

2023 Budget Supplemental Questions

Please answer the following questions in a word document and return to Council. The answers to these questions will be provided to council as supplemental information. While not part of the physical budget presentation to Council, departments should be prepared to answer questions Council may have on these supplemental questions. If you feel that you have provided an answer in a previous question, please don't repeat your answer, simply refer to the earlier question/answer.

Strategic Goals

1. Provide your 2023 strategic goals;
 - a. Conflict Panel
 - i. Get all working attorneys on contract
 - ii. Begin transition to hourly pay to assist in recruiting attorneys and managing costs (if funded)
 - b. SCPDA
 - i. Implement audit recommendations (if funded)
 - c. OPD
 - i. Continue to work with OPD's amazing staff to continue to improve our processes and make OPD an even better and happier place to work
 - ii. Implement a case management database
 - iii. Refine expert services and pretrial interview processes to integrate with new software
 - iv. Implement no contact order representation program (if funded)
 - v. Work with Superior Court, legal contractors, and state allies to refine our Minor and Vulnerable Adult Guardianship representation
 - vi. Work with the courts, SCPDA, and local civil legal aid to implement an LFO waiver form and process with pro bono representation
2. how are they different from 2022?
 - a. 2022 goals included:
 - i. Working with Superior Court and contractors to refine the Minor and Vulnerable Adult Guardianship representation processes
3. In what way, if at all, are your strategic changes demonstrated in your budget request?
 - a. OPD's budget request is a response to the 2022 audit recommendations and changes in the law regarding appointment of counsel in no contact order petitions.

National, state and local landscape:

1. What are the federal, state and local issues facing your work?
 - a. Funding and workloads. Public defense studies from national organizations (American Bar Association, National Association of Public Defenders), statewide organizations (Washington State Association of Counties, Washington State Office of Public Defense, Washington State Bar Association) and local studies and organizations (Snohomish County Council Audit of Public Defense, Snohomish County Public Defender Association).
 - i. Conflict Panel contractors make 1/10 of the market rate for their work and less than their county and public sector colleagues. OPD cannot recruit and retain lawyers with this funding structure. OPD is unable to provide counsel to all clients at the current fee structure.
 - ii. Public Defender Association – PDA is not meeting WSBA indigent defense standards in many support staff roles. The audit has highlighted the concerns with using caseloads as a metric to measure workloads.
 - b. Changes in law – Legal changes providing former juveniles with an opportunity to be resentenced have increase post-conviction work. Statutory changes to the right to counsel for petitioners in no contract orders creates new work and costs.
 - c. Body-cameras – Use of body cameras by local law enforcement will increase costs for public defense administration. Body-camera video will capture evidence that takes time for lawyers to review. Public defense does not have access to county or independent sources of IT support to store and display body camera video.
2. What risks or opportunities does that create for you in 2023 and beyond?
 - a. Underfunding or overwork create the risk that people who have a right to a lawyer will not get one or will get one who cannot be effective.
 - b. This creates opportunities for the county and PDA to redefine the way we measure workloads. It creates an opportunity for the County to reform its conflict panel program to recruit and retain qualified lawyers using the County's contracting process to control costs.
3. What is your plan to leverage the opportunity or mitigate the risk? What support do you need?
 - a. OPD has drafted a four-year plan to bring conflict panel compensation into parity with those of surrounding counties. Funding the plan will mitigate risk.
 - b. OPD has advocated for changes to the contract with PDA.
4. What, if any, new mandates do you have impacting your work? Are they funded or unfunded? What is the plan for accomplishing the work?
 - a. Representation for petitioners in no contact orders. OPD has worked with Superior and District Court to determine the costs of legal representation

for this program. OPD has a priority package for this representation. OPD will work with the courts to implement and plan and appoint counsel.

Programs

1. List programs, projects and services within your department funded through federal COVID/ARPA funds. What, if any, of those programs are you recommending ongoing funding for and what is the source of ongoing funding?
 - a. Nothing in OPD
 - b. PDA has lawyer, staff, and an investigator working on addressing pending criminal cases.
2. What new programs are you launching for 2023? What need or efficiency is that new program addressing? How is that program funded for sustainability? What metrics are in place to determine effectiveness?
 - a. Conflict Panel Representation. OPD would like to implement the first of four years of increasing hourly rates for conflict panel contracts to make them competitive with rates in adjacent counties. This change will allow OPD to more efficiently retain and recruit new lawyers to contract with the County. The contract will contain cost control monitoring language. OPD is not able to efficiently appoint counsel without a sufficient number of contractors and this program would assist. This program change would increase the amount of recordable data and provide advanced metrics on workloads.
 - b. No contact order representation. This is not an efficiency. The program is funded based on the number of case filings in District and Superior Court that would meet the criteria for appointment. These numbers can change over time and OPD and the Courts will keep track of these filings for future funding purposes.
3. If different than #2, what are your areas of significant investment? What are you not doing because of that investment?

Internal Operations

1. What is your department doing to streamline processes or deliver services in a new way? How do your budget allocation requests play into these innovations? Are there ways which a different budget approach, e.g. several departments sharing a resource, could achieve the same or better results in a more cost-effective way?
 - a. OPD has offered to create and manage the appointment of counsel in civil legal areas that are not typical public defense but are within our mission to increase access to justice and within our skillset and practices to recruit and appoint lawyers.

2. What, if any, hiring challenges are you experiencing? How is that affecting your level of service or internal operations? How are you mitigating those operational challenges and/or what is your plan for recruitment?
 - a. OPD is unable to recruit new conflict panel lawyers. These lawyers take the criminal cases when PDA cannot lawfully represent defendants. The low compensation provided to Snohomish County contractors compared to compensation for similar work in adjacent counties and among local private and public practitioners. Inability to recruit results in the accused not getting prompt and effective right to counsel. Inability to recruit reduces the supply of contractors and increases costs when demand is as high as it currently is.
3. Please provide a list of all vacant position titles, position codes, date vacated, and date first posted. This should be a separate page or spreadsheet attachment.
 - a. None
4. What effect has the increase of inflation and/or supply chain issues had on your department? What, if any, services, or projects have you had to adjust to accommodate for this? (i.e. moving to outside contracted services, delaying of project starts and/or purchasing, redistribution of workload, etc.)
 - a. See 2a above

Successes

1. Take this opportunity to share one significant success in your department over this past year. What made it a success?
 - a. For the first time in the memory of any OPD or SCPDA employee, SCPDA lawyers are within caseload standards. This is a monumental improvement.