

Final Questions and Answers
Second Counsel at First Appearance Grant
February 6, 2017

Question #1: County "A's" contract for Counsel at First Appearance ended 5/31/16. There was insufficient funds to cover our Night-time arraignment attorneys. We requested an extension to fund our program through 5/31/17. There was insufficient funds to cover our Night-time arraignment attorneys as well. Is it possible to request funding through this RFP for the period beginning 6/1/16, rather than 6/1/17?

Answer #1: Subject to the final approval of the Office of the State Comptroller, we expect the term of the three-year contract for this Second Counsel at First Appearance grant to run from January 1, 2017 until December 31, 2019, with extensions available, as needed.

Question #2: Would we be able to submit requests for funds pursuant to the grant proposal to be utilized for the fit up of a room within a County owned building, and said room to be used for off hour arraignments?

Answer #2: Page 4 of the Second Counsel at First Appearance RFP provides, "Funding of this proposal is limited to the *provision* of Article 18-B *services*." (emphasis added) A funding request to renovate space, even though the space would be used to conduct off hour arraignments, would not be within the purview of this grant.

Question #3: The timing of this RFP is unavoidably in conflict with the recent legislation lifting jurisdictional limitations on Justice Court arraignments. Our local magistrates have been tasked with creating a plan with our input, however any such plan will not be created here in County "A" for many weeks if not months, and will still have to be approved by the OCA. At this time it is difficult if not impossible to know how best to propose staffing or a plan through this RFP that will effectively work together with a Justice Court plan that does not yet exist. How much flexibility in implementation can be expected if we do our best to create a reasonable plan that later has to be modified in some way in order to accommodate any Justice Court plan that is created?

Answer #3: Yes, the timing of the release of the second Counsel at First Appearance RFP vis-à-vis the enactment of the new OCA off-hour arraignment parts legislation is not ideal, but, as noted, was unavoidable because funding under the first Counsel at First Appearance grant for many counties is coming to an end. Our intention is to be very flexible in amending budgets and work plans of contracts awarded under this grant to accommodate centralized arraignment plans that are developed at a later date per the new OCA legislation.

Question #4: At the top of page 4 of the funding announcement for the second counsel at first appearance grant it states "Proposals that rely for their implementation on statutory changes concerning arraignment procedures or jurisdiction will not be funded." My grant proposal involves the implementation of an after-hours arraignment part that will start on February, 27, 2017 once the enabling legislation goes into effect on February 26, 2017. It is my reading of the quote on the top of page 4 (See above) refers to future statutory changes and not current statutory changes. Am I correct in the reading of the sentence above at page 4?

Answer #4: Yes, the language on the top of page 4 refers to statutory changes needed to implement a proposal where the statutory changes have not been enacted into law. In the case of the OCA off-hours arraignment parts legislation referred to in the question, this legislation was enacted into law on November 28, 2016 (Chapter 492 of the Laws of 2016). The effective date of this legislation is 90 days after enactment, or February 26, 2017, at which time the Chief Administrator of the Courts is authorized to adopt plans for establishing off-hour arraignment parts to “facilitate the availability of public defender or assigned counsel for defendants in need of legal representation at such proceedings.”

Question #5: If a full time position is requested as part of this grant proposal, is it acceptable that the attorney’s responsibilities are broken down to include, for example, roughly 75% CAFA obligations, and 25% direct representation of clients in other ways vital to the office?

Answer #5: Page 2 of the Second Counsel at First Appearance RFP provides, “The grants will serve to provide effective representation of indigent persons at their first appearance before a judge and promote the *continuous representation* of such persons.” (emphasis added) To the extent that the responsibilities of an attorney providing CAFA obligations under this grant involve providing continuous representation to such clients, the representation is within the purview of the grant proposal.

Question #6: We have a meeting with stakeholders for centralized arraignments scheduled 2/3/2017, we would like to request an extension to the Q & A period. We will have more of an idea as to the expenditure items we may need after the meeting and any questions that we may have for our grant proposal.

Answer #6: We are unable to extend the Q&A period.

Question #7: I'm director of County “A’s” Conflict Defender. We represent indigent defendants when the primary provider has a conflict, for example, when two defendants are arrested. Is this the concept for "Second Counsel at First Appearance"? In other words, does this RFP contemplate the situation in which the Conflict Defender (or the Public Defender, where applicable) has a conflict which prevents its attorney from representing someone at his first appearance before a judge?

Answer #7: The reference to “Second” in the title of the RFP refers to fact that this is the second RFP we have issued related to providing Counsel at First Appearance. It is not related to the distinction between primary and conflict representation.