



Legislative Fiscal Bureau

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March 27, 2017

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Justice: Section s. 16.505(2) Request to Provide 3.0 Permanent Positions for a Cooperative Disability Investigations Unit -- Agenda Item I

REQUEST

On October 4, 2016, the Department of Administration (DOA) submitted a request, under s. 16.505(2) of the statutes, to create 3.0 PR permanent positions (2.0 special agents and 1.0 office operations associate) for the Department of Justice (DOJ) to staff a cooperative disability investigations (CDI) unit to review and investigate allegations of fraud in disability programs administered by the federal Social Security Administration (SSA). The positions would be budgeted in an appropriation that enables DOJ to expend all moneys it receives from other DOJ Divisions and state agencies to fund law enforcement services. The positions would be supported by federal funds the Department of Health Services (DHS) receives from SSA to support certain activities conducted by the DHS Disability Determination Bureau (DDB), which would be subsequently transferred to the DOJ program revenue appropriation.

On October 21, 2016, the Co-Chairs notified DOA that the Committee wished to meet to consider the matter. As a result, the request is now before the Committee under s. 13.10.

BACKGROUND

Cooperative Disability Investigation Units. In federal fiscal year 1997-98, SSA established the CDI program in conjunction with state disability and determination services and local law enforcement agencies. Under the program, CDI units investigate potentially fraudulent disability claims under the federal social security disability insurance (SSDI) program and the supplemental security (SSI) program. According to the SSA Office of Inspector General (OIG), the CDI program's primary mission is to obtain evidence to resolve questions of fraud before benefits are paid. The CDI units address fraud by investigating statements and activities indicative of disability fraud by claimants, medical providers, interpreters, or other service providers. The units also

provide reports to state disability determination service examiners during continuing disability reviews that can be used to cease benefits as necessary.

The CDI program currently consists of 38 units that operate in 33 states (including Wisconsin), Washington D.C., and Puerto Rico, as identified in the table below.

Cities with a Cooperative Disability Investigation Unit in the United States

Birmingham, Alabama	St. Louis, Missouri
Phoenix, Arizona	New York City, New York
Little Rock, Arkansas	Raleigh, North Carolina
Los Angeles, California	Cleveland, Ohio
Oakland, California	Oklahoma City, Oklahoma
Denver, Colorado	Salem, Oregon
Miami, Florida	San Juan, Puerto Rico
Tampa, Florida	Providence, Rhode Island
Atlanta, Georgia	Columbia, South Carolina
Chicago, Illinois	Sioux Falls, South Dakota
Des Moines, Iowa	Nashville, Tennessee
Kansas City, Kansas	Dallas, Texas
Lexington, Kentucky	Houston, Texas
Baton Rouge, Louisiana	Salt Lake City, Utah
Baltimore Maryland	Richmond, Virginia
Boston, Massachusetts	Washington D.C.
Detroit, Michigan	Seattle, Washington
St. Paul, Minnesota	Charleston, West Virginia
Jackson, Mississippi	Milwaukee, Wisconsin

Wisconsin CDI Unit. In June, 2016, the state DOJ Division of Criminal Investigation (DCI), the DHS DDB, the federal SSA OIG, and the SSA Chicago Regional Office entered into a memorandum of understanding (MOU) to create a CDI unit in Wisconsin. The agreement is in effect for approximately five years, terminating on May 31, 2021. The Department of Justice anticipates that the agreement would be extended after May 31, 2021, since CDI units in other states have not been discontinued once established. Any party may terminate its participation in the CDI unit with thirty days written notice to each of the parties.

In September, 2016, DOJ reassigned two existing special agents to the CDI unit to allow all members of the CDI unit to start working and training together. The two reassigned DOJ special agents formerly handled investigations relating to narcotics and Internet crimes against children. One of the special agent positions that was reassigned to the CDI unit is supported by a DOJ PR appropriation that funds drug law enforcement, crime laboratories, and genetic evidence activities. The other is currently supported by the "interagency and intra-agency assistance" appropriation. The special agent positions requested by DOJ would be used to backfill the positions reassigned from narcotics and Internet crimes against children. The Department of Justice indicates that the office operations associate for the CDI unit will be recruited if its request is approved.

The Wisconsin CDI unit, which is located in the City of Milwaukee, is comprised of 7.0

positions, including 5.0 state positions and 2.0 positions who are SSA employees. The positions include:

- *1.0 Federal Special Agent (SSA OIG)*. The special agent serves as the team leader for the CDI unit and manages the day-to-day operations of the unit.
- *1.0 Federal Program Specialist (SSA)*. The program specialist provides technical support and expertise on issues pertaining to SSA claims, procedures, post-entitlement procedures, reporting requirements and work activity to the unit. The program specialist assists the unit in gaining access to necessary records and data, as well as solicits referrals of potential fraud situations from the Wisconsin DDB, the federal SSA Office of Disability Adjudication and Review, and SSA field offices.
- *2.0 Analysts (DHS)*. The analysts provide referrals of claims with suspected fraud or similar fault against disability programs to the CDI unit special agents. The analysts make initial assessments of referred cases to prioritize case investigations.
- *2.0 Special Agents (DOJ)*. The DCI special agents conduct investigations of referred cases in coordination with other members of the unit. The special agents also report the results of their investigations to SSA and DHS DDB staff to facilitate timely and accurate disability eligibility determinations.
- *1.0 Office Operations Associate (DOJ)*. The office operations associate provides general administrative support for the unit, and assists special agents gather information on claimants.

In its s. 16.505 submission to the Committee, DOJ requested approval for position authority to support the 2.0 special agents and 1.0 office operations associate from DCI, and indicated that DHS would use its current position authority to provide the 2.0 analyst positions for the CDI unit.

Wisconsin Disability Determinations Bureau. The Wisconsin DDB is responsible for making disability determinations for Wisconsin residents who apply for SSA's various disability benefit programs and the states' Medicaid program. The Bureau is in the DHS Division of Medicaid Services.

Applications for disability benefit programs are initially received and reviewed by SSA. From there, an applicant who meets the non-medical eligibility requirements, related to the age at which the applicant became disabled and the duration of prior employment, will have his or her case forwarded to the state's DDB for a disability determination. In federal fiscal year 2015-16, the Wisconsin DDB received 42,830 initial cases and 13,624 requests for reconsideration. The Bureau had an initial allowance rate of 33.9% compared to 33.2% nationally and a reconsideration allowance rate of 18.1% compared to 12.5% nationally.

The Social Security Administration establishes yearly end-to-end processing time goals for initial cases. These goals measure the time from when a local Social Security field office takes a

claim, through processing at a DDB, and back to the local field office for any potential follow up action there. Between FFY 2013 and 2016, Wisconsin's initial SSI claims processing times ranged from approximately 99 to 119 days and the initial SSDI claims processing times ranged from approximately 83 to 109 days. During that same time SSA end-to-end processing time goals ranged from 109 to 137 days for initial SSI and SSDI claims combined.

ANALYSIS

In its s. 16.505 submission, DOJ requested 3.0 full-time equivalent permanent PR positions, including 2.0 special agents and 1.0 office operations associate. The positions would support DOJ's commitment under the MOU to provide 3.0 positions for a CDI unit. The Department has not requested any additional funding authority with its request for 3.0 positions, since the positions are supported from a continuing appropriation that authorizes DOJ to spend all moneys it receives, based on available cash balances.

As noted above, the current MOU terminates on May 31, 2021. Subsequently, a new agreement may take effect. In Wisconsin, the maximum duration of state project positions is four years. Therefore, if the Committee provides DOJ additional resources to support its participation in the CDI unit, it may wish to create them as permanent positions, as requested by DOJ.

In preparation for the CDI unit, DOJ provided DHS' DDB a cost estimate related to the three positions on a federal fiscal year basis. The estimated annual costs totaled \$333,200 in the first year, and \$299,500 annually thereafter. The cost estimate includes \$263,900 for salaries and fringe benefits, \$35,600 for ongoing supplies and services (leasing of vehicles, vehicle maintenance and other costs, travel, training, and equipment maintenance), and \$33,700 in one-time costs (equipping a personally-assigned law enforcement vehicle, and the purchase of equipment such as radios, service weapons, ammunition and protective gear). In addition, DOJ estimated possible overtime costs for the special agents totaling \$30,000 annually.

Adjusted base funding and position authority for DOJ's interagency and intra-agency appropriation is \$1,477,200 and 6.8 positions. Revenues and expenditures associated with this appropriation vary on an annual basis due to workload, vacancy rates, and agreements with other state agencies. According to DOJ, the current expenditure level is at an appropriate level to support existing receipts and expenditures, as well as receipts and expenditures associated with the CDI unit. As noted above, since the appropriation is continuing, DOJ may make expenditures from this appropriation based on available cash balances.

Participating in the CDI unit represents a new responsibility for DOJ which requires a commitment of personnel resources from DOJ. In order to support this commitment of personnel resources, the Committee could approve DOJ's request for 3.0 PR permanent positions. The positions would be granted to DOJ's interagency and intra-agency assistance appropriation [Alternative 1].

The Committee could also consider reducing the number of positions that would be provided to DOJ. As previously indicated, in September, 2016, DOJ reassigned two current special agents

from its narcotics and Internet crimes against children caseloads to the CDI unit so that all of the members of CDI unit could begin to train and work together at the same time. Since that time, DCI has utilized its existing resources to manage its workload involving narcotics and Internet crimes against children, while at the same time committing staff resources to the CDI unit. Therefore, the Committee could determine that DOJ does not require 3.0 new positions to support its workload. Rather, the Committee could either:

- *Alternative 2a* -- Provide 2.0 PR positions, comprised of 1.0 special agent and 1.0 office operations associate. Under this alternative, both positions would be provided to DOJ's interagency and intra-agency appropriation. These positions would represent new positions in the appropriation. The one position currently reassigned within the appropriation could continue to be utilized for the CDI unit.

- *Alternative 2b* -- Provide 1.0 PR office operations associate position to DOJ's interagency and intra-agency appropriation. In addition, transfer 1.0 special agent position from DOJ's drug law enforcement, crime laboratories, and genetic evidence activities PR appropriation to the interagency and intra-agency assistance appropriation. As noted above, one of the special agent positions DOJ has reassigned to the CDI unit is currently supported by the drug law enforcement appropriation. The other reassigned special agent position is currently supported by the interagency and intra-agency assistance appropriation, and could continue to be utilized for the CDI unit.

However, if the Committee reduces the number of positions that would be provided to DOJ, it is unclear at this time whether the Wisconsin CDI unit would continue to operate. The Department of Justice indicates that the agency would need to consult with its partners on continued involvement if positions were not approved or fewer positions were approved. The program could be discontinued if the program could not operate at a level that generated savings in benefit expenses.

Further, while the Department has reassigned existing special agents from narcotics investigations and Internet crimes against children to the CDI unit, the Department indicates that it was not its intent to permanently reduce resources to these functions. Rather, special agents were reassigned to the CDI unit to allow the entire unit to begin training together. Since that time, DOJ has utilized surplus positions authorized under s. 16.50(3)(f) of the statutes to assist with narcotics and Internet crimes against children caseloads. The Department requires position authority to convert these surplus positions to permanent positions.

On the other hand, the Committee could deny DOJ's request [Alternative 4]. Given that DOJ is currently performing these functions with available staff the Committee could determine that DOJ does not require additional personnel resources in order to handle its existing workload and its commitment under the CDI unit MOU. If DOJ's request is denied, DOJ and DHS would still have the authority to participate in the CDI unit through the reallocation of existing staff and funding.

Regarding DDB workload, DHS staff indicate that the creation of the CDI will not significantly affect other work conducted by DDB, including the time DDB takes to process

applications for public benefit programs. Although SSA requested DHS to reassign two experienced disability claims specialist positions to assist in the CDI program, these two positions, unlike DDB's disability determination specialist positions, carry minimal caseloads. Further, SSA has authorized DDB to hire two additional examiner trainee positions (entry-level disability determination specialist positions) to conduct the type of work that the two reassigned positions had previously performed.

ALTERNATIVES

1. Approve DOJ's request for 3.0 permanent PR positions, including 2.0 special agents and 1.0 office operations associate to support DOJ's role in the CDI unit. The 3.0 positions would be provided to DOJ's law enforcement services interagency and intra-agency appropriation.
2. Approve a reduced level of position authority to support DOJ's role in the CDI unit, in either of the following manners:
 - a. Provide 2.0 positions (1.0 special agent and 1.0 office operations associate). Under this alternative, both positions would be provided to DOJ's interagency and intra-agency appropriation.
 - b. Provide 1.0 position (1.0 office operations associate) to the interagency and intra-agency assistance appropriation. In addition, transfer 1.0 special agent position from DOJ's drug law enforcement, crime laboratories, and genetic evidence activities appropriation to DOJ's interagency and intra-agency assistance appropriation.
3. Deny the request.

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