



Office of Capital Writs

Legislative Appropriations Request

For Fiscal Years 2016 and 2017

Submitted to the Governor's Office of Budget, Planning, and Policy
And the Legislative Budget Board

by

Office of Capital Writs

Revised

August 22, 2014

FY 2014-15 LEGISLATIVE APPROPRIATIONS REQUEST
Office of Capital Writs

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PURPOSE OF THE OFFICE OF CAPITAL WRITS

The Office of Capital Writs ("OCW") was established by SB 1091 in the 81st Legislature, R.S. The OCW, which commenced operation on September 1, 2010, is a capital post-conviction state agency charged with representing all death-sentenced persons in their state post-conviction habeas corpus litigation and related proceedings. At the time of the filing of this LAR, the OCW represents thirty-six capital defendants.

OVERVIEW OF OCW FY 2014-15 LEGISLATIVE APPROPRIATIONS REQUEST

Upon establishing the OCW in 2010, the Legislature approved a budget for the agency in the amount of \$1,043,343. That funding was intended to staff the Agency with nine FTEs and for the Agency to represent approximately twenty death row defendants. The OCW is currently funded at approximately that same level but has a staff of thirteen FTEs (a 44% increase) and represents thirty-six death row defendants (an 80% increase). Furthermore, within the next twelve months the OCW will be representing approximately forty-five death row defendants—more than twice as many defendants as was originally envisioned for the Agency at its initial budget.

Accordingly, whereas the national average for capital post-conviction attorneys is eight cases per attorney (Footnote 1), OCW post-conviction attorneys currently handle an average of ten cases. By FY 2015, this case load likely will increase to over eleven cases per attorney. To ensure that the Agency continues to fulfill the Legislature's mandate to deliver high-quality representation throughout the State, the OCW requires increased funding for the 2016-17 biennium. Specifically, the OCW has need for five additional FTE positions: two additional attorneys, two additional investigators, and one additional paralegal. To accommodate the recent and anticipated growth of the Agency, the OCW also requests a one-time expenditure to build out new space located on the same floor of its current headquarters and to purchase six additional cubicles, furniture, computers, and telephones.

The OCW also requests salary increases for its present staff. Currently, OCW attorneys receive salaries far below those of similarly-situated attorneys doing comparable work. Salary increases also are appropriate for the OCW's investigative staff, as their salaries are lower than similarly-situated investigators at both public defender offices and district attorney's offices throughout the State.

The OCW further requests a change to its method of finance. When the OCW was first created, its method of finance derived from both GR (47%) and GR dedicated [Fund 5073 – Indigent Defense] (53%). In FY 2012, the Legislature converted the method of finance entirely to GR dedicated [Fund 5073]. Currently, the OCW is the only Article IV agency which does not receive any funding from the General Revenue Fund. To minimize the OCW's imposition on the more limited resources available in the Indigent Defense Fund, the OCW requests that its method of finance be returned to the GR/GR dedicated percentage split initially set by the Legislature.

Finally, the OCW requests the continuation of Unexpended Balance (U.B.) authority to provide the Agency with essential flexibility in managing its scarce resources. The OCW was granted U.B. authority in the 82nd and 83rd Legislative Sessions.

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SUMMARY

The Office of Capital Writs provides an important function to the State by representing individuals sentenced to death in their post-conviction litigation. At current funding levels, however, the OCW in FY 2016-17 will be forced to turn down case appointments, thus defeating the Legislature's intent in creating the Agency. To ensure that the OCW can continue to accept case appointments throughout the upcoming biennium, the agency's FTE cap should be increased from thirteen to eighteen and additional funds should be provided to it consistent with this request.

Thank you for your consideration of this request. We will be happy to answer any questions and provide any additional information you may need to make an informed decision.

Respectfully Submitted,

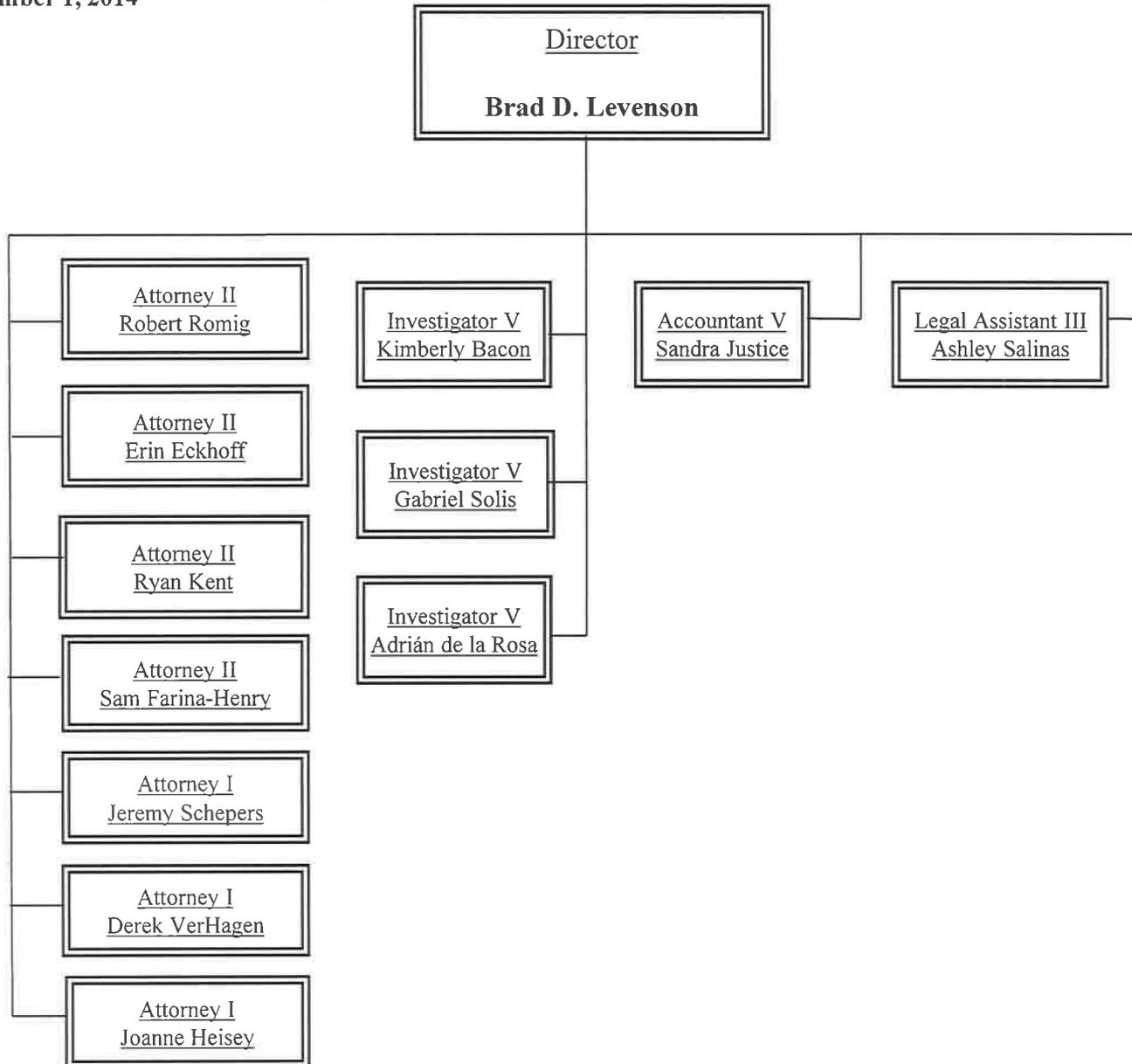


Brad D. Levenson
Director

Footnotes

(1) This number is based upon a review of case load requirements for capital post-conviction offices in various local, state, and federal jurisdictions.

Office of Capital Writs
Organizational Chart
As of September 1, 2014



2.A. Summary of Base Request by Strategy

8/22/2014 12:34:58PM

84th Regular Session, Agency Submission, Version 1

Automated Budget and Evaluation System of Texas (ABEST)

215 Office of Capital Writs

Goal / Objective / STRATEGY	Exp 2013	Est 2014	Bud 2015	Req 2016	Req 2017
<u>1</u> Death Penalty Habeas Representation					
<u>1</u> <i>Death Penalty Habeas Representation</i>					
1 DEATH PENALTY REPRESENTATION	931,525	1,001,255	1,105,724	1,057,386	1,057,386
TOTAL, GOAL 1	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
TOTAL, AGENCY STRATEGY REQUEST	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST*				\$0	\$0
GRAND TOTAL, AGENCY REQUEST	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
<u>METHOD OF FINANCING:</u>					
General Revenue Funds:					
1 General Revenue Fund	0	0	0	0	0
SUBTOTAL	\$0	\$0	\$0	\$0	\$0
General Revenue Dedicated Funds:					
5073 Fair Defense	931,525	1,001,255	1,105,724	1,057,386	1,057,386
SUBTOTAL	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
TOTAL, METHOD OF FINANCING	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386

2.A. Summary of Base Request by Strategy

8/22/2014 12:34:58PM

84th Regular Session, Agency Submission, Version 1

Automated Budget and Evaluation System of Texas (ABEST)

215 Office of Capital Writs

Goal / Objective / STRATEGY

Exp 2013

Est 2014

Bud 2015

Req 2016

Req 2017

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

2.B. Summary of Base Request by Method of Finance
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:34:59PM

Agency code: **215**

Agency name: **Office of Capital Writs**

METHOD OF FINANCING	Exp 2013	Est 2014	Bud 2015	Req 2016	Req 2017
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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)

\$0	\$995,096	\$1,091,772	\$1,057,386	\$1,057,386
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Regular Appropriations from MOF Table (2012-13 GAA)

\$862,136	\$0	\$0	\$0	\$0
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TRANSFERS

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

\$0	\$6,159	\$13,952	\$0	\$0
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LAPSED APPROPRIATIONS

Regular Appropriations from MOF Table (2012-13 GAA)

\$(872)	\$0	\$0	\$0	\$0
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UNEXPENDED BALANCES AUTHORITY

Art IX, Sec 14.05, UB Authority within the Same Biennium (2012-13 GAA)

\$70,261	\$0	\$0	\$0	\$0
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2.B. Summary of Base Request by Method of Finance
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:34:59PM

Agency code: 215		Agency name: Office of Capital Writs				
METHOD OF FINANCING		Exp 2013	Est 2014	Bud 2015	Req 2016	Req 2017
<u>GENERAL REVENUE FUND - DEDICATED</u>						
TOTAL,	GR Dedicated - Fair Defense Account No. 5073	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
TOTAL, ALL	GENERAL REVENUE FUND - DEDICATED	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
TOTAL,	GR & GR-DEDICATED FUNDS	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
<u>OTHER FUNDS</u>						
<u>666</u> Appropriated Receipts						
<i>RIDER APPROPRIATION</i>						
Art IX, Sec 8.03, Reimbursements and Payments (2012-13 GAA)						
		\$1,500	\$0	\$0	\$0	\$0
<i>LAPSED APPROPRIATIONS</i>						
Regular Appropriations from MOF Table (2012-13 GAA)						
		\$(1,500)	\$0	\$0	\$0	\$0
TOTAL,	Appropriated Receipts	\$0	\$0	\$0	\$0	\$0
TOTAL, ALL	OTHER FUNDS	\$0	\$0	\$0	\$0	\$0

2.B. Summary of Base Request by Method of Finance
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:34:59PM

Agency code: 215	Agency name: Office of Capital Writs				
METHOD OF FINANCING	Exp 2013	Est 2014	Bud 2015	Req 2016	Req 2017
GRAND TOTAL	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
FULL-TIME-EQUIVALENT POSITIONS					
REGULAR APPROPRIATIONS					
Regular Appropriations from MOF Table (2012-13 GAA)	9.0	0.0	0.0	0.0	0.0
Regular Appropriations from MOF Table (2014-15 GAA)	0.0	11.0	13.0	13.0	13.0
TOTAL, ADJUSTED FTES	9.0	11.0	13.0	13.0	13.0
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
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:34:59PM

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OBJECT OF EXPENSE	Exp 2013	Est 2014	Bud 2015	BL 2016	BL 2017
1001 SALARIES AND WAGES	\$576,933	\$615,475	\$808,034	\$808,034	\$808,034
1002 OTHER PERSONNEL COSTS	\$37,698	\$21,718	\$8,120	\$8,120	\$8,120
2001 PROFESSIONAL FEES AND SERVICES	\$229,121	\$279,782	\$208,789	\$160,451	\$160,451
2003 CONSUMABLE SUPPLIES	\$5,424	\$4,000	\$5,000	\$5,000	\$5,000
2004 UTILITIES	\$918	\$0	\$0	\$0	\$0
2005 TRAVEL	\$40,382	\$36,473	\$40,000	\$40,000	\$40,000
2006 RENT - BUILDING	\$776	\$1,300	\$2,100	\$2,100	\$2,100
2007 RENT - MACHINE AND OTHER	\$3,714	\$4,186	\$3,714	\$3,714	\$3,714
2009 OTHER OPERATING EXPENSE	\$36,559	\$38,321	\$29,967	\$29,967	\$29,967
5000 CAPITAL EXPENDITURES	\$0	\$0	\$0	\$0	\$0
OOE Total (Excluding Riders)	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
OOE Total (Riders)				\$0	\$0
Grand Total	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386

2.D. Summary of Base Request Objective Outcomes
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation system of Texas (ABEST)

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Goal/ Objective / Outcome	Exp 2013	Est 2014	Bud 2015	BL 2016	BL 2017
1 Death Penalty Habeas Representation					
1 <i>Death Penalty Habeas Representation</i>					
KEY 1 # Writ Apps for Which Evidentiary Hearings are Granted by Trial Court	3.00	3.00	3.00	3.00	3.00
KEY 2 Percentage of Writs Filed on a Timely Basis	100.00%	100.00%	100.00%	100.00%	100.00%

2.E. Summary of Exceptional Items Request
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME : 12:35:00PM

Agency code: 215

Agency name: Office of Capital Writs

Priority	Item	2016			2017			Biennium	
		GR and GR/GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds
1	Reinstatement of GR/GR D Split	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0
2	Annualization to FY2015 Funding	\$48,337	\$48,337	0.0	\$48,337	\$48,337	0.0	\$96,674	\$96,674
3	Additional FTEs	\$276,000	\$276,000	5.0	\$276,000	\$276,000	5.0	\$552,000	\$552,000
4	Growth Cost	\$95,423	\$95,423	0.0	\$1,140	\$1,140	0.0	\$96,563	\$96,563
5	Salary Increases	\$34,000	\$34,000	0.0	\$34,000	\$34,000	0.0	\$68,000	\$68,000
Total, Exceptional Items Request		\$453,760	\$453,760	5.0	\$359,477	\$359,477	5.0	\$813,237	\$813,237

Method of Financing

General Revenue	\$496,971	\$496,971		\$496,972	\$496,972		\$993,943	\$993,943
General Revenue - Dedicated	(43,211)	(43,211)		(137,495)	(137,495)		(180,706)	(180,706)
Federal Funds								
Other Funds								
	\$453,760	\$453,760		\$359,477	\$359,477		\$813,237	\$813,237

Full Time Equivalent Positions 5.0 5.0

Number of 100% Federally Funded FTEs 0.0 0.0

2.F. Summary of Total Request by Strategy
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE : 8/22/2014
 TIME : 12:35:00PM

Agency code: 215	Agency name: Office of Capital Writs					
<u>Goal/Objective/STRATEGY</u>	<u>Base 2016</u>	<u>Base 2017</u>	<u>Exceptional 2016</u>	<u>Exceptional 2017</u>	<u>Total Request 2016</u>	<u>Total Request 2017</u>
I Death Penalty Habeas Representation						
1 <i>Death Penalty Habeas Representation</i>						
1 DEATH PENALTY REPRESENTATION	\$1,057,386	\$1,057,386	\$453,760	\$359,477	\$1,511,146	\$1,416,863
TOTAL, GOAL 1	\$1,057,386	\$1,057,386	\$453,760	\$359,477	\$1,511,146	\$1,416,863
TOTAL, AGENCY STRATEGY REQUEST	\$1,057,386	\$1,057,386	\$453,760	\$359,477	\$1,511,146	\$1,416,863
TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST	\$0	\$0	\$0	\$0	\$0	\$0
GRAND TOTAL, AGENCY REQUEST	\$1,057,386	\$1,057,386	\$453,760	\$359,477	\$1,511,146	\$1,416,863

2.F. Summary of Total Request by Strategy
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE : 8/22/2014
 TIME : 12:35:00PM

Agency code: 215 Agency name: Office of Capital Writs							
<i>Goal/Objective/STRATEGY</i>		Base 2016	Base 2017	Exceptional 2016	Exceptional 2017	Total Request 2016	Total Request 2017
General Revenue Funds:							
1 General Revenue Fund		\$0	\$0	\$496,971	\$496,972	\$496,971	\$496,972
		\$0	\$0	\$496,971	\$496,972	\$496,971	\$496,972
General Revenue Dedicated Funds:							
5073 Fair Defense		1,057,386	1,057,386	(43,211)	(137,495)	1,014,175	919,891
		\$1,057,386	\$1,057,386	\$(43,211)	\$(137,495)	\$1,014,175	\$919,891
TOTAL, METHOD OF FINANCING		\$1,057,386	\$1,057,386	\$453,760	\$359,477	\$1,511,146	\$1,416,863
FULL TIME EQUIVALENT POSITIONS		13.0	13.0	5.0	5.0	18.0	18.0

2.G. Summary of Total Request Objective Outcomes
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation system of Texas (ABEST)

Date : 8/22/2014
 Time: 12:35:00PM

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

Goal/ Objective / Outcome

	BL 2016	BL 2017	Excp 2016	Excp 2017	Total Request 2016	Total Request 2017
1	Death Penalty Habeas Representation					
1	<i>Death Penalty Habeas Representation</i>					
KEY	1 # Writ Apps for Which Evidentiary Hearings are Granted by Trial Court					
	3.00	3.00			3.00	3.00
KEY	2 Percentage of Writs Filed on a Timely Basis					
	100.00%	100.00%			100.00%	100.00%

3.A. Strategy Request
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:35:01PM

215 Office of Capital Writs

GOAL:	I	Death Penalty Habeas Representation	Statewide Goal/Benchmark:	0	0
OBJECTIVE:	I	Death Penalty Habeas Representation	Service Categories:		
STRATEGY:	I	Death Penalty Habeas Representation	Service: 01	Income: NA	Age: NA

CODE	DESCRIPTION	Exp 2013	Est 2014	Bud 2015	BL 2016	BL 2017
Output Measures:						
KEY 1	Number of Writ Applications Filed	8.00	7.00	10.00	12.00	12.00
KEY 2	Number of Appointments Accepted	10.00	11.00	11.00	12.00	12.00
Explanatory/Input Measures:						
1	Number of Appointments Refused	2.00	2.00	2.00	0.00	0.00
2	Number of Appointments Pending	26.00	36.00	45.00	45.00	45.00
Objects of Expense:						
1001	SALARIES AND WAGES	\$576,933	\$615,475	\$808,034	\$808,034	\$808,034
1002	OTHER PERSONNEL COSTS	\$37,698	\$21,718	\$8,120	\$8,120	\$8,120
2001	PROFESSIONAL FEES AND SERVICES	\$229,121	\$279,782	\$208,789	\$160,451	\$160,451
2003	CONSUMABLE SUPPLIES	\$5,424	\$4,000	\$5,000	\$5,000	\$5,000
2004	UTILITIES	\$918	\$0	\$0	\$0	\$0
2005	TRAVEL	\$40,382	\$36,473	\$40,000	\$40,000	\$40,000
2006	RENT - BUILDING	\$776	\$1,300	\$2,100	\$2,100	\$2,100
2007	RENT - MACHINE AND OTHER	\$3,714	\$4,186	\$3,714	\$3,714	\$3,714
2009	OTHER OPERATING EXPENSE	\$36,559	\$38,321	\$29,967	\$29,967	\$29,967
5000	CAPITAL EXPENDITURES	\$0	\$0	\$0	\$0	\$0

3.A. Strategy Request
 84th Regular Session, Agency Submission, Version I
 Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:35:01PM

215 Office of Capital Writs

GOAL:	1	Death Penalty Habeas Representation	Statewide Goal/Benchmark:	0	0
OBJECTIVE:	1	Death Penalty Habeas Representation	Service Categories:		
STRATEGY:	1	Death Penalty Habeas Representation	Service: 01	Income: NA	Age: NA

CODE	DESCRIPTION	Exp 2013	Est 2014	Bud 2015	BL 2016	BL 2017
TOTAL, OBJECT OF EXPENSE		\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
Method of Financing:						
1	General Revenue Fund	\$0	\$0	\$0	\$0	\$0
SUBTOTAL, MOF (GENERAL REVENUE FUNDS)		\$0	\$0	\$0	\$0	\$0
Method of Financing:						
5073	Fair Defense	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
SUBTOTAL, MOF (GENERAL REVENUE FUNDS - DEDICATED)		\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
Rider Appropriations:						
1	General Revenue Fund					
701	1 Unexpended Balances				\$0	\$0
TOTAL, RIDER & UNEXPENDED BALANCES APPROP					\$0	\$0

3.A. Strategy Request
84th Regular Session, Agency Submission, Version 1
Automated Budget and Evaluation System of Texas (ABEST)

8/22/2014 12:35:01PM

SUMMARY TOTALS:

OBJECTS OF EXPENSE:	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
METHODS OF FINANCE (INCLUDING RIDERS):				\$1,057,386	\$1,057,386
METHODS OF FINANCE (EXCLUDING RIDERS):	\$931,525	\$1,001,255	\$1,105,724	\$1,057,386	\$1,057,386
FULL TIME EQUIVALENT POSITIONS:	9.0	11.0	13.0	13.0	13.0

3.C. Rider Appropriations and Unexpended Balances Request
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency Code: 215 Office of Capital Writs

RIDER	STRATEGY	Exp 2013	Est 2014	Bud 2015	BL 2016	BL 2017
701	1 Unexpended Balances 1-1-1 DEATH PENALTY REPRESENTATION	\$0	\$0	\$0	\$0	\$0
OBJECT OF EXPENSE:						
	2009 OTHER OPERATING EXPENSE	\$0	\$0	\$0	\$0	\$0
Total, Object of Expense		\$0	\$0	\$0	\$0	\$0
METHOD OF FINANCING:						
	1 General Revenue Fund	\$0	\$0	\$0	\$0	\$0
Total, Method of Financing		\$0	\$0	\$0	\$0	\$0

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

Any unexpended balances appropriated above in fiscal year 2016 are hereby appropriated to the Office of Capital Writs for fiscal year 2017 for the same purposes.

Investigation costs are a major component of this agency's budget. Uncertainty exists around these costs because they vary based on the particulars of the case being filed. 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.

U.B. was given to the OCW by the 82nd and 83rd Legislatures, R.S. The OCW requests U.B. again in FY 2016-17.

3.C. Rider Appropriations and Unexpended Balances Request
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency Code: 215 Office of Capital Writs

RIDER	STRATEGY	Exp 2013	Est 2014	Bud 2015	BL 2016	BL 2017
SUMMARY:						
OBJECT OF EXPENSE TOTAL		\$0	\$0	\$0	\$0	\$0
METHOD OF FINANCING TOTAL		\$0	\$0	\$0	\$0	\$0

4.A. Exceptional Item Request Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215

Agency name:

Office of Capital Writs

CODE	DESCRIPTION	Excp 2016	Excp 2017
	<p align="center">Item Name: Reinstatement of GR/GR Dedicated Split. 47%/53%</p> <p align="center">Item Priority: 1</p> <p align="center">Includes Funding for the Following Strategy or Strategies: 01-01-01 Death Penalty Habeas Representation</p>		
METHOD OF FINANCING:			
1	General Revenue Fund	496,971	496,972
5073	Fair Defense	-496,971	-496,972
TOTAL, METHOD OF FINANCING		\$0	\$0

DESCRIPTION / JUSTIFICATION:

When the OCW was first created, its method of finance derived from both GR (47%) and GR dedicated [Fund 5073 – Indigent Defense] (53%). In FY 2012, the Legislature converted the method of finance entirely to GR dedicated [Fund 5073]. Currently, the OCW is the only Article IV agency which does not receive any funding from the General Revenue Fund. To minimize the OCW’s imposition on the more limited resources available in the Indigent Defense Fund, the OCW requests that its method of finance be returned to the GR/GR dedicated percentage split initially set by the Legislature.

EXTERNAL/INTERNAL FACTORS:

N/A

4.A. Exceptional Item Request Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215

Agency name:

Office of Capital Writs

CODE	DESCRIPTION	Excp 2016	Excp 2017
	Item Name: Annualization to FY2015 Funding Item Priority: 2 Includes Funding for the Following Strategy or Strategies: 01-01-01 Death Penalty Habeas Representation		
OBJECTS OF EXPENSE:			
2001	PROFESSIONAL FEES AND SERVICES	48,337	48,337
TOTAL, OBJECT OF EXPENSE		\$48,337	\$48,337
METHOD OF FINANCING:			
5073	Fair Defense	48,337	48,337
TOTAL, METHOD OF FINANCING		\$48,337	\$48,337

DESCRIPTION / JUSTIFICATION:

In the 83rd Legislative session, the OCW was given funding for two new FTE positions in FY 2014 and two additional FTE positions in FY 2015. However, due to an annualizing of the 2014-2015 budgets in order to create the new 2016-2017 biennium budget, \$96,674 was lost (based upon the fact that the OCW budget for FY 2014 was less than FY 2015). Because the Legislature increased the OCW's FTE positions to thirteen in FY 2015, and because those thirteen FTE positions carry over to FY 2016-2017, the \$96,674 is needed to fund all thirteen FTE positions.

EXTERNAL/INTERNAL FACTORS:

The restoration of the funding will benefit the State as the State would not have to expend money in appointment of private counsel for those cases turned down by OCW.

4.A. Exceptional Item Request Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215

Agency name:

Office of Capital Writs

CODE	DESCRIPTION	Excp 2016	Excp 2017
	Item Name: Five additional FTEs		
	Item Priority: 3		
	Includes Funding for the Following Strategy or Strategies: 01-01-01 Death Penalty Habeas Representation		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	276,000	276,000
	TOTAL, OBJECT OF EXPENSE	\$276,000	\$276,000
METHOD OF FINANCING:			
5073	Fair Defense	276,000	276,000
	TOTAL, METHOD OF FINANCING	\$276,000	\$276,000
	FULL-TIME EQUIVALENT POSITIONS (FTE):	5.00	5.00

DESCRIPTION / JUSTIFICATION:

Upon establishing the OCW in 2010, the Legislature approved a budget for the agency in the amount of \$1,043,343. That funding was intended to staff the agency with nine FTEs and for the agency to represent approximately twenty death row defendants. The OCW is currently funded at approximately the same level but has a staff of thirteen FTEs (a 44% increase) and represents thirty-five death row defendants (a 75% increase). And within the next twelve months the OCW will be representing approximately forty-four death row defendants—more than twice as many defendants as was originally envisioned for the agency at its initial budget.

To ensure that the agency continues to fulfill the Legislature’s mandate to deliver high-quality representation throughout the State, the OCW requests five additional FTE positions: two additional attorneys, two additional investigators, and one additional paralegal.

EXTERNAL/INTERNAL FACTORS:

- Attorney III - \$70,000
- Attorney II - \$60,000
- Investigator V - \$52,000
- Investigator V - \$52,000
- Support Staff (paralegal) - \$42,000

4.A. Exceptional Item Request Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215

Agency name:

Office of Capital Writs

CODE	DESCRIPTION	Excp 2016	Excp 2017
	<p align="center">Item Name: Growth Cost Item Priority: 4</p> <p>Includes Funding for the Following Strategy or Strategies: 01-01-01 Death Penalty Habeas Representation</p>		
OBJECTS OF EXPENSE:			
2009	OTHER OPERATING EXPENSE	95,423	1,140
TOTAL, OBJECT OF EXPENSE		\$95,423	\$1,140
METHOD OF FINANCING:			
5073	Fair Defense	95,423	1,140
TOTAL, METHOD OF FINANCING		\$95,423	\$1,140

DESCRIPTION / JUSTIFICATION:

In 2011, the OCW moved into a space that was built to accommodate nine FTEs. With a current staff of thirteen FTEs, the OCW has three staff members sitting in its file/copy room. The OCW has located additional State office space on the same floor which currently houses the Agency. The additional space will accommodate six cubicles. To accommodate the recent and anticipated growth of the Agency, the OCW also requests a one-time expenditure to build out the new space (which currently serves as a file room for the Texas Real Estate Commission) and to purchase additional cubicles, computers, furniture, and telephones. This one-time expenditure ensures the Agency will not have to move to leased space thereby saving the State approximately \$100,000 in rental fees per year.

EXTERNAL/INTERNAL FACTORS:

- Build out (\$55,000 per Texas Facilities Commission bid)
- DIR cabling (\$1,530)
- Six additional cubicles (\$3,600 each plus installation and shipping \$1,000 = \$22,600)
- Six desk chairs (\$1,200)
- Three Side chairs (\$600)
- Group Printer (\$1,550)
- Computers (four laptops, one tower, monitors, cabling = \$10,743)
- Five additional telephones (Est. \$1,060)
- Monthly phone line charge with voice mail (\$19 x 5 x 12 = \$1,140 per year)

Agency code: 215

Agency name:
Office of Capital Writs

CODE	DESCRIPTION	Excp 2016	Excp 2017
	Item Name: Salary Increases		
	Item Priority: 5		
	Includes Funding for the Following Strategy or Strategies: 01-01-01 Death Penalty Habeas Representation		
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	34,000	34,000
	TOTAL, OBJECT OF EXPENSE	\$34,000	\$34,000
METHOD OF FINANCING:			
5073	Fair Defense	34,000	34,000
	TOTAL, METHOD OF FINANCING	\$34,000	\$34,000

DESCRIPTION / JUSTIFICATION:

The OCW requests salary increases for its present staff. Currently, OCW attorneys receive salaries far below those of similarly-situated attorneys doing comparable work. Salary increases also are appropriate for the OCW's investigative staff, as their salaries are lower than similarly-situated investigators at both public defender offices and district attorney's offices throughout the State.

EXTERNAL/INTERNAL FACTORS:

- Four Attorney II raises (\$4,000 each for a total of \$16,000)
- Four Attorney I raises (\$3,000 each for a total of \$12,000)
- Three Investigator V raises (\$2,000 each for a total of \$6,000)

4.B. Exceptional Items Strategy Allocation Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215 Agency name: Office of Capital Writs

Code	Description	Excp 2016	Excp 2017
Item Name: Reinstatement of GR/GR Dedicated Split. 47%/53%			
Allocation to Strategy: 1-1-1 Death Penalty Habeas Representation			
METHOD OF FINANCING:			
	1 General Revenue Fund	496,971	496,972
	5073 Fair Defense	-496,971	-496,972
TOTAL, METHOD OF FINANCING		\$0	\$0
FULL-TIME EQUIVALENT POSITIONS (FTE):		0.0	0.0

4.B. Exceptional Items Strategy Allocation Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215 Agency name: Office of Capital Writs

Code	Description	Excp 2016	Excp 2017
Item Name: Annualization to FY2015 Funding			
Allocation to Strategy: 1-1-1 Death Penalty Habeas Representation			
OUTPUT MEASURES:			
	<u>2</u> Number of Appointments Accepted	12.00	12.00
EXPLANATORY/INPUT MEASURES:			
	<u>1</u> Number of Appointments Refused	0.00	0.00
OBJECTS OF EXPENSE:			
	2001 PROFESSIONAL FEES AND SERVICES	48,337	48,337
TOTAL, OBJECT OF EXPENSE		\$48,337	\$48,337
METHOD OF FINANCING:			
	5073 Fair Defense	48,337	48,337
TOTAL, METHOD OF FINANCING		\$48,337	\$48,337
FULL-TIME EQUIVALENT POSITIONS (FTE):		0.0	0.0

4.B. Exceptional Items Strategy Allocation Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215 Agency name: Office of Capital Writs

Code	Description	Excp 2016	Excp 2017
Item Name: Five additional FTEs			
Allocation to Strategy: 1-1-1 Death Penalty Habeas Representation			
OUTPUT MEASURES:			
<u>2</u>	Number of Appointments Accepted	12.00	12.00
EXPLANATORY/INPUT MEASURES:			
<u>1</u>	Number of Appointments Refused	0.00	0.00
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	276,000	276,000
TOTAL, OBJECT OF EXPENSE		\$276,000	\$276,000
METHOD OF FINANCING:			
5073	Fair Defense	276,000	276,000
TOTAL, METHOD OF FINANCING		\$276,000	\$276,000
FULL-TIME EQUIVALENT POSITIONS (FTE):		5.0	5.0

4.B. Exceptional Items Strategy Allocation Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215 Agency name: Office of Capital Writs

Code	Description	Excp 2016	Excp 2017
Item Name:	Growth Cost		
Allocation to Strategy:	1-1-1 Death Penalty Habeas Representation		
OBJECTS OF EXPENSE:			
2009	OTHER OPERATING EXPENSE	95,423	1,140
TOTAL, OBJECT OF EXPENSE		\$95,423	\$1,140
METHOD OF FINANCING:			
5073	Fair Defense	95,423	1,140
TOTAL, METHOD OF FINANCING		\$95,423	\$1,140
FULL-TIME EQUIVALENT POSITIONS (FTE):		0.0	0.0

4.B. Exceptional Items Strategy Allocation Schedule
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
 TIME: 12:35:01PM

Agency code: 215 Agency name: Office of Capital Writs

Code	Description	Excp 2016	Excp 2017
Item Name:	Salary Increases		
Allocation to Strategy:	1-1-1 Death Penalty Habeas Representation		
OUTPUT MEASURES:			
<u>2</u>	Number of Appointments Accepted	12.00	12.00
EXPLANATORY/INPUT MEASURES:			
<u>1</u>	Number of Appointments Refused	0.00	0.00
OBJECTS OF EXPENSE:			
1001	SALARIES AND WAGES	34,000	34,000
TOTAL, OBJECT OF EXPENSE		\$34,000	\$34,000
METHOD OF FINANCING:			
5073	Fair Defense	34,000	34,000
TOTAL, METHOD OF FINANCING		\$34,000	\$34,000
FULL-TIME EQUIVALENT POSITIONS (FTE):		0.0	0.0

4.C. Exceptional Items Strategy Request
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 8/22/2014
TIME: 12:35:02PM

Agency Code: **215** Agency name: **Office of Capital Writs**

GOAL: 1 Death Penalty Habeas Representation Statewide Goal/Benchmark: 0 - 0
 OBJECTIVE: 1 Death Penalty Habeas Representation Service Categories:
 STRATEGY: 1 Death Penalty Habeas Representation Service: 01 Income: NA Age: NA

CODE DESCRIPTION	Excp 2016	Excp 2017
OBJECTS OF EXPENSE:		
1001 SALARIES AND WAGES	310,000	310,000
2001 PROFESSIONAL FEES AND SERVICES	48,337	48,337
2009 OTHER OPERATING EXPENSE	95,423	1,140
Total, Objects of Expense	\$453,760	\$359,477
METHOD OF FINANCING:		
1 General Revenue Fund	496,971	496,972
5073 Fair Defense	(43,211)	(137,495)
Total, Method of Finance	\$453,760	\$359,477
FULL-TIME EQUIVALENT POSITIONS (FTE):	5.0	5.0

EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:

Reinstatement of GR/GR Dedicated Split. 47%/53%
 Annualization to FY2015 Funding
 Five additional FTEs
 Growth Cost
 Salary Increases

6.I. Percent Biennial Base Reduction Options
10 % REDUCTION
 84th Regular Session, Agency Submission, Version 1
 Automated Budget and Evaluation System of Texas (ABEST)

Date: 8/22/2014
 Time: 12:35:02PM

Agency code: 215 Agency name: Office of Capital Writs

Item Priority and Name/ Method of Financing	REVENUE LOSS			REDUCTION AMOUNT			TARGET
	2016	2017	Biennial Total	2016	2017	Biennial Total	
1 10% Biennial Base Reduction							
Category: Programs - Service Reductions (Contracted)							
Item Comment: A 10% reduction to the Office of Capital Writs would require a reduction in expert funding and necessary case-related travel and it also would require a reduction in staff of two individuals over the biennium. This would mean that fewer cases would be accepted by the OCW, thus defeating the legislative purpose behind the creation of the Agency.							
Strategy: 1-1-1 Death Penalty Habeas Representation							
<u>Gr Dedicated</u>							
5073 Fair Defense	\$0	\$0	\$0	\$104,343	\$104,344	\$208,687	
Gr Dedicated Total	\$0	\$0	\$0	\$104,343	\$104,344	\$208,687	
Item Total	\$0	\$0	\$0	\$104,343	\$104,344	\$208,687	
FTE Reductions (From FY 2016 and FY 2017 Base Request)							
AGENCY TOTALS							
GR Dedicated Total				\$104,343	\$104,344	\$208,687	\$208,687
Agency Grand Total	\$0	\$0	\$0	\$104,343	\$104,344	\$208,687	
Difference, Options Total Less Target							
Agency FTE Reductions (From FY 2016 and FY 2017 Base Request)							