

# New York State Office of Indigent Legal Services

## *Funding Announcement*

### **Regional Immigration Assistance Centers**

#### **NYS Office of Indigent Legal Services Request for Proposals**

The Office of Indigent Legal Services (Office) and its nine-member Indigent Legal Services Board (Board) were created by legislation enacted in 2010, found in Executive Law Article 30, sections 832 and 833. As part of its statutory mission “to monitor, study and make efforts to improve the quality of services provided pursuant to Article 18-B of the county law,” the Office, operating under the discretion of and pursuant to policies established by the Board, assists county governments in the exercise of their responsibility to provide effective and meaningful representation of persons who are legally entitled to counsel but cannot afford to hire an attorney. The assistance provided by the Office and Board includes distributing state funds and targeting grants to counties in support of innovative and cost-effective solutions to enhance the quality of indigent legal services.

#### **Timelines for This Request for Proposals**

<b>RFP Release Date</b>	<b>Tuesday, September 23, 2014</b>
<b>Questions Due By</b>	<b>Wednesday, October 22, 2014</b>
<b>Questions Posted By</b>	<b>Wednesday, October 29, 2014</b>
<b>Proposal Due Date</b>	<b>Wednesday, November 19, 2014, 5:00 p.m. EDT</b>
<b>Award Announcement</b>	<b>December 2014</b>
<b>Tentative Contract Start Date</b>	<b>January 2015</b>

#### **Intent of this Request for Proposals**

*The New York State Office of Indigent Legal Services (Office) is announcing the availability of funds and soliciting proposals from counties to support the development of a network of Regional Immigration Assistance Centers (“Centers” or “Center”).*

The intent of this Request for Proposals (RFP) is to support regional initiatives aimed at improving the quality of indigent legal services. Ensuring the right to effective representation of counsel is essential to establishing an efficient and effective justice system. This RFP provides funding to support the development of a network of Regional Immigration Assistance Centers. Each Center will be responsible for ensuring that providers of indigent legal services within each designated region have access to the training and legal support necessary to provide competent advice to a noncitizen client as to potential immigration consequences of a criminal conviction in compliance with legal obligations established by the Supreme Court in *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010).<sup>1</sup> Furthermore, this initiative provides training and legal support needed by counsel representing a parent or other adult in a mandated family court matter to competently advise such clients on immigration issues that may impact their parental rights.

Each Center is expected to serve the providers within each county in its designated region and to collaborate and consult with this Office and other Centers across the state on implementing the constitutional mandate introduced in *Padilla v. Kentucky*.<sup>2</sup> Collaboration among counties within a region is strongly encouraged. ***Proposals should present a regional model capable of providing immigration training and legal support to serve indigent legal service providers (i.e., "providers" consist of systems of public defenders, legal aid attorneys, conflict defenders and 18-B assigned counsel who provide mandated representation under County Law Article 18-B) in each county of a designated region.***

## **Background**

Removal of noncitizens from the United States due to criminal convictions has significantly risen in recent years due to changes in U.S. immigration law and a substantial increase in immigration enforcement.<sup>3</sup> Under current immigration laws, a noncitizen may be deported for a wide array of crimes, including most drug offenses, "aggravated felonies," and domestic violence crimes.<sup>4</sup> Even convictions for minor offenses and violations can have disastrous and irrevocable consequences for a noncitizen client despite dispositions that may appear innocuous or even favorable in terms of the penalty imposed. Indeed, deportation and removal of a noncitizen client from the United States may be "practically inevitable" if convicted of a particular crime.<sup>5</sup>

Consequently, in March 2010, the Supreme Court dramatically changed the landscape of providing criminal defense representation to noncitizen clients when it concluded in *Padilla* that the "particularly severe 'penalty'" of deportation was so "intimately related to the criminal process" as to require defense counsel to advise noncitizen clients of the potential immigration consequences that may result from a guilty plea.<sup>6</sup> In so holding, the Court recognized that "deportation is an integral part – indeed sometimes the most important part – of the penalty that may be imposed on noncitizen defendants who plead guilty to specific crimes."<sup>7</sup> Because

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<sup>1</sup> *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010).

<sup>2</sup> *Id.*

<sup>3</sup> See Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 3009 (1996).

<sup>4</sup> See 8 USC §§ 1101(a)(43); 1227(a)(2).

<sup>5</sup> *Padilla v. Kentucky*, 130 S.Ct. 1473, 1480 (2010)

<sup>6</sup> *Padilla v. Kentucky*, 130 S.Ct. at 1482.

<sup>7</sup> *Id.* at 1480.

deportation is so closely related to the criminal process and carries such high stakes for noncitizen defendants, “the importance of accurate legal advice for noncitizens accused of crimes has never been more important” to providing effective representation.<sup>8</sup>

This Office recognizes that the vast majority of indigent legal service providers in New York face significant challenges in providing mandated quality representation to noncitizen clients. Similar challenges are encountered when representing noncitizens in family court proceedings whose immigration status may directly impact such life-altering decisions as custody, visitation, adoption, and termination of parental rights. This reality places unique ethical obligations and professional demands on indigent legal service providers who must now understand the impact of U.S. immigration laws in order to ensure that they are providing the “effective assistance of competent counsel” to which every client is entitled.<sup>9</sup>

The regional Immigration Assistance Centers supported by this grant will help to ensure that each county has the ability to deliver effective mandated representation that is in constitutional compliance with *Padilla*.

### **i. The Problem**

New York is one of the four states where more than half of the country’s immigrant population resides. Noncitizens make up an estimated 22 percent (i.e., 4.3 million) of the State’s overall population. New York is also home to the second highest percentage of lawful permanent residents, (i.e., green card holders) in the country.<sup>10</sup> This foreign born population is spread throughout the State and includes recently resettled refugees who, once granted humanitarian protection within the United States, populate a number of rural Upstate New York communities. These recently resettled refugees, along with longtime permanent residents, may be at risk of deportation following a negative encounter with the criminal justice system.

This Office recognizes that most indigent legal service providers lack the immigration expertise, resources, specialized training, access to language services, and legal support necessary to adequately serve the needs of noncitizen clients – a fact earlier recognized by the Commission on the Future of Indigent Defense Services (the “Kaye Commission”).<sup>11</sup> Challenges facing indigent legal service providers also stem from the myriad of complex and ever-changing immigration laws and enforcement policies that can impact the direction and outcome of a noncitizen client’s criminal or family court proceeding. Efforts by the U.S. Department of Homeland Security (DHS) to identify noncitizens during the early stage of an arrest may influence defense strategies and outcomes at each stage of a criminal proceeding – from the opportunity to be released on bail, to the ability to accept certain plea agreements and/or sentencing options.<sup>12</sup> Therefore, effective mandated representation of a client may depend upon counsel’s ability to identify a client’s immigration status and to understand how that status may impact each stage of the client’s court proceeding.

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<sup>8</sup> *Id.* at 1478 (quoting *Fong Haw Tan v. Phelan*, 333 U.S. 6, 10 (1948)).

<sup>9</sup> See *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970).

<sup>10</sup> American Community Survey Reports: *The Foreign Born Population in the United States: 2010*; U.S. Census Bureau (2012) available at <http://www.census.gov/prod/2012pubs/acs-19.pdf>.

<sup>11</sup> *Final Report of the Commission on the Future of Indigent Defense Services* (2006) at 24-25.

<sup>12</sup> Of the 409,849 individuals removed from the United States in 2011-12, 55 % (i.e., 225,390) were apprehended following an arrest, often involving relatively minor offenses. See DHS ICE, *Secure Communities Monthly Statistics* (2013) available at [http://www.ice.gov/doclib/foia/sc-stats/nationwide\\_interop\\_stats-fy2013-to-date.pdf](http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2013-to-date.pdf).

A county's inability to meet the minimum constitutional requirements of providing effective assistance of counsel harms not only the noncitizen client, but also that individual's family member(s). Noncitizens are frequently separated from their family members because they are denied release on bail or detained by immigration authorities during or subsequent to a criminal or family court proceeding. The impact of immigration enforcement consequences often falls hardest on the children of noncitizens.<sup>13</sup> Separating a child from a parent may not only be a devastating experience in a child's development, but could also result in an increased number of child placements within the foster care system at a cost of approximately \$55,000 per year, per child.<sup>14</sup> Ensuring early and effective assignment of counsel for a noncitizen client in a criminal or family court proceeding could help to protect against any unnecessary separation of family members.

The complexity of immigration challenges that face most noncitizen clients dramatically expands the need for the defender community and the courts to address the complicated interplay of immigration status, culture, language, and the need to provide effective mandated representation. This RFP is intended to assist indigent legal service providers in shouldering that burden.

## ii. **The Solution – Developing Regional Immigration Assistance Centers**

Currently, over 140 organizations are functioning as indigent legal service providers throughout New York's 62 counties. Considering the geographic size of the state and the diversity of the public defense system in New York State, this RFP will allow for a variety of methods to implement immigration service plans that include legal support, a curriculum of immigration training, and assistance in the development of attorney protocol/procedures. The goal is to ensure an approach to providing quality mandated representation to noncitizen clients by every provider in each county located within the regions identified below.

***Project Description – What is this RFP Seeking to Achieve?*** With this RFP, the Office is seeking proposals for the development of regional Centers to provide immigration legal assistance and trainings to improve the overall quality of mandated representation afforded to noncitizen clients. In addition, this RFP is intended to support efforts to develop in-house expertise, best practices, and effective attorney protocol (i.e., screening and intake procedures, etc.) that will ensure *Padilla*-compliant representation. County governments are encouraged to consult with other county governments and indigent legal services providers within their region and to submit proposals that incorporate prevailing professional norms and best practices for representing noncitizen clients in both criminal and family court proceedings.

The aim of this RFP is to make sure that each indigent legal service provider has an immigration service plan that provides a systematic approach to representing noncitizen clients.

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<sup>13</sup> Almost one-fourth of children and youth in the United States are either immigrants or children of immigrants. In New York State, almost one in every three children of immigrant families live with one or more undocumented parent. Eight out of 10 of these children have noncitizen parents. See Capps, R., Passel, J.S., *Describing Immigrant Communities*, The Urban Institute (2004).

<sup>14</sup> "Overall costs of foster care (\$1,376,000,000) divided by the total number of children in foster care (24,541) = 55,060 per year." Kinship Care in New York: Keeping Families Together New York State," Kinship Coalition March 2011 available at [http://www.nvsnavigator.org/documents/AARP\\_KitcareKeepingFamilies10.pdf](http://www.nvsnavigator.org/documents/AARP_KitcareKeepingFamilies10.pdf).

An immigration service plan “must provide, at minimum, for the timely delivery of accurate advice regarding the immigration consequences of contemplated dispositions in ongoing criminal cases.”<sup>15</sup> To do this appropriately, institutional defender offices and assigned counsel programs should develop immigration service plans that consist of a series of protocols (i.e., procedures) that will work best in their unique legal environments.<sup>16</sup>

Each Center will be expected to assist providers within their region on developing an immigration service plan that encompasses an advisal component, an information gathering component, the potential for development of staff expertise, and a language access component. Therefore, successful proposals will include technical legal assistance and advice to the provider community, as well as trainings and guidance on the development of immigration service plans, and protocols/procedures designed to ensure quality representation within each of the regions specified below.

### **iii. The Role of the Regional Immigration Assistance Center**

Each Center will facilitate periodic needs assessments of indigent legal service providers within its region to assess their capability to provide competent legal advice regarding the immigration consequences of a criminal conviction or family court disposition. A critical feature of this grant is that services provided by Centers be available to every indigent legal service provider within their region. Each Center will also be available to assist providers in the development of legal strategies to be used in criminal and family court proceedings, as well as post-conviction and appellate matters that serve to reduce or alleviate the threat of removal of a noncitizen client from the United States.

*Funds from this grant may be used to enhance existing immigration programs that provide legal assistance and support to the indigent legal service providers within the applicant’s designated region, including programs currently funded by this Office.*

Centers will be expected to work closely with indigent legal service providers, bar associations, and nonprofit organizations to develop and coordinate regional trainings and develop resource materials that address the intersections among criminal, family and immigration law. These Centers will also be expected to consult with the Director of Regional Initiatives of this Office when hiring professional staff and collaborate with this Office and other Centers throughout the State in the analysis of regional trends, collection of data and identification of promising practices and strategies that should be considered for possible replication throughout the State.

Applicants for this grant should demonstrate an organizational capacity and ability to implement the following activities:

- ***Provide Legal Assistance and Support:*** Proposals that demonstrate how Centers will ensure that legal assistance and support regarding the immigration consequences of a criminal conviction and/or family court disposition will be made available to every indigent legal service provider located within the applicant’s designated region are encouraged. Ability to provide such services may require, for example, support for daily

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<sup>15</sup> Peter L. Markowitz, *Protocol for the Development of a Public Defender Immigration Service Plan*, 6, (2009), available at <http://immigrantdefenseproject.org/?s=protocol>.

<sup>16</sup> *Id.* at 2.

operation of the Center, including the supervision and training of legal and administrative staff, a suitable office space equipped to receive requests for legal assistance and a database to record, track and monitor required data.

- *Provide Continuing Legal Education and other Trainings.* Proposals should also provide for the capacity to design a program and Continuing Legal Education trainings intended to educate indigent legal service providers and other legal professionals and advocates within the region on such topics that ensure *Padilla* compliance and best practices in representing noncitizens in criminal and family court proceedings. Centers should plan to provide a minimum of 2 regional trainings annually.
- *Development of Immigration Service Plans, Protocol and Procedures:* Proposals that demonstrate the capacity to assess the needs of counties and their providers within the designated region and to assist those providers in need of developing immigration service plans, protocol and procedures designed to ensure *Padilla* compliance and the implementation of relevant standards and best practices are encouraged.
- *Encourage Collaboration:* Proposals that encourage collaboration among providers, other legal service providers, community-based organizations, law schools, bar associations and other entities to enhance provider compliance with *Padilla* are encouraged.
- *Compliance with ILS standards:* Proposals should include ways for an indigent legal service provider to achieve greater compliance with ILS standards.

### **Eligibility – Designated Regions**

**No county, or counties wholly encompassed by a city, may submit more than one proposal.**

Through this funding initiative, the Office plans to award up to six (6) grants to counties that will establish an Immigration Assistance Center in their respective region. The awards will be distributed on a competitive basis in the regions listed below. Centers developed in each region are required to assist counsel providing mandated representation within the counties geographically located within the designated region. Proposals should demonstrate how Centers will ensure that all indigent legal service providers within the region will be provided substantially equal access to services. Awards will be made to the applicant with the highest score for that geographic region. The geographic regions are set forth:

**Region 1: Western New York Region:** Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Seneca, Steuben, Wayne, Wyoming and Yates.

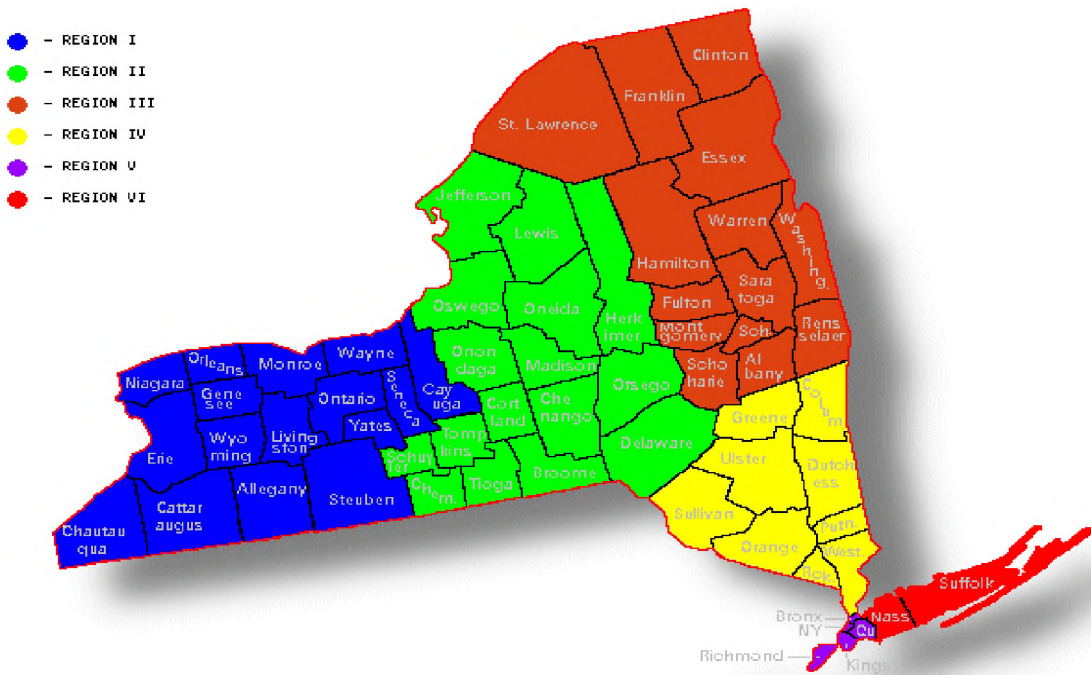
**Region 2: Central New York Region:** Broome, Chemung, Chenango, Cortland, Delaware, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Otsego, Schuyler, Tioga and Tompkins.

**Region 3: Northern New York Region:** Albany, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Warren and Washington.

**Region 4: Hudson Valley Region:** Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester.

**Region 5: New York City:** Bronx, Kings, New York, Queens and Richmond.

**Region 6: Long Island:** Nassau and Suffolk.



### Funding and Contract Period

Through this RFP, contracts totaling approximately \$2.7 million annually, for each of three years, will be awarded, with awards of not more than \$450,000 available for each region in support of up to six Regional Immigration Assistance Centers. The total available funds for award are approximately \$8.1 million (i.e., approximately \$2.7 million per year for each of three years).

Counties may submit proposals either at or less than the maximum amount. Grants will be issued for a period of three years.

Any adjustments to the resulting agreements will require approval of the Office of the State Comptroller.

## Who Is Eligible To Apply for This Request for Proposals

Only New York State counties not wholly encompassed within a city and the city of New York are eligible to apply for funds. Multiple counties within a designed region may collaborate in the submission of a proposal, as described below. Proposals should be submitted by an authorized county or city official from the applicant county.

## Instructions for Completing This Request for Proposals

The RFP is available online at [www.ils.ny.gov](http://www.ils.ny.gov). Requests for the RFP may be made by e-mail to [Karen.jackuback@ils.ny.gov](mailto:Karen.jackuback@ils.ny.gov) or by telephone at (518) 486-9713 or (518) 486-2028.

## RFP Questions and Updates

This Office will respond to questions that are submitted until the “Questions Due By” date shown on the cover of this document. Questions may be submitted in writing to [QA@ils.ny.gov](mailto:QA@ils.ny.gov), or via telephone and should be directed to Karen Jackuback at (518) 486-9713, and secondarily to Joanne Macri at (518) 408-2728 or Joe Wierschem at (518) 486-5715.

When corresponding by e-mail, clearly indicate the subject as: *Regional Immigration Assistance Centers RFP*. The name of the party submitting the question will not be posted.

Questions and answers will be posted on the RFP “*Questions Posted By*” date as stated on the cover of this RFP at the following webpage address:  
<https://www.ils.ny.gov/content/immigration-assistance-centers>

## Application Submission

### Application Submission (*mail, hand delivery, electronic*)

All submissions must contain the complete application. All applications must be received by Wednesday, November 19, 2014 by 5:00 p.m. Eastern Daylight Time.

If submitting an application by mail or hand delivery, this RFP requires the submission of **one (1) original, and four (4) copies (for a total of five)**.

Applications must be delivered to:

### By mail:

Karen Jackuback, Grants Manager  
Office of Indigent Legal Services  
Alfred E. Smith Bldg., 29th Floor  
80 South Swan St.  
Albany, NY 12210



**Hand delivery:**

*Please call the Office of Indigent Legal Services in advance to arrange for building security clearance (518-486-2028 or 518-486-9713).*

Office of Indigent Legal Services  
Alfred E. Smith Building (*directly behind the State Capitol Building*)  
29<sup>th</sup> Floor  
80 South Swan Street  
Albany, New York 12210

**Electronic applications:**

Electronic applications will be accepted.

Electronically submitted proposal applications must be submitted to the Office of Indigent Legal Services at [rfp@ils.ny.gov](mailto:rfp@ils.ny.gov). All required documents or attachments must be included in the electronic submission. The electronic submission will be considered the submission of the applicant.

After you submit your application at [rfp@ils.ny.gov](mailto:rfp@ils.ny.gov), you will receive an e-mail confirming receipt of the application. If you do not receive an e-mail confirming receipt, you should contact Karen Jackuback at (518) 486-9713.

Applications must be received by **Wednesday, November 19, 2014 by 5:00 p.m.** Late applications will not be considered.

**EVALUATING THE APPLICATION**

The following components must be included in the application in order for the submission to be complete:

1. Project Summary (not more than two (2) pages in length)
2. Proposal Narrative (not more than fifteen (15) pages in length)
3. Budget and Justification (See Attachment A of this RFP)

**Only complete applications will be reviewed and evaluated.**

## Proposal Application

### I. PROJECT SUMMARY (not scored)

Please provide:

- All applications for grant funding must include a summary that concisely describes the proposed project (i.e., goal(s), objectives, overall approach (including significant partnerships), anticipated outcomes).
- To ensure uniformity, please limit the length to no more than two pages.
- Identification of the county or counties requesting to host a Regional Immigration Assistance Center. If more than one county intends to collaborate on hosting a Regional Immigration Assistance Center, please identify the **lead county** responsible for oversight of the administration of the grant and its reporting requirements;
- Contact person, telephone, fax and email for the lead county responsible for oversight of the administration of the grant and its reporting requirements;
- Fiscal intermediary name and address (identify the department and/or individual responsible for fiscal reporting for this project);
- Amount of funding requested.

### II. PROPOSAL NARRATIVE

A maximum of 200 points is available for an RFP application. Points will be applied as follows:

Technical Evaluation: 140 points (70% of maximum points available):

- Section A (Plan of Action): 120 points
- Section B (Data Collection, Performance Measurement, and Evaluation): 10 points
- Section C (Applicant Capability and Personnel): 10 points

Cost Evaluation: 60 points (30% of maximum points available):

- Section D (Budget and Cost): 60 points

#### **A. Plan of Action** (Total of 120 points for Section A)

Answer all questions in the order in which they are presented. Applicants will be evaluated on the information they provide. *Please do not submit any information that was not specifically requested.*

#### **Organizational Experience and Infrastructure (22 points)**

1. Describe the need to provide immigration support to indigent legal service providers within the designated region and what immigration defense resources, if any, are currently available within the applicant's designated region. (4 points)

2. Describe how the Center will structure its professional and/or non-professional staffing to implement its plan, including new staffing to be hired and any partnerships and/or other collaborations necessary to support the efforts of the Center. Describe the roles and responsibilities of each county in the operation of the Center. (15 points)
3. Describe how the Center will identify obstacles to implementation of its plan and necessary adjustments. (3 points)

**Plan Implementation (24 points)**

4. Describe where daily operations of the Center will be undertaken and how these operations will be supported and supervised. (12 points)
5. Describe the personnel needed to fulfill the activities and services defined within the *Role of the Regional Immigration Assistance Center* outlined in section iii of pages 5-6 of this grant. Describe the process that will be followed to recruit, hire and supervise legal and administrative staff capable of providing the activities and services, including consulting with the Director of Regional Initiatives of this Office. (12 points)

Outreach to Providers (8 points)

6. Describe your plan for conducting ongoing outreach to counties and indigent legal service providers within your region to inform them of the availability of services offered by the Center, including providing immigration assistance on individual cases and development of immigration service plans designed to ensure quality representation, including measures of outreach efforts and their effectiveness. (8 points)

Data Collection & Conflict Case Referrals (6 points)

7. Describe your plan for developing and maintaining a database suitable for identifying and referring conflict cases to other Centers, the process you will follow for making such referrals, and for tracking and monitoring required data as described in *Data Collection, Performance Measurement, and Evaluation* on pages 12-14 of this RFP. (6 points)

Periodic Needs Assessments (4 points)

8. Describe your plan for periodically conducting needs assessments of providers in your region, which may include, but not be limited to the need for increased access to immigration expertise and services, specialized immigration trainings, access to language and cultural support services, and the legal support necessary to address immigration issues that may arise in specialty court proceedings (i.e., such as in drug, mental health, domestic violence and human trafficking courts). (4 points)

Availability of Center Services (15 points)

9. Describe how you will ensure that Center staff is available to provide legal assistance, in a timely manner, to all individuals providing mandated indigent legal services within your region. (15 points)

Specialized Trainings (22 points)

10. Describe your plan for developing and coordinating specialized trainings in your respective region that address such topics as the immigration consequences of a criminal conviction and/or family court disposition and best practices in representing noncitizens in criminal and family court proceedings. (15 points)
11. Describe any existing and proposed collaboration that you expect to utilize in providing Continuing Legal Education training to the indigent legal service provider community. (7 points)

Collaboration (11 points)

12. Describe how you propose to collaborate with this Office and other Centers throughout the state in the analysis of regional trends, collection of data and development of best practices and attorney protocols for effective *Padilla* compliant representation. (3 points)
13. Describe any other stakeholders and/or nonprofit organizations, bar associations, law school clinics, and law school *pro bono* programs or volunteer law students whose assistance you may seek to enhance the delivery of mandated representation that is in constitutional compliance with *Padilla*. (6 points)
14. Describe any national or statewide organizations with which you will seek to develop relationships to improve the quality of immigration representation within your region and, if so, the support or assistance expected from these organizations. (2 points)

**Plan Objectives (8 points)**

15. Describe how the program will improve the quality of representation that clients receive and achieve greater compliance with the Office of Indigent Legal Services standards. (8 points)

**B. Data Collection, Performance Measurement, and Evaluation** (Total of 10 points for Section B)

This section will discuss how you will measure the impact of your project. Information as to the type of data to be collected and reported to this Office is provided below.

16. Describe how the relevant data described below in *Data Collection* sections 1, 2 and 3 will be collected and recorded in ways that are valid, accurate and reliable. Explain who will be responsible for gathering and recording the requested data.

## Data Collection

To ensure and demonstrate compliance with *Padilla*, indigent legal service providers are strongly encouraged to develop and maintain consistent and accurate record keeping of the immigration status of each noncitizen client. Providers are also encouraged to maintain a record of the advice offered to a noncitizen client as to the potential immigration consequences that may result from a particular criminal conviction.

Accordingly, each Center is expected to track the progress of providers of indigent legal services within their region toward the goal of obtaining and recording reliable immigration status from each client and delivering the legal advice necessary to ensure effective assistance of counsel.

Centers will be expected to provide both quantitative and qualitative data to this Office demonstrating efforts made to ensure *Padilla* compliance throughout the designated region. In so doing, each Center is to annually report to this Office the following data:

- A. A list of those indigent legal services providers within the region, noting the following information for each provider:
  1. The availability and use of a computerized case management system that is currently being used to track the following data:
    - i. client immigration status; and
    - ii. the immigration advice offered to noncitizen clients.
  2. The current status of data collection capabilities by the provider.
  3. Where available data in cases recording immigration status is reliably recorded, the number and percentage of noncitizen clients served by each provider in the prior year.

Each Center will be expected to show that they are actively responding to solicitations for legal assistance from indigent legal service providers and others seeking advice on behalf of noncitizen clients. Additionally, each Center will be required to demonstrate that it is actively conducting and/or coordinating trainings throughout the designated region to help educate attorneys on the immigration consequences resulting from a criminal conviction and/or family court disposition.

To achieve this, each Center is expected to report annually to this Office on the following information:

- B. The number of requests for legal assistance received. A request for legal assistance, which includes but is not limited to a request for legal advice, is defined as all communication, in whatever form and from whatever party, in relation to a single case or matter. Cases in criminal, family, appellate or other courts should be counted separately. Report the following statistics:
  1. The number of requests for legal assistance broken down by county;

2. For each county:
  - i. the number of requests for legal assistance broken by affiliation of the attorney concerned, (e.g., county public defender, conflict defender, legal aid attorney or assigned counsel attorney);
  - ii. the number of requests for legal assistance broken down by whether they involved a criminal, family, appellate court or other matter; and
  - iii. the number of advisory opinion letters, or other form of written communication, that was generated in response to the request for legal assistance.

C. A list of training events conducted within the designated region, noting,

1. The office and affiliation of the attorneys registered for each training event, (e.g., county public defender, conflict defender, legal aid attorney or assigned counsel attorney; criminal or family court practitioner);
2. The role played by the Center in developing, planning or coordinating the training event, if any; and
3. The total number of training programs conducted and the total number of attorneys in attendance at training.

Finally, each Center should make concerted efforts to assist indigent legal service providers within the designated region in developing protocol/procedures that will ensure early intervention and quality representation afforded to noncitizen clients. Centers are, therefore, encouraged to report to ILS both on any examples of successfully implemented protocols and/or procedures developed to address the specific needs of noncitizen clients, and also on the obstacles they encounter in the course of implementing these reforms. Reports should include information on the Center's efforts to assist providers with developing protocol and immigration service plans within their designated region.

**C. Applicant Capability and Personnel** (Total of 10 points for Section C)

17. Identify the staffing and other resources necessary to support the successful implementation of this project. (10 points)

**D. Budget and Cost** (See also Attachment A -- Budget Form)

(Total of 60 points for Section D)

Successful applications will include budget plans that are consistent with the proposal action plan, administrative costs, justification for each requested budget line, cost benefit, and highest potential for successful outcomes in assisting providers within the designated region. For question 18, complete the attached Budget Form (Attachment A) and return with the proposal, being sure to address the following:

18. Provide a detailed, annualized three-year budget containing reasonable and necessary costs. The budget for the proposed project must be consistent with the terms of the RFP.

Complete the [Attachment A Budget Form](#) and return with the proposal.

### **Review and Selection Process**

The Office will conduct a two-level review process for all submitted proposals:

- The first level entails a Pass/Fail review, conducted by Office staff, of the submitted proposals to ensure that the application is responsive to the conditions set forth in the RFP. The Office will reject any applications that do not clearly and specifically address the purposes of this funding opportunity and/or fail to meet any of the following criteria:
  1. The RFP was submitted within the designated time frames;
  2. The RFP was submitted consistent with the format requested by the Office;
  3. The applicant is an eligible entity as specified within the RFP;
  4. The proposal included a budget submission.
- The second level consists of a scored comprehensive proposal review that involves a thorough review of the submitted proposal specifically related to the project work plan, performance measurement and evaluation, organizational capability, overall strength of plan, the availability of immigration defense resources in the region, and the budget. A maximum of 200 points is available for an RFP application. The proposal review and rating will be conducted, as follows, using the criteria stated in this RFP:

#### **TECHNICAL EVALUATION: 140 points (70% of maximum points available)**

A total of 140 points are available for the technical evaluation. A technical evaluation is a review to verify that the technical requirements contained in the RFP are met. A technical evaluation team will evaluate the proposals using the criteria listed in sections A, B and C of the RFP (pp. 10-14).

#### **COST EVALUATION 60 points (30% of maximum points available)**

A total of 60 points are available for the cost evaluation. A cost evaluation is performed to assess the proposed costs. The cost evaluation will be conducted separately by a cost review team using the budget form (Attachment A) as submitted by the applicant.

The Office will typically use staff and others with expertise in the RFP topic area to comprise the evaluation teams. The evaluators will assign a score up to a maximum of 200 points to each application. The Office reserves the right to conduct follow-up discussions with applicants to clarify information in the submitted proposal. Such a plan will be subject to review and approval by the Office of the State Comptroller.

An award will be made to the highest ranking proposal in each designated region.

In the event that two or more applicants within the same region receive identical overall scores for their proposals, cost will be the determining factor for final award. In the event two or more proposals have identical overall scores, including identical cost scores, the Office reserves the right to award the grant to the applicant that has achieved the highest score in the Plan of Action category of this RFP.

**Awards will be made to no more than one county in each designated region.**

## **Awarding of Grants**

### **Contract Development Process**

It is anticipated that applications will be reviewed and that successful applicants will be notified of funding decisions on or about December 2014.

The proposal review team will recommend to the Office the highest ranked proposal(s) that fully meet the terms of the RFP. The contract process and final contracts are subject to the approval of the State Attorney General and the Office of State Comptroller (OSC). Upon such approvals, the grant process will begin, and all terms of the contract become public information.

As part of the grant award process, grantees and the Office will establish a mutually agreed upon final budget and work plan, which become the contract deliverables. For multiple year contracts, these deliverables will be negotiated annually.

Grantees will also be required to report on successes achieved, obstacles encountered during implementation, and efforts to overcome these obstacles, in annual progress reports, according to individual program goals and objectives.

### **The Office reserves the right to:**

- Reject any applications that do not meet the intent of this RFP;
- Negotiate with applicants identified as the best value apparent awardee in their respective region after the evaluation regarding work plans, budget line levels, and other issues raised within the RFP review to achieve maximum impact from the grant award and serve the best interests of New York State; and
- If unable to negotiate the contract with the selected applicants within 60 days, the Office may begin contract negotiations with the next highest scoring qualified applicant(s).

### **Payment**

Each county will be reimbursed for expenses incurred pursuant to grant related activities including salary, benefits, travel, and related expenses. No payments will be made until the contract is fully executed and approved by the State Attorney General and the State Comptroller.



## **Funding Requirements**

Indigent Legal Services funds distributed by the Office of Indigent Legal Services are intended to supplement county resources for supplying indigent defense services and to ensure proper legal representation for indigent defendants pursuant to Article 18-B of the County Law.

Supplanting is prohibited: Any funds awarded to a county pursuant to this RFP shall be used to supplement and not supplant any local funds, as defined in paragraph (c) of subdivision 2 of section 98-b of the State Finance Law, or state funds including funds distributed by the Office of Indigent Legal Services, which such County would otherwise have had to expend for the provision of counsel and expert, investigative and other services pursuant to Article 18-B of the County Law.

The issuance of this request for proposals does not obligate the Office of Indigent Legal Services to award grants.

## **Matching Funds Requirement**

There is no matching funds requirement for this program.

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**ATTACHMENT A**

**BUDGET FORM**

**REGIONAL IMMIGRATION ASSISTANCE CENTERS**

**ATTACHMENT A**  
**BUDGET FORM**  
**REGIONAL IMMIGRATION ASSISTANCE CENTERS**

<b>County</b>	
<b>Budget Contact Person's Name</b>	
<b>Phone</b>	
<b>E-mail Address</b>	

Include all anticipated costs in the Budget Detail below.

**Proceed to Budget Detail section, next 3 pages.**

**Budget Detail Section:**

**1. Personal Services**

List each position by title and name of employee, if available. Show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.

Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for the personnel listed below and only for the percentage of time devoted to the project.

Position	FTE	Year 1	Year 2	Year 3	Total
(Example)	100%				
0. Title: Project Coordinator					
Annual Salary		\$45,000	\$45,000	\$45,000	\$135,000
Annual Fringe		\$12,600	\$12,600	\$12,600	\$37,800
1. Title:					
Annual Salary					
Annual Fringe					
2. Title:					
Annual Salary					
Annual Fringe					
3. Title:					
Annual Salary					
Annual Fringe					
4. Title:					
Annual Sal					
Annual Fringe					
<b>Total</b>					

**2. Contractual/Consultant Services**

Service	Year 1	Year 2	Year 3	Total
				<b>Total:</b>

<b>3. Non-Personal Service</b>				
<b>Item</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Total</b>
<b>Training (in-house staff and regional CLE)</b>				
<b>Travel</b> (Travel costs for employees and consultants must adhere to the established New York State travel rates. See Office of the State Comptroller Travel Manual <a href="http://www.osc.state.ny.us/agencies/travel/manual.pdf">http://www.osc.state.ny.us/agencies/travel/manual.pdf</a> )				
<b>Supplies</b>				
<b>Space/Rent</b>				
<b>Website Development</b>				
<b>Printed Resources</b>				
<b>Other (specify):</b>				
				<b>Total:</b>

<b>4. Equipment</b>				
<i>Please note: Rented or leased equipment costs should be listed in the "Contractual" category.</i>				
<b>Item</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Total</b>
				<b>Total:</b>

<b>5. Other Costs</b>				
<b>Item</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Total</b>
				<b>Total:</b>

<b>Cost Categories</b>		<b>Total 3-Year Project Cost by Category</b>
1.	Personal Services	
2.	Contractual/Consultant Services	
3.	Non-Personal Services	
4.	Equipment	
5.	Other Costs	
<b>Total 3-Year Project Cost</b>		

**An authorized officer of the lead county (see page 10) must sign the budget form.**

**Lead County:** \_\_\_\_\_

**Lead County Authorized Officer (please print):** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_