

**NYS Department of State  
Office for New Americans  
ONA Legal Counsel**

**Request for Applications #21-ONA-46**

*The responses to questions included herein are the official responses by the State to questions submitted by potential applicants and are hereby incorporated into RFA # 21-ONA-46 issued on December 14, 2021. In the event of any conflict between the RFA and these responses, the requirements or information contained in these responses will prevail.*

**1. Section II., paragraph 2 is amended to read:**

Approximately six awards will be granted to organizations applying to Part A of the RFA, approximately four awards will be granted to organizations applying to Part B of the RFA, and approximately four awards will be granted to organizations applying to Part C of the RFA.

**2. Section III., *Subcontracting* is amended to read:**

For applicants engaging subcontractors to work under this grant, the lead applicant must provide the majority of direct programming, or more than 50 percent.

All applicants intending to subcontract work under this grant must complete and execute a letter of intent with each subcontractor that specifies all services each partner agrees to provide. Letters of Intent/MOUs must be submitted with the application to substantially demonstrate capacity.

If using a subcontractor, the applicant is responsible for the performance of any services provided by the partners, consultants, or other organizations engaged and must coordinate how each plans to participate.

In addition, the subcontractor is prohibited from subcontracting with other recipients to deliver any service under this award.

Subcontractors must be a not-for-profit organization located within New York State. Not-for-profit organization shall mean any not-for-profit corporation exempt from taxation under Section 501(c)(3) of the internal revenue code.

All staff performing this work via a subcontractor must be either a qualified immigration attorney or a DOJ-Accredited Representative with the subcontractor's organization. Only attorneys may perform the activities of the Legal Counsel position under this grant. If the subcontractor is providing direct services to clients through the use of DOJ-Accredited Representatives, the subcontractor must be DOJ recognized and in active status at the time of submission and remain so during the entirety of the grant. It is not

required for subcontractors to be DOJ-Accredited if the subcontract will not fund DOJ-Accredited Representatives.

**3. Section V. is amended to show the following list of services broken down into three parts:**

**Part A**

Will fund one qualified not-for-profit organization in each of the following regions to provide legal services for the following regions covered under this RFA:

Region 1: Mohawk Valley South (Fulton, Montgomery, Otsego, Schoharie) – 2 Legal Counsel attorneys

Region 2: Mohawk Valley North (Herkimer, Oneida) – 2 Legal Counsel attorneys

Region 3: Western Hudson Valley (Orange, Rockland, Sullivan, Ulster) – 2 Legal Counsel attorneys

Region 4: Eastern Hudson Valley (Dutchess, Putnam, Westchester) – 2 Legal Counsel attorneys

Region 5: Western Long Island (Nassau) – 2 Legal Counsel attorneys

Region 6: Eastern Long Island (Suffolk) – 2 Legal Counsel attorneys

**Part B**

Will fund one qualified not-for-profit organization in each of the following regions to provide legal services for the following regions covered under this RFA:

Region 7: North Country (Clinton, Essex, Franklin, Hamilton Jefferson, Lewis, St. Lawrence) - 3 Legal Counsel attorneys

Region 8: Southern Tier (Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, Tompkins) - 3 Legal Counsel attorneys

Region 9: Bronx, Manhattan, Staten Island (Bronx, New York, Richmond) - 3 Legal Counsel attorneys

Region 10: Brooklyn, Queens (Kings, Queens) - 3 Legal Counsel attorneys

**Part C**

Will fund one qualified not-for-profit organization in each of the following regions to provide legal services for the following regions covered under this RFA:

Region 11: Capital Region South (Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, Washington) - 4 Legal Counsel attorneys

Region 12: Central New York (Cayuga, Cortland, Madison, Onondaga, Oswego) – 4 Legal Counsel attorneys

Region 13: Finger Lakes (Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates) – 4 Legal Counsel attorneys

Region 14: Western NY (Allegany, Cattaraugus, Chautauqua, Erie, Niagara) – 4 Legal Counsel attorneys

**4. Section VI.1. paragraphs 3, 4, and 5 are amended to read:**

For Part A, each grantee will have two qualified immigration attorneys, with one Legal Counsel dedicating 100% of their time to grant activities throughout the entirety of the grant. The other Legal Counsel position may utilize an FTE staffing model to total 100% for that position.

For Part B, each grantee will have three qualified immigration attorneys, with one Legal Counsel dedicating 100% of their time to grant activities throughout the entirety of the grant. The other two Legal Counsel positions may utilize an FTE staffing model to total 100% per position.

For Part C, each grantee will have four qualified immigration attorneys, with one Legal Counsel dedicating 100% of their time to grant activities throughout the entirety of the grant. The other three Legal Counsel positions may utilize an FTE staffing model to total 100% per position.

**5. Section VI.2. paragraph 6 is amended to read:**

For the purposes of this RFA, a “case” is defined as an individual client. Grantee caseload expectations are detailed as follows:

**6. Section VI.3. is amended to add:**

Consultation days may be done either in person or virtually. There is no set number for how many Consultation Days can be done virtually, however all Consultation Days should be scheduled in coordination with the assigned Opportunity Center. ONA reserves the right to request grantees provide a justification for the need for virtual services at any time. If consultation days are held virtually, they must be synchronous, with opportunities for participants to communicate face to face with the Legal Counsel in real time. Virtual consultation days must adhere to NY IT policies regarding accessibility of information communication technology.

**7. Section VI.5. is amended to add:**

Trainings may be provided either in person or virtually. If trainings are held virtually, trainings must be synchronous, with opportunities for participants to communicate face to face with the trainer in real time. Virtual trainings must adhere to NY IT policies regarding accessibility of information communication technology.

**8. Section VI.6. is amended to add:**

Trainings may be provided either in person or virtually. If trainings are held virtually, trainings must be synchronous, with opportunities for participants to communicate face to face with the trainer in real time. Virtual trainings must adhere to NY IT policies regarding accessibility of information communication technology

**9. Section VI.7 is amended to read:**

Each grantee will provide law-related support to any clients or families of clients being served under this grant as needed. This support may include, but is not limited to, preparation of documents, interpretation and translation in the language of the individual's choice including sign language, information in braille, assistance with getting disability accommodations including through USCIS, referrals, financial planning, assistance with naturalization-related guardianship arrangements and alternatives to guardianships, and accompanying individuals to check-ins. If the grantee is unable to provide these services themselves, they must partner with a local organization that can. Grantees may choose to provide law-related services based on client need and agency capacity.

**10. Section VII. is amended to add:**

10. Fee assistance to clients who received application assistance funded through this grant. Fee assistance can only be provided to cover the cost of submitting applications, including biometrics when necessary. Fee assistance must be distributed in an equitable manner via a lottery of eligible clients run at least once per quarter. Fee assistance cannot be distributed on a first come, first serve basis. ONA reserves the right to add additional immigration application fees not listed above to each lottery as needed.

**11. Section VII., *Administrative Expenses* is amended to read:**

ONA will allow an administrative cost rate of up to 10% of direct costs to be applied to this grant for both the prime grantee and any subcontractors under this grant. This will allow the grantee or subcontractor to receive funding for administrative costs associated with service delivery. Under this grant, federally approved indirect cost rates will not be allowed.

Administrative expenses are those expenses authorized and allowable pursuant to applicable agency regulations, contracts or other rules that govern reimbursement with State funds, or State-authorized payments that are incurred in connection with the covered provider's overall management and necessary overhead that cannot be attributed directly to the provision of program services. Please note that the grantee or subcontractor must retain backup documentation detailing how administrative funds were spent. This back up must be made available for review by Department of State personnel upon request.

**12. Section IX.D.12. is amended to read:**

12. If an applicant is applying with a subcontractor, describe the work to be done by the subcontractor, how the applicant anticipates the work will be distributed between the applicant and the subcontractor and how the addition of the subcontractor will increase the applicant's capacity to accomplish the work required under this grant. If applicant proposes to self-perform all the work under this contract, fully describe the applicant's capacity to undertake all the work.

**13. Section X.B.12. is amended to read:**

12. If applying with a subcontractor, applicant fully described the work to be done by the subcontractor, how the applicant anticipates the work will be distributed between the applicant and the subcontractor and how the addition of the subcontractor will increase the applicant's capacity to accomplish the work required under this grant. If applicant proposes to self-perform all the work under this contract, applicant fully described the capacity to undertake all the work.

**14. Section XXIII. General Terms and Conditions is amended to add:**

26. Move the start date of the contracts back to a later date in the best interests of the State.

**Questions and Answers**

**Q1: What is the anticipated award date and start date for this contract?**

A1: DOS anticipates making awards in late March 2022. The current Legal Counsel contracts end on 4/30/22; DOS is targeting a 5/1/2022 start date for these contracts however that date may be moved to a later date in the best interests of the State.

**Q2:**

**(a) In light of the pandemic, can consultation days and/or KYRs--or some portion thereof--be done remotely?**

**(b) On Page 10, Section 5. Provide Know Your Rights trainings or related workshops - Is it acceptable to do some or all Know Your Rights trainings virtually using a platform such as Facebook Live or Zoom?**

A2: Yes. Section VI of the RFA has been amended to address this.

**Q3: Would also please clarify whether an accredited DOJ representative could be hired to perform work outlined in the RFA.**

A3: Only qualified immigration attorneys may perform the activities specified for the Legal Counsel position in the RFA and work plan. Other staff may be funded under this grant to perform direct services; however, they must adhere to the requirements as outlined in the RFA and work plan.

**Q4:**

**(a) Page 3 (“Applicant Eligibility”) of the RFA states “If the subcontractor is providing direct legal services to clients, the subcontractor must be DOJ recognized and in active status at the time of submission and remain so during the entirety of the grant. All staff performing this work via a subcontractor must be either an immigration attorney or a DOJ accredited representative with the subcontractor’s organization.” Is it sufficient that the proposed subcontractor has attorneys on staff to perform the legal work, or is it required that subcontractors are DOJ Accredited even if the subcontract will not fund DOJ Accredited Representatives?**

**(b) For Part III, Applicant Eligibility, Subcontracting, page 3 - “If the subcontractor is providing direct legal services to clients the subcontractor must be DOJ recognized and in active status at the time of submission...All staff performing work via a subcontractor must be either an immigration attorney or a DOJ accredited representative with the subcontractor’s organization.” Is an accredited representative considered to be the equivalent of an attorney? In a recent grant, a fully accredited representative or an attorney were both considered to be approved “legal providers”. The Applicant Eligibility section of the RFA refers to DOJ accredited representative or attorney doing the work, but this is not mentioned in other sections of the RFA.**

A4: It is sufficient for subcontractors to have qualified attorneys on staff. It is not required for subcontractors to be DOJ accredited if the subcontract will not fund DOJ-Accredited Representatives. However, if the subcontractor wishes to employ a DOJ-Accredited Representative that will be charged under this grant the organization must be DOJ accredited. For the purposes of the required activities under this grant, DOJ accredited representatives are not considered to be the equivalent of an attorney. Only qualified attorneys may perform the activities of the Legal Counsel position under this grant.

**Q5:**

**(a) In the RFA’s breakdown of “Grantee caseload expectations” (page 8) – do these numbers reflect the total expected caseload allocated for the agency, split between the number of ONA legal counsels proportionally? For example, for Part C (with a total of 4 ONA legal counsels): “Grantees with 0 or 1 Opportunity Center in their region of coverage will provide assistance to 100 – 120 cases at a time” - Would be interpreted as 25-30 per attorney in the region for the grant once divided by staff?**

**(b) On Page 8, Grantee caseload expectations. Can you please confirm that the number of cases listed is per GRANTEE, not per ATTORNEY?**

A5: The total expected caseload is per grantee. Grantees may allocate the specific caseload per Legal Counsel as they choose.

**Q6: Should ONA legal counsel applicants assume the same number of current Opportunity Centers will be designated for each region?**

A6: A Request for Applications is currently out to bid for the Opportunity Center grant program. The number of proposed Opportunity Centers in each county can be found in Appendix A of that RFA at the following link: <https://dos.ny.gov/office-new-americans-ona-opportunity-center-grant>. However, DOS cannot guarantee that all of the Opportunity Centers proposed in the RFA will be awarded.

**Q7: Are there formatting requirements or page limits to the program and/or budget narrative? If there is a page limit, are charts with program data subject to that page limit?**

A7: There are no formatting requirements or page limits applicable to this RFA.

**Q8:**

**(a) What level of services will be required under "law related support"? Will this support be limited to the family of those individuals who are receiving immigration legal services through the legal counsel program, to referrals that come directly from ONA, or is the expectation that it be made available to the families of any individuals who are in removal proceedings or have been deported?**

**(b) Given the broad description of "law related support" and the need to balance this service against other deliverables, what discretion will the grantee have in determining capacity to provide this service at any given time? Will the grantee be expected to comply with all requests for law related support, or can the grantee determine the services to be provided in light of other requirements under the grant?**

A8: As detailed in the RFA, grantees will provide law-related support to any clients or families of clients being served under this grant as needed; if the grantee cannot provide the service, they must partner with an organization that can. Grantees may choose to provide law-related services as deemed necessary based on client need and agency capacity.

**Q9: ONA requests an "evaluation plan and methodology . . . for making adjustments and quality improvements as needed". To what specifically does this refer?**

A9: Grantees are expected to propose a plan for evaluating their activities under this grant, and how they would make improvements if needed.

**Q10: On Page 79, Attachment C – are we supposed to create our own and submit with the application? OR that will be part of the contract if we are awarded it?**

A10: The work plan in Attachment C on page 79 is part of the Sample Contract provided in Appendix D. As noted in the RFA, sample contracts should not be submitted with the application; successful applicants will receive a contract package to complete if awarded.

**Q11: On Page 5, Section V - General Program Services: Regions 5 & 6 are labeled in a way that is causing confusion. Should it be that Region 5 is the Western Hudson Valley (Ulster, Sullivan, Orange, Rockland) and Region 6 is the Eastern Hudson Valley (Westchester, Putnam and Dutchess)?**

A11: The RFA has been amended to rename Region 3 (Orange, Rockland, Sullivan, Ulster; previously Region 5) as Western Hudson Valley and Region 4 (Dutchess, Putnam, Westchester; previously Region 6) as Eastern Hudson Valley.

**Q12:**

**(a) On Page 10, Section VII. ELIGIBLE COSTS – can we include a 3<sup>rd</sup> attorney as part of our proposed budget, even though Part A requires only 2 qualified immigration attorneys dedicated to 100%?**

**(b) On Page 10, Section VII. ELIGIBLE COSTS – is it acceptable to include a Legal Counsel Liaison as part of our proposed budget?**

**(c) If we have the full complement of four ONA Legal Counsels, and become DOJ accredited during the term of the contract, can a DOJ accredited representative supplement the four ONA Legal Counsels to increase organizational capacity and meet community demand? (from Section III)**

A12: Yes, as detailed in Section VII.1. any additional funds may be used to fund additional staff if that position is directly providing services as required in the workplan of the contract.

The budget justification should specify which direct services under this grant will be provided by the additional staff.

**Q13: On Page 8 – Can you explain why grantee case number requirements decrease with an increase in the number of opportunity centers in the region?**

A13: For regions with more Opportunity Centers, it is anticipated that more time will be spent on Opportunity Center support activities, therefore, the case number per grantee is less.

**Q14: On Page 8, Section 3 – Provide immigration law consultations. Can you please clarify – if a region has 3 ONA Opportunity Centers, the grantee is required to provide 20 consultations days to EACH of those Opportunity Centers for a total of 60 consultation days per year?**

A14: Yes

**Q15: On Page 10, Section 6 - Legal Counsels will provide a minimum of four trainings to Opportunity Center staff or other immigrant service providers in their region. Does this mean 4 trainings per opportunity center or 4 trainings overall? And is it acceptable to provide these trainings virtually using a platform such as Facebook Live or Zoom?**

A15: Four trainings overall. It is expected that Opportunity Center staff will be invited to all of the trainings, however, other immigrant service providers may also be included, especially in regions with no Opportunity Center. These trainings may be provided virtually. Section VI of the RFA has been amended to address this.

**Q16:**

**(a) Can any of the Consultation Days be done virtually if Covid-19 makes it unsafe to hold them in person? How many?**

**(b) Direct service organizations are monitoring the impact of COVID-19 surges on the viability of in-person services. Please confirm that virtual service delivery for consultation days by Legal Counsels at Opportunity Centers will be permissible, as determined by the contractor in its sole discretion, to ensure continuity of service.**

A16: Services under this grant may be provided virtually as needed. Section VI of the RFA has been amended to address this. There is no set number for how many Consultation Days can be done virtually, however, all Consultation Days should be scheduled in coordination with the assigned Opportunity Center. ONA reserves the right to request grantees provide a justification for the need for virtual services at any time.

**Q17: The RFA refers to the anticipated number of cases to be receiving assistance from the grantee at any given time. Is there an expected number of total cases to be served quarterly or annually as well?**

A17: The case number is at any given time. There is no expected number of total cases to be served quarterly or annually.

**Q18: If we apply for and receive two awards for the two adjoining regions in Part B that comprise New York City, would we be required to have a total of 6 qualified immigrant attorneys?**

A18: For Part B, the grantee must have three qualified immigration attorneys for each region. If a grantee is awarded grants for two regions under Part B they would need a total of six qualified immigration attorneys.

**Q19: Do the cases that we could count under this contract have to come exclusively from the Opportunity Centers and ONA, or could we also count cases from other legal clinics and hotlines, if necessary to hit our target case count?**

A19: Cases may come from other sources, however, Legal Counsel grantees are expected to maintain capacity to take on cases for direct representation from Opportunity Center consultation days as well as referrals from ONA.

**Q20: This RFA combines the existing ONA Legal Counsel and Liberty Defense Project Regional Rapid Response programs into one unified, enhanced ONA Legal Counsel contract. Is there an expectation that current cases served under the Regional Rapid Response program be transferred to a newly awarded organization?**

A20: If an existing Liberty Defense Project (LDP) Regional Rapid Response grantee is successful in its application for the Legal Counsel RFA, then current cases served under the LDP program may be transferred to the new Legal Counsel grant for the same organization in the same region.

If the current LDP grantee is not successful in its application for the Legal Counsel RFA for a particular region, the grantee is obligated to comply with all ethical obligations of attorneys in New York State as prescribed in the NY Rules of Professional Conduct in regard to terminating representation.

**Q21: Individuals with complex naturalization needs - including considerations for individuals with intellectual and developmental disabilities, such as N-648's and naturalization related guardianship - frequently require representation for I-90 green card renewals in parallel to their naturalization needs. Given that this RFA stipulates a universal representation model, and new guidance through the current open ONA Opportunity Center RFA will allow for I-90 assistance, will ONA consider accepting I-90s as a part of the yearly caseload of Legal Counsels for complex naturalization cases in order to limit unnecessary case hand-offs across staffing lines?**

A21: Yes, I-90s will be accepted as part of the caseload of Legal Counsels.

**Q22: If there is a subcontracting arrangement, and more than 50% of the direct programming is performed by the lead applicant, does this directly correlate to the lead applicant incurring more than 50% of the expenses? (pdf page 3)**

A22: Generally, yes. The lead applicant must perform a majority of the direct programming, which will be reflected in actual expenditures. Lead applicants will demonstrate capacity to perform the work proposed under this opportunity.

**Q23: How many attorneys are required to be at the Consultation Days? All four, or fewer? (from Section VI, subsection 3)**

A23: At least one Legal Counsel is required to be at a Consultation Day. Grantees may choose to have additional Legal Counsel attorneys present based on community need and staff capacity.

**Q24: For Part III: Applicant Eligibility, page 3 – “In addition, the subcontractor is prohibited from subcontracting with other recipients to deliver any service under this award.” Would it be possible to clarify what exactly is permitted and what is prohibited? For example:**

- **If Organization A is awarded grants under two different regions under this RFA, could it subcontract to Organization B for both of those regions?**
- **If Organization A is awarded grants under two different regions under this RFA, could it subcontract to Organization B in one region and Organization C in the other region?**
- **If Organization A is awarded a grant in one region and Organization B is awarded a grant in another region, could Organization C be the subcontractor for both Organization A and Organization B?**
- **If Organization A is awarded a grant in one region and Organization B is awarded a grant in another region, can they subcontract to each other?**

A24: Subcontracting as described in each scenario above would be acceptable as long as the lead agency provides more than 50% of the direct programming and the subcontractors do not further subcontract with any other recipient to deliver service under this award.

**Q25:**

**(a) For Part V: General Program Services, page 5 - Greene County is not listed in any of the regions. Is it covered by Region 1 (Capital Region South)?**

**(b) For Part V: General Program Services, page 5 - If Greene County is included in Region 1 (Capital Region South), would you consider moving Schenectady to Region 2 (Capital Region North) to balance out regions?**

**(c) Part V. General Program Services, page 5 – “Will fund one qualified not for profit organization in each of the following regions to provide legal services for the following regions under this RFA:” Part A. Regions 1 and 2 - Noncitizens in Greene County are currently represented by LDP attorneys in the Capital Region. Greene County is not assigned to a region. Will Greene County continue to be part of the Capital Region South? If so, could the two regions either combine or could the counties be reassigned to a region to balance the caseload equitably between the two Capital District Regions. Could Schenectady and Albany or Rensselaer County be transferred to the North Region?**

**(d) Part V. General Program Services, page 5 – “Will fund one qualified not for profit organization in each of the following regions to provide legal services for the following regions under this RFA:” Part A. Regions 1 and 2 - In the Capital Region there are**

significantly more cases in the counties that comprise the Capital Region South as compared with the Capital Region North. In the past five months over 95% of our cases were for individuals that live in Capital Region South and less than 5% live in Capital Region North. Nevertheless, each region will have two legal counsel. The legal service providers in the Capital Region currently represent noncitizens in all of these counties. The clients have developed relationships with their current attorneys and all have cases pending in immigration court. Is it possible to combine these two Capital District Regions so that maximum flexibility would be permitted to represent clients regardless of where they reside in the Capital Region?

A25: Greene County was omitted in error. Capital Region South and Capital Region North will be combined into one Capital Region with four Legal Counsels. The RFA has been amended to reflect this change.

**Q26: For Part V: General Program Services, page 5 - If a non-profit were to be awarded two regions, would it be acceptable to allow Legal Counsel from one region to work on cases from the other region?**

A26: Legal Counsels should prioritize clients residing in their assigned region. Legal Counsels should also refer cases from other regions to the providers located in those regions. However, per the RFA, the target population for these funds are immigrants residing in New York State, therefore, Legal Counsels may take cases from other regions.

**Q27:**

**(a) For Part VI.1, Required Activities, 1. Recruit and hire or repurpose immigration lawyers to serve as Legal Counsels, page 6 – “For Part A, each grantee will have two qualified immigration attorneys, each dedicating 100% of their time to grant activities throughout the entirety of the grant.” Our organization employs a Full Time Equivalent (FTE) model of staffing. This scheduling flexibility allows us to attract and retain the most qualified attorneys. As approved in the Q and A for RFA#18-ONA-40, under the prior LDP program, the LDP attorney position could be divided among multiple qualified attorneys as long as the total time equaled the required number of Full Time Equivalent(FTE) attorney positions. Will this allocation of funding continue to be permitted under the new combined ONA program?**

**(b) For Part VI.1, Required Activities, 1. Recruit and hire or repurpose immigration lawyers to serve as Legal Counsels, page 6. - “For Part A, each grantee will have two qualified immigration attorneys, each dedicating 100% of their time to grant activities throughout the entirety of the grant” and “ For Part B, each grantee will have three qualified immigration attorneys, each dedicating 100% of their time to grant activities throughout the entirety of the grant.” The RFA refers to funding for two or three legal counsels per region. The RFA further provides that each attorney must dedicate 100% of their time to grant activities. Can multiple attorneys fulfill the requirement by combining their times so that**

there will be the equivalent of having at least one attorney dedicating 100% of their time to grant activities? In our experience this model has allowed us to represent many more individuals than would otherwise be required in the RFA.

**(c) Our organization employs a Full Time Equivalent (FTE) model of staffing. This scheduling flexibility allows us to attract and retain the most qualified attorneys. It also has allowed us to provide more than one full time equivalent attorney to handle the demand in cases. Under the current LDP program that has been approved, the LDP attorney position could be divided among multiple qualified attorneys as long as the total time equaled the required number of Full Time Equivalent (FTE) attorney positions. Utilizing this method, we have been able to represent more than double the number of cases we would otherwise be required to maintain. In addition, this model has also allowed us to accept cases from other regions who had fulfilled their capacity. Will this allocation of funding continue to be permitted under the new combined ONA program?**

A27: A minimum of one Legal Counsel must be 100% dedicated to the grant. Additional Legal Counsel positions may utilize an FTE staffing model for provision of the required services.

**Q28: For Part VI.2, page 7 – “Legal Counsel grantees are expected to maintain capacity to take on cases for direct representation from Opportunity Center consultation days as well as referrals from ONA” and for Part VI.3, page 9 – “Legal Counsels will provide a consultation, or an initial evaluation of an individual’s case, which may or may not necessarily lead to a long-term client relationship with that individual. However, Legal Counsels must maintain capacity to take on direct representation of cases from consultation days as needed.” What does ONA envision in terms of “maintaining capacity” to take on cases for direct representation? How will this be evaluated?**

A28: ONA Legal Counsels will maintain certain caseloads under this grant, per the RFA. Of those caseload numbers, they are expected to be able to take clients from Opportunity Center Consultations Days throughout the contract period. Grantees will report on caseloads quarterly. If Legal Counsels are at capacity and cannot take additional cases, ONA will address this with grantees on a case-by-case basis.

**Q29: For Part VI.2, page 8 – “Part A - Grantees with 0 or 1 Opportunity Center in their region of coverage will provide assistance to 50 – 60 cases at a time.” If an award includes a subcontractor, do the subcontractor’s cases count toward the 50-60 case requirement?**

A29: If the subcontractor staff is providing services as one or more Legal Counsel, the caseload of that Legal Counsel subcontractor staff would count towards the overall caseload requirement under the grant.

**Q30: For Part VI.2, Required Activities, Page 7 – “Each Legal Counsel must use a “universal representation” model in the provision of services to any immigrant in need of legal representation who meets geographic eligibility requirements.” Please elaborate on the meaning of “universal representation” in this context, or confirm that it remains the same as in Answer 15 of the Amendments to RFA #18-ONA-38 (“it will be sufficient to provide**

**advice and counsel and a referral” if the attorney already has a full caseload) and Answer 13 of the Question and Answer for RFA #18-ONA-40 (“LDP attorneys will not be required to take on cases for direct representation beyond a case load of 30 active cases”).**

A30: As defined in the RFA, "a universal representation model services any immigrant in need of immigration legal representation." Legal Counsels are expected to provide advice and counsel and a referral to any immigrant client in need, even if the agency has a full caseload, however Legal Counsels are not required to take on cases for direct representation if they are at capacity.

**Q31: For Part VI.3, p 9 – “In addition, Legal Counsel grantees will arrange four place-based immigration consultation days to process immigration related applications and provide immigration consultations in the zip codes other than the one in which the Opportunity Center is located.” Are these place-based consultation days intended to be substantively the same as the consultation days at the Opportunity Center, just geographically different?**

A31: Yes, the place-based consultation days are intended to be substantively the same as consultation days at Opportunity Centers, but these place-based consultation days will be held in zip codes in the assigned region other than the one in which the Opportunity Center is located.

**Q32:**

**(a) For Part VI.3, p.9 – “Legal Counsels will complete a form after meeting with each client during an immigration law consultation describing the type of question asked.” Will ONA be creating and distributing the required form?**

**(b) For Part VI.3, p.9 – “Legal Counsels will complete a form after meeting with each client during an immigration law consultation describing the type of question asked.” Is this requirement fulfilled when Legal Counsels maintain records of the legal advice sought and given at consultations?**

A32: There is not a particular form required for client consultations, the requirement is for the Legal Counsel to track each consultation done. The grantee may choose what format is used but must provide this documentation to ONA at least quarterly.

**Q33: Question regarding the budget. Can a subcontractor provide one of more of the Legal Counsels?**

A33: Yes, as long as the main grantee provides at least 50% of the work.

**Q34: How should the budget for the subcontract be presented?**

A34: The grantee does not need to submit a separate budget for the subcontractor with the application, however in the narrative of the proposed budget, under the Contractual Services subcategory of the budget template, the applicant should detail the specific work to be done by the subcontractor and any associated costs.

**Q35: If the subcontractor is providing personnel, like one of the two required ONA Legal Counsel, should this personnel be in the personnel section of the budget, or the contractor section?**

A35: The grantee should list the subcontractor under the Contractual Services subcategory of the budget. Only those staff directly employed by the grantee should be listed in the Personal Services category of the budget.

**Q36: For the purpose of calculating the administrative rate, is personnel provided by a subcontractor considered personnel cost or non personnel cost?**

A36: Subcontractor costs should only be listed in the Contractual Services subcategory of the budget.

**Q37: What type of documentation will the subcontractor be required to provide for vouchering purposes?**

A37: With the quarterly voucher, the main grantee must include an invoice from any subcontractor detailing the specific costs being charged by the subcontractor under the grant.

**Q38:**

**(a) Can a subcontractor be reimbursed for items such as travel, postage, supplies in those lines, or, should the subcontractors expenses like travel, postage, etc be included in the subcontractor's budget, included in the contractor line?**

**(b) For Part III: Applicant Eligibility, page 3 – “In addition, the subcontractor is prohibited from subcontracting with other recipients to deliver any service under this award.” If one organization serves as a subcontractor, is that organization prohibited from subcontracting with any other organizations solely to provide legal counsel? Will the subcontractor be permitted to subcontract non legal services such as hiring of experts, or contracting with interpretation or translation services?**

A38: Subcontractors may be reimbursed for those types of expenses provided they are directly used under the grant. Those expenses should not be included in the main contractor's budget lines, only under the Contractual Services subcategory, which details the subcontractor activities and funding amount.

The subcontractor may not subcontract any services under this grant.

**Q39: Part VI. Required Activities, Recruit and hire or repurpose immigration lawyers to serve as Legal Counsels, pages 6-7 – “Each ONA Legal Counsel is expected to dedicate their work exclusively to the Required Activities defined in this part... Legal Counsel grantees are expected to maintain capacity to take on cases for direct representation from Opportunity Center consultation days as well as referrals from ONA.” In order to accommodate the great demand for our services, our organization currently has more than 70 cases pending in immigration court proceedings during the first six months of 2022. If funding is not**

**continued, are there any measures to provide funding to complete these cases. In the alternative, will the new legal counsel be required to be substituted as attorneys for these cases?**

A39: If a current Legal Counsel grantee is not successful in its application for a particular region, the grantee is obligated to comply with all ethical obligations of attorneys in New York State as prescribed in the NY Rules of Professional Conduct in regard to terminating representation.

**Q40: For Part III. Applicant Eligibility -RFA #21-ONA-46 Part B, page 3 – “*For applicants engaging subcontractors to work under this grant, the lead applicant must provide the majority of direct programming, or more than 50%.*” The RFA provides that only one not for profit organization will be chosen to house the legal counsel program per region. The RFA requires that the lead applicant must provide more than 50% of the direct programming. In the North Country there are currently three attorneys from three different organizations providing the legal services. One organization has the full-time equivalency of one attorney providing the services, and the second organization has one attorney and a subcontract with another organization that provides another legal counsel. Is it possible to have the lead applicant have the plurality instead of the majority of the programming, so that one organization could have 33.34%, and permit the second and third organizations to serve as subcontractors and receive 33.33% of the total funding so that all three attorneys could continue to fulfill their roles with their current employers?**

Q40: Per the RFA, prime contractors must perform 50% of the work.

**Q41: Is it required that the attorneys reside within or have offices within the region where the legal services will be provided? Is it preferred that the lead applicant have an office or attorney with an office in the region?**

A41: It is not required for attorneys to reside within or have offices within the region where the legal service is provided. There is no preference for the lead applicant to have an office or attorney with an office in the region being served. However, it is expected that successful applicants will demonstrate how they propose to provide services in a region where they do not have a physical presence as well as reasonableness of cost for any potential staff travel.

**Q42: Part V. General Program Services, page 5 – “*Will fund one qualified not for profit organization in each of the following regions to provide legal services for the following regions under this RFA:*” For Part B. Region 9 - In the North Country it is estimated that 90% of the cases arise in the counties of Clinton, Essex, St. Lawrence and Franklin Counties. Is it possible to create two separate regions instead of the one region currently proposed in the RFA and authorize two legal counsel for the Counties of Clinton, Essex, St. Lawrence and Franklin Counties and place the remainder of the region in the Central New York Region or create another region with only one legal counsel for the remaining counties in the North Country region?**

A42: No.

**Q43: For Part VII. Eligible Expenses. Pages 10-11. When clients have removal proceedings pending, the best form of relief to help the client sometimes is to apply for various forms of relief with USCIS. Our clients are indigent and sometimes are unable to afford the filing fees that must accompany the application or petition. Under these circumstances, is it permitted to use funding from the grant to pay for the filing fees for these indigent clients?**

A43: Applicants may include a proposal to cover application fees for clients receiving assistance under this grant as part of their proposed budget. The budget narrative for the application fee cost must include a detailed description of a fair and equitable distribution system via a lottery of eligible clients run at least once per quarter. Application fees may not be provided on a first come first serve basis to clients. ONA reserves the right to review and approve grantee budgets including application fee proposals before final contracting.

**Q44: Are collaborative partner subcontracts eligible for indirect cost reimbursement?**

A44: ONA will allow an administrative cost rate of up to 10% of direct costs to be applied to this grant for both the prime grantee and any subcontractors under this grant. Administrative costs are detailed in Section VII of the RFA but can include indirect cost reimbursement.

**Q45: The funding levels for the region(s) in parts A and B for which we plan to seek funding do not cover the full cost of the required staffing required to meet program deliverables. We have concerns about our ability to either absorb and/or fundraise to cover the Year 1 costs we will incur above and beyond the current funding. Given this, ONA consider any adjustments to the current level of funding?**

A45: ONA does not currently anticipate adjusting the level of funding for this RFA.

**Q46: In addition to concerns laid out above, we anticipate the full cost of the grant to increase annually by approximately 5% given step increases, raises, and other expected increases to operating costs. Will ONA consider including marginal annual increases to renewal funding levels?**

A46: ONA does not currently anticipate adjusting the funding levels of this program annually.

**Q47: ONA consider flexibility in the current staffing structure requirements should we feel confident in our ability to meet the required deliverables with an adjusted staffing structure?**

A47: Grantees must have the required number of 100% dedicated Legal Counsels as outlined in the RFA, however grantees may fund additional staff under this contract if those staff are providing direct services under this grant.