



# Legislative Appropriations Request

For Fiscal Years 2018 and 2019

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

Office of Capital and Forensic Writs

REVISED

August 19, 2016

**FY 2018-19 LEGISLATIVE APPROPRIATIONS REQUEST**  
**Office of Capital and Forensic Writs**

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**215 Office of Capital and Forensic Writs**

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**PURPOSE OF THE OFFICE OF CAPITAL AND FORENSIC WRITS**

The Office of Capital Writs was established by the 81st Legislative Session to provide representation to capital defendants in post-conviction proceedings. Senate Bill 1743 of the 84th Legislative Session expanded the mandate of the Office of Capital Writs to include the representation of some defendants in post-conviction litigation of forensic science issues. To reflect the expanded mandate, the agency's name was changed to Office of Capital and Forensic Writs (OCFW).

**OVERVIEW OF THE OCFW'S FISCAL YEAR 2018-19 LEGISLATIVE APPROPRIATION REQUEST**

The OCFW represents a large majority of death-sentenced persons in initial state post-conviction proceedings and related proceedings through appointments made by the trial court; the agency is currently litigating 53 pending cases on behalf of 40 clients.

Following appointment, consistent with statutory and professional requirements, OCFW must conduct a thorough and independent investigation of both the conviction and the sentence, raising every available legal claim regarding the constitutionality of a particular client's conviction and/or sentence. Professional guidelines dictate that post-conviction counsel cannot rely on the previously compiled record or limit the scope of post-conviction investigation to what was done previously; instead, post-conviction counsel must conduct a thorough and independent investigation, treating the writ of habeas corpus as both the first and last meaningful opportunity to present new evidence to challenge a client's conviction and sentence. See State Bar of Texas, Guidelines and Standards for Texas Capital Counsel (2006); State Bar of Texas, Supplementary Guidelines and Standards for the Mitigation Function of Defense Teams in Texas Death Penalty Cases (2015).

Once an application for post-conviction relief is filed and the prosecution responds, a district court is supposed to determine whether controverted issues of fact exist that are material to the claims raised regarding the constitutionality of the conviction or sentence and then may hold a hearing where evidence will be presented. Whether a hearing is granted is up to the district court and is supposed to be based on an analysis of the claims in a particular habeas application. Therefore, it is difficult to predict whether and when hearings will be granted. Once a district court considers the merits of a habeas application, the court will issue recommended findings of fact and conclusions of law and send the case to the Court of Criminal Appeals (CCA). After a case is sent to the CCA, the OCFW will brief issues raised by the district court's disposition, and the CCA will grant relief, remand the case to the district court for further proceedings, or deny relief. Thus, in the course of representing clients, the OCFW litigates cases both at the district-court level in the counties of conviction and before the CCA.

With the passage of SB 1743, the mandate of the OCFW also includes representing convicted persons in post-conviction litigation brought under Article 11.073 of the Code of Criminal Procedure or that is collateral to the preparation of an application under Article 11.073, if the case was referred in writing to the OCFW by the Texas Forensic Science Commission (FSC) under Article 38.01 §4(h). See Tex. Govt. Code § 78.054(b)(4). Such referrals may include an investigation into professional misconduct or negligence affecting the forensic analysis.

Upon receiving a referral from the FSC, the OCFW determines whether the subject of the case referral is represented by counsel. If the individual is represented by counsel, OCFW consults with counsel to: 1) identify the forensic science issue to appointed private counsel; and 2) offer litigation support. The latter may include researching and modeling pleadings for the counsel assigned to investigate the basis of a post-conviction writ challenging the reliance on discredited forensic evidence. In this capacity, the OCFW serves as a resource to members of the private criminal defense bar who are also interested in litigating these issues.

If, upon receiving a referral from the FSC, the OCFW determines that individuals with a compelling issue of forensic science in their case are without counsel, or if counsel is unable or unwilling to represent their clients in state post-conviction proceedings, the OCFW determines whether it can represent these individuals. In reviewing cases for forensic science-related issues, the OCFW may consult with law school clinics and experts in the field.

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**215 Office of Capital and Forensic Writs**

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**EXCEPTIONAL ITEM #1: RESTORATION OF THE 4% REDUCTION**

**Description/Justification:**

The OCFW respectfully requests restoration of the 4% reduction in funding because the reduction will transfer more of the costs of post-conviction representation to Texas counties. The OCFW is professionally and statutorily obligated to investigate all possible constitutional claims relating to conviction and sentence. Often these claims turn on questions of ballistics, forensic evidence, scientific evidence, and issues relating to a client's cognition, competence, and mental illness—areas beyond the ken of the legal profession. Thus, to investigate these claims, the OCFW must consult with experts in different scientific and academic disciplines, and base any claim subsequently raised on the opinions of these experts. Such experts are indispensable to post-conviction representation; they are required by the Guidelines and Standards for Texas Capital Counsel issued by the State Bar of Texas, and are contemplated by statute that outlines the OCFW's basic directives. See, e.g., Article 11.071(3).

Without the restoration of the 4% reduction, the OCFW will be forced to rely on funding from local district courts for the appointment of appropriate experts that would otherwise be funded through legislative appropriation.

**External/Internal Factors:**

Texas counties are already struggling to fund indigent defense costs, and the shifting of additional costs of post-conviction representation to the counties will additionally burden county-level court and indigent defense budgets that are stretched for resources.

**EXCEPTIONAL ITEM #2: ADDITIONAL STAFF TO FULFILL MANDATE**

**Description/Justification:**

In the 84th Legislative Session, SB 1743 expanded the OCFW's powers and duties beyond post-conviction matters in death penalty cases to include habeas corpus and other post-conviction matters in cases involving certain forensic scientific evidence that becomes available after conviction. SB 1743, however, did not appropriate corresponding funding to account for the expanded mandate; rather, it provided the legal basis for an appropriation of funds to implement the provisions of the bill, by including a fiscal note that anticipated that the OCFW's staff would expand by two attorneys in fiscal year 2018, and an additional attorney in fiscal year 2019, to manage the additional forensic science cases.

The OCFW requests the addition of two investigators to ensure that it can keep pace with the rate of referrals. The most significant current limiting factor on the number of cases the OCFW handles is investigation; because of our presently overtaxed investigation resources, we have a backlog of newer cases that can wait for 12 months after assignment before investigation is able to begin in any meaningful way. When cases are not investigated promptly and thoroughly at the state level, it increases the likelihood that the cases will be subject to additional scrutiny by federal courts, depriving the state courts of their ability to control the course of litigation and decide, in the first instance, important constitutional issues. The delay and strained resources also increases the likelihood that key witnesses and documentary evidence will become more difficult and costly to find.

The OCFW requests professional fees and services and travel appropriations to allow for the investigation of potential constitutional and junk science claims and for consultations with experts commensurate with the expanded mandate.

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In addition, the OCFW requests an Accountant I to help manage accounting and reporting obligations. The OCFW currently has a single staff person with the responsibility over finance, accounting, payroll, human resources, reporting, travel and reimbursement. When the OCFW was smaller, it was at least possible for one staff person to accomplish so many different, complicated, and vitally important institutional areas. Given the present and anticipated size of the agency, the expectation that a single person can handle this administrative workload is unrealistic. Therefore, the OCFW respectfully requests an additional Accountant I.

**External/Internal Factors:**

Without the requested money, the OCFW will be unable to fill the need recognized by SB 1743 for an institutional provider of post-conviction representation and resources in connection with challenges to convictions that relied on questionable forensic science.

Furthermore, without the additional investigative resources, the OCFW will be unable to provide the competent representation to its clients that is professionally required and statutorily mandated. When cases are not investigated promptly and thoroughly at the state level, it increases the likelihood that the cases will be subject to additional scrutiny by federal courts, depriving the state courts of their ability to control the course of litigation and decide, in the first instance, important constitutional issues.

Lastly, the OCFW requests an appropriation to pay for certain information technology and equipment costs associated with additional staff.

Although the OCFW's is currently using all of its available space, it is not requesting money for additional space to accommodate new staff, but will instead work with the Texas Facilities Commission to find a location for staff at no additional cost to the State.

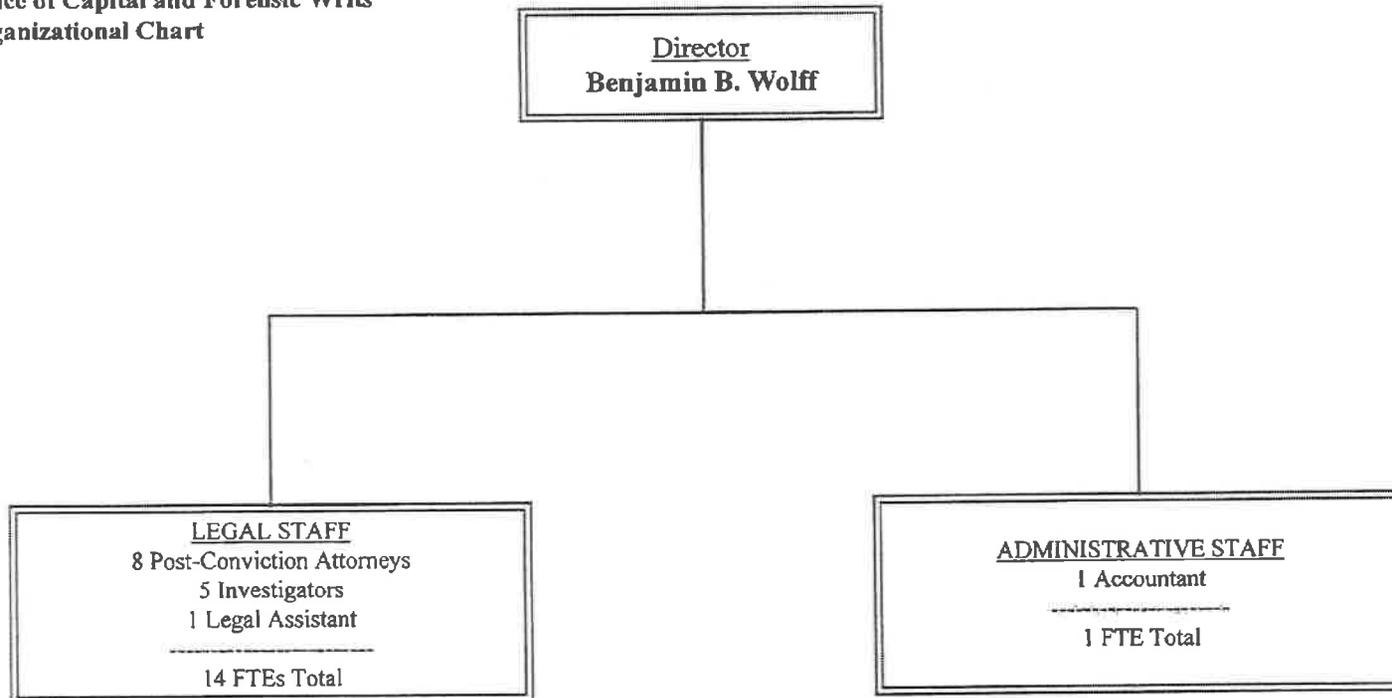
**CONCLUSION**

Individuals sentenced to death have a right to competent post-conviction representation. The State of Texas has an important interest in ensuring both that individuals are not executed in violation of the Constitution or with their guilt in doubt, and that the litigation of any claims regarding their conviction or sentence occur first and foremost in Texas courts. Likewise, as the 84th Legislature recognized, there is need for attorneys to represent individuals convicted on the basis of questionable forensic science and for the OCFW to serve as a resource to members of the bar who are handling these cases. To fulfill its mandate of providing competent, much-needed post-conviction representation, the OCFW respectfully asks for consideration of the following legislative appropriations request.

Respectfully submitted,

Benjamin B. Wolff  
Director  
Office of Capital and Forensic Writs

**Office of Capital and Forensic Writs  
Organizational Chart**





## CERTIFICATE

Agency Name OFFICE OF CAPITAL AND FORENSIC WRITS

This is to certify that the information contained in the agency Legislative Appropriation Request filed with the Legislative Budget Board (LBB) and the Office of the Governor, Budget Division, 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 (2016-17 GAA).

**Chief Executive Officer or Presiding Judge**

*B B Wolff*  
Signature

BENJAMIN B. WOLFF  
Printed Name

DIRECTOR  
Title

8/19/2016  
Date

**Board or Commission Chair**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Chief Financial Officer**

*Sandra B. Justice*  
Signature

SANDRA B. JUSTICE  
Printed Name

SENIOR ACCOUNTANT / HR  
Title

8/19/2016  
Date

**Budget Overview - Biennial Amounts**  
**85th Regular Session, Agency Submission, Version 1**  
Automated Budget and Evaluation System of Texas (ABEST)

215 Office of Capital and Forensic Writs  
Appropriation Years: 2018-19

	GENERAL REVENUE FUNDS		GR DEDICATED		FEDERAL FUNDS		OTHER FUNDS		ALL FUNDS		EXCEPTIONAL ITEM FUNDS
	2016-17	2018-19	2016-17	2018-19	2016-17	2018-19	2016-17	2018-19	2016-17	2018-19	2018-19
<b>Goal: 1. Post-Conviction Representation</b>											
1.1.1. Post-Conviction Representation			2,791,584	2,679,921					2,791,584	2,679,921	1,014,881
<b>Total, Goal</b>			<b>2,791,584</b>	<b>2,679,921</b>					<b>2,791,584</b>	<b>2,679,921</b>	<b>1,014,881</b>
<b>Total, Agency</b>			<b>2,791,584</b>	<b>2,679,921</b>					<b>2,791,584</b>	<b>2,679,921</b>	<b>1,014,881</b>
<b>Total FTEs</b>									<b>16.0</b>	<b>16.5</b>	<b>6.0</b>

2.A. Summary of Base Request by Strategy

8/19/2016 4:40:52PM

85th Regular Session, Agency Submission, Version 1

Automated Budget and Evaluation System of Texas (ABEST)

215 Office of Capital and Forensic Writs

Goal / Objective / STRATEGY	Exp 2015	Est 2016	Bud 2017	Req 2018	Req 2019
<u>1</u> Post-Conviction Representation					
<u>1</u> Post-Conviction Representation					
<b>1 POST-CONVICTION REPRESENTATION</b>	1,113,882	1,438,501	1,353,083	1,339,960	1,339,961
<b>TOTAL, GOAL 1</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>TOTAL, AGENCY STRATEGY REQUEST</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST*</b>				\$0	\$0
<b>GRAND TOTAL, AGENCY REQUEST</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>METHOD OF FINANCING:</b>					
<b>General Revenue Dedicated Funds:</b>					
5073 Fair Defense	1,113,882	1,438,501	1,353,083	1,339,960	1,339,961
<b>SUBTOTAL</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>TOTAL, METHOD OF FINANCING</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>

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

2.B. Summary of Base Request by Method of Finance  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:52PM

Agency code: 215

Agency name: Office of Capital and Forensic Writs

METHOD OF FINANCING	Exp 2015	Est 2016	Bud 2017	Req 2018	Req 2019
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**GENERAL REVENUE FUND - DEDICATED**

5073 GR Dedicated - Fair Defense Account No. 5073

*REGULAR APPROPRIATIONS*

Regular Appropriations from MOF Table (2014-15 GAA)

\$1,091,772	\$0	\$0	\$0	\$0
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Regular Appropriations from MOF Table (2016-17 GAA)

\$0	\$1,423,146	\$1,328,863	\$1,339,960	\$1,339,961
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*TRANSFERS*

Art IX, Sec 17.06 Salary Increase for General State Employees (2014-15 GAA)

\$12,745	\$0	\$0	\$0	\$0
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Art IX, Sec 18.04, Additional Appropriation for Employee Benefits (2016-17 GAA)

\$0	\$15,355	\$24,220	\$0	\$0
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*LAPSED APPROPRIATIONS*

Regular Appropriations from MOF Table (2014-15 GAA)

\$(5,670)	\$0	\$0	\$0	\$0
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*UNEXPENDED BALANCES AUTHORITY*

2.B. Summary of Base Request by Method of Finance  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:52PM

Agency code: 215

Agency name: Office of Capital and Forensic Writs

METHOD OF FINANCING	Exp 2015	Est 2016	Bud 2017	Req 2018	Req 2019
<b><u>GENERAL REVENUE FUND - DEDICATED</u></b>					
Art IX, Sec 14.05, UB Authority within the Same Biennium (2014-15 GAA)					
	\$15,035	\$0	\$0	\$0	\$0
<b>TOTAL, GR Dedicated - Fair Defense Account No. 5073</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>TOTAL, ALL GENERAL REVENUE FUND - DEDICATED</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>TOTAL, GR &amp; GR-DEDICATED FUNDS</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>GRAND TOTAL</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>

**FULL-TIME-EQUIVALENT POSITIONS**

REGULAR APPROPRIATIONS

Regular Appropriations from MOF Table (2014-15 GAA)	13.0	0.0	0.0	0.0	0.0
Regular Appropriations from MOF Table (2016-17 GAA)	0.0	16.5	16.5	16.5	16.5
<b>UNAUTHORIZED NUMBER OVER (BELOW) CAP</b>					
Unauthorized Number over (Below) Cap	(0.1)	(0.5)	(0.5)	0.0	0.0
<b>TOTAL, ADJUSTED FTES</b>	<b>12.9</b>	<b>16.0</b>	<b>16.0</b>	<b>16.5</b>	<b>16.5</b>

2.B. Summary of Base Request by Method of Finance  
85th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:52PM

Agency code: 215

Agency name: Office of Capital and Forensic Writs

METHOD OF FINANCING	Exp 2015	Est 2016	Bud 2017	Req 2018	Req 2019
NUMBER OF 100% FEDERALLY FUNDED FTEs	0.0	0.0	0.0	0.0	0.0

2.C. Summary of Base Request by Object of Expense  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:53PM

215 Office of Capital and Forensic Writs

OBJECT OF EXPENSE	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
1001 SALARIES AND WAGES	\$778,610	\$917,192	\$1,104,085	\$1,059,742	\$1,059,742
1002 OTHER PERSONNEL COSTS	\$36,746	\$29,205	\$8,120	\$12,259	\$12,259
2001 PROFESSIONAL FEES AND SERVICES	\$190,591	\$287,093	\$160,451	\$160,661	\$160,662
2003 CONSUMABLE SUPPLIES	\$7,297	\$7,000	\$5,000	\$6,000	\$6,000
2004 UTILITIES	\$1,771	\$4,641	\$0	\$4,600	\$4,600
2005 TRAVEL	\$35,299	\$50,000	\$40,000	\$50,000	\$50,000
2006 RENT - BUILDING	\$1,557	\$2,100	\$2,100	\$2,100	\$2,100
2007 RENT - MACHINE AND OTHER	\$3,936	\$3,968	\$3,714	\$4,000	\$4,000
2009 OTHER OPERATING EXPENSE	\$58,075	\$137,302	\$29,613	\$40,598	\$40,598
<b>OOE Total (Excluding Riders)</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>OOE Total (Riders)</b>				<b>\$0</b>	<b>\$0</b>
<b>Grand Total</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>

**2.D. Summary of Base Request Objective Outcomes**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation system of Texas (ABEST)

8/19/2016 4:40:53PM

**215 Office of Capital and Forensic Writs**

Goal/ Objective / Outcome	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
1 Post-Conviction Representation					
1 Post-Conviction Representation					
<b>KEY</b> <b>1 # Writ Apps for Which Hearings are Granted by Trial Court</b>	8.00	6.00	4.00	4.00	4.00
<b>KEY</b> <b>2 Percentage of Writs Filed on a Timely Basis</b>	100.00%	100.00%	100.00%	100.00%	100.00%
<b>3 Percentage of Cases Pending at the District-Court Level</b>	73.00%	84.00%	50.00%	50.00%	50.00%

**2.E. Summary of Exceptional Items Request**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME : 4:40:54PM

Agency code: 215

Agency name: Office of Capital and Forensic Writs

Priority	Item	2018			2019			Biennium	
		GR and GR/GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds
1	Restore 4% Reduction	\$55,831	\$55,831		\$55,832	\$55,832		\$111,663	\$111,663
2	Additional Staff to Fulfill Mandate	\$433,192	\$433,192	5.0	\$470,027	\$470,027	6.0	\$903,219	\$903,219
<b>Total, Exceptional Items Request</b>		<b>\$489,023</b>	<b>\$489,023</b>	<b>5.0</b>	<b>\$525,859</b>	<b>\$525,859</b>	<b>6.0</b>	<b>\$1,014,882</b>	<b>\$1,014,882</b>

**Method of Financing**

General Revenue

General Revenue - Dedicated

Federal Funds

Other Funds

General Revenue - Dedicated	489,023	489,023		525,859	525,859		1,014,882	1,014,882
	<b>\$489,023</b>	<b>\$489,023</b>		<b>\$525,859</b>	<b>\$525,859</b>		<b>\$1,014,882</b>	<b>\$1,014,882</b>

**Full Time Equivalent Positions**

5.0

6.0

**Number of 100% Federally Funded FTEs**

0.0

0.0

**2.F. Summary of Total Request by Strategy**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE : 8/19/2016  
 TIME : 5:15:01PM

Agency code: 215	Agency name: Office of Capital and Forensic Writs					
Goal/Objective/STRATEGY	Base 2018	Base 2019	Exceptional 2018	Exceptional 2019	Total Request 2018	Total Request 2019
1 Post-Conviction Representation						
1 Post-Conviction Representation						
1 POST-CONVICTION REPRESENTATION	\$1,339,960	\$1,339,961	\$489,023	\$525,859	\$1,828,983	\$1,865,820
TOTAL, GOAL 1	<b>\$1,339,960</b>	<b>\$1,339,961</b>	<b>\$489,023</b>	<b>\$525,859</b>	<b>\$1,828,983</b>	<b>\$1,865,820</b>
TOTAL, AGENCY STRATEGY REQUEST	<b>\$1,339,960</b>	<b>\$1,339,961</b>	<b>\$489,023</b>	<b>\$525,859</b>	<b>\$1,828,983</b>	<b>\$1,865,820</b>
TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST	\$0	\$0	\$0	\$0	\$0	\$0
GRAND TOTAL, AGENCY REQUEST	<b>\$1,339,960</b>	<b>\$1,339,961</b>	<b>\$489,023</b>	<b>\$525,859</b>	<b>\$1,828,983</b>	<b>\$1,865,820</b>

**2.F. Summary of Total Request by Strategy**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE : 8/19/2016  
 TIME : 5:15:01PM

Agency code: 215		Agency name: Office of Capital and Forensic Writs				
<i>Goal/Objective/STRATEGY</i>	Base 2018	Base 2019	Exceptional 2018	Exceptional 2019	Total Request 2018	Total Request 2019
<b>General Revenue Dedicated Funds:</b>						
5073 Fair Defense	\$1,339,960	\$1,339,961	\$489,023	\$525,859	\$1,828,983	\$1,865,820
	<b>\$1,339,960</b>	<b>\$1,339,961</b>	<b>\$489,023</b>	<b>\$525,859</b>	<b>\$1,828,983</b>	<b>\$1,865,820</b>
<b>TOTAL, METHOD OF FINANCING</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>	<b>\$489,023</b>	<b>\$525,859</b>	<b>\$1,828,983</b>	<b>\$1,865,820</b>
<b>FULL TIME EQUIVALENT POSITIONS</b>	16.5	16.5	5.0	6.0	21.5	22.5

**2.G. Summary of Total Request Objective Outcomes**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation system of Texas (ABEST)

Date : 8/19/2016  
 Time: 4:40:55PM

Agency code: 215

Agency name: **Office of Capital and Forensic Writs**

Goal/ Objective / Outcome

	BL 2018	BL 2019	Excp 2018	Excp 2019	Total Request 2018	Total Request 2019
1 Post-Conviction Representation						
1 Post-Conviction Representation						
<b>KEY 1 # Writ Apps for Which Hearings are Granted by Trial Court</b>						
	4.00	4.00	7.00	9.00	7.00	9.00
<b>KEY 2 Percentage of Writs Filed on a Timely Basis</b>						
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
<b>3 Percentage of Cases Pending at the District-Court Level</b>						
	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%

**3.A. Strategy Request**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:55PM

**215 Office of Capital and Forensic Writs**

GOAL:           1 Post-Conviction Representation  
 OBJECTIVE:   1 Post-Conviction Representation  
 STRATEGY:    1 Post-Conviction Representation

Service Categories:

Service: 01           Income: NA           Age: NA

CODE	DESCRIPTION	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
<b>Output Measures:</b>						
KEY 1	Number of Writ Applications Filed	15.00	13.00	8.00	6.00	8.00
KEY 2	Number of New Cases Accepted	4.00	7.00	7.00	7.00	7.00
<b>Explanatory/Input Measures:</b>						
1	Number of Cases Refused	1.00	3.00	3.00	4.00	4.00
2	Number of Cases Pending	46.00	53.00	46.00	46.00	46.00
<b>Objects of Expense:</b>						
1001	SALARIES AND WAGES	\$778,610	\$917,192	\$1,104,085	\$1,059,742	\$1,059,742
1002	OTHER PERSONNEL COSTS	\$36,746	\$29,205	\$8,120	\$12,259	\$12,259
2001	PROFESSIONAL FEES AND SERVICES	\$190,591	\$287,093	\$160,451	\$160,661	\$160,662
2003	CONSUMABLE SUPPLIES	\$7,297	\$7,000	\$5,000	\$6,000	\$6,000
2004	UTILITIES	\$1,771	\$4,641	\$0	\$4,600	\$4,600
2005	TRAVEL	\$35,299	\$50,000	\$40,000	\$50,000	\$50,000
2006	RENT - BUILDING	\$1,557	\$2,100	\$2,100	\$2,100	\$2,100
2007	RENT - MACHINE AND OTHER	\$3,936	\$3,968	\$3,714	\$4,000	\$4,000
2009	OTHER OPERATING EXPENSE	\$58,075	\$137,302	\$29,613	\$40,598	\$40,598
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>

**3.A. Strategy Request**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:55PM

**215 Office of Capital and Forensic Writs**

GOAL: 1 Post-Conviction Representation  
 OBJECTIVE: 1 Post-Conviction Representation  
 STRATEGY: 1 Post-Conviction Representation

Service Categories:

Service: 01      Income: NA      Age: NA

CODE	DESCRIPTION	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
<b>Method of Financing:</b>						
5073	Fair Defense	\$1,113,882	\$1,438,501	\$1,353,083	\$1,339,960	\$1,339,961
<b>SUBTOTAL, MOF (GENERAL REVENUE FUNDS - DEDICATED)</b>		<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>Rider Appropriations:</b>						
5073 Fair Defense						
	701 1 Unexpended Balances				\$0	\$0
<b>TOTAL, RIDER &amp; UNEXPENDED BALANCES APPROP</b>					<b>\$0</b>	<b>\$0</b>
<b>TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)</b>					<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)</b>		<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>FULL TIME EQUIVALENT POSITIONS:</b>		<b>13.0</b>	<b>16.0</b>	<b>16.0</b>	<b>16.5</b>	<b>16.5</b>

STRATEGY DESCRIPTION AND JUSTIFICATION:

**215 Office of Capital and Forensic Writs**

GOAL:            1 Post-Conviction Representation  
 OBJECTIVE:    1 Post-Conviction Representation  
 STRATEGY:     1 Post-Conviction Representation

Service Categories:

Service: 01           Income: NA           Age: NA

CODE	DESCRIPTION	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
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STATUTORY AUTHORITY: Tx Govt Code, Chapter 78

Under this Strategy, the Office of Capital and Forensic Writs (“OCFW”) provides post-conviction representation to death-sentenced individuals convicted of capital crimes in Texas, and persons convicted on the basis of suspect forensic science.

The OCFW represents a large majority of death-sentenced persons in initial state post-conviction proceedings, and related proceedings, through appointments made by the trial court. Following appointment, consistent with statutory and professional requirements, OCFW must conduct a thorough and independent investigation of both the conviction and the sentence, raising every available legal claim regarding the constitutionality of a particular client’s conviction or sentence.

With the passage of SB 1743, the mandate of the OCFW also includes the representation of convicted persons non-capital cases in post-conviction litigation brought under Article 11.073 of the Code of Criminal Procedure, or that is collateral to the preparation of an application under Article 11.073, if the case was referred in writing to the OCFW by the Texas Forensic Science Commission (FSC) under Article 38.01 §4(h). See Tex. Govt. Code § 78.054(b)(4). Such referrals may include an investigation into professional misconduct or negligence affecting the forensic analysis.

**EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:**

**215 Office of Capital and Forensic Writs**

GOAL:            I   Post-Conviction Representation  
 OBJECTIVE:    I   Post-Conviction Representation  
 STRATEGY:     I   Post-Conviction Representation

Service Categories:

Service: 01       Income: NA       Age: NA

CODE	DESCRIPTION	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
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The Texas Code of Criminal Procedure guarantees capital habeas applicants the right to competent representation. Over the last several years, the United States Supreme Court has dramatically expanded the ability of federal courts to decide claims that were raised incorrectly or not raised at all in state courts. See, e.g., Trevino v. Thaler, 133 S.Ct. 1911 (2013). Thus, in the event that the OCFW is not appropriated sufficient money to allow for the full and fair investigation and litigation of constitutional claims in Texas courts, federal courts may decide important constitutional questions relative to the confinement of Texas prisoners instead of Texas courts.

The number of new death sentences can be expected to fluctuate from year to year, and depends on prosecutorial charging decisions and juror verdicts out of the OCFW's control.

There are approximately 244 individuals on death row in Texas. Most have lawyers to raise available constitutional claims; some do not. The OCFW receives requests periodically from the trial courts to represent death sentenced individuals where the prior lawyer was unable or unwilling to continue representation. The number of cases referred to the OCFW in this way is difficult to predict but likely small in number.

With the expansion of the mandate of the OCFW into cases of new or changed forensic science, the number of referrals to the OCFW can be expected to fluctuate greatly, depending on the state of particular forensic science disciplines over time and the level of scientific scrutiny directed at these disciplines.

**3.A. Strategy Request**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:55PM

**215 Office of Capital and Forensic Writs**

GOAL: 1 Post-Conviction Representation  
 OBJECTIVE: 1 Post-Conviction Representation  
 STRATEGY: 1 Post-Conviction Representation

Service Categories:

Service: 01      Income: NA      Age: NA

CODE	DESCRIPTION	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
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**EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):**

<u>STRATEGY BIENNIAL TOTAL - ALL FUNDS</u>		<u>BIENNIAL CHANGE</u>	<u>EXPLANATION OF BIENNIAL CHANGE</u>	
<u>Base Spending (Est 2016 + Bud 2017)</u>	<u>Baseline Request (BL 2018 + BL 2019)</u>		<u>\$ Amount</u>	<u>Explanation(s) of Amount (must specify MOFs and FTEs)</u>
\$2,791,584	\$2,679,921	\$(111,663)	\$(111,663)	Decrease is attributed to the mandated 4% budget reduction.
			<u>\$(111,663)</u>	<b>Total of Explanation of Biennial Change</b>

**3.A. Strategy Request**  
85th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

8/19/2016 4:40:55PM

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**SUMMARY TOTALS:**

<b>OBJECTS OF EXPENSE:</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>METHODS OF FINANCE (INCLUDING RIDERS):</b>				<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>METHODS OF FINANCE (EXCLUDING RIDERS):</b>	<b>\$1,113,882</b>	<b>\$1,438,501</b>	<b>\$1,353,083</b>	<b>\$1,339,960</b>	<b>\$1,339,961</b>
<b>FULL TIME EQUIVALENT POSITIONS:</b>	<b>13.0</b>	<b>16.0</b>	<b>16.0</b>	<b>16.5</b>	<b>16.5</b>

3.C. Rider Appropriations and Unexpended Balances Request  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:56PM

Agency Code: 215 Office of Capital and Forensic Writs

RIDER	STRATEGY	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
701 1	Unexpended Balances 1-1-1 POST-CONVICTION REPRESENTATION	\$0	\$0	\$0	\$0	\$0
<b>OBJECT OF EXPENSE:</b>						
	2009 OTHER OPERATING EXPENSE	\$0	\$0	\$0	\$0	\$0
<b>Total, Object of Expense</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>METHOD OF FINANCING:</b>						
	5073 Fair Defense	\$0	\$0	\$0	\$0	\$0
<b>Total, Method of Financing</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Description/Justification for continuation of existing riders or proposed new rider**

Any unexpended balances appropriated in fiscal year 2018 are hereby appropriated to the Office of Capital and Forensic Writs for fiscal year 2019 for the same purposes.

Investigation costs are a major component of the OCFW's budget. Uncertainty exists with respect to these costs because they vary based on the particulars of the case being filed, and whether a district court holds an evidentiary hearing requiring the live testimony of lay and expert witnesses. In addition, payments for outside experts may not be billed in the year services begin. Authority to carry forward unexpended balances between years of the biennium provides greater flexibility in managing expenses that may vary greatly from year to year.

Unexpended balances authority was given to the OCFW by the 82nd, 83rd, and 84th Legislatures, R.S. The OCFW requests unexpended budget authority again in FY 2018-19.

3.C. Rider Appropriations and Unexpended Balances Request  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:56PM

Agency Code: 215 Office of Capital and Forensic Writs

RIDER	STRATEGY	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
<b>SUMMARY:</b>						
<b>OBJECT OF EXPENSE TOTAL</b>		\$0	\$0	\$0	\$0	\$0
<b>METHOD OF FINANCING TOTAL</b>		\$0	\$0	\$0	\$0	\$0

**4.A. Exceptional Item Request Schedule**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:56PM

Agency code: 215

Agency name:

**Office of Capital and Forensic Writs**

CODE	DESCRIPTION	Excp 2018	Excp 2019
	<p><b>Item Name:</b> Restoration of the 4% Reduction in Funding  <b>Item Priority:</b> 1  <b>IT Component:</b> No  <b>Anticipated Out-year Costs:</b> Yes  <b>Involve Contracts &gt; \$50,000:</b> No</p> <p><b>Includes Funding for the Following Strategy or Strategies:</b> 01-01-01 Post-Conviction Representation</p>		
<b>OBJECTS OF EXPENSE:</b>			
2001	PROFESSIONAL FEES AND SERVICES	55,831	55,832
	<b>TOTAL, OBJECT OF EXPENSE</b>	<b>\$55,831</b>	<b>\$55,832</b>
<b>METHOD OF FINANCING:</b>			
5073	Fair Defense	55,831	55,832
	<b>TOTAL, METHOD OF FINANCING</b>	<b>\$55,831</b>	<b>\$55,832</b>

**DESCRIPTION / JUSTIFICATION:**

The OCFW respectfully requests restoration of the 4% reduction in funding because the reduction will transfer more of the costs of post-conviction representation to Texas counties. The OCFW is professionally and statutorily obligated to investigate all possible constitutional claims relating to conviction and sentence. Often these claims turn on questions of ballistics, forensic evidence, scientific evidence, and issues relating to a client's cognition, competence and mental illness. Thus, to investigate these claims, the OCFW must consult with experts in different scientific and academic disciplines, and base subsequent claims on expert opinion. Such experts are indispensable to post-conviction representation; they are required by the Guidelines and Standards for Texas Capital Counsel issued by the State Bar of Texas, and are contemplated by statute. See, e.g., Article 11.071(3).

Without the restoration of the 4% reduction, the OCFW will be forced to rely on funding from local district courts for the appointment of experts that would otherwise be funded through legislative appropriation.

**EXTERNAL/INTERNAL FACTORS:**

Texas counties are already struggling to fund indigent defense costs, and the shifting of additional costs of post-conviction representation to the counties will additionally burden county-level court and indigent defense budgets that are stretched for resources.

**DESCRIPTION OF ANTICIPATED OUT-YEAR COSTS :**

The OCFW expects that the requested funding will be necessary for 2020, 2021, and 20122 to provide for anticipated professional feels and services costs during those years.

4.A. Exceptional Item Request Schedule  
85th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
TIME: 5:11:37PM

Agency code: 215

Agency name:

Office of Capital and Forensic Writs

CODE DESCRIPTION

Excp 2018

Excp 2019

ESTIMATED ANTICIPATED OUT-YEAR COSTS FOR ITEM:

2020	2021	2022
\$55,832	\$55,832	\$55,832

**4.A. Exceptional Item Request Schedule**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:56PM

Agency code: 215

Agency name:

**Office of Capital and Forensic Writs**

CODE	DESCRIPTION	Excp 2018	Excp 2019
	Item Name: Additional Staff to Fulfill Mandate		
	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 Post-Conviction Representation		
 <b>OBJECTS OF EXPENSE:</b>			
1001	SALARIES AND WAGES	316,000	394,000
1002	OTHER PERSONNEL COSTS	1,580	1,970
2001	PROFESSIONAL FEES AND SERVICES	50,000	50,000
2005	TRAVEL	10,000	10,000
2009	OTHER OPERATING EXPENSE	55,612	14,057
	<b>TOTAL, OBJECT OF EXPENSE</b>	<b>\$433,192</b>	<b>\$470,027</b>
 <b>METHOD OF FINANCING:</b>			
5073	Fair Defense	433,192	470,027
	<b>TOTAL, METHOD OF FINANCING</b>	<b>\$433,192</b>	<b>\$470,027</b>
<b>FULL-TIME EQUIVALENT POSITIONS (FTE):</b>		5.00	6.00

**DESCRIPTION / JUSTIFICATION:**

SB 1743 expanded the mandate of the OCFW, but did not appropriate funding for the expansion. Its fiscal note anticipated that the staff of OCFW would need to be expanded by two attorneys in fiscal year 2018, and an additional attorney in fiscal year 2019 to manage the additional forensic science cases. These attorneys are requested in this exception item.

The OCFW requests the addition of two investigators to ensure that it can keep pace with the rate of referrals. The most significant current limiting factor on the number of cases the OCFW handles is investigation; because of our presently overtaxed investigation resources, we have a backlog of newer cases that can wait for 12 months after assignment before investigation is able to begin in any meaningful way.

The OCFW requests professional fees and services and travel appropriations to allow for the investigation of potential constitutional and forensic science claims, and consultation with appropriate experts commensurate with the expanded mandate.

In addition, the OCFW requests the addition of an Accountant I to help manage finance, procurement, payroll, and reporting obligations. The OCFW currently has a single staff person with the responsibility over these complicated and vitally important institutional areas. As such, the OCFW respectfully requests the addition of an Accountant I to help meet the administrative needs of the agency.

**4.A. Exceptional Item Request Schedule**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:56PM

Agency code: 215

Agency name:

**Office of Capital and Forensic Writs**

**CODE DESCRIPTION**

**Excp 2018**

**Excp 2019**

**EXTERNAL/INTERNAL FACTORS:**

Without the requested money, the OCFW will be unable to fill the need recognized by SB 1743 for an institutional provider of post-conviction representation and resources in connection with challenges to convictions that relied on junk science. Furthermore, without the additional investigative resources, the OCFW will be unable to provide the competent representation to its clients that is professionally required and statutorily mandated. When cases are not investigated promptly and thoroughly at the state level, it increases the likelihood that the cases will be subject to additional scrutiny by federal courts, depriving the state courts of their ability to control the course of litigation and decide, in the first instance, important constitutional issues. Lastly, the OCFW requests an appropriation to pay for certain information technology and equipment costs associated with additional staff.

**FY2018 Salaries and Wages:**

Two Attorneys (SB 1743)	\$166,000
Two Investigators	\$110,000
One Accountant I	\$40,000

**FY2019 Salaries and Wages:**

Three Attorneys (SB 1743)	\$244,000
Two Investigators	\$110,000
One Accountant I	\$40,000

**FY2018 Other Operating Expenses: \$31,000**

5 computers, networking costs,  
 1 printer, equipment, phone service,  
 and health insurance

**FY 2019 Operating Expenses: \$12,592**

1 computer, networking costs, equipment,  
 phone service, and  
 health insurance

**DESCRIPTION OF ANTICIPATED OUT-YEAR COSTS :**

The requested funding is for additional staff to allow the OCFW to fulfill its mandate. The OCFW anticipates that it will need these additional staff persons in 2020, 2021, and 2022 as well, and expects that the out-year costs will increase by 5% per year, due to moderate growth in personnel costs, professional fees and services, and travel costs.

**ESTIMATED ANTICIPATED OUT-YEAR COSTS FOR ITEM:**

2020	2021	2022
\$493,528	\$517,029	\$540,530

**4.B. Exceptional Items Strategy Allocation Schedule**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:57PM

Agency code: 215                      Agency name: **Office of Capital and Forensic Writs**

Code	Description	Excp 2018	Excp 2019
<b>Item Name:</b> Restoration of the 4% Reduction in Funding			
<b>Allocation to Strategy:</b> 1-1-1 Post-Conviction Representation			
<b>OBJECTS OF EXPENSE:</b>			
2001	PROFESSIONAL FEES AND SERVICES	55,831	55,832
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>555,831</b>	<b>555,832</b>
<b>METHOD OF FINANCING:</b>			
5073	Fair Defense	55,831	55,832
<b>TOTAL, METHOD OF FINANCING</b>		<b>555,831</b>	<b>555,832</b>

**4.B. Exceptional Items Strategy Allocation Schedule**  
 35th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 4:40:57PM

Agency code: **215**                      Agency name: **Office of Capital and Forensic Writs**

Code	Description	Excp 2018	Excp 2019
<b>Item Name:</b> Additional Staff to Fulfill Mandate			
<b>Allocation to Strategy:</b> 1-1-1 Post-Conviction Representation			
<b>OBJECTS OF EXPENSE:</b>			
1001	SALARIES AND WAGES	316,000	394,000
1002	OTHER PERSONNEL COSTS	1,580	1,970
2001	PROFESSIONAL FEES AND SERVICES	50,000	50,000
2005	TRAVEL	10,000	10,000
2009	OTHER OPERATING EXPENSE	55,612	14,057
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$433,192</b>	<b>\$470,027</b>
<b>METHOD OF FINANCING:</b>			
5073	Fair Defense	433,192	470,027
<b>TOTAL, METHOD OF FINANCING</b>		<b>\$433,192</b>	<b>\$470,027</b>
<b>FULL-TIME EQUIVALENT POSITIONS (FTE):</b>		<b>5.0</b>	<b>6.0</b>

**4.C. Exceptional Items Strategy Request**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME: 5:16:53PM

Agency Code: 215 Agency name: Office of Capital and Forensic Writs

GOAL: 1 Post-Conviction Representation  
 OBJECTIVE: 1 Post-Conviction Representation  
 STRATEGY: 1 Post-Conviction Representation

Service Categories:

Service: 01 Income: NA Age: NA

CODE DESCRIPTION	Excp 2018	Excp 2019
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**STRATEGY IMPACT ON OUTCOME MEASURES:**

<u>1</u> # Writ Apps for Which Hearings are Granted by Trial Court	7.00	9.00
<u>2</u> Percentage of Writs Filed on a Timely Basis	100.00 %	100.00 %
<u>3</u> Percentage of Cases Pending at the District-Court Level	50.00 %	50.00 %

**OUTPUT MEASURES:**

<u>1</u> Number of Writ Applications Filed	6.00	8.00
<u>2</u> Number of New Cases Accepted	5.00	7.00

**EXPLANATORY/INPUT MEASURES:**

<u>1</u> Number of Cases Refused	1.00	1.00
<u>2</u> Number of Cases Pending	51.00	53.00

**OBJECTS OF EXPENSE:**

1001 SALARIES AND WAGES	316,000	394,000
1002 OTHER PERSONNEL COSTS	1,580	1,970
2001 PROFESSIONAL FEES AND SERVICES	105,831	105,832
2003 CONSUMABLE SUPPLIES	10,000	10,000
2009 OTHER OPERATING EXPENSE	55,612	14,057
<b>Total, Objects of Expense</b>	<b>\$489,023</b>	<b>\$525,859</b>

**METHOD OF FINANCING:**

5073 Fair Defense	489,023	525,859
<b>Total, Method of Finance</b>	<b>\$489,023</b>	<b>\$525,859</b>

**FULL-TIME EQUIVALENT POSITIONS (FTE):**

	5.0	6.0
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4.C. Exceptional Items Strategy Request  
85th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
TIME: 5:16:53PM

Agency Code: 215 Agency name: Office of Capital and Forensic Writs

GOAL: 1 Post-Conviction Representation

OBJECTIVE: 1 Post-Conviction Representation

STRATEGY: 1 Post-Conviction Representation

Service Categories:

Service: 01 Income: NA Age: NA

CODE DESCRIPTION

Expn 2018

Expn 2019

**EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:**

Restoration of the 4% Reduction in Funding

Additional Staff to Fulfill Mandate

**6.A. Historically Underutilized Business Supporting Schedule**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/19/2016  
 Time: 4:40:58PM

Agency Code: 215 Agency: Office of Capital and Forensic Writs

COMPARISON TO STATEWIDE HUB PROCUREMENT GOALS

**A. Fiscal Year 2014 - 2015 HUB Expenditure Information**

Statewide HUB Goals	Procurement Category	% Goal	HUB Expenditures FY 2014			Total Expenditures FY 2014		HUB Expenditures FY 2015			Total Expenditures FY 2015	
			% Actual	Diff	Actual \$	% Goal	% Actual	Diff	Actual \$	FY 2015		
11.2%	Heavy Construction	11.2 %	0.0%	-11.2%	\$0	\$0	11.2 %	0.0%	-11.2%	\$0	\$0	
21.1%	Building Construction	21.1 %	0.0%	-21.1%	\$0	\$0	21.1 %	0.0%	-21.1%	\$0	\$0	
32.9%	Special Trade	32.7 %	0.0%	-32.7%	\$0	\$0	32.9 %	0.0%	-32.9%	\$0	\$0	
23.7%	Professional Services	23.6 %	0.0%	-23.6%	\$0	\$0	23.7 %	0.0%	-23.7%	\$0	\$1,080	
26.0%	Other Services	24.6 %	0.0%	-24.6%	\$0	\$157,518	26.0 %	0.0%	-26.0%	\$0	\$79,868	
21.1%	Commodities	21.0 %	7.5%	-13.5%	\$244	\$3,272	21.1 %	1.7%	-19.4%	\$72	\$4,287	
	<b>Total Expenditures</b>		<b>0.2%</b>		<b>\$244</b>	<b>\$160,790</b>		<b>0.1%</b>		<b>\$72</b>	<b>\$85,235</b>	

**B. Assessment of Fiscal Year 2014 - 2015 Efforts to Meet HUB Procurement Goals**

**Attainment:**

The agency failed to attain any of six HUB procurement goals in FY2014 or FY2015.

**Applicability:**

The "Heavy Construction," "Building Construction," and "Special Trade" categories are inapplicable to the OCFW.

**Factors Affecting Attainment:**

Many of the "other services" vendors were persons providing specialized legal services or expert witnesses, services that are difficult to procure through the HUB procurement process. The OCFW did not have any "professional services" procurement in FY2014.

**"Good-Faith" Efforts:**

The current agency head is committed to meeting HUB procurement goals through additional training regarding procurement, prioritizing HUB vendors, where possible, for commodities and services purchases, and using Texas Smart Buy for additional purchasing needs.

**6.I. Percent Biennial Base Reduction Options**  
**10 % REDUCTION**  
85th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/19/2016  
Time: 4:41:00PM

Agency code: 215 Agency name: **Office of Capital and Forensic Writs**

Item Priority and Name/ Method of Financing	REVENUE LOSS			REDUCTION AMOUNT			TARGET
	2018	2019	Biennial Total	2018	2019	Biennial Total	

**1 2018-19 5% GR/GR-D Reduction**

**Category:** Programs - Service Reductions (Contracted)

**Item Comment:** A 10% reduction to the Office of Capital and Forensic Writs would require a reduction of at least two staff over the biennium. This would adversely affect the clients and cases currently handled by the OCFW, resulting in less consistent and competent investigation and litigation of these cases. In addition, the OCFW would be forced to turn down new assignments until its present caseload was reduced through attrition to a level commensurate with staffing. It also be difficult for the OCFW to expand its reach to cases challenging junk science. Thus, a 10% reduction would defeat the legislative purpose behind the creation of the OCFW, and result in more costs being borne by the counties.

Strategy: 1-1-1 Post-Conviction Representation

Gr Dedicated

5073 Fair Defense	\$0	\$0	\$0	\$66,998	\$66,998	\$133,996
<b>Gr Dedicated Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$66,998</b>	<b>\$66,998</b>	<b>\$133,996</b>
<b>Item Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$66,998</b>	<b>\$66,998</b>	<b>\$133,996</b>

**FTE Reductions (From FY 2018 and FY 2019 Base Request)**

**2 2018-19 5% GR/GR-D Reduction**

**Category:** Programs - Service Reductions (Contracted)

**Item Comment:** A 10% reduction to the Office of Capital and Forensic Writs would require a reduction of at least two staff over the biennium. This would adversely affect the clients and cases currently handled by the OCFW, resulting in less consistent and competent investigation and litigation of these cases. In addition, the OCFW would be forced to turn down new assignments until its present caseload was reduced through attrition to a level commensurate with staffing. It also be difficult for the OCFW to expand its reach to cases challenging junk science. Thus, a 10% reduction would defeat the legislative purpose behind the creation of the OCFW, and result in more costs being borne by the counties.

Strategy: 1-1-1 Post-Conviction Representation

Gr Dedicated

5073 Fair Defense	\$0	\$0	\$0	\$66,998	\$66,998	\$133,996
<b>Gr Dedicated Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$66,998</b>	<b>\$66,998</b>	<b>\$133,996</b>

**6.I. Percent Biennial Base Reduction Options**  
**10 % REDUCTION**  
 85th Regular Session, Agency Submission, Version I  
 Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/19/2016  
 Time: 4:41:00PM

Agency code: 215 Agency name: Office of Capital and Forensic Writs

Item Priority and Name/ Method of Financing	REVENUE LOSS			REDUCTION AMOUNT			TARGET
	2018	2019	Biennial Total	2018	2019	Biennial Total	
<b>Item Total</b>	\$0	\$0	\$0	\$66,998	\$66,998	\$133,996	
<b>FTE Reductions (From FY 2018 and FY 2019 Base Request)</b>							
<b>AGENCY TOTALS</b>							
GR Dedicated Total				\$133,996	\$133,996	\$267,992	\$267,992
Agency Grand Total	\$0	\$0	\$0	\$133,996	\$133,996	\$267,992	
<b>Difference, Options Total Less Target</b>							
<b>Agency FTE Reductions (From FY 2018 and FY 2019 Base Request)</b>							

**7.B. Direct Administrative and Support Costs**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME : 4:40:58PM

Agency code: 215

Agency name: Office of Capital and Forensic Writs

Strategy		Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
<b>1-1-1</b>	<b>Post-Conviction Representation</b>					
<b>OBJECTS OF EXPENSE:</b>						
1001	SALARIES AND WAGES	\$52,275	\$52,275	\$52,275	\$52,275	\$52,275
1002	OTHER PERSONNEL COSTS	1,920	1,920	2,160	2,160	2,400
2001	PROFESSIONAL FEES AND SERVICES	0	0	0	0	0
2003	CONSUMABLE SUPPLIES	0	0	0	0	0
2004	UTILITIES	0	0	0	0	0
2005	TRAVEL	0	0	0	0	0
2006	RENT - BUILDING	0	0	0	0	0
2007	RENT - MACHINE AND OTHER	0	0	0	0	0
2009	OTHER OPERATING EXPENSE	523	523	523	523	523
	<b>Total, Objects of Expense</b>	<b>\$54,718</b>	<b>\$54,718</b>	<b>\$54,958</b>	<b>\$54,958</b>	<b>\$55,198</b>
<b>METHOD OF FINANCING:</b>						
5073	Fair Defense	54,718	54,718	54,958	54,958	55,198
	<b>Total, Method of Financing</b>	<b>\$54,718</b>	<b>\$54,718</b>	<b>\$54,958</b>	<b>\$54,958</b>	<b>\$55,198</b>
<b>FULL-TIME-EQUIVALENT POSITIONS (FTE):</b>		<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>

**DESCRIPTION**

The Office of Capital and Forensic Writs support staff consists of a single accountant, whose job duties include human resources, finance, payroll, procurement, reporting, travel, and reimbursements. Positions supported include the Director, attorneys, investigators, and legal assistant.

**7.B. Direct Administrative and Support Costs**  
 85th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/19/2016  
 TIME : 4:40:58PM

Agency code: 215

Agency name: Office of Capital and Forensic Writs

	Exp 2015	Est 2016	Bud 2017	BL 2018	BL 2019
<b>GRAND TOTALS</b>					
<b>Objects of Expense</b>					
1001 SALARIES AND WAGES	\$52,275	\$52,275	\$52,275	\$52,275	\$52,275
1002 OTHER PERSONNEL COSTS	\$1,920	\$1,920	\$2,160	\$2,160	\$2,400
2001 PROFESSIONAL FEES AND SERVICES	\$0	\$0	\$0	\$0	\$0
2003 CONSUMABLE SUPPLIES	\$0	\$0	\$0	\$0	\$0
2004 UTILITIES	\$0	\$0	\$0	\$0	\$0
2005 TRAVEL	\$0	\$0	\$0	\$0	\$0
2006 RENT - BUILDING	\$0	\$0	\$0	\$0	\$0
2007 RENT - MACHINE AND OTHER	\$0	\$0	\$0	\$0	\$0
2009 OTHER OPERATING EXPENSE	\$523	\$523	\$523	\$523	\$523
<b>Total, Objects of Expense</b>	<b>\$54,718</b>	<b>\$54,718</b>	<b>\$54,958</b>	<b>\$54,958</b>	<b>\$55,198</b>
<b>Method of Financing</b>					
5073 Fair Defense	\$54,718	\$54,718	\$54,958	\$54,958	\$55,198
<b>Total, Method of Financing</b>	<b>\$54,718</b>	<b>\$54,718</b>	<b>\$54,958</b>	<b>\$54,958</b>	<b>\$55,198</b>
<b>Full-Time-Equivalent Positions (FTE)</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>