



Legislative Appropriations Request

For Fiscal Years 2024-2025

Submitted to the
Office of the Governor, Budget Division,
and the Legislative Budget Board

by

The Office of the State Prosecuting Attorney

July 29, 2022

FY 2024-25 LEGISLATIVE APPROPRIATIONS REQUEST
Office of the State Prosecuting Attorney

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Administrator's Statement

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88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

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The OSPA is on the cusp of celebrating 100 years of service. Consistent with its history, it's important to note that nearly all of the OSPA's budget is dedicated to salaries. Salaries are particularly significant to the Office's prominence and continuity because they are the product of its three attorneys' intangible intellectual capital and loyalty to prosecution.

STATEMENT OF GRATITUDE

The Office of State Prosecuting Attorney (OSPA) is grateful for the Legislature's support and funding to continue successfully serving the citizens of Texas, prosecutors, and law enforcement.

STATUTORY AUTHORITY AND ORGANIZATION

The State Prosecuting Attorney (SPA) is appointed by the Court of Criminal Appeals (CCA) and is statutorily directed to represent the State in criminal cases in both the courts of appeals and the Texas Court of Criminal Appeals—the State's highest criminal court. See TEX. GOV'T CODE §§ 42.001, 42.005. The SPA has only two assistant prosecuting attorneys, see *id.*, and one administrative assistant.

COVID-19 IMPACT

The OSPA's services have not been interrupted throughout the entirety of the COVID-19 pandemic. Nor has the OSPA required additional funding because of the pandemic.

DELIVERY OF EXCEPTIONAL REPRESENTATION: THE OSPA'S CRUCIAL ROLE IN THE DEVELOPMENT OF CRIMINAL JURISPRUDENCE

The OSPA focuses on arguing for the strict adherence to Texas's criminal statutes and the proper application of constitutional law in a manner favorable to prosecutors and law enforcement statewide. Resulting equities and the impact on society and the law generally are also primary considerations. This is achieved by filing petitions for discretionary review (PDRs) in the CCA that are precisely engineered to persuade the Court to resolve an important legal issue and ultimately rule in the State's favor. In rare cases in which the merits of an issue and policy matters are in equipoise, we will brief both sides and stress the importance of having a clear rule for the bench and bar. The OSPA, with its extensive knowledge of CCA precedent, institutional workings, and history, carefully selects cases to present after an intermediate court of appeals has rendered a decision adverse to the State.

Because the OSPA has statewide jurisdiction, our caseload comes from both large and small counties. Smaller jurisdictions may not have the expertise or manpower to handle complex appellate issues in the CCA. And, though large jurisdictions do not have the same limitations, the OSPA collaborates with those counties to implement the best litigation strategy and develop a consistent position on far-reaching procedural and substantive issues. The OSPA also regularly helps local prosecutors by giving legal advice and reviewing and editing PDRs and briefs.

During the 2021 and 2022 fiscal years, the OSPA filed 14 briefs and 44 briefs and has reviewed 634 appellate court opinions from the intermediate courts and the Texas Court of Criminal Appeals.

Some recent litigation highlights for the OSPA include:

- Is TEX. PENAL CODE § 42.07(a)(7), which prohibits harassing electronic communications, facially unconstitutional?
No. *Ex parte Barton*, __ S.W.3d __, No. PD-1123-19, 2022 WL 1021061 (Tex. Crim. App. Apr. 6, 2022), reh'g denied (June 8, 2022).
- Did the Legislature intend punishments for both continuous sexual abuse, TEX. PENAL CODE § 21.02, and prohibited sexual conduct, TEX. PENAL CODE § 25.02, against the same child? Yes. *Ramos v. State*, 636 S.W.3d 646 (Tex. Crim. App. 2021), reh'g denied (Jan. 26, 2022).
- Does TEX. CODE CRIM. PROC. art. 4.07's grant of "original jurisdiction of all misdemeanors" give county courts

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jurisdiction—concurrent with district courts—over official misconduct cases? Yes. Roland v. State, 631 S.W.3d 125 (Tex. Crim. App. 2021).

- If the error at trial was in admitting evidence under a non-constitutional rule—TEX. CODE CRIM. PROC. art. 38.23—shouldn't harm be assessed under the non-constitutional harm standard in TEX. R. APP. P. 44.2(b)? Yes. Holder v. State, 639 S.W.3d 704 (Tex. Crim. App. 2022), reh'g denied (Mar. 9, 2022).
- Is a trial court presiding over a retrospective competency hearing required to force counsel on an unwilling defendant who is presumed to be competent? No. Osorio-Lopez v. State, __S.W.3d__, No. PD-0354-21, 2022 WL 2335394 (Tex. Crim. App. June 29, 2022).
- Can a Travis County district court exercise habeas jurisdiction over the Kinney County Constitutional Court cases? Pending CCA decision. In re State of Texas ex rel. Brent Smith, No. WR-93,354-02.

THE OSPA'S CURRENT BUDGET-SAVING EFFORTS

The SPA continues to reduce expenditures by attending only complimentary continuing legal education conferences and by seeking scholarships from the State Bar.

THE OSPA'S EXCEPTIONAL ITEMS

1. 10% Judicial Wide Increase

The staff positions within the Article IV Courts and Agencies require a unique level of skill. From attorneys, to clerks and interpreters, to researchers and IT professionals, the expertise needed to keep the third branch of government running is vast. Recruiting and retaining qualified staff is challenging, even more so with inflation at 8.6 percent and rising. In FY 2021, the Judiciary had the third highest turnover rate in the state by General Appropriations Act Article at 14.5 percent. Salaries within the judiciary are not keeping up with inflation and are not competitive with other agencies or the private sector. Over the past year, Article IV Courts and Agencies have noticed a concerning trend of positions remaining open for lengthy periods of time and a steep decline in qualified applicants. Some entities have resorted to paying for recruiting tools to get a small pool of qualified candidates. Salary compression is also a major issue, where out of necessity, positions are posted at higher salaries than what current employees are making. The Article IV Courts and Agencies request a 10 percent salary increase for staff to maintain and recruit a strong and experienced judicial workforce.

Two Assistant Prosecutors' Justification:

- General Counsel IV salary is lower than several comparable judicial agencies:
- Texas Supreme Court General Counsel IV: \$137,025;
- Court of Criminal Appeals General Counsel III: \$129,024; Office of Court Administration General Counsel V: \$164,000;
- Fifth Court of Appeals General Counsel III: \$120,614.
- The prior increase was granted by the 86th Legislature.

Single Administrative Assistant Justification:

- Support coincides with the SPA's broad range of duties and responsibilities as the Executive Director, CFO, CEO, COO, Human Resources Manager, Communications Manager, Open Records Coordinator, Media & Outreach Director, Legislative Affairs Chief, etc;
- Assisting 3 attorneys requires working knowledge of the criminal justice system, case dispositions, some criminal appellate procedures, & the types of documents filed.

Administrator's Statement

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- The last increase of \$3,000 was granted by the 86th Legislature.

NOTE: if the administrative assistant position receives an increase above \$34,859, the maximum pay authorized for an Admin I, she will need to be reclassified as an Admin II (range: \$26,332-41,355).

2. Equity Adjustment for Single Administrative Assistant

- The current \$33,000 salary is low in comparison to Living Wage and Austin Average: \$33,000 is only \$2.24 over MIT's hourly Living Wage Calculation (\$13.63) for Austin for a single adult; \$2.16 under Indeed's average wage in Austin (\$18.05).

This position has been proven to be under-classified for the duties and responsibilities performed:

- Support coincides with the SPA's broad range of duties and responsibilities as the Executive Director, CFO, CEO, COO, Human Resources Manager, Communications Manager, Open Records Coordinator, Media & Outreach Director, Legislative Affairs Chief, etc.; and
- Assisting 3 attorneys requires working knowledge of the criminal justice system, case dispositions, some criminal appellate procedures, & the types of documents filed.

NOTE: if the administrative assistant position receives an increase above \$34,859, the maximum pay authorized for an Admin I, she will need to be reclassified as an Admin II (range: \$26,332-41,355).

CARRY-OVER AUTHORITY IS RESPECTFULLY REQUESTED

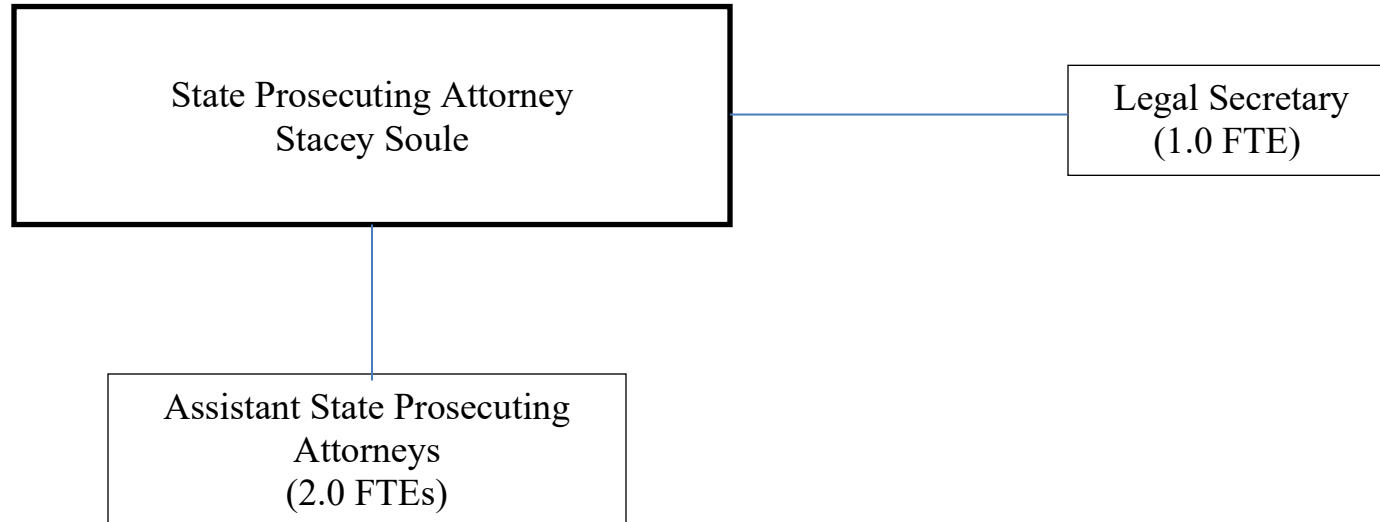
Finally, the SPA asks to retain the authority to carry over unexpended balances within the biennium to ensure flexibility within its already tight budget .

THE OSPA SUPPORTS THE ENTIRE JUDICIAL BRANCH

Texas bears the unique distinction of being its own outstanding brand. The Legislature should ensure that the Judiciary remains part of that brand by increasing salaries by 10% across the board. It is only through the combined support among the courts and judicial agencies that the State is prepared effectively and efficiently serve Texans.

ORGANIZATIONAL CHART

Office of the State Prosecuting Attorney





CERTIFICATE

Agency Name Office of the State Prosecuting Attorney

This is to certify that the information contained in the agency Legislative Appropriations Request filed with the Legislative Budget Board (LBB) and the Governor's Office Budget Division (Governor's Office) is accurate to the best of my knowledge and that the electronic submission to the LBB via the Automated Budget and Evaluation System of Texas (ABEST) and the PDF file submitted via the LBB Document Submission application are identical.

Additionally, should it become likely at any time that unexpended balances will accrue for any account, the LBB and the Governor's Office will be notified in writing in accordance with Article IX, Section 7.01 (2022-23 GAA).

Chief Executive Officer or Presiding Judge

Stacey Soule

Signature

Board or Commission Chair

Signature

Stacey Soule

Printed Name

Printed Name

State Prosecuting Attorney

Title

Title

7/28/2022

Date

Date

Chief Financial Officer

Signature

Printed Name

Title

Date

2.A. Summary of Base Request by Strategy

7/29/2022 1:14:20PM

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Automated Budget and Evaluation System of Texas (ABEST)

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Goal / Objective / STRATEGY	Exp 2021	Est 2022	Bud 2023	Req 2024	Req 2025
1 Representation of the State before the Court of Criminal Appeals					
1 Representation of the State before the Court of Criminal Appeals					
1 REPRESENTATION BEFORE CCA	331,622	297,807	327,193	312,500	312,500
2 STATE PROSECUTOR SALARY	153,733	158,443	158,797	158,530	158,710
TOTAL, GOAL 1	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210
TOTAL, AGENCY STRATEGY REQUEST	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210
TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST*				\$0	\$0
GRAND TOTAL, AGENCY REQUEST	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210

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Goal / Objective / STRATEGY	Exp 2021	Est 2022	Bud 2023	Req 2024	Req 2025
<u>METHOD OF FINANCING:</u>					
General Revenue Funds:					
1 General Revenue Fund	462,855	433,750	463,490	448,530	448,710
SUBTOTAL	\$462,855	\$433,750	\$463,490	\$448,530	\$448,710
Other Funds:					
777 Interagency Contracts	22,500	22,500	22,500	22,500	22,500
SUBTOTAL	\$22,500	\$22,500	\$22,500	\$22,500	\$22,500
TOTAL, METHOD OF FINANCING	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210

*Rider appropriations for the historical years are included in the strategy amounts.

2.B. Summary of Base Request by Method of Finance

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Automated Budget and Evaluation System of Texas (ABEST)

Agency code:	213	Agency name:	Office of the State Prosecuting Attorney			
METHOD OF FINANCING		Exp 2021	Est 2022	Bud 2023	Req 2024	Req 2025
<u>GENERAL REVENUE</u>						
<u>1</u>	General Revenue Fund					
	<i>REGULAR APPROPRIATIONS</i>					
	Regular Appropriations from MOF Table (2020-21 GAA)					
		\$430,000	\$0	\$0	\$0	\$0
	Regular Appropriations from MOF Table (2022-23 GAA)					
		\$0	\$448,530	\$448,710	\$0	\$0
	Regular Appropriations from MOF Table (2024-25 GAA)					
		\$0	\$0	\$0	\$448,530	\$448,710
	<i>RIDER APPROPRIATION</i>					
	Art. IX, Sec. 18.25 Contingency for HB 2384 (2020-2021 GAA) GR Reduction A.1.1.					
		\$(140,000)	\$0	\$0	\$0	\$0
	Art. IX, Sec. 18.25 Contingency for HB 2384 (2020-2021 GAA) Add A.1.2					
		\$148,167	\$0	\$0	\$0	\$0
	Art. IX, Sec. 18.25 Contingency for HB 2384 (2020-2021 GAA) Revised Reciepts					
		\$5,566	\$0	\$0	\$0	\$0

2.B. Summary of Base Request by Method of Finance

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Automated Budget and Evaluation System of Texas (ABEST)

Agency code: 213		Agency name: Office of the State Prosecuting Attorney				
METHOD OF FINANCING		Exp 2021	Est 2022	Bud 2023	Req 2024	Req 2025
<u>GENERAL REVENUE</u>						
<i>LAPSED APPROPRIATIONS</i>						
Regular Appropriations from MOF Table (2020-21 GAA)						
		\$(1,587)	\$0	\$0	\$0	\$0
<i>UNEXPENDED BALANCES AUTHORITY</i>						
Art IX, Sec 14.05, UB Authority within the Same Biennium (2020-21 GAA)						
		\$20,709	\$0	\$0	\$0	\$0
Art IX, Sec 14.05, UB Authority within the Same Biennium (2022-23 GAA)						
		\$0	\$(14,780)	\$14,780	\$0	\$0
TOTAL,	General Revenue Fund	\$462,855	\$433,750	\$463,490	\$448,530	\$448,710
TOTAL, ALL	GENERAL REVENUE	\$462,855	\$433,750	\$463,490	\$448,530	\$448,710

OTHER FUNDS

666 Appropriated Receipts

REGULAR APPROPRIATIONS

Regular Appropriations from MOF Table (2020-21 GAA)

2.B. Summary of Base Request by Method of Finance

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Automated Budget and Evaluation System of Texas (ABEST)

Agency code: 213		Agency name: Office of the State Prosecuting Attorney				
METHOD OF FINANCING		Exp 2021	Est 2022	Bud 2023	Req 2024	Req 2025
<u>OTHER FUNDS</u>						
		\$2,000	\$0	\$0	\$0	\$0
<i>LAPSED APPROPRIATIONS</i>						
	Regular Appropriations from MOF Table (2020-21 GAA)					
		\$(2,000)	\$0	\$0	\$0	\$0
	Comments: Appn lapse only					
TOTAL,	Appropriated Receipts					
		\$0	\$0	\$0	\$0	\$0
<u>777</u>	Interagency Contracts					
	<i>REGULAR APPROPRIATIONS</i>					
	Regular Appropriations from MOF Table (2020-21 GAA)					
		\$22,500	\$0	\$0	\$0	\$0
	Regular Appropriations from MOF Table (2022-23 GAA)					
		\$0	\$22,500	\$22,500	\$0	\$0
	Regular Appropriations from MOF Table (2024-25 GAA)					
		\$0	\$0	\$0	\$22,500	\$22,500

2.B. Summary of Base Request by Method of Finance

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Automated Budget and Evaluation System of Texas (ABEST)

Agency code: 213		Agency name: Office of the State Prosecuting Attorney				
METHOD OF FINANCING		Exp 2021	Est 2022	Bud 2023	Req 2024	Req 2025
<u>OTHER FUNDS</u>						
TOTAL,	Interagency Contracts					
		\$22,500	\$22,500	\$22,500	\$22,500	\$22,500
TOTAL, ALL	OTHER FUNDS					
		\$22,500	\$22,500	\$22,500	\$22,500	\$22,500
GRAND TOTAL		\$485,355	\$456,250	\$485,990	\$471,030	\$471,210
FULL-TIME-EQUIVALENT POSITIONS						
REGULAR APPROPRIATIONS						
	Regular Appropriations from MOF Table (2020-21 GAA)	4.0	0.0	0.0	0.0	0.0
	Regular Appropriations from MOF Table (2022-23 GAA)	0.0	4.0	4.0	0.0	0.0
	Regular Appropriations from MOF Table (2024-25 GAA)	0.0	0.0	0.0	4.0	4.0
TOTAL, ADJUSTED FTES		4.0	4.0	4.0	4.0	4.0
NUMBER OF 100% FEDERALLY FUNDED FTES						

2.C. Summary of Base Request by Object of Expense

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Automated Budget and Evaluation System of Texas (ABEST)**213 Office of the State Prosecuting Attorney**

OBJECT OF EXPENSE	Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
1001 SALARIES AND WAGES	\$413,479	\$418,146	\$423,000	\$420,850	\$420,490
1002 OTHER PERSONNEL COSTS	\$38,510	\$4,280	\$4,820	\$5,000	\$5,540
2001 PROFESSIONAL FEES AND SERVICES	\$1,601	\$410	\$410	\$150	\$150
2003 CONSUMABLE SUPPLIES	\$15	\$55	\$690	\$670	\$670
2005 TRAVEL	\$704	\$2,000	\$4,300	\$3,600	\$3,600
2007 RENT - MACHINE AND OTHER	\$706	\$706	\$706	\$1,060	\$1,060
2009 OTHER OPERATING EXPENSE	\$30,340	\$30,653	\$52,064	\$39,700	\$39,700
OOE Total (Excluding Riders)	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210
OOE Total (Riders)					
Grand Total	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210

2.D. Summary of Base Request Objective Outcomes

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Automated Budget and Evaluation system of Texas (ABEST)

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Goal/ Objective / Outcome		Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
1	Representation of the State before the Court of Criminal Appeals					
	1 Representation of the State before the Court of Criminal Appeals					
KEY	1 Petitions for Discretionary Review Granted by the Ct Criminal Appeals					
		23.00	17.00	17.00	17.00	17.00

2.E. Summary of Exceptional Items Request
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME : 1:14:21PM

Agency code: 213

Agency name: Office of the State Prosecuting Attorney

Priority	Item	2024			2025			Biennium	
		GR and GR/GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds
1	A.1.2 SPA Salary Supplement	\$240	\$240	0.0	\$10,682	\$10,682	0.0	\$10,922	\$10,922
2	Judiciary-Wide Inflation Relief	\$26,811	\$26,811		\$26,811	\$26,811		\$53,622	\$53,622
3	Equity Adjustment for Admin Assist	\$2,680	\$2,680		\$2,680	\$2,680		\$5,360	\$5,360
Total, Exceptional Items Request		\$29,731	\$29,731	0.0	\$40,173	\$40,173	0.0	\$69,904	\$69,904

Method of Financing

General Revenue	\$29,731	\$29,731	\$40,173	\$40,173	\$69,904	\$69,904
General Revenue - Dedicated						
Federal Funds						
Other Funds						
	\$29,731	\$29,731	\$40,173	\$40,173	\$69,904	\$69,904

Full Time Equivalent Positions

0.0

0.0

Number of 100% Federally Funded FTEs

2.F. Summary of Total Request by Strategy
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE : 7/29/2022
TIME : 1:14:22PM

Agency code: 213	Agency name: Office of the State Prosecuting Attorney					
Goal/Objective/STRATEGY	Base 2024	Base 2025	Exceptional 2024	Exceptional 2025	Total Request 2024	Total Request 2025
1 Representation of the State before the Court of Criminal Appeals						
1 Representation of the State before the Court of Criminal Appeals						
1 REPRESENTATION BEFORE CCA	\$312,500	\$312,500	\$29,491	\$29,491	\$341,991	\$341,991
2 STATE PROSECUTOR SALARY	158,530	158,710	240	10,682	158,770	169,392
TOTAL, GOAL 1	\$471,030	\$471,210	\$29,731	\$40,173	\$500,761	\$511,383
TOTAL, AGENCY STRATEGY REQUEST	\$471,030	\$471,210	\$29,731	\$40,173	\$500,761	\$511,383
TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST						
GRAND TOTAL, AGENCY REQUEST	\$471,030	\$471,210	\$29,731	\$40,173	\$500,761	\$511,383

2.F. Summary of Total Request by Strategy
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Automated Budget and Evaluation System of Texas (ABEST)

DATE : 7/29/2022
TIME : 1:14:22PM

Agency code: 213		Agency name: Office of the State Prosecuting Attorney					
Goal/Objective/STRATEGY		Base 2024	Base 2025	Exceptional 2024	Exceptional 2025	Total Request 2024	Total Request 2025
General Revenue Funds:							
1	General Revenue Fund	\$448,530	\$448,710	\$29,731	\$40,173	\$478,261	\$488,883
		\$448,530	\$448,710	\$29,731	\$40,173	\$478,261	\$488,883
Other Funds:							
777	Interagency Contracts	22,500	22,500	0	0	22,500	22,500
		\$22,500	\$22,500	\$0	\$0	\$22,500	\$22,500
TOTAL, METHOD OF FINANCING		\$471,030	\$471,210	\$29,731	\$40,173	\$500,761	\$511,383
FULL TIME EQUIVALENT POSITIONS		4.0	4.0	0.0	0.0	4.0	4.0

2.G. Summary of Total Request Objective Outcomes
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Date : 7/29/2022
Time: 1:14:22PM

Agency code: **213** Agency name: **Office of the State Prosecuting Attorney**

Goal/ Objective / Outcome

		BL	BL	Excp	Excp	Total	Total
		2024	2025	2024	2025	Request	Request
						2024	2025
1	Representation of the State before the Court of Criminal Appeals						
1	<i>Representation of the State before the Court of Criminal Appeals</i>						
KEY	1 Petitions for Discretionary Review Granted by the Ct Criminal Appeals						
		17.00	17.00			17.00	17.00

Budget Overview - Biennial Amounts
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

213 Office of the State Prosecuting Attorney											
Appropriation Years: 2024-25											
	GENERAL REVENUE FUNDS		GR DEDICATED		FEDERAL FUNDS		OTHER FUNDS		ALL FUNDS		EXCEPTIONAL ITEM FUNDS
	2022-23	2024-25	2022-23	2024-25	2022-23	2024-25	2022-23	2024-25	2022-23	2024-25	2024-25
Goal: 1. Representation of the State											
before the Court of Criminal Appeals											
1.1.1. Representation Before Cca	580,000	580,000					45,000	45,000	625,000	625,000	58,982
1.1.2. State Prosecutor Salary	317,240	317,240							317,240	317,240	10,922
Total, Goal	897,240	897,240					45,000	45,000	942,240	942,240	69,904
Total, Agency	897,240	897,240					45,000	45,000	942,240	942,240	69,904
Total FTEs									4.0	4.0	0.0

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GOAL: 1 Representation of the State before the Court of Criminal Appeals
OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals
STRATEGY: 1 Representation of the State before the Court of Criminal Appeals

Service Categories:

Service: 01 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
Output Measures:						
KEY 1	Number of Briefs Filed in All Appellate Courts by the SPA	23.00	20.00	20.00	20.00	20.00
2	Number of Petitions for Discretionary Review Filed by the SPA	35.00	24.00	24.00	24.00	24.00
Explanatory/Input Measures:						
1	Number of Court of Criminal Appeals Cases Reviewed	204.00	128.00	128.00	128.00	128.00
2	Number of Court of Appeals Cases Reviewed	174.00	200.00	200.00	200.00	200.00
Objects of Expense:						
1001	SALARIES AND WAGES	\$264,146	\$264,146	\$269,000	\$266,850	\$266,490
1002	OTHER PERSONNEL COSTS	\$36,350	\$2,060	\$2,420	\$2,780	\$3,140
2001	PROFESSIONAL FEES AND SERVICES	\$1,601	\$410	\$410	\$150	\$150
2003	CONSUMABLE SUPPLIES	\$15	\$55	\$690	\$670	\$670
2005	TRAVEL	\$704	\$2,000	\$4,300	\$3,600	\$3,600
2007	RENT - MACHINE AND OTHER	\$706	\$706	\$706	\$1,060	\$1,060
2009	OTHER OPERATING EXPENSE	\$28,100	\$28,430	\$49,667	\$37,390	\$37,390
TOTAL, OBJECT OF EXPENSE		\$331,622	\$297,807	\$327,193	\$312,500	\$312,500

Method of Financing:

213 Office of the State Prosecuting Attorney

GOAL: 1 Representation of the State before the Court of Criminal Appeals
OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals
STRATEGY: 1 Representation of the State before the Court of Criminal Appeals

Service Categories:

Service: 01 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
1	General Revenue Fund	\$309,122	\$275,307	\$304,693	\$290,000	\$290,000
SUBTOTAL, MOF (GENERAL REVENUE FUNDS)		\$309,122	\$275,307	\$304,693	\$290,000	\$290,000
Method of Financing:						
777	Interagency Contracts	\$22,500	\$22,500	\$22,500	\$22,500	\$22,500
SUBTOTAL, MOF (OTHER FUNDS)		\$22,500	\$22,500	\$22,500	\$22,500	\$22,500
TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)					\$312,500	\$312,500
TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)		\$331,622	\$297,807	\$327,193	\$312,500	\$312,500
FULL TIME EQUIVALENT POSITIONS:		3.0	3.0	3.0	3.0	3.0

STRATEGY DESCRIPTION AND JUSTIFICATION:

The Office of the State Prosecuting Attorney (SPA) is statutorily authorized, either alone or with the assistance of local district and county attorneys, to represent the State in criminal cases in the fourteen courts of appeals and in the Court of Criminal Appeals. See Tex.Gov't Code §§ 42.001, 42.005.

EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:

The Office of the State Prosecuting Attorney is a four-person agency with highly specialized staff. The main factor that drives this strategy is the need to attract and retain highly knowledgeable attorneys to represent the State in the most important and complex criminal appellate cases.

213 Office of the State Prosecuting Attorney

GOAL: 1 Representation of the State before the Court of Criminal Appeals
OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals Service Categories:
STRATEGY: 1 Representation of the State before the Court of Criminal Appeals Service: 01 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
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EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

<u>STRATEGY BIENNIAL TOTAL - ALL FUNDS</u>		<u>BIENNIAL</u>	<u>EXPLANATION OF BIENNIAL CHANGE</u>	
<u>Base Spending (Est 2022 + Bud 2023)</u>	<u>Baseline Request (BL 2024 + BL 2025)</u>	<u>CHANGE</u>	<u>\$ Amount</u>	<u>Explanation(s) of Amount (must specify MOFs and FTEs)</u>
\$625,000	\$625,000	\$0		
			\$0	Total of Explanation of Biennial Change

213 Office of the State Prosecuting Attorney

GOAL: 1 Representation of the State before the Court of Criminal Appeals
OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals
STRATEGY: 2 State Prosecutor Salary. Estimated and Nontransferable

Service Categories:

Service: NA Income: NA Age: NA

CODE	DESCRIPTION	Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
Objects of Expense:						
1001	SALARIES AND WAGES	\$149,333	\$154,000	\$154,000	\$154,000	\$154,000
1002	OTHER PERSONNEL COSTS	\$2,160	\$2,220	\$2,400	\$2,220	\$2,400
2009	OTHER OPERATING EXPENSE	\$2,240	\$2,223	\$2,397	\$2,310	\$2,310
TOTAL, OBJECT OF EXPENSE		\$153,733	\$158,443	\$158,797	\$158,530	\$158,710
Method of Financing:						
1	General Revenue Fund	\$153,733	\$158,443	\$158,797	\$158,530	\$158,710
SUBTOTAL, MOF (GENERAL REVENUE FUNDS)		\$153,733	\$158,443	\$158,797	\$158,530	\$158,710
TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)					\$158,530	\$158,710
TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)		\$153,733	\$158,443	\$158,797	\$158,530	\$158,710
FULL TIME EQUIVALENT POSITIONS:		1.0	1.0	1.0	1.0	1.0

STRATEGY DESCRIPTION AND JUSTIFICATION:

The State Prosecuting Attorney is entitled to receive from the state a salary in an amount equal to the state annual salary as set by the General Appropriations Act (in accordance with Section Texas Government Code Section 659.012) paid to a district judge with comparable years of service as the State Prosecuting Attorney. See TEX. GOV'T CODE § 46.003.

213 Office of the State Prosecuting Attorney

GOAL: 1 Representation of the State before the Court of Criminal Appeals
OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals Service Categories:
STRATEGY: 2 State Prosecutor Salary. Estimated and Nontransferable Service: NA Income: NA Age: NA

CODE	DESCRIPTION	Exp 2021	Est 2022	Bud 2023	BL 2024	BL 2025
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EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:

The State Prosecuting Attorney must have at least five years' experience in criminal law in Texas. TEX. GOV'T CODE § 42.001(b). In addition to experience in criminal law generally, expertise in criminal appellate law and post-conviction habeas corpus law is required to represent the State's interests. Further, as the agency head, the SPA acts in an administrative capacity as the agency's CEO, CFO, CIO, COO, human resources officer, open records officer, etc.

EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

<u>STRATEGY BIENNIAL TOTAL - ALL FUNDS</u>		<u>BIENNIAL</u>	<u>EXPLANATION OF BIENNIAL CHANGE</u>	
Base Spending (Est 2022 + Bud 2023)	Baseline Request (BL 2024 + BL 2025)	CHANGE	\$ Amount	Explanation(s) of Amount (must specify MOFs and FTEs)
\$317,240	\$317,240	\$0	\$0	Total of Explanation of Biennial Change

SUMMARY TOTALS:

OBJECTS OF EXPENSE:	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210
METHODS OF FINANCE (INCLUDING RIDERS):				\$471,030	\$471,210
METHODS OF FINANCE (EXCLUDING RIDERS):	\$485,355	\$456,250	\$485,990	\$471,030	\$471,210
FULL TIME EQUIVALENT POSITIONS:	4.0	4.0	4.0	4.0	4.0

4.A. Exceptional Item Request Schedule
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency code: 213 Agency name: Office of the State Prosecuting Attorney

CODE	DESCRIPTION	Excp 2024	Excp 2025
	Item Name: State Prosecutor Salary Supplement Item Priority: 1 IT Component: No Anticipated Out-year Costs: Yes Involve Contracts > \$50,000: No Includes Funding for the Following Strategy or Strategies: 01-01-02 State Prosecutor Salary. Estimated and Nontransferable		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	0	10,278
1002	OTHER PERSONNEL COSTS	240	240
2009	OTHER OPERATING EXPENSE	0	164
TOTAL, OBJECT OF EXPENSE		\$240	\$10,682
METHOD OF FINANCING:			
1	General Revenue Fund	240	10,682
TOTAL, METHOD OF FINANCING		\$240	\$10,682

DESCRIPTION / JUSTIFICATION:

In the 2020-2021 biennium, Article IX, Sec 18.25 Contingency for HB 2384 created Strategy A.1.2. State Prosecutor's Salary. The bill tied the State Prosecutor's compensation to the Comptroller's Judicial Compensation Package. Since A.1.2. is Estimated and Non-Transferable, the Comptroller will need to increase A.1.2. appropriation to cover the longevity increase as well as the salary and benefits increase due to the tier level change experienced mid-2025.

EXTERNAL/INTERNAL FACTORS:

Any internal and external factors are discussed above.

PCLS TRACKING KEY:

DESCRIPTION OF ANTICIPATED OUT-YEAR COSTS :

Continued funding of longevity increases in the future years.

4.A. Exceptional Item Request Schedule
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency code: 213 Agency name: Office of the State Prosecuting Attorney

CODE	DESCRIPTION	Excp 2024	Excp 2025
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ESTIMATED ANTICIPATED OUT-YEAR COSTS FOR ITEM:

2026	2027	2028
\$240	\$240	\$240

4.A. Exceptional Item Request Schedule
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency code: 213 Agency name: Office of the State Prosecuting Attorney

CODE	DESCRIPTION	Excp 2024	Excp 2025
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Item Name:	Judiciary-Wide Inflation Relief
Item Priority:	2
IT Component:	No
Anticipated Out-year Costs:	Yes
Involve Contracts > \$50,000:	No
Includes Funding for the Following Strategy or Strategies:	01-01-01 Representation of the State before the Court of Criminal Appeals

OBJECTS OF EXPENSE:

1001	SALARIES AND WAGES	26,415	26,415
2009	OTHER OPERATING EXPENSE	396	396
TOTAL, OBJECT OF EXPENSE		\$26,811	\$26,811

METHOD OF FINANCING:

1	General Revenue Fund	26,811	26,811
TOTAL, METHOD OF FINANCING		\$26,811	\$26,811

DESCRIPTION / JUSTIFICATION:

The staff positions within the Article IV require a unique level of skill. From attorneys, to clerks, and interpreters, to researchers and IT professionals, the expertise needed to keep the Judicial Branch running is vast. Recruiting and retaining qualified staff is challenging, especially with inflation at 8.6% and rising. In FY 2021, the Judiciary had the third highest turnover rate in the state by GAA (14.5 %). Judicial salaries are outpaced by inflation and are not competitive with other agencies or the private sector. Recently, Article IV Courts and Agencies noticed a concerning trend of positions remaining open for lengthy periods of time and a steep decline in qualified applicants. Salary compression is also a major issue, where out of necessity, positions are posted at higher salaries than what current employees are making. The Article IV Courts and Agencies request a 10 percent salary increase for staff to maintain and recruit a strong and experienced judicial workforce. Two Assistant Prosecutor's Justification: (1) salaries are particularly significant to the Office's prominence and continuity because they are the product of its three attorneys' intangible intellectual capital and loyalty to prosecution; (2) general Counsel IV salary is lower than several comparable judicial agencies: Texas Supreme Court General Counsel IV: \$137,025, Office of Court Administration General Counsel V: \$164,000, Fifth Court of Appeals General Counsel III: \$120,614; (3) the prior increase was granted by the 86th Legislature. Single Administrative Assistant Justification: (1) support coincides with the SPA's broad range of duties and responsibilities as the Executive Director, CFO, CEO, COO, Human Resources Manager, etc; (2) assisting 3 attorneys requires working knowledge of the criminal justice system, case dispositions, some criminal appellate procedures, & the types of documents filed; (3) the last increase of \$3,000 was granted by the 86th Legislature.

EXTERNAL/INTERNAL FACTORS:

The OSPA risks losing valuable state employees to larger state agencies that can afford higher salaries or the private sector. Two Assistant Prosecutors: The agency's great responsibility to represent the State before the Texas Court of Criminal Appeals means that there are very few attorneys who would be qualified to perform the essential and non-essential job functions of the General Counsel IV position. Thus, the 2 OSPA Assistant Prosecutors, with approximately 30 years of specialized practice combined, are

Agency code: 213 Agency name: Office of the State Prosecuting Attorney

CODE	DESCRIPTION	Excp 2024	Excp 2025
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practically irreplaceable. Their retention is essential to the future success of the agency. Single Administrative Assistant: Retention of the single administrative assistant for the OSPA is necessary for continuity and day-to-day operations. When this position experiences turnover, the OSPA's three attorneys must assume the administrative assistant duties in addition to meeting the workload associated with the core legal work product. Additionally, the time needed to train a new administrative assistant also takes away from the legal work-product productivity of the OSPA's attorneys. As a 4-person agency, the functions of the administrative assistant are critical to the agency's operations.

PCLS TRACKING KEY:

DESCRIPTION OF ANTICIPATED OUT-YEAR COSTS :

Continued funding of salary increases in the future years.

ESTIMATED ANTICIPATED OUT-YEAR COSTS FOR ITEM:

2026	2027	2028
\$26,811	\$26,811	\$26,811

4.A. Exceptional Item Request Schedule
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency code: 213 Agency name: Office of the State Prosecuting Attorney

CODE	DESCRIPTION	Excp 2024	Excp 2025
Item Name: Equity Adjustment for Administrative Assistant Item Priority: 3 IT Component: No Anticipated Out-year Costs: Yes Involve Contracts > \$50,000: No Includes Funding for the Following Strategy or Strategies: 01-01-01 Representation of the State before the Court of Criminal Appeals			
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	2,640	2,640
2009	OTHER OPERATING EXPENSE	40	40
TOTAL, OBJECT OF EXPENSE		\$2,680	\$2,680
METHOD OF FINANCING:			
1	General Revenue Fund	2,680	2,680
TOTAL, METHOD OF FINANCING		\$2,680	\$2,680

DESCRIPTION / JUSTIFICATION:

The current \$33,000 salary is low in comparison to Living Wage and Austin Average: \$33,000 is only \$2.24 over MIT's hourly Living Wage Calculation (\$13.63) for Austin for a single adult; \$2.16 under Indeed's average wage in Austin (\$18.05). This position has been proven to be underclassified for the duties and responsibilities performed: (1) support coincides with the SPA's broad range of duties and responsibilities as the Executive Director, CFO, CEO, COO, Human Resources Manager, Communications Manager, Open Records Coordinator, Media & Outreach Director, Legislative Affairs Chief, etc.; and(2) Assisting 3 attorneys requires working knowledge of the criminal justice system, case dispositions, some criminal appellate procedures, & the types of documents filed. NOTE: if the administrative assistant position receives an increase above \$34,859, the maximum pay authorized for an Admin I, she will need to be reclassified as an Admin II (range: \$26,332-41,355).

EXTERNAL/INTERNAL FACTORS:

Employee retention of the single administrative assistant for the OSPA is necessary for continuity and day-to-day operations. When this position experiences turnover, the OSPA's three attorneys must assume the administrative assistant duties in addition to meeting the workload associated with the core legal work product. Additionally, the time needed to train a new administrative assistant also takes away from the legal work-product productivity of the OSPA's attorneys. As a 4-person agency, the functions of the administrative assistant are critical to the agency's operations.

PCLS TRACKING KEY:

4.A. Exceptional Item Request Schedule
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency code: 213 Agency name: Office of the State Prosecuting Attorney

CODE	DESCRIPTION	Excp 2024	Excp 2025
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DESCRIPTION OF ANTICIPATED OUT-YEAR COSTS :

Continued funding of salary increases in the future years.

ESTIMATED ANTICIPATED OUT-YEAR COSTS FOR ITEM:

2026	2027	2028
\$2,680	\$2,680	\$2,680

Agency code:	213	Agency name:	Office of the State Prosecuting Attorney		
Code	Description			Excp 2024	Excp 2025
Item Name:	State Prosecutor Salary Supplement				
Allocation to Strategy:	1-1-2	State Prosecutor Salary. Estimated and Nontransferable			
STRATEGY IMPACT ON OUTCOME MEASURES:					
1	Petitions for Discretionary Review Granted by the Ct Criminal Appeals			0.00	0.00
OBJECTS OF EXPENSE:					
1001	SALARIES AND WAGES			0	10,278
1002	OTHER PERSONNEL COSTS			240	240
2009	OTHER OPERATING EXPENSE			0	164
TOTAL, OBJECT OF EXPENSE				\$240	\$10,682
METHOD OF FINANCING:					
1	General Revenue Fund			240	10,682
TOTAL, METHOD OF FINANCING				\$240	\$10,682
FULL-TIME EQUIVALENT POSITIONS (FTE):				0.0	0.0

Agency code:	213	Agency name:	Office of the State Prosecuting Attorney		
Code	Description			Excp 2024	Excp 2025
Item Name:	Judiciary-Wide Inflation Relief				
Allocation to Strategy:	1-1-1	Representation of the State before the Court of Criminal Appeals			
OBJECTS OF EXPENSE:					
	1001	SALARIES AND WAGES		26,415	26,415
	2009	OTHER OPERATING EXPENSE		396	396
TOTAL, OBJECT OF EXPENSE				\$26,811	\$26,811
METHOD OF FINANCING:					
	1	General Revenue Fund		26,811	26,811
TOTAL, METHOD OF FINANCING				\$26,811	\$26,811

Agency code: 213		Agency name: Office of the State Prosecuting Attorney	
Code	Description	Excp 2024	Excp 2025
Item Name:		Equity Adjustment for Administrative Assistant	
Allocation to Strategy:		1-1-1	Representation of the State before the Court of Criminal Appeals
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	2,640	2,640
2009	OTHER OPERATING EXPENSE	40	40
TOTAL, OBJECT OF EXPENSE		\$2,680	\$2,680
METHOD OF FINANCING:			
1	General Revenue Fund	2,680	2,680
TOTAL, METHOD OF FINANCING		\$2,680	\$2,680

4.C. Exceptional Items Strategy Request
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency Code: **213** Agency name: **Office of the State Prosecuting Attorney**

GOAL: 1 Representation of the State before the Court of Criminal Appeals

OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals

STRATEGY: 1 Representation of the State before the Court of Criminal Appeals

Service Categories:

Service: 01 Income: A.2 Age: B.3

CODE DESCRIPTION	Excp 2024	Excp 2025
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OBJECTS OF EXPENSE:

1001 SALARIES AND WAGES	29,055	29,055
2009 OTHER OPERATING EXPENSE	436	436
Total, Objects of Expense	\$29,491	\$29,491

METHOD OF FINANCING:

1 General Revenue Fund	29,491	29,491
Total, Method of Finance	\$29,491	\$29,491

EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:

Judiciary-Wide Inflation Relief

Equity Adjustment for Administrative Assistant

4.C. Exceptional Items Strategy Request
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 7/29/2022
TIME: 1:14:27PM

Agency Code: **213** Agency name: **Office of the State Prosecuting Attorney**

GOAL: 1 Representation of the State before the Court of Criminal Appeals

OBJECTIVE: 1 Representation of the State before the Court of Criminal Appeals

Service Categories:

STRATEGY: 2 State Prosecutor Salary. Estimated and Nontransferable

Service: NA Income: NA Age: NA

CODE DESCRIPTION	Excp 2024	Excp 2025
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OBJECTS OF EXPENSE:

1001 SALARIES AND WAGES	0	10,278
1002 OTHER PERSONNEL COSTS	240	240
2009 OTHER OPERATING EXPENSE	0	164

Total, Objects of Expense

	\$240	\$10,682
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METHOD OF FINANCING:

1 General Revenue Fund	240	10,682
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Total, Method of Finance

	\$240	\$10,682
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EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:

State Prosecutor Salary Supplement

6.A. Historically Underutilized Business Supporting Schedule
88th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

Date: 7/29/2022
Time: 1:14:29PM

Agency Code: 213 Agency: Office of the State Prosecuting Attorney

COMPARISON TO STATEWIDE HUB PROCUREMENT GOALS

A. Fiscal Year - HUB Expenditure Information

Statewide HUB Goals	Procurement Category	% Goal	HUB Expenditures FY 2020			Total Expenditures		HUB Expenditures FY 2021			Total Expenditures	
			% Actual	Diff	Actual \$	FY 2020	% Goal	% Actual	Diff	Actual \$	FY 2021	
26.0%	Other Services	0.0 %	0.0%	0.0%	\$0	\$3,295	0.0 %	0.0%	0.0%	\$0	\$2,157	
21.1%	Commodities	21.1 %	38.9%	17.8%	\$191	\$491	21.1 %	100.0%	78.9%	\$252	\$252	
	Total Expenditures		5.0%		\$191	\$3,786		10.5%		\$252	\$2,409	

B. Assessment of Attainment of HUB Procurement Goals

Attainment:

Special Prosecuting Attorney Office (SPA) attained or exceeded 1 of 1 or 100% of its applicable HUB procurement goals in fiscal year 2020. SPA attained or exceeded 1 of 1 or 100% of its applicable HUB procurement goals for FY21 with an overall increase of 00% in HUB purchases from FY20 to FY21.

Applicability:

Heavy Construction, Building Construction, Special Trade Professional Services: These categories were not applicable to SPA operations in either FY20 or FY21. SPA does not have any strategies or programs related to these categories.

Factors Affecting Attainment:

Commodities: SPA achieved a HUB expenditure percentage of 38.97% in FY20, which exceeded the statewide goal for this category of 21.10%. SPA achieved a HUB expenditure percentage of 100% in FY21, which exceeded the statewide goal for this category of 21.10%. There were no factors affecting the attainment of this goal for FY20 and 21.

C. Good-Faith Efforts to Increase HUB Participation

Outreach Efforts and Mentor-Protégé Programs:

SPA has no current Mentor Protégé program participants at this time.

HUB Program Staffing:

The Office of Court Administration (OCA) currently handles the procurements for this agency. SPA currently has no full or part time Procurement or HUB Coordinator.

Current and Future Good-Faith Efforts:

OCA will continue to procure for SPA with a good faith effort to use HUBS when possible.