

George Latimer  
County Executive

Office of the County Attorney

John M. Nonna  
County Attorney

70791

TO: Honorable Board of Acquisition and Contract

FROM: John M. Nonna  
County Attorney

DATE: July 18, 2019

RE: Resolution authorizing the County of Westchester to enter into a grant agreement for a Statewide Expansion of Hurrell-Harring Reform grant (Contract No. CSTWIDEHH51) (the "Grant") with the New York State Office of Indigent Legal Services for the receipt of \$7,823,701.65 to improve the quality of mandated indigent legal services for the period April 1, 2019 through March 31, 2023 and to enter into an agreement with the Legal Aid Society of Westchester County for the same period to implement the work plan under the Grant to improve the quality of mandated indigent legal services in an amount not to exceed \$7,823,701.65.

Article 18-B of the County Law requires each County in New York State to establish a plan for providing counsel to certain indigent persons. Such a plan may be established by agreement with a legal aid society and/or bar association. The Legal Aid Society of Westchester County ("Legal Aid Society") and the Westchester County Bar Association have been providing these services for many years pursuant to agreements with the County.

In 2017, Governor Cuomo signed Chapter 59 Laws of 2017, Part VVV Sections 11-13 whereby New York State (the "State") committed to expanding the Hurrell-Harring<sup>1</sup> settlement improvements for mandated criminal representation of indigent clients to the entire State. This Statewide expansion required counties to provide contract proposals to the New York State Office of Indigent Legal Services ("OILS") for the following three areas: 1) Counsel At Arraignment; 2) Quality Improvement; and 3) Caseload Relief. The County, with the assistance of the Legal Aid Society, submitted proposals for these three areas to OILS.

OILS has notified the County that it has approved its proposals and has issued a grant agreement for this Statewide Expansion of Hurrell-Harring Reform grant (the "Grant") for the period April 1, 2019 through

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<sup>1</sup> Hurrell-Harring v. State of New York, 2014 Slip Op. 05010, decided 7/3/14, Appellate Division 3<sup>rd</sup> Department.

March 31, 2023 for a total amount of \$7,823,701.65 (the "Grant Agreement"). The Grant Agreement contains a line item budget and work plan for only the first year of the Grant Agreement. For the remaining four years, a line item budget and work plan will be developed for that respective year. It should be noted that this Grant is a reimbursement grant wherein there will be quarterly reimbursements made within thirty (30) days from the end of each Grant Agreement quarter.

The annexed resolution authorizes the County to enter into the Grant Agreement with OILS for the receipt of the grant funds. These additional funds provided by OILS can only be used to supplement and not supplant any local funds which the County would otherwise have had to expend for the provision of mandated indigent legal services. The attached resolution also authorizes the County to enter into an agreement with the Legal Aid Society to implement the work plan in connection with the Grant Agreement.

There are three objectives that are the focus of this Grant: 1) to ensure all eligible criminal defendants are represented by counsel at arraignment, provided that timely arraignment with counsel is not delayed pending a determination of a defendant's eligibility; 2) full compliance with the caseload standards issued by OILS; and 3) implement initiatives to improve the quality of indigent defense such that attorneys receive effective supervision and training, have access to and appropriately utilize investigators, interpreters and expert witnesses on behalf of clients, communicate effectively with their clients, have the necessary qualifications and experience, and, in the case of assigned counsel attorneys, are assigned to cases in accordance with article 18-b of the county law in a manner that accounts for the attorney's level of experience and caseload/workload.

The agreements with OILS and the Legal Aid Society will serve a public purpose in that they will enable the County to improve its effectiveness in providing counsel to indigent persons. The goals and objectives of both agreements are to ensure that effective counsel is provided in a cost efficient manner. The cost effectiveness of the Legal Aid Society's performance under its agreement with the County is reviewed annually during the budget request process by the Budget Department. Further, contained in the Grant Agreement are performance measures required by OILS that the Legal Aid Society will need to satisfy.

The agreement with OILS is exempt from the County's procurement policy pursuant to Section 3(a)iii thereof. The agreement with the Legal Aid Society is exempt from the procurement policy pursuant to Section 3(a)xiv. No County funds will be expended for these agreements.

I certify that my department a) has copies of, or access to, all applicable laws, rules, regulations, grant applications, and grant agreements (including any master grant agreement), as well as any guidance or instructions received from the agency making the grant (the "Grant Terms"), b) has reviewed the Grant terms, c) is aware of and understands all of the Grant Terms, and d) can and will comply with all of the Grant Terms.

Accordingly, approval of the attached resolution is recommended.

JMN/lac  
Attachment

**RESOLUTION**

Upon a communication from the County Attorney, be it

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to enter into a grant agreement with New York State Office of Indigent Legal Services for the Statewide Expansion of Hurrell-Harring grant (Contract No. CSTWIDEHH51 ) (the "Grant Agreement") for the receipt of \$7,823,701.65, on a quarterly reimbursement basis, to improve the quality of mandated indigent legal services for the period April 1, 2019 to March 31, 2023; and be it further

**RESOLVED**, that the County is hereby authorized to enter into an agreement with the Legal Aid Society of Westchester to implement the County work plan pursuant to the Grant Agreement in an amount not to exceed \$7,823,701.65 for the period of April 1, 2019 through March 31, 2023, payable pursuant to an approved budget; and be it further

**RESOLVED**, that the County Executive, or his duly authorized designee, is empowered to execute all documents necessary to effectuate the purposes thereof.

Account to be Charged/credited 2019-2023	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	101	52	2085	5100		\$7,823,701.65

Budget Funding Year(s) 2019-2023 Start Date April 1, 2019 End Date March 31, 2023  
(must match resolution)

Funding Source Tax Dollars \_\_\_\_\_  
 State Aid 100% \_\_\_\_\_  
\$7,823,701.65 Federal Aid \_\_\_\_\_  
 (must match resolution) Other \_\_\_\_\_