

# Discussion Points

1. The Governor's budget incorporates an estimated \$5.183 billion over two fiscal years in federal stimulus funding provided by the American Recovery and Reinvestment Act (ARRA) of 2009. According to a table on page 42 of the Governor's abbreviated budget, the State will use \$3.074 billion (\$854 million in FY09 and \$2.220 billion in FY10) from ARRA for budget relief. In addition to these funds which will offset revenue shortfalls, \$2.109 billion will be used for new or expanded programs or initiatives. The ARRA allocates funds to states both by formula and by competitive awards. Most executive departments anticipate stimulus funding in FY 2009, FY 2010 or both.

- ***Question:*** Please itemize the federal stimulus funding, if any, other than portions of the \$3.074 billion allocated for budget relief, included in the department's budget, by fiscal year and federal program, setting forth program goals and eligible uses together with the amount for state administrative expenses and the amount for allocation to local public and private recipients, respectively. Please identify intended and actual recipients and the process by which the department determines recipients and funding awards. Are there ARRA funds that flow through your department for which the State has no discretion? Please also set forth the timetable for obtaining federal approval of funding, obligation and allocation of funding to recipients, and use by recipients. Could any of this funding be used to offset other State appropriations, and if so, what programs and in what amount? What additional positions, if any, have been and will be hired with these funds? If this money is being used for new or expanded activities, will the new or expanded activities be continued in FY 2011? If so, how will they be funded?

- ***Answer:*** The Office of the Public Defender does not receive or have any pending application for federal stimulus funding through the American Recovery and Reinvestment Act (ARRA).

- ***Question:*** In addition to funding incorporated in the FY 2010 budget, what specific competitive grant opportunities has the department identified that it is eligible to pursue, has applied for, and has been awarded, respectively?

- ***Answer:*** The Office of the Public Defender (OPD) does not receive any direct federal funding. The OPD is an indirect beneficiary of federal funds as a sub-grantee through other State agencies. None of these funds are federal stimulus funding through the American Recovery and Reinvestment Act (ARRA). The OPD continues to work with other State agencies regarding competitive grant opportunities.

2. Over the past several years, the overall staffing level in the executive branch has been reduced through restrictions on hiring and an early retirement program. The FY 2010 budget proposal envisions continuation of the hiring restrictions coupled with possible furloughs or further reductions in positions.

- ***Question:*** How has the reduction in staffing affected your department? What strategies has the department employed to deal with staff reductions? What projects, work products or functions has the department discontinued or deferred because of staffing levels? Will the department be able to accommodate furloughs in FY 2010 without increasing spending for overtime?

- ***Answer:*** Although the Public Defender's full time employee (FTE) count has declined through hiring restrictions over the past two fiscal years, the OPD has continued to work diligently in providing quality representation to all Public Defender clients. The Administration has been working closely with the OPD to ensure that adequate funding and staffing are made available to accomplish this purpose. No program functions have been discontinued or deferred because of staffing levels. Furlough demands in FY 2010 will not increase overtime in the Office of the Public Defender.

3. The FY 2009 appropriations act anticipated that \$25 million in procurement savings would be achieved by executive departments. A chart on page 75 of the Budget in Brief categorizes those savings and indicates they will continue into FY 2010. The FY 2010 budget includes another \$25 million from procurement savings (Budget in Brief, Appendix I, and page 8).

- ***Question:*** Please indicate the FY 2009 amount of procurement savings achieved by your department, by the categories set forth in the referenced table, and the

**sources of those savings by department program? What the annual amount of these savings is as continued into FY 2010? How have these reductions affected the department? What projects, work products or functions has the department discontinued or deferred in order to achieve these savings?**

- **Answer:** OMB is providing the response to this question on behalf of all agencies statewide.

52. In its December 2008 audit report on the Office of the Public Defender (OPD), the Office of the State Auditor expressed concern that OPD's pool attorney hours were not closely monitored for propriety. To avoid a conflict of interest, OPD staff attorneys handle only the legal defense of one defendant. In a multi-defendant case, the OPD outsource the legal representation of the other defendants to private pool attorneys who bill the office at an hourly rate. The State Auditor noted the lack of a routine review of the number of hours charged per day by an individual attorney who may work on several cases in a day and may also be working in different regional OPD districts on the same day (pool attorneys submit invoices on a per-client basis). The OPD replied that it had developed an automated process through which no pool attorney would receive a reimbursement for hours billed in excess of 12 hours per day. At the time of the audit, the new software was still being fine tuned.

An "in but not of" agency in the Department of the Treasury, the OPD primarily furnishes legal counsel to indigent defendants in criminal cases. But it also represents children and indigent parents in family court in child abuse and neglect as well as termination of parental rights proceedings. Through the FY 2009 Appropriations Act, the State made \$110.5 million available to the OPD, while anticipating \$4.9 million in public defender client receipts. According to evaluation data in the Governor's Fiscal Year 2010 Budget, the office projects 1,009 funded positions, expenditures of \$113.5 million, and 102,791 case closings in fiscal year 2010. In fiscal year 2008, it had closed 97,755 cases while expending \$110.6 million and filling 1,074 positions.

- **Questions:** Please provide a timeline for the statewide rollout of the automated process by which pool attorneys must submit their timesheets electronically. Does the software pass muster at this point? When will the program be piloted and when will it be rolled out statewide?

- *Answer:* The rollout of the automated billing process by which pool attorneys must submit their timesheets electronically will begin with a pilot program for a two month period in the very near future. At the conclusion of the pilot, barring any extensive software changes, the OPD intends to roll out this automation statewide immediately thereafter. Our organization has thoroughly reviewed all aspects of the software development and initiated changes, and other efficiencies that included a standardized electronic state invoice incorporating a disposition and billing sheet for each case. This program will require all pool attorneys to certify their eligibility to work for the State of New Jersey and present legible, accurate, and timely billing data for payment.