

Office of the Long-Term Care Ombudsman (“LTCO”)

Presentation to Joint Committee on Ways & Means Subcommittees, Spring 2017

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What We Do

The Office of the Long-Term Care Ombudsman (OLTCO) is comprised of three distinct but related programs. The office serves vulnerable Oregonians, including residents of long-term care and residential facilities, the elderly and persons with disabilities, including those with intellectual/developmental disabilities, psychiatric disabilities and physical disabilities. The overarching mission of the office is to protect the individual rights, promote the independence, and ensure the quality of life of Oregonians living in long-term care and residential care facilities and Oregonians with decisional limitations through informed advocacy, education and surrogate decision making.

1. **Long Term Care Ombudsman (LTCO):** Established in 1972 under the authorization of the Older Americans Act, the LTCO investigate and resolves complaints made by and on behalf of the over 44,000 residents of over 2,200 licensed nursing homes, assisted living and residential care facilities, and adult foster homes across Oregon. The OLTCO was established as an independent state agency in 1985.

The LTCO utilizes 9 program specific FTE and 180+ volunteers. ***Volunteers visit their assigned facilities on a weekly basis, making them the most consistent and frequent State presence in a long-term care facility and uniquely able to identify potential issues involving resident safety, service quality, protection of rights and environmental factors well before any other State agency would be aware of them.*** In calendar year 2016, volunteers donated 28,456 hours of advocacy, the equivalent of 16 FTE, saving the state \$3.5 million dollars biannually. The program is currently funded at levels to cover 62% of the target population.

Where LTCO Is: 2015-2017 Legislatively Approved Budget = \$3,198,898

- Able to do at least one time visits at over 80% of long-term care facilities per year.
- Able to have volunteers assigned to 62% of long-term care facilities.
- Able to complete 13,000+ visits per year to long-term care facilities.
- Able to open 2700+ cases per year.

2. **Residential Facilities Ombudsman (RFO):** Established by the 2013 legislature, the RFO investigates resident rights violations in facilities licensed to serve individuals with intellectual and developmental disabilities or individuals with a mental health diagnosis. The RFO will ultimately utilize 7.5 dedicated staff and volunteers to reach the estimated 7,800 residents of over 2200 residential facilities. The RFO program remains under development but is operational. The program is currently funded at levels to cover 24% of the target population.

Where RFO Is: 2015-2017 Legislatively Approved Budget = \$1,528,467

- Able to roll out RFO Services and complete visits to 30% of residential facilities.
- Able to introduce the RFO program to local CDDP, CMHP, and stakeholder groups in 40% of Oregon counties.
- Able to open 50 cases which would extrapolate to 200+ over a biennium.

3. **Oregon Public Guardian (OPG):** Established by the 2014 Oregon legislature, the OPG provides surrogate decision-making, life management and advocacy services on behalf of adults who are at-risk, are incapable of making most decisions about themselves and their affairs, and have no one else to serve as a guardian or conservator for them. The OPG has staffing sufficient to directly serve 40-50 protected persons. In addition, it currently has resources to assist an additional 100 persons through contracts for public guardian and conservator (G/C) services. The OPG is funded at a level that meets less than 5% of the estimated need for its services statewide.

The OPG is operational having hired, trained, certified and bonded all OPG staff; facilitated arrangements for needed legal services; developed initial policies, procedures and case priorities; engaged stakeholder organizations throughout Oregon; and established interagency High Risk Teams (HRTs) in 5 eastern and western Oregon counties to problem solve difficult at-risk adult cases, identify alternatives to G/C, and screen for OPG services; and commenced provision of services.

To date, the OPG has responded to over 160 direct inquiries for assistance; processed over 25 referrals from HRTs, made 35+ diversion of persons to less restrictive alternatives; performed 35+ comprehensive G/C evaluations; filed 22+ petitions for temporary and continuing guardianship; and has been appointed and is serving as a guardian for 15 protected persons residing in 10 counties. The program's efforts including intervening on behalf of dozens of protected persons when their professional fiduciary was arrested and subsequently convicted of abusing and exploiting many of her clients. In addition, the program is completing contracts to expand delivery of its G/C services and for a needed electronic case management and accounting system.

Where OPG Is: 2015-2017 Legislatively Approved Budget = \$2,164,269

- Capacity to serve 40 individuals as Guardian and/or Conservator utilizing program staff.
- Capacity to contract with up to four parties to provide G/C services to an additional 100 individuals.
- Able to operate High Risk Teams in five local areas to assess individual cases, identify alternative to G/C, and screen for OPG Services.
- To date, High Risk Teams have facilitated 35 diversions of at-risk adults to less restrictive and less costly alternatives to guardianship.

Statutory Authorization

1. **LTCO:** The US Older Americans Act of 1965 (PL 89-73), as amended, requires that every state have a Long-Term Care Ombudsman program.
2. **RFO:** Oregon SB 626 (2013) authorizes new residential ombudsman services for “vulnerable adults living in residential care” - adults and children with mental illnesses and development disabilities living in licensed foster and small group homes.
3. **OPG:** Oregon SB 1553 (2014) authorized the establishment of the Public Guardian and Conservator in the Office of the Long-Term Care Ombudsman.

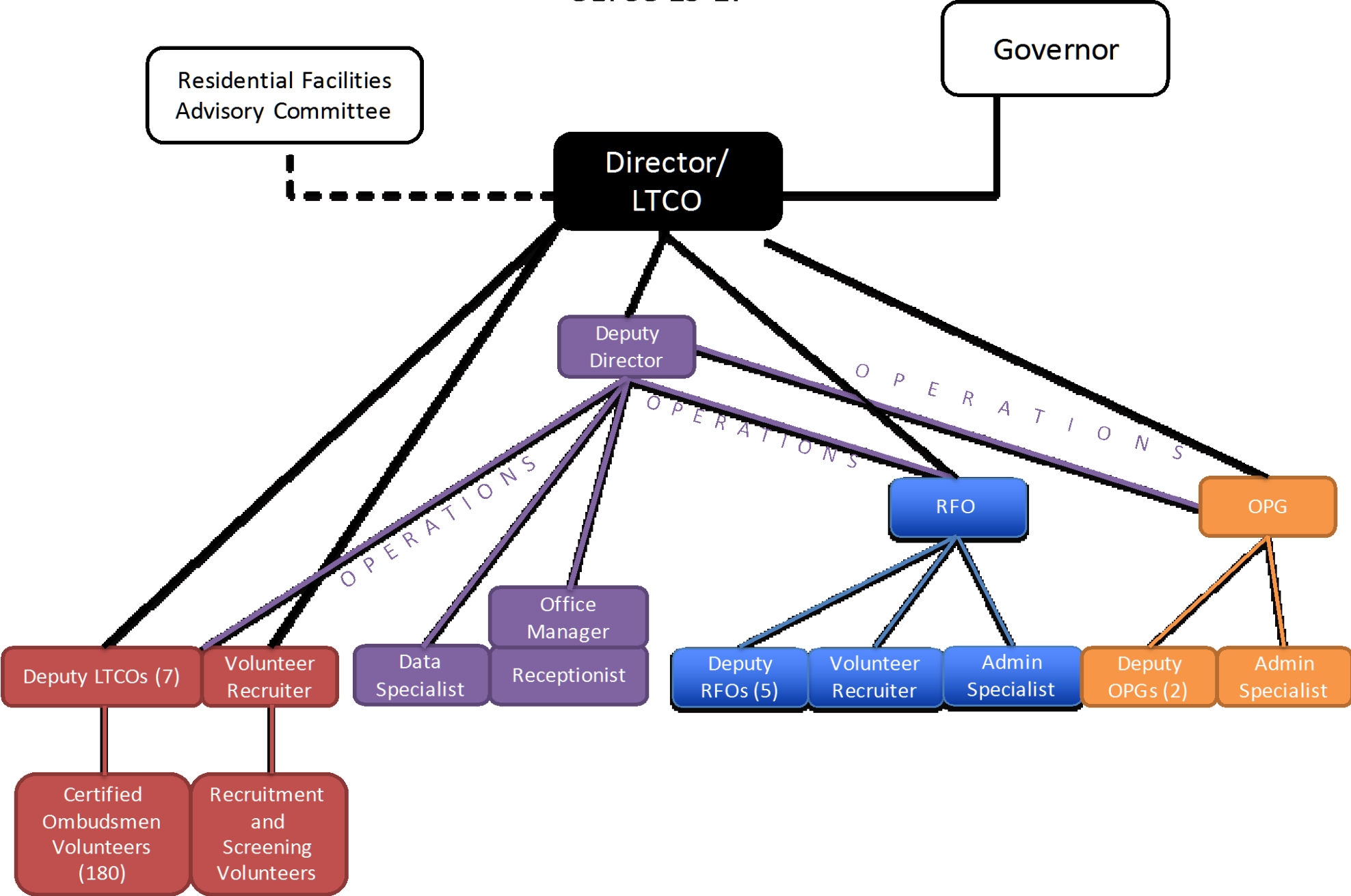
Agency Description

The Agency is small and depends heavily on volunteers to fulfill the mission of some of its program areas. There are four positions that serve the agency as a whole: The Agency Director (who also serves as the Oregon Long Term Care Ombudsman), the Agency Deputy Director, the Receptionist and the Office Manager.

1. **LTCO:** The LTCO program is staffed by 7 Deputy Ombudsmen who oversee roughly 180 volunteers, 1 Data Analyst, and 1 Volunteer Recruiter. The LTCO does not have a dedicated manager or administrative assistant. The LTCO utilizes Easter Seals SCEP program participants and interns from various state universities to maximize the capacity of paid staff and complete program critical tasks that would otherwise be unable to be completed.
2. **RFO:** The RFO program is staffed by a manager, an administrative assistant, a half time volunteer recruiter, and five Deputy Ombudsmen. Although they do not currently oversee any volunteers, it is projected that the program will utilize as many as 105 volunteers by December, 2020. The program also utilizes Easter Seals SCEP program participants.
3. **OPG:** The OPG program is staffed by the Oregon Public Guardian and Conservator, two Deputy Public Guardians and an administrative assistant. While the OPG has not yet utilized volunteers or interns, it has plans to do so in the future.

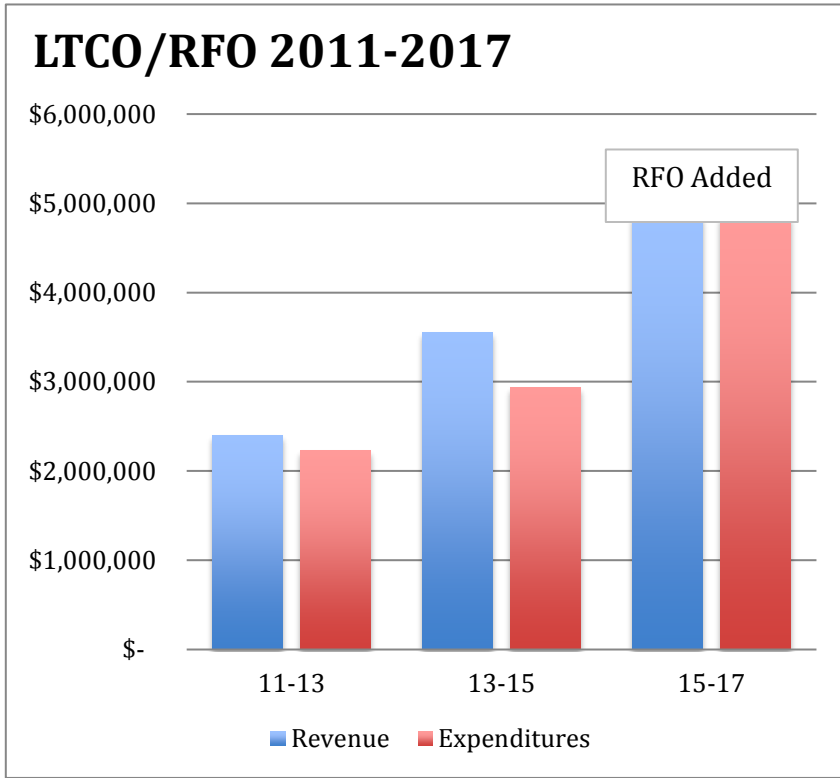
When all three programs are fully staffed there are 25 total persons employed occupying 24.5 FTE positions. The organizational chart on the following page reflects the current organizational structure:

OLTCO 15-17

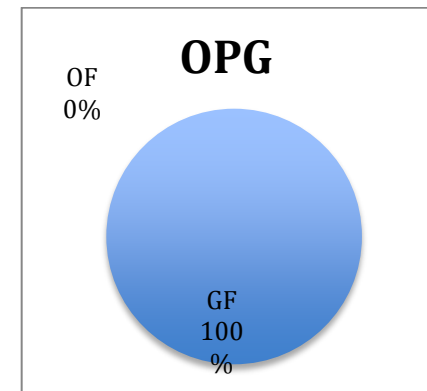
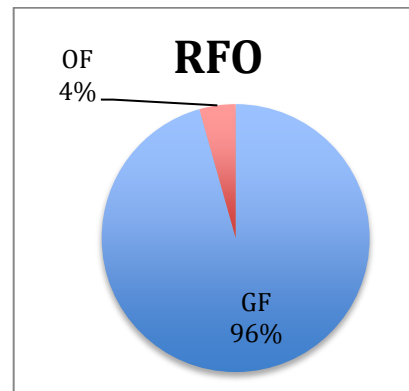
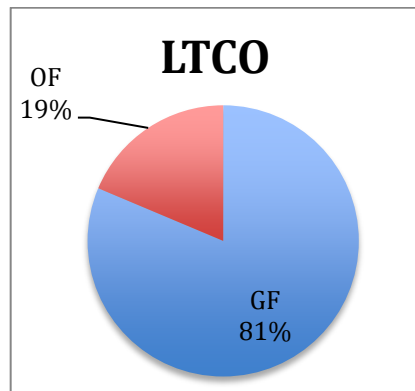
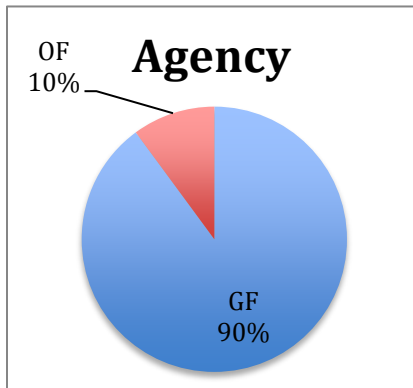
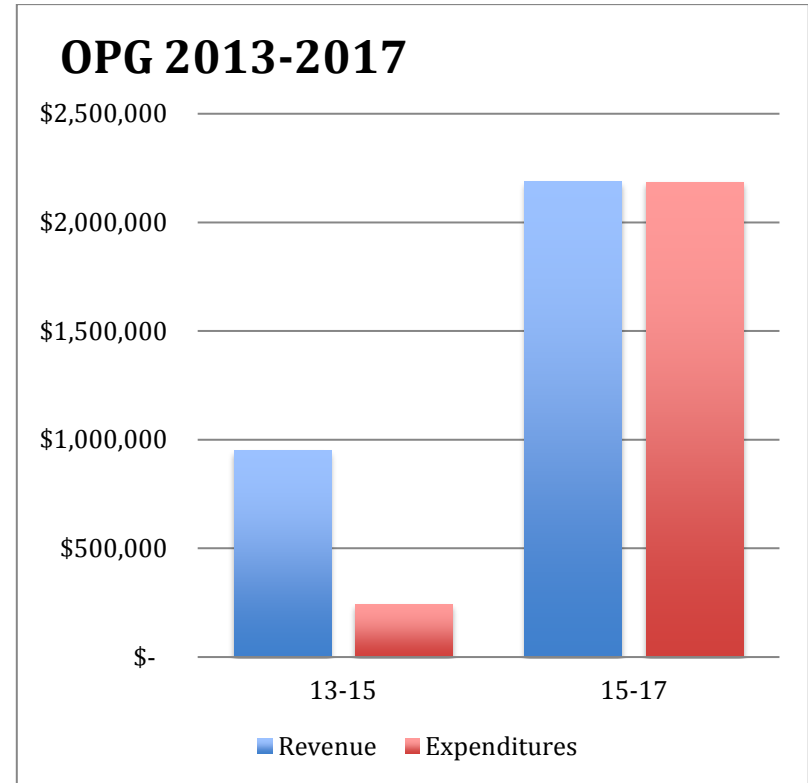


OLTCO Funding History

LTCO/RFO:



OPG:



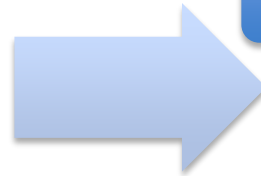
Budget Drivers

Overall the OLTCO budget is comprised of 90% General Fund and 10% Other Funds. As a result, any reductions in its State General Funds will have a significant impact on agency operations. None of the OLTCO program areas generate fees, charge for services or have other means of revenue production.

LTCO: The LTCO program receives approximately 81% of its funding from State General Fund with the remainder consisting of Federal Funds provided through the Older Americans Act. *(Prior to the 2011–2013 biennium, LTCO received Medicaid funding. These funds were sufficient to provide about 75% of the total expenditures of the Agency. On July 1, 2011, most of the Medicaid funding was discontinued; requiring a significant increase in the amount of General Funds needed to continue the program.)* The 2017-19 Governor's Balanced Budget recommends reductions in inflation allowances. In addition, one time funds in the amount of \$100,000 are not carried forward from the 2015-17 budget. This, combined with increases in In-State Travel and Data Processing costs will result in a reduction in services during the 2017-19 biennium.

Where LTCO Is: 2015-2017 Legislatively Approved Budget = \$3,198,989

- Able to do at least one time visits at over **80%** of long-term care facilities per year.
- Able to have volunteers assigned to **62%** of long-term care facilities.
- Able to complete **13,000+** visits per year to long-term care facilities.
- Able to open **2700+** cases per year.



Where LTCO Will Be In 2017-2019: Governor's Balanced Budget = \$3,686,280

- Able to do at least one time visits at **75%** of long-term care facilities per year.
- Able to have volunteers assigned to **46%** of long-term care facilities.
- Able to complete **11,700+** visits per year to long-term care facilities.
- Able to open **2420+** cases per year.

RFO: The RFO program receives nearly 100% of its funding from State General Fund. However, other funds in the form of Quality Care Funds generated from fines and civil penalties levied against I/DD and MH licensed providers are dedicated to the RFO program. In 15-17 this has accounted for nearly \$165,000 in revenue, a number that is expected to remain constant or increase slightly in 17-19. The 2017-19 GBB call for reductions in the inflation allowance for the RFO program.

Where RFO Is: 2015-2017
Legislatively Approved Budget =
\$1,528,467

- Able to roll out RFO Services and complete visits to 30% of residential facilities.
- Able to introduce the RFO program to local CDDP, CMHP, and stakeholder groups in 40% of Oregon counties.
- Able to open 50 cases which would extrapolate to 200+ over a biennium.



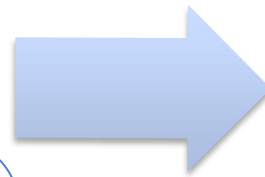
Where RFO Will Be In 2017-2019:
Governor's Balanced Budget =
\$1,981,841

- Able to complete program roll out to the remaining 70% of facilities statewide.
- Able to introduce the RFO program to local CDDP, CMHP and stakeholder groups in the remaining 60% of Oregon counties.
- Able to open 250 cases.
- Able to resolve 67% of cases.

OPG: The OPG program is funded entirely by State General Funds. The Governors Balanced Budget recommends reductions in inflation allowance as well as cuts to the Professional Services line item of the budget of approximately 50%. Professional services funds are used primarily for the contracting of services to Special Deputy Guardians and Conservators in various parts of the state.

Where OPG Is: 2015-2017 Legislatively Approved Budget = \$2,164,269

- Capacity to serve 40 individuals as Guardian and/or Conservator utilizing program staff.
- Capacity to contract with up to four parties to provide G/C services to an additional 100 individuals.
- Able to operate HRTs in five local areas to assess individual cases, identify alternative to G/C, and screen for OPG Services
- To date, the presence of HRTs has facilitated 35 diversions of individuals to services less restrictive and less costly than guardianship. This would extrapolate to roughly 120 individuals on a biennial basis.



Where OPG Will Be In 2017-2019:
Governors Balanced Budget = \$1,646,009

- Capacity to serve 40 individuals as Guardian and/or Conservator utilizing program staff.
- Capacity to contract with 2 - 3 parties to provide G/C services to an additional 50 individuals.
- Able to operate High Risk Teams in four local areas to assess individual cases, identify alternative to G/C, and screen for OPG Services.
- Through HRT's, facilitate 95 diversions to less restrictive and less costly alternatives to guardianship.

Financial Constraints

The current service level is already presenting some budgetary constraints and challenges for the agency. They are as follows:

Agency IT Support: When the **OPG** and **RFO** programs were created, funds were not specifically allocated for IT support, despite the addition of 11 FTE. Both new programs have significant start up and ongoing IT support needs such as program specific software needs, program specific data base needs, up front staff training, remote user set up and maintenance. The increased complexity and need for information security, risk assessments associated with IT products and use, back up plans and disaster recovery planning are driving up IT related costs. To date, the **LTCO** budget has absorbed the cost of all IT support, but is also under-budgeted in this category.

OLTCO contracts for this service as the neither the in-house expertise or the FTE allocation exists to do otherwise. At the current rate of service, the biennial cost to the agency for IT support in 17-19 will be approximately \$145,000. The GBB allocates \$33,216 for this purpose. The resulting shortfall of \$111,784 equates to:

- A half time Deputy Ombudsman for the **LTCO** program, with the capacity to oversee and support 15 volunteers who in turn provide advocacy to 1755 vulnerable individuals residing in long term care, or
- A contract with a local vendor or individual to provide potentially life saving guardianship/conservatorship services to 25 vulnerable individuals, or
- The ability to hold both the 2017 and the 2018 Statewide Training Event for all **OLTCO** volunteers. This event is the one opportunity to disseminate to all volunteers at once statewide information and direction on program policy and procedure, critical skills development, and delivery of quality volunteer services, or
- A .75 Volunteer Recruiter for the **RFO** program, allowing this new program to fulfill both it's mission and promise to the legislature to conduct truly statewide advocacy for residents in the most cost effective and feasible manner.

In State Travel: This budgetary constraint and challenge is currently specific to the **LTCO** portion of the budget, primarily due to the large number of existing volunteers already present in that program. The reimbursement of mileage expenses is one of the few incentives the **LTCO** can offer volunteers for the services they provide, which, as previously noted, save the state nearly \$3.5 million dollars biennially and is one of the few ways the program can assure that the residents of more remote facilities in the state receive **LTCO** services. While local Area Agencies on Aging's (AAA) used to cover the costs of much volunteer mileage reimbursement, this is no longer the case. Only two AAA's continue to do so. Thus far the **LTCO** has assumed the reimbursement expense in a desire to not lose any valuable volunteer service. The result, combined with some smaller programmatic factors, is a budgetary overrun of approximately \$100,000 biennially.

Attorney General Expenses: When the OPG was created, \$56,784 was allocated for Attorney General (AG) expenses. With the initiation of services, it became clear that this allocation would be insufficient to meet the program's needs for legal services, which primarily consists of representation in protected proceedings. To date, the average cost of legal services per protected person has been \$6,350. Much of this cost has been associated with the onset of guardianships and the initial petition, hearing and appointment process, when there is likely to be more interaction with the courts than later in the life of cases. However, with the projected appointment of OPG as guardian and/or conservator for an additional 74 protected persons, ongoing case costs and the cost of cases in which the OPG is not appointed but require counsel, it is expected that program's 17-19 AG expenses will exceed \$540,000. OPG and AG management have reviewed billing practices and are seeking to identify efficiencies, but to date this has not substantially reduced costs. The 15-17 shortfall to date of \$91,532 has required the OPG to draw on funds from other budget items, including professional services and travel, that are primarily intended to support provision of direct services.

Cost Containment Initiatives – Opportunities for Efficiencies

The Agency has continued the practice of out-stationing Deputy Ombudsman staff into the districts in which they both live and serve. This has greatly increased the coverage and reduced the costs of serving the Oregonians in the various geographic regions of the state. Currently the **LTCO** Deputies serving Clackamas, Multnomah, Linn-Benton, Lane and Central Oregon live in those areas as well. This practice is also being implemented to the extent possible in the roll out and development of the **RFO** program. And, via professional services contracts, this practice will be applicable to the **OPG** as well.

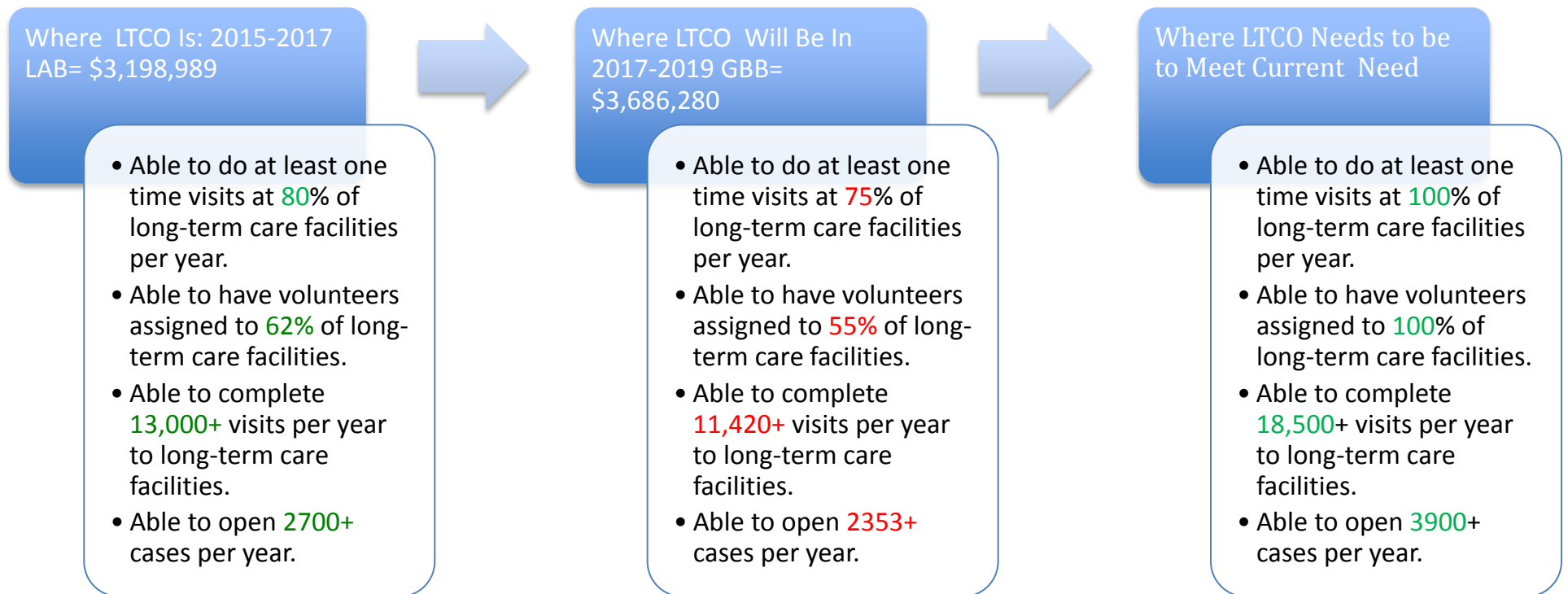
The **LTCO** program is increasingly using metrics and measurable data to assess workload distribution, monitor staff performance, target volunteer recruitment efforts, and target volunteer training and support needs. The databases and software being put in place for the **RFO** and **OPG** programs is designed to afford these same opportunities for very efficient and streamlined development of reports, program monitoring and operational management.

The addition of Deputy Director has allowed the Agency to begin to fully assess, streamline, and manage technology needs, Agency fiscal status, HR issues, Agency policies and procedures, and overall workflow. This is critical given the recent expansion of the agency as a whole and the need to assure consistency amongst program areas, maximization of opportunity for efficiencies and avoidance of duplicative workload and expenses.

Long Term Goals

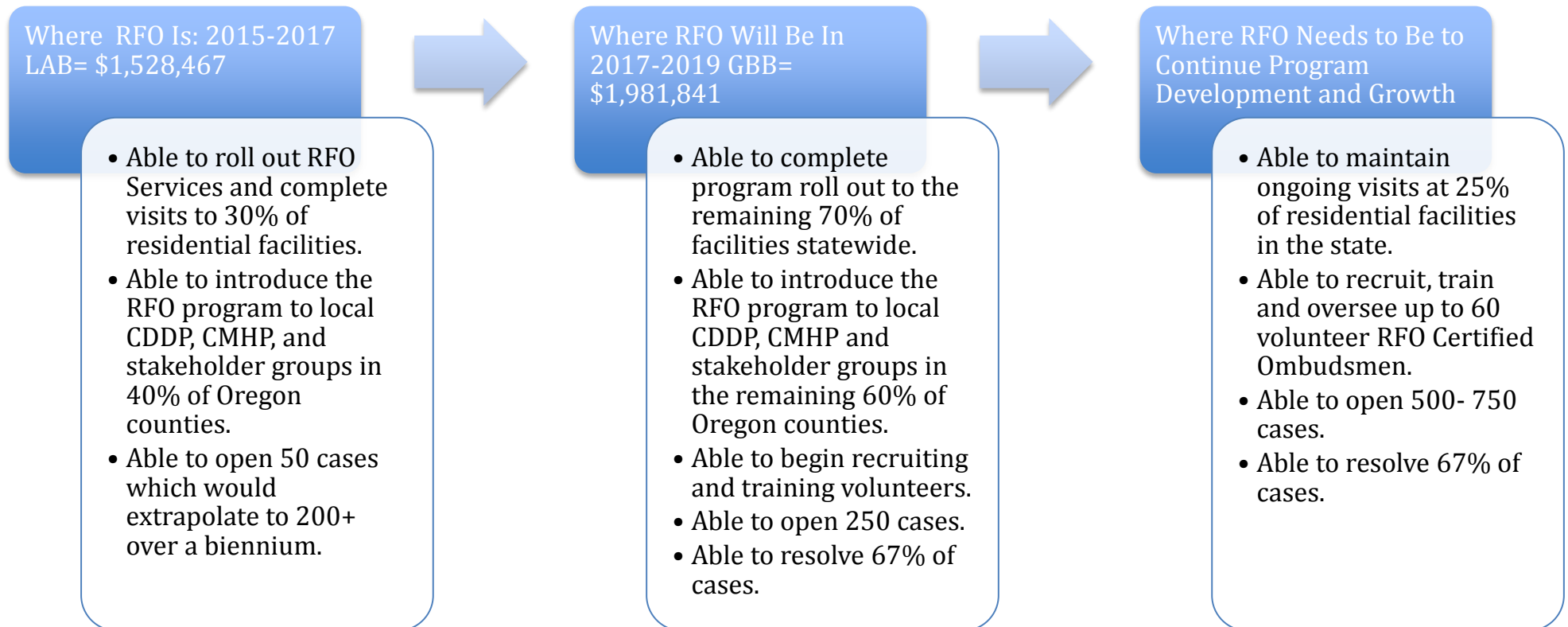
LTCO: The primary objective of the LTCO program is improving the quality of services provided to residents of long-term care facilities through education and advocacy that is focused on the protection of resident rights, dignity, and quality of life. In order to accomplish this, the following goals have been set.

- Increase the number of trained and fully-qualified Certified Ombudsman volunteers in order to have volunteers assigned to and advocating for residents living in every licensed long term care facility in the State (would require additional funding for 2.5 Deputy Ombudsmen to effectively oversee and manage the increased volunteer corps).
- Increase the frequency and effectiveness of consumer, community, and stakeholder education regarding the LTCO program and resident rights.
- Increase the level of collaboration between the LTCO and other State partners who are responsible for the safety of, and services to, individuals residing in long-term care.



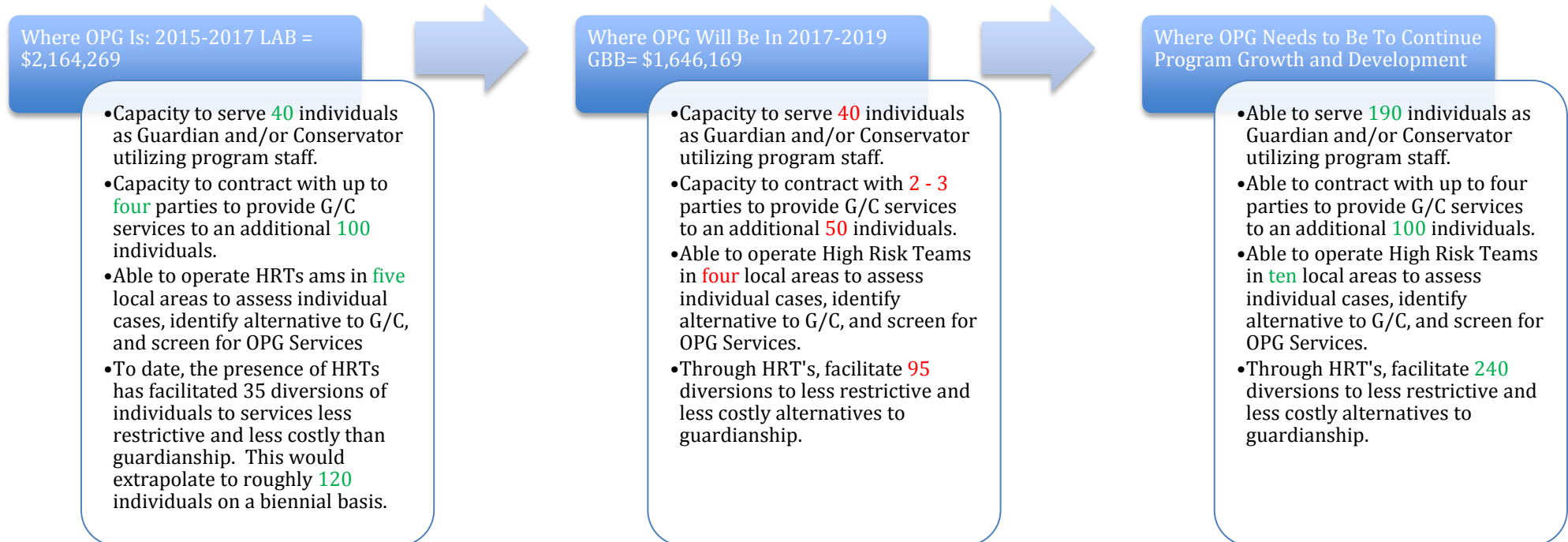
RFO: The primary objective of the RFO program is improving the quality of services provided to residents of residential facilities through education and advocacy that is focused on the protection of resident rights, dignity, and quality of life. In order to accomplish this, the following goals have been set:

- a. Begin recruiting and developing a corps of trained and fully-qualified Certified Ombudsman volunteers in order to have volunteers assigned to and advocating for residents living in every licensed residential facility in the State.
- b. Increase the frequency and effectiveness of consumer, community, and stakeholder education regarding the RFO program and resident rights.
- c. Increase the level of collaboration between the RFO and other State partners who are responsible for the safety of, and services to, individuals residing in residential care.



OPG: The primary goal of the OPG is to protect and advocate for the health, safety, interests and rights of the persons for which it has been appointed as a guardian or conservator. Given the exceptional limited availability and significant unmet need of public guardianship in Oregon, the OPG’s primary objectives are:

- a. Development and delivery of public guardianship services, both through OPG’s staff of professional fiduciaries and through contractual arrangements.
- b. Development of the staff, systems and program infrastructure necessary to deliver high quality and accountable guardianship services.
- c. Increasing awareness and understanding of public guardianship, including the need for it and its benefits, as well as guardianship practice standards, best practices and alternatives to guardianship.



Other Matters

Secretary of State audits: None.

Summary of proposed IT and capital construction projects: None.

Position reclassifications: None.

New hires: During this 15-17 the OLTCO continue to hire to staff the OPG and RFO programs. The LTCO program hired a new Volunteer Recruiter and Office Specialist to replace staff the retired and moved to other positions within the agency.