

CHAPTER SIX

Managing Financial Performance

Learning Objective: *To understand the importance of case selection and how that supports fee income. Produce proactive fundraising activities leading to sustained grant funding.*

Introduction

An immigration legal service organization or program must be financially viable to stay in business. Financial viability is more than raising money, though this is of course an important component. Sound financial policies, procedures, and controls are also critically important to keeping programs viable.

Understanding and managing financial performance can be challenging for the legal service program manager or the executive director of the legal service nonprofit. Managers and/or directors¹ may be highly qualified in the practice of law or another field, but have little or no formal training in finance or accounting. They may face various barriers to managing financial performance. For example, some staff may believe philosophically that nonprofit organizations should not charge fees under any circumstances. Other staff may want to accept more non-paying clients than that program can manage because their cases are so compelling. The urgency of direct services may divert staff attention from the seemingly more mundane administrative tasks of financial management.

An immigration legal program must take financial management seriously or the program will not survive. Among the program manager's essential duties: developing and implementing accounting systems and controls; developing and managing budgets; monitoring income and expenses; raising money to support activities, including, in many organizations, setting fees for immigration legal services; and continually adjusting activities to respond to financial realities. Questions that managers should be asking include: "How can I avoid financial surprises?" "What information do I need to understand how the program/organization is doing?" "How can I make sure that I have enough money each month to pay my staff and all my bills?" "How much money should I have in reserve to weather the ups and downs of income?" "What is the right mix of income so that I don't rely too much on any one source?" and "How can my board/senior management help me manage the finances of my organization/program?"

These are complex topics. This chapter will walk you through some of the basic principles of accounting, budgeting, and fundraising for an immigration legal program, including setting fees for immigration legal services. Note that there are many resources available to help you understand financial management in much greater detail. Many nonprofit associations and training institutes (such as Padgett-Thompson) have workshops on financial management, and there are many books on the topic.

Accounting Basics

There is nothing magical about accounting and financial management, and indeed we practice it every day in our personal lives. Programs within a larger organization most likely have access to a finance department that will help assure that accounting functions and "checks and balances" are in place and that will generate financial reports. However, it is the manager's responsibility to understand and manage the financial health of the program. For stand-alone nonprofits, the director must ensure that there is an appropriate accounting system in place, and must take responsibility for understanding and managing the financial condition of the organization. There are accounting software packages especially designed for small nonprofit organizations; when looking at costs keep in mind that rates are usually quoted for a single user. Some of the programs legal service organizations use include QuickBooks and MIP.

¹ In a large agency, the manager of the immigration program may not be the organization's Executive Director. In a smaller agency, the ED may be the immigration program manager. Throughout this chapter we will refer simply to the "manager" of the immigration program for the sake of conciseness. You should understand "manager" to refer to the manager of the program, and/or the agency's director, as appropriate.

QuickBooks offers a line of affordable programs for small organizations. QuickBooks Pro includes features such as paying bills, tracking expenses, tracking payments, calculating and tracking program costs, and managing payroll and payroll taxes. QuickBooks Premier is the next level in the QuickBooks line. It includes additional features more tailored to nonprofits, such as tracking donors and contributions, creating easy thank you notes, and creating financial reports for the board. The most comprehensive nonprofit accounting software package is MIP from Sage Nonprofit Solutions. MIP meets the needs of larger organizations that need to track and report on multiple funds across multiple budget periods.

Managers should have a basic understanding of accounting terms and concepts in order to be able to interpret financial reports and to understand the financial implications of business decisions. Some of the most common accounting terms and concepts follow:

Statement of Activities

Also referred to as the “profit and loss” statement or “revenue and expense” statement, this shows all the income (fees, grants, donations, etc.) and all the expenses (cash expenses such as salaries, rent, and legal liability insurance, as well as non-cash expenses such as depreciation) that have occurred over a period of time. A manager should analyze monthly activities as well as the cumulative activities over the fiscal year. It is good nonprofit management practice to bring in more money than is spent—by having a “profit,” the legal service program is able to invest in itself, manage uneven revenue streams, or have a “rainy day fund.”

Note that “nonprofit” does not mean that a program may not generate a profit. A nonprofit may generate profits, but may not distribute them to owners or shareholders as for-profit companies do. Nonprofits should use any “profits” in services of their mission.

Statement of Cash Flow

Because the statement of activities includes some non-cash items, it may not accurately show how much cash comes in and goes out of your organization each month. The statement of cash flow allows you to understand how cash moves through the organization, and is a good planning tool to make sure there is enough cash on hand each month to pay salaries, rent, bills, etc.

Statement of Financial Position

Also known as the balance sheet, this report gives a snapshot of assets, liabilities, and net assets, the three main parts of the statement of financial position:

- *Assets* are anything worth money—cash, stocks, real estate, accounts receivable, etc. Assets that can be converted to cash quickly are known as *current assets*. Assets such as furniture or real estate, which would take longer to turn into cash, are known as *long term assets*.
- *Liabilities* are what the organization owes to others. For example, an account payable is a liability, as is a mortgage on a building.
- *Net Assets*, called “net worth” in the for-profit world, is the difference between an organization’s assets and liabilities. A rule of thumb is that the net worth should be equal to at least 90 days of expenses.

Stand-alone organizations must have finance and accounting systems to produce these reports, and more. Larger organizations will produce the statements of cash flow and financial position for the organization as a whole, but not necessarily for individual programs. The program manager should obtain and monitor detailed reports each month on the revenues and expenses for the program.

Financial Controls

Each immigration legal service organization or program **MUST** have clear, written procedures covering all accounting and financial activities, such as collecting payments, paying bills, recording revenue, making bank deposits, and writing checks.

If your program charges fees and allows for fee waivers and/or payment plans, you will need clear procedures covering how and by whom such waivers or payment plans are to be allowed.

Having clear procedures promotes financial integrity—expectations of staff are clear, there is “one way” to do things, and you can spot errors quickly. Procedures should include financial controls, also known as checks and balances, so that the possibility of mistakes and embezzlement is low.

Segregation of duties is an essential financial control. For example, the person who issues checks should not also sign the checks. The person signing the checks should verify accuracy by comparing the check with the supporting documents, such as an invoice showing the vendor and amount due. Check numbers should be sequential, and the manager/director should review checks written against supporting documents to ensure that there are no missing check numbers.

Financial duties should be segregated as much as possible. In a larger organization, the finance department will help ensure that financial systems and controls are in place, and tasks will be assigned to different individuals to ensure that duties are segregated. Segregation of duties is more difficult in a smaller organization with fewer staff. Nonetheless, it is very important that any organization develop a system of checks and balances. Some smaller organizations use a board member to sign checks or make the bank deposits; or you may be able to use a bookkeeping service or a peer organization that is serving a mentoring role to help ensure that duties are segregated.

What May Happen When One Person Handles All Finances: Embezzlement

One mid-sized agency had the following experience:

“Our agency recruited ‘Natasha’ (not her real name) from another agency to help set up our office and program management systems. Natasha’s credentials were stellar. She had worked her way up at the other agency from caseworker to program manager and really grown the other agency’s array of services as well as the quality and professionalism of those services. At our agency Natasha started from scratch. She set up our case selection, cash management, fee collection, case management, training and other systems before hiring staff. Once our immigration program got going, it grew modestly but steadily.

After five years Natasha left the agency on good terms. But something strange happened about three months after she left. A client came in and asked about his case. Despite a desperate search by all staff, we couldn’t find any record of his case. The client was quite insistent that Natasha had helped him and produced a fee-receipt for the visa petition that Natasha had completed for him. But the receipt was not the type we used. The staff checked the agency receipt book and Natasha’s record of deposits for the date of the receipt and found no record of that client, that receipt or that amount of money. The staff called Natasha but she didn’t call back. When several more clients made the same complaint our executive director contacted the police. An investigation revealed that Natasha had done this many times. A subsequent criminal prosecution ended in Natasha’s conviction for embezzlement and a prison term. This was a public relations disaster for our agency; once the embezzlement was publicized, donations dropped off as donors worried that their funds were not being handled properly. Area foundations were more reluctant to give us grants for the same reason.

After this we instituted independent checks on the way we handle client fee payments. We realized that institutional integrity is a greater priority than individual trust, and that responsibility for finances must be divided among several staff members.”

– *Director, mid-sized immigration program*

Fee Collection

Collecting client fees is an essential part of case management. Many programs depend on client fees to ensure fiscal viability and program sustainability. If your agency has decided that fees will be part of the funding stream for your program, you need to ensure that you are collecting all the fees you are owed.

Setting Fees

See “Funding the Program” later in this chapter for guidance on setting fees.

Staff Buy-In

If your staff resists collecting fees you may have a hard time implementing your fee schedule. You may need to spend time with staff to help them understand why fees are crucial to your program. Many programs are dependent on fee income to survive. Moreover, fees often inspire clients to take ownership of and responsibility for their cases; clients sometimes value services they have to pay for more highly than services given for free.

Benefits to Agency and Clients of Charging Fees

“We find that charging fees has a value for both the agency and the client. The client feels more of an expectation of professionalism from us: that the agency will follow through and will deliver high-quality services. We find that clients show up more for their appointments when we charge fees. For us, the fees help cover staffing costs and the costs of preparing and copying applications.”

—*Rachele King, Minnesota Council of Churches Refugee Services, Minneapolis, MN*

When to Discuss Fees with Clients

Clients should understand from the outset what your fees are, and how and when you expect to collect them. By the time you inform a client that you are accepting his or her case you should let him or her know what the fee is and when and how he or she is expected to pay it. Some programs include information about payment in the retainer agreement. Clients should know up front what they are expected to pay and when they are expected to pay it.

If your program is instituting a fee collection policy after operating for a while without such a policy, you will need to ensure that your staff is very clear about what the policy is and how they are to carry it out.

Who Collects Fees

In agencies that are fortunate enough to have support staff, it is a good idea to have support staff responsible for collecting fees, instead of leaving that responsibility with the legal worker who handles the case. This helps to standardize fee collection. It also helps protect the agency against misappropriation of funds, as discussed in Chapter Six. It also makes clearer to clients that the fees are going to the *agency*, and not to the client’s representative.

Even staff members who fully appreciate the need to collect fees may not be comfortable asking their clients to pay fees. The clearer the guidelines you can give staff about how to go about this, the more likely you make it that the agency will receive all the fees it should be collecting.

Smaller agencies with limited staff may have no choice but to have the legal worker on the case collect the fees. Even at small agencies, make sure that you have a standard protocol for fee collection that you follow with every client.

Collecting Fees Directly from Clients

“I worked at an agency at which the attorneys and paralegals collected fees directly from our clients. My clients were confused sometimes and thought they were paying me directly for my work, instead of paying the agency. They didn’t really understand that I wasn’t a private immigration lawyer, and that I worked for a nonprofit agency. When a new program supervisor changed the policy so that our support staff collected fees, clients understood this much better.”

—*Jennie Guilfoyle, Training and Legal Support Attorney, Catholic Legal Immigration Network, Inc.*

Fee Collection System

Every program that charges fees must have a system in place that governs when fees should be collected. Will the agency require that the entire agency fee be paid up front, before the agency will begin work on a case? Some agencies insist on this because they find it is highly successful. Requiring fees to be paid up front ensures that the agency will collect the fee; it also

minimizes agency time spent trying to collect money from clients. It works especially well for less complex cases and for cases without firm deadlines approaching.

Written Fee Agreements

Programs should make sure that they put in writing with every client exactly what the fee will be, and exactly what services the agency is agreeing to provide for that fee. Some agencies choose to include this information in the retainer agreement. You must make sure that you put the fee arrangement in writing. The client and agency should both sign the fee agreement, and both client and agency should get a copy.

Records and Receipts

Make sure that the agency clearly records every fee payment a client makes: how much the client paid, and on what date.

Clients should receive receipts for every payment. Include a copy of every receipt in the client's file.

Methods of Payment

Programs may choose to accept payment via check, money order, or credit card. Do not accept client payments in cash. Cash payments make it easier for staff to lose or misappropriate funds. The best practice is to accept the payment only in a money order. This is not an unreasonable burden on the client as she or he must bring the agency a money order made out to the government to pay for the government filing fee of the application.

It is best not to accept blank checks and money orders from clients. Have clients fill in blank checks or money orders in your office. Give clients a copy of any check or money order they leave in your care.

Agency Responsibility for Client Application Fees

Except for the very few programs that do not mail their clients' applications to the government, almost all immigration legal programs routinely accept checks and money orders from their clients for payment of their immigration application fees. Especially now that U.S. Citizenship and Immigration Service (USCIS) has drastically raised its fees, this means an agency might be holding tens of thousands of dollars at a time for clients.

The best way to limit your agency's liability and responsibility for client money is not to accept USCIS fees until the application is completely ready to mail, and then make sure that all such applications are mailed on the same day the client brings the money.

If the agency is unable to implement such a policy, you will need to develop procedures to safeguard this money. Ideas for such safeguards follow.

As mentioned in Chapter Two, it is a very good idea to invest in a safe or locked box in which to hold client payments. In many offices application fees sit in client files until the applications are mailed; this raises the

What Happens Without Clear Fee Collection Protocols

“When the legal worker is assigned to collect fees from clients without clear direction and supervision, the agency may not collect all the money it's owed. In my first job as an immigration attorney I represented asylum seekers and VAWA applicants at a nonprofit. We didn't have a lot of guidance about fee collection—my supervisor told me to talk to my clients and figure out how much they could afford to pay. I was then supposed to make a payment schedule with them and collect their payments.

I felt really uncomfortable asking my clients to pay money—I knew the agency needed money, but it was really hard to ask asylum seekers for money. So I didn't ask most of my clients to pay, and I rarely asked for payments from clients who had agreed to pay. My supervisor never followed up with me about the fees I was supposed to be collecting. The agency eventually had to cut back on its attorney staff because it didn't have funds to pay for them.”

— Immigration attorney at mid-sized immigration office

One Program's Fee Collection System

“When a worker is finished with a client, the worker walks the client to the receptionist. The receptionist takes the money and gives a receipt. The receptionist keeps the money in a locked metal box (locked by key) in a drawer. At the end of the day she takes the money upstairs to the controller, who locks it in a safe. The controller makes a deposit each week. The receptionist and program director are the only people who have keys to the metal box. If the receptionist is not at her desk, she brings the metal box to the program director's office where it is kept until the receptionist returns.”

— Nancy Gavilanes, Catholic Charities of Chicago Immigration Services, Chicago, IL

danger of loss or theft. You can ensure that only a small number of designated staff members have access to the safe or locked box; designated staff can retrieve the client payments when they are needed.

Payment Plans

Some programs require clients to pay the entire fee for services up front. This ensures that the agency will collect all the fees it is owed, and cuts down on the time the agency must spend asking for payments. Other agencies allow clients to pay in installments. This requires more work on the part of the agency, generally does not lead to complete payment of all fees, but allows clients more flexibility in coming up with the agency fee. This is especially helpful especially when a deadline is approaching and the client has not been able to obtain the entire payment amount. There is not one right way to collect payments; you just need to make sure that you have a clear system in place that works for your program.

If you allow clients to pay in installments, it is best to have a clear system in place for following up on outstanding payments. It is crucial that your staff know whose responsibility it is to follow up on payments. The less follow-up you do, the less likely you are to collect outstanding fees. Some programs will refuse to do non-essential work (i.e. work that's not on a deadline) on cases for clients whose fee balances are outstanding. Note that some case management software systems include client billing systems. If your program will be regularly billing clients, this is an important feature to look for in a software system.

Fee Reductions and Waivers

Every nonprofit program encounters clients who cannot afford the agency's fees. Many programs make sure that they are able to offer free or reduced-fee services to some of their clients. There is no one way to go about doing this; the two major models are a sliding fee scale, and waiving fees entirely.

Sliding Fee Scale

Some programs offer services at reduced fees based on client income. The advantage to this is that it generates some fee income while allowing the client access to services she otherwise wouldn't be able to afford. The difficulty is that determining what fee a client should pay requires more administrative work on the part of the agency.

To implement a sliding fee scale, you will need to determine clients' financial resources. This generally means developing a client questionnaire that inquires about income and assets. Some programs require documentation of client income and assets to waive or reduce fees.

Fee Waivers

Many programs waive or reduce their fees for clients who are unable to pay. If your agency decides to do this, it is an excellent idea to come up with criteria by which to assess a client's ability to pay and clear guidelines on when you will waive fees. You will also need a clear policy about which staff member(s) has the authority to waive fees. This will ensure that fee waivers are granted in the most even-handed way possible; that they are granted to those who most need them; and that staff don't waste time trying to figure out what criteria to use every time a client requests a fee waiver.

Sample Sliding Fee Scale

“Using the Poverty Guidelines chart, verify the number of members in the household and annual income and refer to the chart to see if the client falls below 125% of the Poverty Guidelines. If so, 100% of the agency fees will be waived. For clients whose income falls between 125% and 200%, agency fees will be reduced as follows:

- If client falls between 125% and 150%, 75% of agency fees will be waived;
- If client falls between 150% and 175%, 50% of agency fees will be waived;
- If client falls between 175% and 200%, 25% of agency fees will be waived;
- If client earns more than 200% of the Poverty Guidelines, client will be charged full agency fee.”

– *Lutheran Immigration Services of Omaha, Nebraska*

The staff member representing the client is generally not the best person to make the decision about whether or not to waive the client's fees, especially in the absence of clear guidelines about how and when to waive fees. Many programs give the program's director authority to approve fee waivers.

One possible system for fee waiver requests is to create a fee waiver form. Each staff member who wishes to request a fee waiver for a client must fill out the form completely, and attach relevant supporting documentation (showing that the client lives in a shelter, for example, or receives public assistance). The program director then reviews the fee waiver request and approves or denies it.

Some programs allow for fee reductions as well as fee waivers. The larger your staff is, and the more support staff you have, the easier it will be to allow reduced fees along with fee waivers. Smaller programs often don't feel they have the manpower to handle fee reduction requests, and adopt an all-or-nothing payment policy.

In agencies with one or two immigration staff members, individual staff will probably make fee waiver decisions. Even in these agencies, however, it is a good idea to have clear guidelines for fee waivers, so that decisions are consistent with each other, as well as with the program's budget.

In programs that cannot afford to give waivers to everyone who asks, one possible solution is to build a certain number of fee waivers per month into your case acceptance policy. The agency may accept only this many cases for free. Once those slots are used, the agency will no longer accept free cases that month. This allows the agency to be certain it is not offering more free services than it can afford.

Approval of Fee Waivers

If your program waives fees for some clients, make sure that you have clear procedures in place about how and by whom waivers are granted. Make sure that it is close to impossible for a staff member to submit a fee waiver request to the agency but charge the client the agency fee and pocket the money himself.

The Need for Oversight of Fee Waivers

One large immigration legal services program had staff fill out fee waiver requests with the client's signature; the program director would then review the requests and make decisions. One staff member began generating a large number of fee waiver requests. They were approved, as his clients, who were on public assistance, clearly deserved them.

The agency was shocked when one of these fee-waived clients called and asked why his check to the agency had been cashed by his immigration counselor. An investigation revealed that the counselor had been forging client signatures on fee waiver requests, charging clients the agency fee, and pocketing it himself. Everyone had liked and trusted this counselor, and his clients were legitimately in need of fee waivers, so it took client complaints to bring his theft to light. The counselor is now gone from the agency, and the agency now requires that when clients sign fee waiver requests, at least two staff members must be present to witness the client signing the request.

Responsibility for Financial Oversight

The board of directors and/or senior management is responsible for providing financial oversight. This is an important source of support for the manager/director, and is critical in ensuring a financially healthy and viable legal service program or organization.

The board of directors has fiduciary responsibility for the organization, and the board is ultimately responsible for the organization's financial viability. For a stand-alone legal service organization, the board should take an active role in budgeting, reviewing and monitoring financial performance, and ensuring that adequate financial controls exist. It is a best practice that board members represent different fields of expertise. Accounting and finance are important disciplines to have represented on a board.

For programs within a large organization, the board may or may not provide oversight at the programmatic level. If not, senior management should provide financial oversight.

Ideally a certified public accounting firm will audit the organization annually; this provides an objective opinion as to whether or not the financial statements are fairly stated. In addition, audits are required sometimes for consideration for particular grants. Small or new organizations may not be able to afford a full audit, but should work towards it. It may be possible to locate an accounting firm that will provide services for a reduced cost or even pro bono.

Budgeting for Success

A budget shows how much it will cost to carry out activities and where the resources to support those activities will come from. Developing—and using—a budget helps the manager in many ways. Budgets help the manager plan for the future; understand what is needed to carry out activities to support the mission; set and assess benchmarks; make choices throughout the year; communicate with potential funders and other stakeholders, and respond to changes.

A manager may choose to develop more than one budget, showing a “worst case” scenario that includes only guaranteed funding sources, and a “hopeful” budget that includes possible but not assured income. However, the board (for a stand-alone) or senior management (for a program within a larger organization), should formally approve only one budget, which will be used throughout the year to assess financial performance. For new organizations or programs with time-limited “start-up” funds, a budget can also help plan for how to replace those temporary funds with more sustainable income.

Budgets include “best guesses” for future revenues and expenses. Since revenues and expenses are interrelated, making estimates about them requires careful thought and analysis. Using fee income as an example, consider the following:

- Fee income (revenue) depends in part on volume of cases. If the budget anticipates an increase in fees due to increased volume, expenses related to staffing, rent (if additional office space is needed), telephone costs, photocopying, outreach, etc., might also be affected.
- Fee income is related to the fee schedule. If the manager/director intends to increase fee income by charging higher fees for services, he or she must consider whether this might also reduce the volume of cases—potential clients may go to another service provider if fees are significantly higher than those of competitors.

A manager should develop a budget every year. The board should adopt it; in a larger organization, senior management may also need to approve it.

Developing a Budget

There are two main parts of the budget: revenues and expenses. When developing a budget, the first step is to assess revenue projections. If the program or organization has an operating history, the manager can look at prior years and make educated guesses about the coming year. For example, do not project that an unanticipated one-time gift will occur again next year. If a three-year seed money foundation grant is coming to an end in the middle of the coming year, it would be prudent to assume it will not be renewed and reflect that in the revenue projections. If, on the other hand, many years of individual fundraising have been yielding a five percent increase in donations each year over the last several years, then the manager may decide to budget for another five percent increase.

The second step is to anticipate expenses. Again, if the program or organization has an operating history, that is a good place to start. Try to anticipate changes. Is the lease coming to an end? Has anything changed in the environment, such as energy costs? Has demand grown enough to warrant additional staff?

The third step is to compare projected revenues with projected expenses. If expenses are greater than revenues, then you must either find more resources or cut expenses. Remember that additional revenue may impact expenses, and cutting expenses may impact revenue. The budget process typically involves many revisions on both the revenue and expense sides.

Sample Budget Process

See attached sample immigration program budget. This section will walk you through development of the budget for the Immigration Services Program (ISP) within the larger organization.

Note that a start up program or organization will follow the same steps as ISP in determining a budget, but will not have the benefit of assessing historical performance. A start up program/organization should draw on its relationships with other service providers and experts to create a realistic budget. Revenue projections should be conservative. For instance, the case mix projections should anticipate a period of time to build up cases; it can take more than two years to realize 30 percent of income through client fees. The budget should build in extra staff time as staff will be learning to work together as a team, clarifying roles and responsibilities, attending additional training, refining procedures and policies, and getting up to speed on immigration work.

Managers of start up programs/organizations should be honest with their senior management or boards of directors—if it seems likely that the program/organization will run a deficit for two years before breaking even, senior management/boards of directors should know that up front.

ISP BUDGET ANALYSIS

REVENUE

Fee Income

ISP anticipates the following case mix and volume, which profoundly affect both income and staffing costs:

Consular Processing	19
Adjustment of Status	399
Visa Petition	37
Naturalization	225
Consultations/Other	174

ISP projects these numbers based on its case mix calculations (see discussion on case mix in Chapter Five). The case mix is determined by the available staff hours (the number of hours per year a full time person is paid for, less anticipated vacation and sick time, and time spent on other activities such as training, outreach, staff meetings, etc.) and the average time required for the different types of cases. Since ISP has an operating history, it has been able to track the amount of time staff need for different types of cases; over time, as staff has become more experienced, the time per case has decreased slightly. Therefore the budget projections show a slight increase in revenue, since ISP expects a slightly higher volume of cases.

ISP receives state funding for citizenship services to the elderly, so there is no fee income generated for the naturalization services—this revenue projection shows up in the government funding line item. The program uses a sliding fee schedule and has a fee waiver policy. The manager projects that 60 percent of clients will pay the full fee, 35 percent will pay reduced fees, and 5 percent will receive services free of charge.

All these factors together generate projected fee income of \$21,000.

Donations

The board donates to the ABC Agency (which helps subsidize legal services), but since board members do not specify which programs receive funding, the budget does not anticipate direct board donations. For individual contributions, the ABC Agency has an established practice of allocating 10 percent of individual contributions to the legal service program. Over the past three years, donations to ABC Agency have ranged from \$45,000 to \$55,000 per year, with \$4,500 to \$5,500 allocated to ISP. The manager chose to take a three year average and budget for \$5,000.

Interest on Lawyers Trust Account (IOLTA)

ISP has received a commitment from IOLTA for \$10,000. (See the fundraising section at the end of this chapter for a description of IOLTA and how it can support legal service providers.)

Foundations

For the past five years, ISP has received an annual \$5,000 grant from the Good People Foundation, a regional foundation. The foundation’s program officer has expressed strong support for ISP. The foundation will be considering a \$20,000 grant during the year, but ISP’s manager feels there is only a 50/50 chance that the grant will be higher than it has been in the past. Planning conservatively, the manager budgeted for \$5,000, the least she believes the foundation will give. ISP is also in the first year of a three-year, \$45,000 grant from the Community Trust, and the budget includes the \$15,000 due in the coming year. In addition, the manager intends to submit at least three proposals to other foundations. Though she thinks that at least one will be granted, she chose to budget only for those for which she is fairly certain to receive funding.

Faith-Based Organizations

Two years ago, ISP began allocating .5 FTE (Full Time Equivalent) to outreach to the faith community. The result has been a steady increase in clients, as well as increasing numbers of donations from congregations, synagogues, mosques, and other faith-based entities. In the first year of the effort, ISP raised \$3,000 from these sources and \$7,000 in the second year. Because of the strong and growing support from this sector, ISP is projecting income in the amount of \$10,000.

Government Funding

Government funding in the amount of \$85,000 for citizenship services is assured in the next fiscal year.

Other

ISP holds two annual fundraising events that also serve to increase public awareness of the needs of the immigrant community and to thank its volunteers and supporters. Income last year, before expenses, was \$10,000, and ISP’s manager budgeted for the same revenue.

ISP is very fortunate that ABC Agency considers immigration legal service central to its mission and that the agency is financially secure. While ABC wants the immigration program to be as self-sufficient as possible, it recognizes that the program does need some support. Each year, ISP’s manager seeks support from ABC Agency for its activities; this year, the immigration program will need \$38,400 to balance the budget. ABC has committed this money, with the understanding that should the immigration program raise additional funding from foundations, the faith-based community, or special events, ABC Agency would reduce its subsidy accordingly.

In-Kind Contributions

For ISP, ABC Agency’s contribution could be considered “in-kind” support, but because it is legally the parent company its contribution appears in the budget as a subsidy. Examples of in-kind contributions might include rent, office equipment and supplies, pro bono attorney hours, volunteer hours, and photocopying or printing.

EXPENSES

Personnel

The personnel budget reflects current staffing, with salaries reflecting a 3 percent salary increase.

<u>Title</u>	<u>FTE</u>	<u>Salary</u>	<u>Budget</u>
Program Manger	.45	\$35,000	\$15,750
BIA Representatives	3.0	\$30,000	\$90,000
Receptionist (shared)	.25	\$28,000	\$ 7,000
Vice President	.03	\$55,000	\$ 1,650
Total	3.73		\$114,400

ABC Agency calculates fringe benefits at 25 percent of salaries, or \$28,562.

Volunteer stipends are the same as in the prior year, with a 3 percent increase.

Office Operations

Energy costs have been rising, and ISP is currently spending more than budgeted for utilities. ISP is increasing current utilities expenses by 15 percent to plan for increased costs. All other expenses have been increased by 3 percent to allow for inflation.

Staff Development

Last year ISP's staff development costs were \$3,000. However, the Board of Immigration Appeals (BIA) representative hired last year is now much more experienced, and the local Bar Association has recently begun offering training seminars at a very low rate. ISP's manager feels that \$2,000 will be sufficient to provide ongoing legal training to staff.

Other

It is a good idea for programs or organizations without an immigration attorney on staff to establish a relationship with an immigration legal support center, e.g., CLINIC, Immigrant Legal Resource Center (ILRC), private immigration attorney or firm. ISP has developed a contractual relationship with a local immigration attorney and pays a monthly fee of \$833 for her services. The attorney reviews forms filled out by BIA representatives, mentors staff on complex cases, and conducts weekly case reviews.

Indirect Fees

ABC Agency "charges" all programs a 15 percent indirect fee, which helps cover the costs of its finance department, office of the president, etc.

Managing the Budget

A lot of hard work goes into developing a budget, and it is an important annual step. But continually *managing* the budget is just as critical. A manager should review the statement of activities each month, looking at the differences ("variances") between the budget and the actual income and expenses. More often than not there will be monthly variances. For example, if an attorney or BIA-accredited representative has resigned and the resulting open position has not yet been filled, salary expenses will be lower than what was budgeted—a favorable variance.

While variances are unavoidable, the manager must fully understand both their causes and short- and long-term implications. In the example above, an astute manager understands that while she may save money in the short term by not filling the vacant position, this would negatively affect revenues in the longer term revenues as fee-based income decline. The program's core reason for existence—providing low cost legal services—might be compromised.

If health care costs unexpectedly increase, the organization will spend more money than it had expected. Some options for the manager to consider might be: (a) to raise more money to cover the costs (i.e., increase fees, get new grants, ask donors for extra contributions), (b) to cut other expenses to offset the increase (i.e., reduce mailings, move to smaller space, delay the computer upgrade), or (c) to run a deficit and use reserves to cover the increased costs (a short-term solution, as eventually the reserves will run out). You will need to consider many factors when reviewing these options. Is it a short or long-term problem? How important is the expense to carrying out services? What will be the long-term effect of each option?

Funding the Program

The Budgeting for Success section above discussed briefly the categories of revenue sources. The program manager or executive director must also understand how best to access, build and sustain these revenue sources. Each community is different. For example, fee structures may differ depending on whether the program is rural or urban. One community may have several foundations that are strong proponents of legal services, while others might have foundations that are not yet focused on the needs in the community for quality immigration legal services. The discussion below identifies some of the best practices for building sustainable revenue from different sources.

Fee Income

Some programs have a mission that precludes them from charging fees, but for other organizations charging fees makes good business sense. First, fees are a steady and reliable source of income. Fee revenue protects the agency from the ups and downs of other income sources. Second, anecdotal evidence suggests that clients value services they pay for more than services they receive for free. Program managers have reported that when they charge fees, clients more reliably show up for appointments and follow legal advice.

Determining a fee schedule will depend on several factors, such as the fees charged by other legal service providers, BIA “nominal” fee requirements, the economic profile of the client base, and the desired percentage of reduced or waived fees.

What the Market is Like: What Other Local Programs Charge

If your program operates in an area with other immigration legal service providers, you should learn what those agencies are charging. If your agency charges significantly more, you may find that clients take their business to the agency with lower fees. Note, however, that if these other agencies are engaged in unauthorized practice of law (e.g., they lack BIA recognition and accreditation or an attorney on staff), and they charge extremely low fees, you may be able to educate potential clients about the superior services your recognized and accredited or attorney-staffed agency is able to provide. See Chapter Five for a discussion of the benefits your recognized and accredited or attorney-staffed agency may provide to clients.

Cost to Provide the Services

Fees should reflect the cost to the agency of providing the services. The more time-intensive the service, the more you should charge for it. Use the following formula to determine what it costs the agency to deliver a particular service:

1. Determine the cost to run the program per year: caseworker salaries, plus benefits, plus agency overhead. Divide that by the number of hours per year your caseworkers work on immigration services. This number is the cost per caseworker hour of providing immigration legal services.
2. Multiply the cost per caseworker hour by the amount of time it typically takes a caseworker to deliver a particular service. This number represents the cost to the agency of providing the service. When determining how long it takes a typical caseworker to deliver a particular service, be sure to factor in the scope of the service: if you will be providing representation at a naturalization interview, for instance, the time to complete the service will be a lot greater than if you were merely helping the client fill out the application. Remember to add in an appropriate amount of caseworker time for managing the case. In general, this includes notifying the client when a benefit matures and monitoring the case until such time. Many program managers are surprised when they add up all the time that goes into this on one case and realize that it is multiplied by hundreds of cases their agency is handling.

Also, remember that you may need to account for the fact that in a certain percentage of cases there will be Requests for Evidence, denials, and USCIS errors that will require additional time. If you can use your case management software to track the frequency of such events, you can factor a percentage of this number into the cost of every service. Some programs, however, would treat such events as new cases and would charge clients a new fee. When you are calculating the cost to the agency of providing services, make sure to take account of how your program will handle such additional work.

Having ready access to data from your immigration program is essential to carrying out such calculations. Good case management software, used well, can quickly provide this information.

Knowing what it costs the agency to provide a particular service can serve as a guide to what fee to charge for that service. The fee for a naturalization application, for instance, should be higher than the fee for applying to replace a green card, since the naturalization application takes more time and thus costs the agency more to process. Your fees may not always reflect the actual cost to the agency of providing the service, but should reflect how much time the service takes.

Special Considerations for BIA Recognized Agencies

BIA recognized agencies—or agencies that hope to get BIA recognition—must adhere to the BIA’s rule that immigration legal service fees be “nominal.” As Chapter Five explains, there is no precise definition of what makes a fee “nominal.” The surest way to determine if the BIA will consider your fees nominal is to look at what fees the BIA recently approved for other agencies. One general rule of thumb is that the BIA is very unlikely to approve fees where fee income accounts for more than 50 percent of the immigration program’s funding. It is very unusual for a program to receive that much of its funding through fees. 30-40 percent of funding through fees is a realistic goal, and some programs make far less than that through client fees.

Help for Needy Clients: Family Fee Caps

Chapter Four, Case Management, discusses waiving and reducing fees for clients who are unable to afford them. Your fee schedule itself may also provide relief to clients by putting “family caps” on fees. Some programs choose to cap the amount a single family will pay for immigration services, regardless of how many members there are in the family. Refugee resettlement agencies that offer immigration services, for instance, often do this for refugee families seeking adjustment of status. Thus a refugee family might be required to pay for no more than five family members, even if the family is larger than that. This is very helpful to refugees, who typically apply for immigration benefits after only a short time in the United States.

Maximizing Fee Income: Consistent Fee Collection

A fee schedule alone does not generate income. In order to generate significant income through fees, you must make sure you enforce your fee collection policy. See Chapter Five, Case Management, for a discussion on how to ensure that your agency is collecting all the fee income it should be collecting. While it is important to be able to reduce or waive fees for clients who are truly unable to pay, it is also extremely important to collect fees from those clients who can pay. If your program budget includes fee income, you will need to generate that income to sustain your program.

Donations

Individual giving can be an important source of funding, especially for stand-alone organizations. Programs within a larger organization should discuss with senior management how to approach individual donations. An organization may have a fundraising unit that can incorporate immigration legal services into its annual appeals, or they may allow each part of the organization to carry out its own fundraising efforts. It is important to understand and adhere to your organization’s fundraising policies and procedures.

Some of the ways organizations solicit individual donations include: asking people for support through appeal letters; speaking to congregations or community-based groups; and inviting potential donors to tour your organization or program. Consider developing or buying a database to keep track of potential and actual donors and to help the organization stay in touch with its supporters. For small organizations, a simple database will suffice; as an organization grows, it might look to one of several commercial fundraising software programs.

Board members play an important role in individual giving. First, each board member should be asked to contribute financially to the organization; often, an expectation of financial support is included in the board recruitment materials. It is very helpful to be able to tell foundations and other potential donors that one hundred percent of the board is committed enough to the organization’s mission to support it financially. The dollar amount of the donation is less important than the fact that there is a donation.

Second, board members should be able to identify potential individual donors. Each board member has friends, families, and professional associates. Board members should assist in the “ask” by approaching their friends, families and associates with an appeal. They can also sign thank you notes, or make thank you calls to donors.

Many people are uncomfortable asking others for money, and both staff and board members may require training to develop fundraising skills. Many nonprofit associations sponsor workshops on fundraising from individual donors, and there are hundreds of books and other resources available. The Grassroots Fundraising Journal (www.grassrootsfundraising.org) is a good place to begin researching resources and techniques.

Interest on Lawyer’s Trust Accounts (IOLTA)

Interest on Lawyers Trust Accounts (IOLTA) is a program that increases access to justice for people living in poverty. A lawyer who receives funds that belong to a client, e.g., a settlement check, must place those funds in a trust account separate from the lawyer's own money. Interest from these accounts is pooled to provide grants that support civil legal aid to the poor and support improvements to the justice system—including legal services to non-citizens. Some states, such as Illinois, require attorneys on staff for a program to receive IOLTA funds. Many states, however, do not explicitly require a staff attorney, so if your agency has accredited representatives on staff, you may want to explore your state's requirements.

IOLTA is an important source of revenue for immigration legal services throughout the country. In 2005, within a group of 22 stand-alone immigration legal service providers that focus on asylum and people in immigration detention, 14 organizations collectively received IOLTA grants equaling nearly \$1.4 million, or nearly 15 percent of all revenue. Grants ranged from a low of \$10,000 to a high of several hundred thousand dollars.

Every state operates an IOLTA program, and each has its own grant-making guidelines and processes. Between 1991 and 2003, IOLTA generated more than \$1.5 billion nationwide to ensure justice for the most vulnerable people residing in the United States. IOLTA's website, www.iolta.org, provides information about IOLTA, links to each state's IOLTA program, and grant guidelines. The American Bar Association also has links to each state's IOLTA program, at <http://www.abanet.org/legalservices/iolta/ioltdir.html>.

Foundations

Family, community, and corporate foundations often support immigration legal services. Every foundation has its own mission, priorities and grant-making principles. Priorities might be defined by topics, such as arts, education, or social justice, or by demographics, such as geography, ethnicity, or faith traditions. It is important to thoroughly research a foundation to understand its mission and priorities and determine whether the mission of your program/organization is a good fit with the foundation. Though a foundation may not list "immigration legal services" as a priority, these services might overlap with priorities such as social justice, poverty alleviation, children, advocacy, prison reform, or workforce development. Visualizing and "marketing" the change that the legal services program/organization will have in the lives of vulnerable people and families—rather than simply talking about the legal services themselves—will increase the likelihood of the foundation recognizing the fit between your program and its priorities.

Most foundations have websites that list mission, guidelines, and grant-making history. It is very important to adhere to a foundation's guidelines, especially deadlines and whether to submit a full proposal or a letter of inquiry. In general, foundations will be interested in, at a minimum:

- A needs assessment that defines the scope of the "problem" in terms of individuals, community, and broader systems
- Existing resources and approaches
- How the applicant will approach the need. Communicate both outputs (numbers served, number of people attending educational forums, etc.) as well as outcomes (people become citizens able to engage in civil discourse; families remain together, increasing stability in the community, etc.)
- History of the program or organization—how long has it existed, its successes, how well it partners with others in the community
- Past financial information and a budget

Keeping good statistics on who you serve, success rates, and challenges is very important. Being able to describe the population served in terms of nationality, age (especially children and the elderly), gender, and other factors that relate to vulnerabilities can help make the case for a good fit with a foundation. Demonstrating effectiveness is also important. What percentage of clients was reunited with family? How many people received their citizenship? It is also important to be able to report outcomes to the foundation at the end of the grant period.

Even if a foundation turns down a particular funding request, try to develop a relationship with those foundations where it appears there might be a good fit in the future. Try to get a meeting to discuss your mission and program, and ask for the foundation's help in thinking through other possible supporters. Invite foundation staff to special events or to tour your facility and meet your clients. Include them in your newsletter mailing list. Over time, the foundation may come to understand the importance of immigration legal services.

Useful web resources that do not provide funding but do provide information on foundations and important trends:

- The Foundation Center, www.foundationcenter.org
- Grantmakers Concerned with Immigrants and Refugees, www.gcir.org

Fellowships

Fellowship programs that place lawyers at the beginning of their careers at public interest organizations for one or two years can be a wonderful way to expand your staff. Agencies that sponsor fellows generally must provide employee benefits to the fellow. An agency is sometimes required to find outside funding that will help to support the fellow.

Three major fellowship funders are:

- Equal Justice Works www.equaljusticeworks.org
- Skadden Fellowships www.skaddenfellowships.org
- Soros Justice Fellowships http://www.soros.org/initiatives/usprograms/focus/justice/programs/justice_fellows

Many organizations apply to sponsor fellows and it is a competitive process. Take time to thoroughly research the requirements for sponsoring a fellow and work carefully to craft a strong fellowship project and a proposal.

Faith-Based Organizations

Faith-based organizations and people of faith are often welcoming communities and can be strong allies in the struggle for social justice for immigrants. Faith-based groups rallied around the plight of Central Americans fleeing civil war during the 1980s by launching the Sanctuary Movement. Many faith-based organizations currently resettle refugees, support legal services for immigrants, and advocate for more humane immigration policies. At a local level, many congregations, mosques, synagogues, and temples see the need for high quality, low cost legal services for immigrants. In many cases, their own members need these services.

Local, regional, and national faith-based structures are potential partners and donors. Asking to speak at congregations, mosques, synagogues, and temples about immigration policy and its effect on people and communities can both build public support for immigrants and raise money for your program. Places of worship can also be a place for outreach to the community, and a source of committed volunteers and other in-kind support.

On Cultivating Funding Resources

“We’re not a faith-based organization, but the only reason we have been able to keep our program alive is because of funding from churches and religious organizations. I have worked actively to cultivate churches. I regularly give presentations at churches. For instance, I did a presentation for a women’s group at a local Presbyterian church. After the presentation, the women’s group told me about some one-time funding the church had available; they told me who to contact and gave us letters of support. We received the funding.”

– Flora Archuleta, San Luis Valley Immigrant Resource Center, Alamosa, CO

Parent Organization

For programs housed in a larger organization, the parent organization usually agrees to subsidize the immigration legal services program. A parent organization may feel that the services are vital to the organization’s mission; view legal services as an entry into a new “market” that can be served by other programs; or simply agree to cover start-up costs and support the program for a limited amount of time. Get to know the senior management of the organization that houses the immigration legal service program and help build internal support for your program.

Government

Government funding may be available for some services, such as citizenship and VAWA. Federal government funding for immigration legal services is generally limited currently to VAWA services and services to victims of trafficking; go to www.usdoj.gov/ovw . State and local governments may offer funding for other services, often citizenship-related activities.

Fundraising Events

Fundraising dinners, house parties, ethnic celebrations, silent auctions, races, and other events can help raise money and can help educate the public about immigration issues. Be aware that a good deal of time is needed to plan and implement successful fundraising events, and that the associated costs can be high as well. Enlist the board in planning and carrying out fundraising events. Board members can commit to selling a certain number of tickets, securing “silent auction” items, and asking businesses for in-kind donations to support an event. Board members may need staff support for this.

Some organizations hold fundraising events even if the net revenue is small as a way to raise public awareness and to expand the number of “potential” donors that may become supporters in the future.

Businesses and Others

Businesses that rely on immigrants for labor and/or clientele, law firms, and others should be considered stakeholders in your legal service program. The manager or director should reach out to raise awareness of your program and to seek referrals, funding, or other partnerships.

Developing a pro bono program that provides mentoring and support to attorneys at local law firms can lead to financial contributions from the law firm. If your agency is able to provide a firm with meaningful pro bono experiences, the firm may be willing to give money to your program. Inviting attorneys from local firms to join your board is also a way to increase your chances of getting financial support from a law firm.

In-Kind

In-kind support can be critical for a legal service program or organization. Volunteers can help with filing and photocopying, writing outreach materials, taking care of children while the parents speak to an immigration counselor, researching foundations, and countless other tasks. Churches, temples, synagogues, and mosques might offer free office space for outreach activities and legal clinics. A law firm may donate older but usable office equipment and computers. An accounting firm may offer pro-bono services to secure 501(c)(3) status.

The manger or director should develop a plan for identifying areas where in-kind contributions could be helpful and for seeking those contributions. Time must be devoted to building relationships with potential partners. Newsletters and websites can include a “wish list” of items that might be donated. Board members can help identify potential in-kind contributions.