

OVERVIEW

The Office of Capital Post Conviction Counsel has historically been a special fund agency that received its funding from court fines and assessments. For FY 2017, its appropriation was made from the state's General Fund. The Office is mandated to provide representation to indigent individuals under sentence of death in state post-conviction court proceedings. The enabling legislation is found in Mississippi Code Annotated § 99-39-101, et seq. The objective is to expedite the post-conviction process without depriving the individual of the right to have a court adjudication of issues that were not and could not have been reviewed on direct appeal. The facts and complexities of the individual cases dictate the specific resources that must be dedicated to each case. Outside counsel is sometimes required as a result of conflicts of interest the Office has in certain cases. In these cases, outside counsel is paid from the agency's fund. The fees and expenses of outside counsel in such cases are submitted to and approved by the Courts; thus, the Office has no control over the amount outside counsel is paid from the agency's appropriation.

SALARIES

The requested \$946,809 provides full funding of all statutorily created positions of the Office.

The Office requests additional staffing to fulfill its mission and handle an increasing case load. The Office requests the addition of one mitigation specialist position (\$48,000 plus \$14,880 fringe totaling \$62,880) and one paralegal position (\$34,000 plus \$10,540 fringe totaling \$44,540), amounting to a total increase of \$107,420. The addition of these state positions will lessen the agency's dependence on costly outside contractors, and better control the costs and the efficiency of the legally mandated work of the agency.

TRAVEL

The Office staff is required to travel both in-state and across the United States to investigate its clients' cases. The amount of travel cannot be predicted because it is dependent on the location of documents, files, witnesses, and the background of the client. Travel investigation costs are increasing as the requirements for capital litigation is driven by statutory and case law. Our travel costs are increase slightly, by \$5,000.

CONTRACTUAL SERVICES

The Contractual Services category expenses include funding authority for outside legal counsel. Ethical rules prohibit the Office from representing co-defendants when death row inmates are convicted of death-eligible crimes arising from the same incident (co-defendants). Out of necessity, cases of this nature are assigned to outside counsel, and funding authority must exist to pay their fees and expenses as ordered by the Courts. Additionally cases that were previously handled by the Office must also have outside counsel for any successor petitions. Increased caseloads are also driving the cost for increased contractual expenses.

In order to secure cost-efficient legal assistance, the office proposes to initiate a Post Graduate Legal Fellowship program by which we secure the services of recent law school graduates at a minimal fee to assist with cases for a one year period. The availability of legal intern assistance is decreasing and becoming sporadic as public interest opportunities are increasing nationwide. The addition of a fellowship is imperative to continue to provide continuity and staff support given the case load handled by the office.

Another expense within the contractual category includes laboratory testing and the hiring of experts to evaluate, test, and testify on behalf of some clients. Based on recent legal developments, mental health evaluations are needed for every client.

For FY 2018 however, the Contractual Services Category is decreased for two reasons, First, we have moved the cost of a contract mitigation specialist to the salary category, in anticipation of adding a new state PIN to eliminate greater contractual costs. Secondly, we anticipate computer wiring of our offices in FY2017, and have eliminated this cost in the FY2018 request.

COMMODITIES

The amount requested for the Commodities Category for FY2018 is the same as appropriated for FY2017, and no increase is included.

CAPITAL OUTLAY EQUIPMENT

The Equipment Category includes office furniture and 2 computers for the 2 new PINS requested in the Salary Category. Other equipment purchases have decreased for FY2018 by \$3,500.