 Civil Legal Needs Study, the Legislature, judicial branch, and other policy makers have increasingly recognized the need for a robust civil legal aid system to meet the justice needs of low-income people in Washington State. The COVID-19 emergency has brought the urgency of ensuring access to necessary representation into greater focus across the spectrum of pandemic-related legal problems. Absent continuing support for COVID-19 related legal assistance, many thousands of affected individuals will be forced to navigate the courts and court systems by themselves. Justice will be scarce; and public trust and confidence will fall precipitously as more and more people realize outcomes inconsistent with their legal rights on matters that affect their most basic needs.

Commitment to Effective Court Management

N/A

Appropriate Staffing and Support

N/A

What is the impact on other state agencies?

provided funding for a Deputy Director, the final budget did not. A letter to the Legislature from consultants engaged by OCLA to review the agency's staffing situation and outlining their concerns is attached.

Every day OCLA-funded legal aid attorneys are engaged with and help promote core state policies being advanced by state and local agencies. From ensuring that unemployment decisions are based on sound grounds and individuals timely receive their benefits to ensuring accountability of schools to their duties to meet the educational needs of children and youth, to helping individuals access state and federal disability and income assistance, to working with law enforcement agencies to protect the safety and security of domestic violence and sexual assault victims, civil legal aid programs, staff, and volunteers complement core state and local objectives and ensure accountability of the agencies entrusted to deliver on them.

Absent continuation of COVID-19 emergency legal aid funding, many thousands of individuals and families will be wrongly evicted; thousands of homeowners will wrongly be foreclosed upon; debt collectors will prey on those unable to pay health care, consumer, and other debts, and wrongly garnish what few wages they receive; and so many more will find themselves on the brink of homelessness and economic calamity – all because of a small, unseen virus. This in turn will increase demand on overtaxed and under-capitalized homeless prevention programs, staff, and volunteers; and increase demand for state income, housing, health care, and food assistance.

State and local agencies look to civil legal aid programs, staff, and volunteers as the front-line defense to these negative outcomes and protection against unnecessary demands on their already under-funded services.

What is the impact to the Capital Budget?

NA

Is change required to existing statutes, Court rules or contracts?

No

Is the request related to or a result of litigation?

No

What alternatives were explored by the agency and why was this option chosen?

From the start of the pandemic, OCLA diligently identified and pursued all available sources of COVID-19 emergency assistance. We were able to secure both state and federal emergency support to make front-line legal aid available to individuals and families with COVID-19 related or caused civil legal problems. We will continue to monitor the federal response to the pandemic and pursue every source of federal support that becomes available, with the goal of reducing demands on the state general fund during this unprecedented economic and fiscal emergency.

What are the consequences of not funding this request?

Failure to fund this decision package will effectively terminate the COVID-19 emergency civil legal aid program. As noted above, this will result in direct and immediate negative consequences to thousands of individuals and families across the state – the majority of whom have never needed publicly funded help in the past and who, for the first time, are reaching out in a moment of dire need. For these people, civil legal aid services is a lifeline, helping carry them from the urgency and fears in their moment of life and legal

crisis to a more stable situation as the most dire impacts of the pandemic-driven crisis recede. Taking away this lifeline serves no affirmative public purpose.

How has or can the agency address the issue or need in its current appropriation level?

Despite recent gains, current levels of civil legal aid capacity remain below the “minimum access” level established by the 2016 Civil Justice Reinvestment Plan and embraced by the Legislature over the past four years. This level was never designed to address the succession of waves of new and exacerbated civil legal needs caused by the COVID-19 pandemic. Continuation of emergency funding is critical to the civil legal aid system’s continuing capacity to meet the emergency needs funded initially with state DRA and federal CARES Act support.

Other supporting materials: Please attach or reference any other supporting materials or information that will further help explain this request.

Documents attached: (a) Interim Report on Emergency COVID-19 Legal Aid Response, and (b) Outline of high priority COVID-19 related civil legal needs, (c) 2-28-2020 letter from Marcella Fleming Reed and Lori Homer re: OCLA agency staffing capacity.

DRAFT

Information technology: Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

- No
- Yes

DRAFT

**Washington State Judicial Branch
2021 – 2023 Biennial Budget
Decision Package**

Agency: Office of Civil Legal Aid

Decision Package Title: Re-Appropriate and Re-Purpose Eviction Representation Study Funding

Budget Period: FY 2022

Budget Level: Policy

Agency Recommendation Summary Text: Funding previously appropriated for a comparative eviction representation study is re-appropriated for the purpose of providing expanded eviction defense services in FY 2022.

Summary:

Operating Expenditures	FY 2022	FY 2023	FY 2024	FY 2025
Fund	\$568,000	0	0	0
Fund	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
Total Cost	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.	\$Click here to enter text.
Staffing	FY 2022	FY 2023	FY 2024	FY 2025
FTEs	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Object of Expenditure	FY 2022	FY 2023	FY 2024	FY 2025
Obj. E	\$568,000	0	0	0
Obj. X	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Package Description:

On the recommendation of Senate and House policy leads, the Office of Civil Legal Aid asks that unexpended appropriations for the eviction legal representation study authorized in sec. 117(9), Ch. 415, Laws of 2019 (the FY 2019 – 2021 operating budget be re-appropriated are targeted for use exclusively to expand eviction defense services following the termination of relevant state and federal eviction moratoria.

As noted above, the Legislature appropriated funds in the FY 2019-21 operating budget for a research-based controlled comparative study of the differences in outcomes for

tenants facing eviction who receive legal representation and tenants facing eviction without legal representation in unlawful detainer cases. OCLA engaged the researchers at the University of Washington's Evans School of Public Policy and Governance to conduct the study in four counties. Protocols were developed, agreements reached with each of the study counties, contracts with attorneys signed, and the study officially commenced in January 2020.

The COVID-19 pandemic hit in February. Shortly thereafter, eviction moratoria were enacted and extended, and the courts ceased hearing eviction cases. On recommendation of the research team, the Eviction Representation Study Advisory Committee suspended the study through May 31st. By then the entire context for the study had changed. The eviction moratoria had been extended and there was limited prospect that courts would be hearing eviction cases until well into the fall at the earliest. At the same time OFM had allocated one-time funding to OCLA for the purpose of providing emergency eviction defense services to individuals facing eviction due to non-payment of rent. Consequently, on direction of the legislative sponsors of the study proviso – Sen. Patty Kuderer and Rep. Nicole Macri – the study was discontinued.

Of the \$625,000 appropriated for the study, only \$57,000 was spent before the study was terminated, leaving \$568,000 available for re-appropriation to help continue emergency eviction defense services into FY 2022.

Funding of this decision package will effectively reduce the amount of new (not previously appropriated funding) to continue emergency COVID-19 related eviction defense services into the FY 2022-23 biennium.

Current Level of Effort: If the proposal is an expansion or alteration of a current program or service, provide information on the current level of resources devoted to the program or service. Please include current expenditure authority level and FTEs.

Re-appropriation these funds for eviction defense services in FY 2022 will help ensure continuity of eviction defense services beyond FY 2021 when current emergency COVID-19 expenditure authority expires.

Decision Package expenditure, FTE and revenue assumptions, calculations and details: Clearly articulate the workload or assumptions used in calculating expenditure and revenue changes proposed.

Funding will be dedicated to continuing contracted eviction defense services in FY 2022 with emphasis on remote and rural renters not currently served by the ten Housing Justice Projects funded with COVID-19 emergency funds. This decision package complements and should be read in tandem with OCLA's decision package to maintain emergency COVID-19 civil legal aid services – including eviction defense services -- in FY 2022-23.

Decision Package Justification and Impacts

How does this package contribute to the Judicial Branch Principal Policy Objectives identified below?

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

Civil legal representation of tenants facing eviction will provide a level playing field and ensure their ability to have their cases heard on the merits.

Accessibility

Continued eviction defense legal assistance will help ensure that residents of rural communities and others with significant cultural, language, and geographic barriers will continue to be assisted after expiration of emergency COVID-19 expenditure authority on June 30, 2021. Re-appropriation of these funds will enhance accessibility and availability of services to these tenants.

Access to Necessary Representation

Funding will support continued access to civil legal representation for many people who, in the early part of FY 2022, will be facing eviction due to non-payment of rent.

Commitment to Effective Court Management

N/A

Appropriate Staffing and Support

N/A

What is the impact on other state agencies?

N/A

What is the impact to the Capital Budget?

N/A

Is change required to existing statutes, Court rules or contracts?

No

Is the request related to or a result of litigation?

No

What alternatives were explored by the agency and why was this option chosen?

This request is submitted on recommendation of the majority party policy leads in both the House and Senate. The alternative is for unexpended study funding to revert back to the state treasury. Funding of this decision package will reduce the need to appropriate new funding to continue emergency COVID-19 civil legal aid services in FY 2022 by \$568,000.

What are the consequences of not funding this request?

There will be less legal assistance available for tenants at a time when demand will skyrocket due to the termination of federal and state eviction moratoria.

How has or can the agency address the issue or need in its current appropriation level?

N/A

Other supporting materials: Please attach or reference any other supporting materials or information that will further help explain this request.

N/A

Information technology: Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

- No
- Yes