

## LEGAL SERVICES ADVISORY COMMITTEE

140 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155  
651-284-4379  
[www.mncourts.gov/lsac](http://www.mncourts.gov/lsac)

### MEMORANDUM

**TO:** LSAC Grant Applicants  
**FROM:** Judy Rehak, Executive Director  
**RE:** FY12-13 Grant Application Guidelines  
**DATE:** January 19, 2011

The Legal Services Advisory Committee (LSAC) distributes funds from three primary sources:

1. Funding appropriated by the Legislature, governed by Minn. Stat. 480.242; this funding is available to legal services and alternative dispute resolution programs serving economically disadvantaged clients who meet the statutory poverty guidelines. See attached *Statutory Interpretation and Financial Guidelines* document for eligibility for legislative funding.
2. The civil legal services portion of Minnesota attorney registration fees; this funding can be spent at the discretion of LSAC for any purpose that supports civil legal services. See attached *Policy Regarding Attorney Registration Fee Funds*. Under this policy, LSAC can depart from past practice of distributing attorney registration fee funds according to an 85%-15% formula and can adjust the percentages as necessary. Given the extraordinarily bleak funding picture, LSAC is giving notice to all applicants that it may choose to depart from the formula this funding cycle. Because of this, all programs (including the Minnesota Legal Services Coalition programs) should complete their application assuming that all of the attorney registration funding is available for grants, as described in the Funding section below.
3. Interest on Lawyers Trust Account (IOLTA) revenue; the purpose of this funding is to enhance the availability of legal services for the poor, to support programs of law related education and programs to enhance the administration of justice.

#### **Funding**

LSAC intends to award two year grants for the period from July 1, 2011 to June 30, 2013. The exact amount of available funding is uncertain at this time for several reasons.

- In the last biennium LSAC had \$1,683,450 per year from the Minnesota legislature available for discretionary grants (also known as the 15% funds). The committee does

not know the amount that will be available for the next grant cycle, but funding appropriated by the Legislature was reduced in FY10-11, not restored for FY12-13, and may be further reduced in response to the State's economic forecast. This means that even if the legislature does nothing, the base funding level is already lower than the last biennium.

- In the last biennium LSAC granted approximately \$1,800,000 per year from attorney registration fee revenue (including both the 85% Coalition award and the 15% grants). As of the date of this memo, the committee does not know whether the Minnesota Supreme Court will maintain attorney registration fee funding at this level. One-third of this fee will sunset on June 30, 2011, unless extended by the Court.
- LSAC plans to grant \$900,000 per year from IOLTA funds and related revenue. This is a 60% cut from the last biennium because of continued low interest rates. The committee no longer has significant reserves with which to ameliorate grant reductions.

Looking at these funding sources together, LSAC will distribute somewhere between \$2.1 million per year as a worst case scenario and \$4.3 million per year as a best case scenario. The committee knows it is difficult to decide how much money to apply for with funding levels so uncertain, but LSAC advises applicants to request whatever grant amount is supported by their application under a best case scenario. LSAC will have more information when the grant awards are made in June 2011 and will make grant awards accordingly.

### **Grant Priorities**

For the FY12-13 grant cycle, LSAC will consider proposals for general operating funding and for project funding. Applicants can apply for one or both types of funding using the same application form. For both types of proposals, LSAC will consider whether the applicant: (1) leverages LSAC resources, either through innovative programming or funding sources or both; (2) documents collaboration with other providers in their service area; and (3) demonstrates that the organization has effective budget planning and oversight. In addition, applicants for general operating funds must provide data in the format required by LSAC and information on the benefit of services provided. Specific questions or tables in the application address these requirements.

For FY12-13, LSAC will attempt to target some of its funding to protect access to civil legal services outside of the Twin Cities and regional centers. In a recent report to LSAC, the Minnesota Supreme Court Legal Services Planning Committee highlighted disparities in legal services in many Minnesota counties. That report is available on the Judicial Branch website at [www.mncourts.gov/lspc](http://www.mncourts.gov/lspc), along with the maps and underlying data that formed the basis of their recommendations. With continued rural office closings, LSAC is concerned about the existing inequities becoming even more extreme in this funding environment. Targeted LSAC project grants are available to keep and encourage outreach and service to clients in underserved communities. For example, project proposals may include staff outreach and satellite intake programs, private attorney involvement projects, and funding for technology to expand access. Project grant recipients will be required to track the spending and outcomes for this targeted funding.

**Timeline**

LSAC applications for funding should be submitted in the required format by **March 7, 2011** to:

Legal Services Advisory Committee  
140 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd  
Saint Paul, MN 55155

There will be a workshop on February 4, 2011, from 2:30 – 4:30 p.m. at the Minnesota Judicial Center in Room G06 for any prospective applicants who would like to ask questions about the grant application or data submission. After grant applications are received, all applicants will be screened for compliance with LSAC's funding criteria. Applicants who make it through the screening process will be scheduled for a 45-minute interview with an LSAC panel to discuss the application and respond to any committee member questions. The Committee contemplates making grant awards by July 1, 2011.

Please direct inquiries regarding grant applications to Bridget Gernander, Legal Services Advisory Committee, 140 Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155, or [bridget.gernander@courts.state.mn.us](mailto:bridget.gernander@courts.state.mn.us) or 651-284-4379.

**Notices Concerning Grant Applications**

The Legal Services Advisory Committee of the Minnesota Supreme Court reserves the right to reject any or all applications received that do not, in its opinion, serve the best interest of the Minnesota Supreme Court or the intent of this funding. The application is made for informational or planning purposes only. Neither the Supreme Court nor the Legal Services Advisory Committee will be liable for any expenses incurred by any prospective grantee prior to the issuance of the grant. Upon submission, all applications become the property of the Supreme Court, which has the right to use any or all ideas presented in any application submitted, whether or not the application is accepted. All application materials are public data and may be made available to other interested organizations and individuals.

**Contract Conditions**

The selected grantee must understand and agree to the following conditions that shall be included as part of the final grant:

*a. Inspection and Audit*

The office and representatives of the Supreme Court, and the Minnesota Legislative auditor, or any of their duly authorized representatives, shall have access for purposes of audit and examination to any books, documents, papers, and records of the grantee.

*b. Certification of Non-Profit Status*

The grantee must certify that it is a 501(c)(3) non-profit corporation that it is governed by a board of directors composed of attorneys-at-law and consumers of legal services, including at least one client eligible member as defined in the *Statutory Interpretation and Financial Guidelines* document.

*c. Supplemental Data Requests*

In accepting a grant from the Legal Services Advisory Committee, grantees will be asked to comply with all reasonable requests for supplemental data to assist with the statewide legal services planning efforts.

*d. Reduction in Grant Funding*

In the event the Legislature reduces the appropriation for civil legal services or anticipated funding from other sources drops below the allocated level, the Legal Services Advisory Committee may reconsider and reduce awards to grantees for the second year of the biennium.

## LEGAL SERVICES ADVISORY COMMITTEE

### *Statutory Interpretation and Financial Guidelines*

October 1, 1982

Updated June 30, 2008

#### **Statutory Interpretation**

The provisions of Minn. Stat. § 480.242, subd. 2(b) concerning the discretionary 15% are as follows:

"...15%...(1) to other qualified legal service programs for the provision of legal services in civil matters to eligible clients, including programs which organize the private bar to perform services and programs for qualified alternative dispute resolution, (2) to programs for training mediators operated by nonprofit alternative dispute resolution corporations, or (3) to qualified legal services programs to provide family farm legal assistance for financially distressed state farmers. The family farm legal assistance must be directed at farm financial problems including but not limited to, liquidation of farm property including bankruptcy, farm foreclosure, repossession of farm assets, restructuring or discharge of farm debt, farm credit and general debtor-creditor relations, and tax considerations."

The definitions are as follows:

Eligible client. "Eligible client" means an individual that is financially unable to afford legal assistance, as determined by a recipient on the basis of eligibility guidelines established by the supreme court pursuant to section 480.243, subdivision 1.

For Family Farm Programs: "A person is eligible for legal assistance under this section if the person is an eligible client as defined above or:

- (1) is a state resident;
- (2) is or has been a farmer or a family shareholder of a family farm corporation within the preceding 24 months;
- (3) has a debt-to-asset ratio greater than 50 percent;
- (4) has a reportable federal adjusted gross income of \$15,000 or less in the previous year; and
- (5) is financially unable to retain legal representation."

Qualified legal services program. "Qualified legal services program" means a nonprofit corporation which provides or proposes to provide legal services to eligible clients in civil matters and which is governed by a board of directors composed of attorneys-at-law and consumers of legal services.

Recipient. "Recipient" means a qualified legal services program that receives funds from the supreme court to provide legal services to eligible clients.

Committee interpretations of the statutory requirements are as follows:

1. All of the funds, even those for alternative dispute resolution, must go to qualified legal service programs that provide legal services to eligible clients. This means that every program must be:
  - a nonprofit corporation;
  - governed by a board of directors composed of attorneys-at-law and consumers of legal services;
  - providing or proposing to provide legal services;
  - for eligible clients. For family farm legal assistance, client eligibility is determined by the specific family farm legal assistance eligibility statutory criteria. For other programs, the attached Financial Eligibility Guidelines apply.
2. The words, "legal services," with respect to alternative dispute resolutions, do not require that attorneys be involved in the dispute resolution process or that the program also provide other "legal services."
3. "Consumers of legal services" should be interpreted to mean consumers of legal services who would be "eligible clients."
4. The word "qualified" before alternative dispute resolution is redundant and refers to the fact that the program must be a "qualified legal services program" which is a defined term.
5. The terms "programs which organize the private bar to perform services" and "programs for qualified alternative dispute resolution" are only illustrative and not the only types of eligible programs.
6. In reviewing grants seeking funds pursuant to Minn. Stat. § 480.242, subd. 2(b), LSAC has adopted the following interpretations and approach based on the overall statutory framework:
  - (a) LSAC will not consider grant applications from recipients of the 85% funds (those distributed pursuant to Minn. Stat. § 480.242, subd. 2(a)), unless there are insufficient acceptable applications for the 15% funds; and
  - (b) Further, LSAC will generally not award grants from the 15% funds for grant applications from an affiliate or other organization closely related to or in partnership or joint venture with an 85% program. However, exceptions to this general rule for affiliates or other organizations related to or in partnership or joint venture with an 85% program can be made to meet important legal needs that cannot otherwise be met. Some considerations may include:
    - (i) Is the applicant's program meeting a documented need for legal services and does the program provide services that go beyond what the 85% programs provide and cannot be met by other applicants?
    - (ii) Is the applicant's program offering the service throughout the state or in a part of the state that is historically underserved?
    - (iii) Can the applicant program provide clear and separate accounting for the program

utilizing a grant from the 15% funds?

If it is determined that the grant application meets these criteria, it will be considered for funding along with other applications seeking funding under Minn. Stat. § 480.242, subd. 2(b).

### **Financial Eligibility Guidelines**

A recipient may use funding from other sources to provide legal services as provided by law and determined by the recipient board of directors. For purposes of determining client eligibility for legal services with funding provided by the Legal Services Advisory Committee, a recipient of funds from the Legal Services Advisory Committee shall use reasonable efforts to:

1. Develop a policy adopted by the governing body which establishes financial income eligibility criteria consistent with the following:
  - a. The financial eligibility criteria shall provide that the annual income ceilings for individuals and households may not exceed 200% of the official Federal Poverty Guidelines published annually by the Legal Services Corporation.
    - i. "Income" means actual current annual total cash receipts before taxes of all persons who are resident members and contribute to the support of an applicant's household, as that term is defined by the recipient. Total cash receipts include, but are not limited to, wages and salaries before any deduction; income from self-employment after deductions for business or farm expenses; regular payments from governmental programs for low income persons or persons with disabilities; social security payments; unemployment and worker's compensation payments; strike benefits from union funds; veterans benefits; training stipends; alimony, child support payments; military family allotments; public or private employee pension benefits; regular insurance or annuity payments; income from dividends, interest, rents, royalties or from estates and trusts; and other regular or recurring sources of financial support that are currently and actually available to the applicant. Total cash receipts do not include the value of food or rent received by the applicant in lieu of wages; money withdrawn from a bank; tax refunds; gifts; compensation and/or one-time insurance payments for injuries sustained; non-cash benefits; and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.
  - b. The financial eligibility criteria shall establish reasonable asset ceilings for individuals and households exclusive of a household's principal residence, vehicles used for transportation, assets used in producing income and other assets which are exempt from attachment under state and federal law.



- c. has a debt-to-asset ratio greater than 50 percent;
- d. has a reportable federal adjusted gross income of \$15,000 or less in the previous year;  
and
- e. is financially unable to retain legal representation.

Qualifying farmers and small business operators whose bank loans are held by the Federal Deposit Insurance Corporation are eligible for legal assistance from programs funded by the Legal Services Advisory Committee.

3. A recipient program supported by funds from the Legal Services Advisory Committee may provide legal assistance only to individuals or groups whom the recipient programs has determined to be financially eligible for such assistance or who are recognized exceptions under these guidelines.

## **LEGAL SERVICES ADVISORY COMMITTEE**

### ***Policy Regarding Attorney Registration Fee Funds***

*June 18, 2008*

The attorney registration fee funds available for Legal Services Advisory Committee (LSAC) grants are not covered by the restrictions of Minn. Stat. § 480.242, subd. 2(b); however, LSAC has historically distributed the attorney registration fee funds following the 85% - 15% statutory formula. LSAC expects to continue in this tradition, but retains flexibility in how these funds will be distributed in order to comply with the broader remedial purpose of addressing unmet legal needs.