

# New York State Office of Indigent Legal Services

## *Funding Announcement*

### Second 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, January 7, 2020</b>
<b>Questions Due By</b>	<b>Tuesday, February 4, 2020 (Q&amp;A period closed)</b>
<b>Questions Posted By</b>	<del><b>Monday, February 10, 2020</b></del> <b>Tuesday, February 18, 2020</b>
<b>Proposal Due Date</b>	<del><b>Tuesday, February 25, 2020, 5:00 p.m. EDT</b></del> <b>Wednesday, March 4, 2020, 5:00 p.m., EST</b>
<b>Award Announcement</b>	<b>March 2020</b>
<b>Tentative Contract Start Date</b>	<b>April 2020</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 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 to noncitizen clients. 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 implementation 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. Centers will also be responsible for providing legal support and assistance in related appellate and post-conviction matters to ensure that appellate counsel has sufficient resources and immigration-related information available to provide quality mandated representation.

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 to develop a Center within a designated region is strongly encouraged. ***Proposals should present a regional model capable of providing immigration training and legal support to serve mandated legal representation (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

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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.

“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 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>

Given the severity and inevitability of deportation for many non-citizen criminal defendants, it is also imperative that counsel promptly determine and advise on the potential impact of an appeal or post-conviction matter on a noncitizen’s immigration status, particularly if the advice provided by trial counsel concerning immigration consequences was defective or plea negotiations failed to address immigration consequences.<sup>9</sup>

Similar to criminal defense representation, high quality representation in family court matters also requires knowledge of a broad range of issues which may include, but are not be limited to, the impact of the proceedings on a client’s immigration status.<sup>10</sup> Effective representation requires that counsel be sufficiently knowledgeable of relevant immigration laws to vigorously advocate for a client's interests and a protection of legal rights.<sup>11</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>12</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*.

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

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

<sup>9</sup> See New York State Indigent Legal Service Standards – Appellate Standards and Best Practices, Representing Non-U.S. Citizen Clients: Standard XVII, Commentary, (effective January 5 2015), available at <https://www.ils.ny.gov/content/appellate-standards>,

<sup>10</sup> The legal obligation of advising noncitizen clients of the immigration impact arising from a family court matter has been a long-standing principle of providing effective representation. See New York State Indigent Legal Service Standards – Parental Representation In State Intervention Matters, Standard H-1; New York State Bar Association Standards Of Mandated Representation, Standard I-9; New York State Bar Association Standards For Attorneys Representing Children In New York Child Protective, Foster Care, And Termination Of Parental Rights Proceedings, Standard D-12; American Bar Association Standards Of Practice For Attorneys Representing Parents In Abuse And Neglect Cases, Standards 2, 5; American Bar Association Standards Of Practice For Lawyers Representing Child Welfare Agencies, Standard 4.

<sup>11</sup> See New York State Indigent Legal Service Standards – Parental Representation In State Intervention Matters, Duties of Counsel: Standard D-1, Competence, Commentary, (effective December 1, 2015), available at <https://www.ils.ny.gov/content/parent-representation-standards>.

<sup>12</sup> See *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970).

## Section 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, above the national average of 13 percent. New York is also home to the second highest percentage of lawful permanent residents (i.e., green card holders) in the country.<sup>13</sup> New York ranks second in the nation in the total number of foreign-born workers and the share of all workers who are foreign-born. 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>14</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 and family court proceeding – from the opportunity to be released on bail, to the ability to accept certain plea agreements and/or sentencing options.<sup>15</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.

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>16</sup> Separating a child from a parent may not only be a

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<sup>13</sup> American Community Survey Reports: *The Foreign-Born Population in the United States: 2010*; U.S. Census Bureau (2012) available at <https://www2.census.gov/library/publications/2012/acs/acs-19.pdf>.

<sup>14</sup> See Final Report of the Commission on the Future of Indigent Defense Services (2006) at 24-25 available at <https://www.ils.ny.gov/files/Kaye%20Commission%20Report%202006.pdf>.

<sup>15</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).

<sup>16</sup> Almost one third 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).

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 \$56,000 per year, per child.<sup>17</sup> Ensuring early and effective assignment of competent counsel for a noncitizen client in a criminal or family court proceeding could help to protect against any unnecessary separation of family members.<sup>18</sup>

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.

## **Section II: The Solution - Developing Regional Immigration Assistance Centers**

Currently, there are over 140 mandated representation 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 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 and/or continue the delivery of in-house expertise, best practices, and effective attorney protocol (i.e., screening and intake procedures, etc.) that will ensure ongoing *Padilla*-compliant representation. County governments are encouraged to consult with other county governments and mandated representation 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 mandated representation providers and 18-B attorneys have an immigration service plan that provides a systematic approach to representing noncitizen clients. 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>19</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>20</sup>

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<sup>17</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.nysnavigator.org/documents/AARP\\_KitcareKeepingFamilies10.pdf](http://www.nysnavigator.org/documents/AARP_KitcareKeepingFamilies10.pdf).

<sup>18</sup> See New York State Indigent Legal Service Standards – Parental Representation In State Intervention Matters, (effective December 1, 2015), available at <https://www.ils.ny.gov/content/parent-representation-standards>.

<sup>19</sup> Peter L. Markowitz, *Protocol for the Development of a Public Defender Immigration Service Plan*, 6, (2009), available at <https://www.immigrantdefenseproject.org/wp-content/uploads/2011/03/Protocol.pdf>.

<sup>20</sup> *Id.* at 6.

Each Center will be expected to assist 18-B counsel and mandated representation 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.<sup>21</sup> 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.

### **Section III: The Role and Required Activities of the Regional Immigration Assistance Center**

Each Center will facilitate periodic needs assessments of mandated representation providers within the designated regions to assess their capability to provide competent legal advice regarding the immigration consequences of a criminal, family and appellate/post-conviction matters. A critical feature of this grant is that services provided by Centers be available to every 18-B attorney and institutional provider within the designated region. Each Center will also be expected 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 and/or expand existing programs that provide legal assistance and support to mandated representation providers within the applicant's designated region, including programs currently funded by this Office.*

Centers will be expected to work closely with 18-B attorneys and mandated representation providers, bar associations, nonprofit organizations, and other entities to develop and coordinate trainings and develop resource materials that address the intersections among criminal, family and immigration law. These Centers will also be required to consult with this Office when hiring professional staff and to 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.

Centers may be required to provide and/or procure language translation/interpretation services when working with a mandated representation provider and his/her non-English speaking client. In addition, Centers are expected to work with mandated representation providers to ensure that each attorney is taking the necessary steps to secure confidential, language access services when necessary to communicate with and to effectively represent his/her clients.

Each Center will also be required to have at least two or more qualified attorney positions serving as Center attorneys. These attorney positions shall dedicate 100% of their time to grant activities throughout the entirety of the grant. Each of the two Center attorney positions should meet the following minimum qualifications:

- (1) Be a member in good standing of the New York State Bar; and

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<sup>21</sup> *Id.* at 7.

- (2) Have three or more years of experience as an attorney, including at least three years of immigration law experience or work under the supervision of a senior attorney with three (3) or more years of immigration law experience.

In addition, at least one of the two qualified attorneys referenced above must be responsible for supervising and managing the activities of the Center. The awardee will be required to consult with this Office in advance of the appointment of the supervising attorney. Additionally, supervising attorneys will be expected to meet with this Office on a periodic basis.

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, family court disposition and/or appellate or post-conviction matter will be made available to every mandated representation provider located within the applicant's designated region are encouraged. Ability to provide such services may require, for example, support for daily 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 5 or more Continuing Legal Education trainings for mandated representation providers annually within the designated region.
- *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. Protocols and procedures should include, but not be limited to, working with mandated representation providers to develop an intake screening process to ensure that cases are identified for referral for assistance to the Center within the designated region.
- *Collaboration:* Proposals should detail the plan for fostering collaboration among providers, other legal service providers, community-based organizations, law schools, bar associations and other entities to enhance provider compliance with *Padilla*.

- *Compliance with ILS standards:* Proposals should include ways for mandated providers 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.

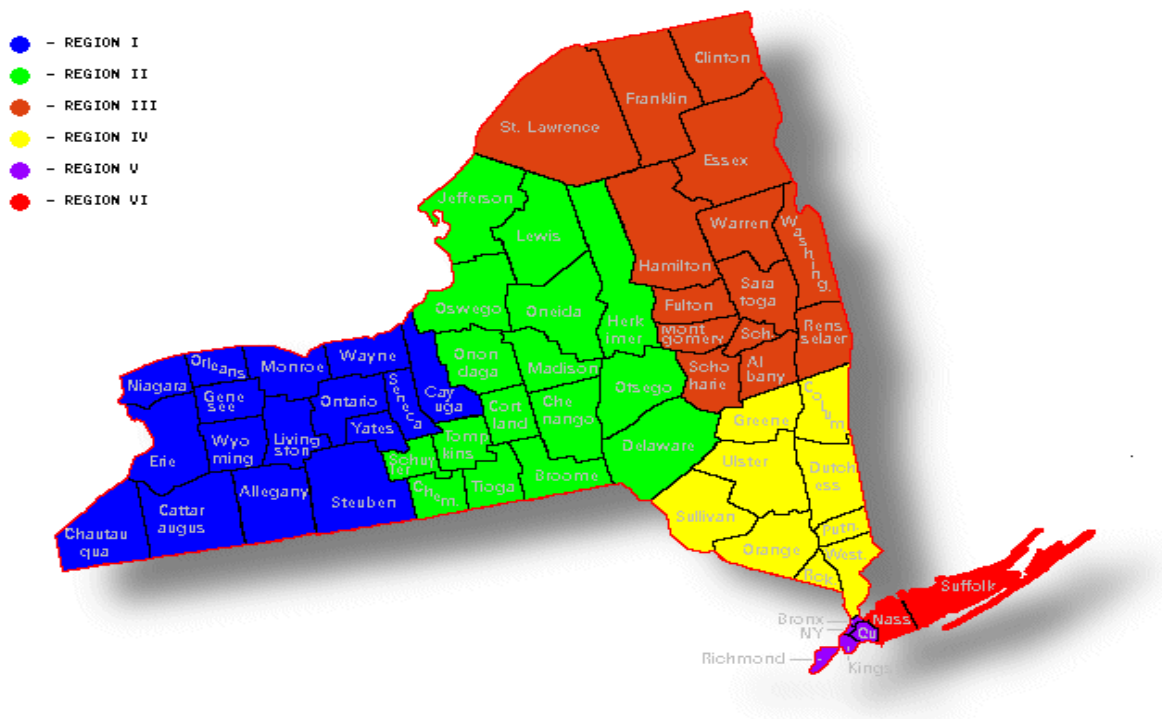
**Region 3: Northern New York Region:** Albany, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Warren and Washington.

**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 \$3.3 million annually, for each of three years, will be awarded, with awards of not more than \$551,420 available for each region in support of up to six Regional Immigration Assistance Centers. The total available funds for award are approximately \$9.9 million (i.e., approximately \$3.3 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.

## **Section IV: Who is Eligible to Apply for this Request for Proposals**

Only New York State counties and New York City, are eligible to apply. Proposals must be submitted by an authorized county official or designated employee of the governing body of the applicant county. There is no funding match or any other cost to the county to participate in this project.

## **Section V: Instructions for Completing this Request for Proposals**

The RFP is available online at [www.ils.ny.gov](http://www.ils.ny.gov) (hit: Ctrl + (right) Click to follow link or copy and paste link into your web browser). Requests for the RFP may be made by e-mail to [RFP@ils.ny.gov](mailto:RFP@ils.ny.gov) (hit: Ctrl + (right) Click to follow link in Outlook) or by telephone at (518) 486-9713 or (518) 486-2028.

No responses will be provided to inquiries made by telephone other than to request a copy of this RFP.

### **RFP Questions and Updates**

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by Tuesday, February, 4, 2020 to [OA@ils.ny.gov](mailto:OA@ils.ny.gov) (hit: Ctrl + (right) Click to follow link in Outlook).

No responses will be provided to inquiries made by telephone other than to request a copy of this RFP.

Questions will not be accepted orally.

Questions received after the deadline may not be answered.

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

Questions and answers will be posted on the “*Questions Posted By*” date as stated on the cover of this RFP (~~February 10, 2020~~, **February 18, 2020**) at the following URL webpage address: <https://www.ils.ny.gov/content/riac-general-information> (hit: Ctrl + (right) Click to follow link or copy and paste link into your web browser).

## **Instructions for Completing this Request for Proposals**

**Application Submission** (*mail, email, or hand delivery*).

All submissions must contain the complete application.

**All applications must be received by ~~February 25, 2020~~ **March 4, 2020** by 5:00 p.m. Eastern Standard Time (EST). Late applications will not be considered.**

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:** Jennifer Colvin, Grants Manager  
Office of Indigent Legal Services  
Alfred E. Smith Bldg., 11<sup>th</sup> Floor  
80 South Swan Street  
Albany, NY 12210

**Hand delivery:** *Please call the Office of Indigent Legal Services in advance to arrange for building security clearance at 518-486-2028.*

Office of Indigent Legal Services  
Alfred E. Smith Building (*directly behind the State Capitol Building*)  
11<sup>th</sup> Floor, Suite 1147  
80 South Swan Street  
Albany, NY 12210

**Electronic applications:** Electronic applications will be accepted.

Electronically submitted proposal applications must be submitted to [RFP@ils.ny.gov](mailto:RFP@ils.ny.gov) (hit: Ctrl + (right) Click to follow link in Outlook). All required documents or attachments must be included in the electronic submission.

**Indicate in the *Subject* area of the electronic transmission that the submission is for the “**Second** Regional Immigration Assistance Center Grant”.**

After you submit your application at [RFP@ils.ny.gov](mailto:RFP@ils.ny.gov) (hit: Ctrl + (right) Click to follow link in Outlook), you will receive an e-mail confirming receipt of the application. If you do not receive an e-mail confirming receipt, contact Jennifer Colvin at (518) 486-9713.

### **Application Format**

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

1. Project Summary (not more than two (2) pages in length)
2. Proposal Narrative (not more than twenty-five (25) pages in length)
3. Budget and Justification (See Attachment A of this RFP)

**Applications must be received by ~~February 25, 2020~~, **March 4, 2020**, by 5:00 p.m. Eastern Standard (EST). Late applications will not be considered.**

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

## Section VI: Proposal Application

### I. PROPOSAL SUMMARY (not scored):

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). Provide a summary of your proposal which includes the information listed below.

**To ensure uniformity, please limit the length of this summary to no more than two (2) double-spaced pages, with margins of 1 inch on all sides, using no less than a 12-point font.**

- A. 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;
  - i. Identify the authorized county official or designated employee of the applicant county's governing body to whom notification of a grant award shall be sent. Please include contact information; name, title, phone number, address, and email address.
  - ii. Fiscal intermediary name and address (identify the department and/or individual responsible for fiscal reporting for this project).
  - iii. Name of contact person, telephone, fax, and email for the lead county representative who will be responsible for overseeing the administration of the grant and its reporting requirements.
  - iv. Amount of funding requested.
- B. A concise summary describing the proposed project (i.e. goal(s), objectives, overall approach, significant partnerships, anticipated outcomes, etc.).

### II. PROPOSAL NARRATIVE

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

Technical Evaluation: 160 points (80% of maximum points available):

- Section A (Plan of Action): 140 points
- Section B (Data Collection, Performance Measurement, and Evaluation): 20 points

Cost Evaluation: 40 points (20% of maximum points available):

- Section C (Budget and Cost): 40 points

**A. Plan of Action** (Total of 140 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 (18 points)**

1. State the name of the proposed Center and provide a description of the office(s) and/or entity(s) that will be responsible for providing the Center's services described in this RFP. **(1 points)**
2. State the location(s) of the daily operations of the Center. If a site(s) for the Center is not yet secured, specifically address how space for the Center will be secured prior to the contract start date. **(1 points)**
3. 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. **(3 points)**
4. 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. **(5 points)**
5. Describe how the Center will identify obstacles to implementation of its plan and necessary adjustments. **(5 points)**
6. Describe past experience the applicant's organization has in supporting mandated representation in criminal defense, family court and appellate and/or post-conviction matters, including, but not limited to any past experience in conducting continuing legal education (CLE) trainings in these areas of representation. **(3 points)**

**Plan Implementation (24 points)**

7. Describe where daily operations of the Center will be undertaken and how these operations will be supported and supervised. **(1 points)**
8. 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. **(2 points)**
9. Describe the minimum qualifications anticipated for each staff position and 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. **(2 points)**

10. Describe how the Center will ensure that all staff members will possess the requisite knowledge, experience and/or training necessary to fulfill the goals and provide the services described in this RFP with respect to: (a) New York State family law practice; (b) New York State criminal defense practice; (c) federal immigration law and practice and how these three areas of practice interact with one another. **(3 points)**
11. Describe the supervision, training and oversight procedures that will be used to ensure that all staff adhere to relevant standards of mandated representation, best practices, and rules of ethics and professional responsibility. **(3 points)**
12. Provide thorough evaluation plan and methodology of the services provided by the Center that is comprehensive and includes mechanisms for adjustments and quality improvements, as needed. **(5 points)**
13. Describe any pre-existing partnerships with organizations with whom the Center proposes to partner on law-related support, if applicable. **(3 points)**
14. Describe how the proposed Center intends to develop an understanding of the infrastructure, practices, policies and challenges facing the institutional providers within its designated region. **(5 points)**

#### **Outreach to Mandated Representation Providers (10 points)**

15. Describe the Center's plan for conducting ongoing outreach to counties and mandated legal service providers within the designated region to inform them of the availability of services offered by the Center, including providing immigration-related assistance on individual cases and providing support to develop immigration-related service plans and protocols designed to ensure quality criminal defense, family court, appellate and post-conviction representation, including measures of outreach efforts and their effectiveness. **(10 points)**

#### **Periodic Needs Assessments (10 points)**

16. Describe the Center's plan for periodically conducting needs assessments of mandated representation providers in the designated 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). **(10 points)**

## Capacity of the Providing Services (51 points)

17. Describe how the Center will ensure that staff is available to provide legal assistance, in a timely manner, to all individuals providing mandated representation within the designated region. (See section iii referenced above, The Role and Required Activities of the Regional Immigration Assistance Center, pg. 6) **(3 points)**
18. Describe the steps that will be taken by the Center, including any in-house expertise and/or collaboration with other entities to ensure the availability of legal support and assistance for 18-B attorneys providing mandated representation as follows:
  - a. *Arrest Representation:* Describe how the Center will provide and/or collaborate with other entities to provide legal support and assistance to the defender community in an effort to improve the overall quality of representation afforded to non-citizen clients during the arraignment process. **(10 points)**
  - b. *Criminal Defense Representation:* Describe how the Center will provide and/or collaborate with other entities to provide legal support and assistance to the defender community in an effort to improve the overall quality of representation afforded to non-citizen clients in criminal proceedings, including but not limited to, advising on immigration consequences that may arise during motion practice, trial preparation and sentencing. **(10 points)**
  - c. *Parental Defense Representation:* Describe how the Center will provide and/or collaborate with other entities to provide legal support and assistance to the defender community in an effort to improve the overall quality of representation afforded to non-citizen parents in family court proceedings, including but not limited to, Article 10 proceedings, custody and support proceedings and other family court matters. **(10 points)**
  - d. *Appellate and Post-Conviction Representation:* Describe how the Center will provide and/or collaborate with other entities to provide legal support and assistance to the defender community in an effort to improve the overall quality of representation afforded to non-citizens in appellate and Padilla- and other-related post-conviction matters. **(10 points)**
19. Describe how the Center will support and/or collaborate with defender non-attorney support services, (i.e., such as investigators and social workers), to improve the overall quality of mandated representation. **(3 points)**
20. Describe how the Center will assist and support the defender community in addressing issues of cultural sensitivity and the unique needs of clients with

limited English proficiency in need of interpretation and/or translation services to ensure quality representation. (See section iii referenced above, The Role and Required Activities of the Regional Immigration Assistance Center, pgs. 5-6) **(5 points)**

**Specialized Trainings (10 points)**

21. Describe the Center’s plan for developing and coordinating continuing legal education trainings within the designated region that addresses improvement in the overall quality of criminal defense, family law and appellate/post-conviction representation. **(5 points)**
22. Describe how the Center will provide and/or collaborate with other entities to provide training and support in specialized areas of representation which may include, but not be limited to, assisting clients identified as victims of human trafficking, victims of crime and/or who may be eligible for consideration pursuant to “Raise the Age” legislation. **(5 points)**

**Collaboration (12 points)**

23. Describe how the Center will develop relationships and/or collaborate with other entities, organizations and/or attorneys to support referral of non-citizen clients, who cannot afford a private attorney, to securing immigration assistance and/or representation. **(3 points)**
24. Describe how the Center proposes 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)**
25. Describe how the Center may utilize the support and/or assistance of any other stakeholders and/or nonprofit organizations, bar associations, law school clinics, and law school *pro bono* programs or volunteer law students and other entities whose assistance may be used to enhance and improve the overall quality and delivery of mandated representation. **(3 points)**
26. Describe how the Center may utilize any existing national and/or statewide organization relationships to improve the overall quality of mandated representation within the designated region. **(3 points)**

**Plan Objectives (5 points)**

27. Describe how the Center will improve the overall quality of mandated representation provided to non-citizen clients and how the Center intends to support greater compliance of all *ILS Standards* of representation and best practices in criminal, family and appellate/post-conviction representation (i.e., *ILS Standards* published and available at [www.ils.ny.gov](http://www.ils.ny.gov)). **(5 points)**



**B. Data Collection, Performance Measurement, and Evaluation** (Total of 20 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.

1. Describe how the relevant data described below in *Data Collection* sections A, B and C, will be collected and recorded in ways that are valid, accurate and reliable. Also identify who will be responsible for gathering and recording the requested data.

### **Data Collection**

To ensure and demonstrate compliance with *Padilla*, mandated representation providers are strongly encouraged to develop and maintain consistent and accurate record keeping of the assistance provided to noncitizen clients. 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, family court proceeding and/or appellate or post-conviction matter.

Accordingly, each Center is expected to track and measure the progress of mandated representation providers in reaching *Padilla*-related compliance that ensures effective assistance of counsel in criminal, family court, appellate and post-conviction representation within the designated region.

Each Center will be expected to show that they are actively responding to solicitations for legal assistance from mandated representation 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, family court disposition and/or appellate and post-conviction matter.

Centers will be expected to provide both quantitative and qualitative data on an annual basis to this Office for the duration of the contract that will demonstrate the efforts made to ensure *Padilla-related* compliance in criminal, family court, appellate and post-conviction representation throughout the designated region. In so doing, each Center is to annually report to this Office the following data:

- A. The number of requests for legal assistance received and addressed by the Center. A request for legal assistance, which includes but is not limited to a written or verbal assistance, 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, post-conviction, or other courts should be counted separately. Report the following data as specified above: **(5 points)**

1. The number of requests for legal assistance categorized by county;
  2. For each county:
    - i. the number of requests for legal assistance categorized by affiliation of the attorney requesting legal assistance, (e.g., county public defender, conflict defender, legal aid attorney or assigned counsel attorney);
    - ii. the number of requests for legal assistance categorized by the type of mandated representation provided, (e.g., criminal defense, family court, appellate, post-conviction, immigration-related or other matter);
    - iii. the number and type of advisory opinion letters, or other form of written communication, generated in response to requests to the Center for legal assistance;
    - iv. the number of instances that the Center has made recommendations and/or provided assistance and support in development of an immigration-related protocol, (i.e., including, but not limited to, developing a streamlined procedure for client screening and/or immigration-related referrals for assistance) for a mandated representation provider within the designated region, categorized by county, by type of mandated representation provider assisted and a brief description of the assistance provided in supporting the development of an immigration protocol; and
    - v. any other type of assistance provided by the Center to support the overall quality of mandated representation within the designated region.
- B. A summary of the type of assistance rendered by the Center to improve the overall quality of mandated representation in criminal defense, family court, appellate and post-conviction representation. The summary should include the number and type of provider meetings conducted and/or attended by the Center. **(10 points)**
- C. A list of training, workshops and/or presentations, (“training event”) conducted by the Center within the designated region, which should include the following information: **(5 points)**
  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 categorized by topic, (i.e., criminal law, family law, appellate and/or post-conviction representation), as well as the total number of attorneys in attendance at each training event.
4. A description of training materials provided at each training event. The Center is also expected to develop training materials that it may be requested to share with this Office and the other Centers, upon request.
5. The total number of participants categorized by training event.
6. A description of any collaborations with mandated representation providers, organizations, agencies, institutions and/or any other entities involved in the development and/or co-sponsorship of each training event.

Finally, each Center should make concerted efforts to assist mandated representation providers within the designated region in developing protocol/procedures that will ensure early intervention and quality representation afforded to noncitizen clients. Centers are, therefore, expected 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. Budget and Cost (See also Attachment A -- Budget Form)**

(Total of 40 points for Section C)

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. Complete the attached Budget Form and return with the proposal, being sure to address the following:

1. *Budget*: 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 and provide a justification for all expenses. **(15 points)**
2. *Subcontracting*: Describe whether the proposed budget will include subcontracting with another service provider to complete the terms described in this RFP and, if so, provide a brief description of the purpose of the subcontract. **(5 points)**
3. *Budget Justification*: Include a narrative for each budget line justifying the budget request and relating the requested line budget amount to the plan of action and expected results. The narrative should be mathematically sound and correspond with the expenditure budget line information and figures provided in the Budget Form. **(15 points)**

4. The *Budget Justification* must also describe how the county will monitor expenditures during the life of the grant to ensure that the project stays within the budget. (5 points)

### **Complete the attached 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 frame;
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 purpose is for that intended by the RFP;
5. 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, and the budget and corresponding budget narrative. The proposal review and rating will be conducted using the criteria stated in this Funding Announcement. The Office will typically use staff, and others with expertise in the RFP topic area, to comprise the proposal review team. Each reviewer will assign a score up to a maximum of 200 points to each application; individual scores will be averaged to determine the applicant's score. Applicants' scores will be ranked in order. The Office reserves the right to conduct follow-up discussions with applicants to clarify information in the submitted proposal. In addition, in the event there are any remaining funds after making awards in accordance with the Review and Selection Process, the Office reserves the right to allocate the grant funds in a manner that best suits program needs as determined by the Office. Such a plan will be subject to review and approval by the Office of the State Comptroller.

## **Awarding Grants**

### **Contract Development Process**

It is anticipated that applications will be reviewed and that successful applicants will be notified of funding decisions in March 2020. All commitments are subject to the availability of state funds. The proposal review team will recommend to the Office the highest ranked proposal that fully meet the terms of the RFP. The final total applicant score will be the cumulative total of the second level review.

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, the grantee and the Office will establish a mutually agreed upon final budget and work plan, which become the contract deliverables.

As part of the contract with the Office, grantees will be required to submit annual progress reports to the Office. These reports should include narrative descriptions of successes achieved, obstacles encountered during implementation, and efforts to overcome these obstacles. Additionally, applicants should anticipate that data collected by the program in accordance with the requirements of section B of the proposal will be required to be reported in aggregate form to the Office as a means of understanding the impact of the program, its successes, and the challenges that remain. ILS staff will be available to assist grant recipients with how to best collect these data in ways that are convenient to the program's capabilities, clearly assess the goals of the project, and assure the collection of information that is of the highest possible quality. The Office may suggest the use of a specific data collection protocol, or work with programs to employ existing, in-house case tracking software to produce data.

The Office reserves the right to:

- Negotiate with applicants, prior to award, 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 ensure that budgets are consistent with proposed action plans; 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 any 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.

**ATTACHMENT A**

**BUDGET FORM**

**SECOND REGIONAL IMMIGRATION ASSISTANCE CENTERS**

**ATTACHMENT A  
BUDGET FORM  
SECOND 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>

### 3. Non-Personal Service

Item	Year 1	Year 2	Year 3	Total
<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>

### 4. Equipment

*Please note: Rented or leased equipment costs should be listed in the "Contractual" category.*

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

### 5. Other Costs

Item	Year 1	Year 2	Year 3	Total
				<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:** \_\_\_\_\_