

PREPARING FOR LEGALIZATION

A Manual for Immigration Legal Services Providers

November, 2006



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

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ACKNOWLEDGEMENTS

This manual reflects the insights of the following people who were interviewed about their work during the previous legalization program under the Immigration Reform and Control Act of 1986 (IRCA): Rev. Msgr. Ronald T. Marino, Program Director, Catholic Migration Office Brooklyn, New York; Dr. Robert J. Moser, PH.D., Deputy Director of Catholic Charities of San Diego, California; Richard Logue, formerly Refugee Resettlement Director for Catholic Social Services of Central Florida and current Program Director for Catholic Immigration and Refugee Services of Orlando; Rev. Phillip B. Earley, former Director of the legalization project for Catholic Charities of the Archdiocese of Boston, Inc.; Maria Picetti, former Legalization Program Director for Catholic Charities of San Jose, California; Gwen Plank, former Director of Refugee Resettlement and Immigration Services at Catholic Charities of San Diego; Muzaffar Chishti, formerly of the International Ladies Garment Workers union in New York City and current Director of the Migration Policy Institute (MPI) office at New York University Law School; Marilyn Lacey, former Division Director for Refugee Resettlement and Immigration at Catholic Charities of San Jose, California; Ana Consuela, former Accredited Representative with Catholic Charities of San Jose; Shirley Cox, former Director of the Immigration Program of Catholic Charities of Oklahoma City; Solomon Belette, former Program Director of Catholic Charities of San Diego; John Whitfield, former Director of Southeast Region for Migration and Refugee Services of the United States Conference of Catholic Bishops (MRS/USCCB); Cecilia Muñoz, former Director of the Legalization Program for the Archdiocese of Chicago and current Vice President, Office of Research, Advocacy, and Legislation for the National Council of La Raza; Miguel Garcia, former Refugee Resettlement staff with Catholic Charities of San Francisco; James Haggerty, former Northeast Regional Director for MRS/USCCB; Rev. Peter Zendzian, former Director of the New York office of MRS and current pastor of Holy Cross Roman Catholic Church in Queens, New York; Lily Gutierrez, former Southwest Regional Director for MRS/USCCB; Vanna Slaughter, Division Director for Catholic Charities of Dallas, Inc., Immigration and Legal Services, and Eric Cohen, formerly with the Labor Immigrant Assistance Project of Los Angeles and current Director of Legal Services for the Immigrant Legal Resource Center (ILRC) in San Francisco.

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CLINIC extends its particular thanks to the Carnegie Corporation of New York, which has generously supported CLINIC's work in preparing for legalization. The manual would not have been possible without the steadfast support of the Carnegie Corporation of New York and, in particular, without the vision and encouragement of Geri Mannion, Chair of Carnegie's Strengthening U.S. Democracy Program.

INTRODUCTION

An estimated 12 million undocumented people reside in the United States. When legalization legislation passes, a large number of these people will seek assistance at nonprofit legal service organizations. The Catholic Legal Immigration Network, Inc. (CLINIC) currently has 159 member organizations in 260 locations. CLINIC and other non-profit immigration service networks must be prepared to meet the huge increase in demand for their services.

The manual offers recommendations from “veterans” of the 1986 legalization program under IRCA. It was created to help charitable immigration agencies increase program capacity and prepare for a large-scale program. Its recommendations are offered to spur thinking and planning by these programs. A “one size fits all” approach cannot succeed since the needs and circumstances of programs vary. It is hoped that the manual will enable programs to develop the policies and practices that are best suited to the circumstances of their programs and communities.

This manual is not intended to be used to create immigration legal service programs. For those interested in learning how to start an immigration legal service program, please refer to *Immigration Management: Building Blocks for a Successful Program* (“*Immigration Management*”) by CLINIC, the Lutheran Immigration and Refugee Service, and Immigration and Refugee Services of America. The manual begins with a summary or check list of recommendations. It then provides an extensive narrative that elaborates on these recommendations.

Summary/Check List of Recommendations

Before the law passes, what should you do to prepare for a legalization program?

- **Make a conscious decision to start preparing now.**
 - Leadership of agency must buy in or nothing will happen
 - Appoint a “point of contact” (Legalization Coordinator) to promote the program at all agency levels
 - Anticipate. Make decisions now while you have time, rather than after the law passes
 - Reach out to key partners in your community to create a steering committee or advisory committee (e.g., community organizers, ethnic apostolates and religious groups, etc.)
 - Research Census data and other sources to determine the scope of the undocumented population in your area.

- **Ensure that your immigration legal service organization has strong internal systems in place in the areas listed below and that staff comply with them. It will be easier to adapt strong systems to a new legalization project.**
 - Client intake
 - Initial Consultation
 - Retainer agreements
 - Case Selection
 - Case management (especially “Quality Control”) and Closing
 - Financial controls
 - Training Materials and Law Library
 - Multiple Site Programs
 - Referral Services
 - Organizational Administrative Policies and Procedures Manual

- **Volunteers**
 - Plan to use volunteers: Most immigration programs will need to rely on volunteers to meet the increased demand for legal services.
 - Establish a volunteer coordinator position that will be responsible for recruiting, orienting, training, and coordinating the work of volunteers.
 - Recruit and train volunteers: Establish working relationships with key partners in your communities, such as the Justice for Immigrants Campaign (JFI), ethnic apostolates, ESL programs, social service agencies, pastoral care providers, immigration coalitions, and partner agencies.

- **Establish your office as the source for accurate and truthful information**
 - It is important that the undocumented receive accurate information about immigration law and pending reform proposals
 - Develop trust with the community now by providing accurate information on current issues of importance (e.g., drivers’ licenses, employment issues, etc.)
 - Be the trusted source of information so that people will turn to your office for help when the law changes
 - Educate immigrant communities about meeting possible requirements in future legalization law, including:
 - Continuous physical presence in the United States
 - Proof of identity
 - Good moral character
 - Employment history

- **Conduct public education about unscrupulous immigration service providers**
 - Stress that *notarios* and other unscrupulous immigration service providers take advantage of the undocumented
 - Distinguish between reputable immigration attorneys in your community and attorneys who have had no prior experience in immigration law
 - Where possible, provide information on how to file complaints against *notarios* and attorneys
- **Identify and work with existing networks to reach out to diverse ethnic groups to provide information to the community**
 - Do not limit your outreach to one ethnic group, even if that group is the predominant beneficiary of your services.
 - If you are a Catholic immigration program, make clear you serve indigent and low-income immigrants of all economic, ethnic and religious backgrounds.
 - Contact foreign consulates/embassies in the United States, media that target immigrants, religious organizations, and programs (e.g., ESL classes, social service programs, etc.) with credibility in the immigrant community.
- **Develop relationships between your office and *pro bono* immigration attorneys**
 - Start now through referral of complicated cases
 - Do not refer people to only one attorney; have a list of at least three
 - Have a system established to receive feedback on attorneys to whom you refer people (e.g., fees charged, services provided, etc.)
 - Identify attorneys who know how to handle the immigration consequences of criminal convictions
 - Invite/welcome reputable attorneys to participate on your Board of Directors or Advisory Committee
 - Recruit attorneys to volunteer at your group workshops
- **Strengthen your relationship with the local U.S. Citizenship and Immigration Services (USCIS) district office through local liaison meetings**
 - The quality of your immigration agency filings will influence your agency's relationship with USCIS
 - If your agency has a reputation for filing well-prepared applications this might help during the implementation phase of a legalization program when USCIS will be seeking out agencies with which to work
 - Professional and zealous advocacy in current USCIS liaison meetings will help to establish your agency as a known and respected player when liaison meetings occur after the law changes
 - Distinguish yourself from the fly-by-night agencies
- **Make sure your agency is a member of CLINIC and a participant in your diocese's Justice for Immigrants Campaign**
 - Respond to all requests by the JFI Campaign to write or call your Congressional representatives or senators
 - As a CLINIC member, your agency can report to CLINIC on practices or trends that your office sees when dealing with the local Department of Homeland Security (DHS). CLINIC uses this information when advocating to the DHS on behalf of its membership.
 - CLINIC is a large network that will circulate the information essential to effective representation.

- **Apply now for BIA recognition of your agency and apply for BIA accreditation for your staff, but remember that:**
 - This is not required for attorney-staffed agencies
 - It takes months for these applications to be processed
 - Do not engage in the unauthorized practice of law by either failing to have an attorney-driven office or failing to obtain “recognition” and “accreditation.”
- **Lobby Congress now about the new law’s provisions**
 - Funding should be provided for nonprofit, community-based organizations to conduct public education to the undocumented community about the eligibility requirements under the new law.
 - BIA-recognized agencies (and *not* notarios) should get funding to assist with applications.
 - The new law should be interpreted and implemented in a way that takes into account the difficulties undocumented immigrants face obtaining documents to verify eligibility
 - The preponderance of evidence standard should apply to the whole application, not just to one eligibility requirement
 - There should be broad waivers of grounds of inadmissibility/deportability and a reasonable standard for deciding waiver applications
 - There should be a confidentiality provision so people whose applications are denied are not placed in removal proceedings
 - There should be an adequate implementation period so the Department of Homeland Security has sufficient time to set up the program
 - The law should apply to ethnically diverse populations
- **Assess your offices for physical space**
 - To provide services for increased clientele and store additional case files
 - To conduct informational sessions and group processing workshops
 - To provide child care, and English as a second language and civics courses

After the law passes, what should you do to implement a legalization project?

- **Appoint or hire a Legalization Project Director/Coordinator**
- **Identify funders and request funding**
- **Participate in monthly calls by CLINIC on implementation issues**
 - Keep up-to-date on implementation of the law
 - Report to the national agencies on local practices and trends
 - Communicate and brainstorm with partner agencies
- **Recruit and train staff and volunteers in the new law**
- **Create essential forms**
 - Informational flyers
 - Handout list of documents to gather
 - Forms for listing residences and employment
 - Intake sheets
- **Review closed and pending case dockets to determine eligibility for benefits**

- **Advocate to the national and local DHS to ensure positive and generous implementation of the law**
 - Do not let DHS interpret the legislation in a way that eviscerates it
 - Work with CLINIC's Legalization and Advocacy Division to provide input into the development of the regulations.
 - Advocate for a short, clear application form
 - Advocate against excessive documentation requirements for legalization and waiver applications.
 - Advocate for a forgiving standard by which USCIS will review affidavits/declarations and waiver applications.
 - Advocate for DHS to establish an inter-agency working group, including USCIS, CBP and ICE, to collaborate with community-based organizations in the interpretation and implementation of the law. A point person should be assigned over this working group that has the authority over the bureaus to ensure consistent communication with CBOs and uniformity in the interpretation and the implementation of the new law.
 - Advocate for quick responses to Freedom of Information Act requests so that applicants can obtain their immigration records.
 - Advocates must oppose mandatory electronic filing of legalization applications.
- **Establish an office policy to continue to take non-legalization immigration cases in addition to legalization cases**
 - You need to decide if you will focus only on legalization cases and no longer assume representation in other types of cases.
 - If you have both types of cases, you may need separate projects with separate staffs
- **Decide whether you will provide one-on-one or group processing legalization assistance or a combination of both**
 - Consider staff size, existing caseload, and agency's ability to recruit and train volunteers
 - Fewer staff and volunteers limits ability to conduct group processing workshops
 - The size of the need will likely argue for group processing model, with tight legal controls
- **Establish an office policy on whether and under what circumstances you will file Forms G-28, Notice of Entry of Appearance of Attorney or Representative**
 - Decide whether your agency will file an entry of appearance or help to complete applications for clients to file on their own
 - Understand that if you file Form G-28, your agency is making a long-term commitment to represent the client before the USCIS
 - If your agency files Form G-28, decide whose name and signature will go on the forms
- **Establish fees for services**
 - Decide what services your agency's fees will cover (consultation, form completion, filing, legalization interview, locating supporting documents, etc.)
 - Be aware that in addition to your agency's fees, legalization applicants must pay DHS fees
 - Create fee caps on agency fees for families
- **Provide informational events in your communities**
 - Hold information sessions as soon as the new law passes
 - Hold sessions as frequently as resources permit
 - Try to hold sessions at set times and places so that the community will learn where and when to go
 - Make sure you have all forms ready for distribution

- **Provide high quality, efficient, and timely services**
 - Establish systems to process a high volume of cases competently and quickly
 - Provide efficient service to prevent people from turning to unscrupulous or incompetent immigration consultants
 - Do not let efficiency compromise quality of service

CHAPTER ONE BACKGROUND

In the United States today, there are more than 36 million foreign-born persons, 12 million of whom are undocumented. These numbers highlight the need for comprehensive immigration reform. They also indicate that the nation's next legalization program will be the most ambitious immigration initiative in its history, putting millions on a path to U.S. citizenship. Such a program will require a full mobilization of pro-immigrant organizations.

At this point, there is significant work to be done to assure the passage of an appropriately broad bill, and to prepare immigrant communities and local service providers for such a program. It is extremely important that the lessons learned from the Immigration Reform and Control Act of 1986 (IRCA) be analyzed, documented, and used to inform the creation of the nation's next legalization program. Given the likelihood of legislation over the next two years, this effort could not be more timely or necessary.

DEFINITIONS

For purposes of this manual, an *earned legalization* program refers to a process by which foreign nationals who are living in the United States can apply to adjust their status to obtain lawful permanent residence (i.e., a "green card"). It also would allow foreign nationals, who come to the United States as temporary workers, to apply to become lawful permanent residents after a certain period of time and work. In both situations, the legalization would be "earned" by the immigrant's labor, payment of taxes, demonstration of good moral character, and possible payment of a fine.

A *temporary worker* program would permit willing foreign nationals who are seeking employment to be placed with willing employers in the United States. Generally, the employers must seek to fill jobs that U.S. workers are not willing to take. With a *temporary worker* program, the foreign national usually must maintain a permanent residence abroad. The recommendations offered would apply to both a temporary worker and a legalization program.

*The nation's next
legalization program
will be the most
ambitious immigration
initiative in its history*

CHAPTER TWO

LEADING UP TO LEGALIZATION

I. MAKE A CONSCIOUS DECISION TO START PREPARING NOW

A major concern of charitable immigration projects is how to plan for a legalization program that may or may not come to pass, given the high volume of work that such programs must already accommodate. There is no easy way to predict what will happen in the legislative process. However, the possibility of legislation to allow an estimated 12 million immigrants to qualify for legal status is strong. Early preparation by immigration programs is essential, and will help these programs build capacity and visibility even if legislation does not pass in the short-term.

- If the leadership of the agency does not support the legalization project, it will go nowhere. Thus, the most important step is for the agency to make an informed decision to prepare for legalization.
- To promote a legalization project, the agency should appoint a point of contact, or a Legalization Coordinator. This person must have the authority to make decisions within the agency regarding legalization, and be able to advocate for the project to the leadership and staff of the agency, and to outside organizations (e.g., funders, possible coalition partners, DHS). The Legalization Coordinator should be responsible for communicating with CLINIC on a regular basis for purposes of administrative advocacy, information sharing, and training on legalization issues.
- Anticipate the demands of any potential legalization included in future legislation. Start making decisions now while there is still time.
 1. Develop a mission statement for the legalization project to keep focus on the services and community to be served
 2. Evaluate the agency's case-management system, and the time it takes staff to handle cases. This requires looking at statistics on case openings, filings, and closings. Although it is impossible at this time to determine the amount of time it will take to complete a legalization application, it might be comparable to the time it takes to complete an adjustment of status application.
 3. Review the agency's costs for operating an immigration legal service program and determine which costs will increase with a legalization project. Create draft budgets that cover anticipated revenue and expenses. Additional costs could include salaries for immigration counselors, mailing and postage, professional liability insurance for staff lawyers, stipends for volunteers, and benefits such as health insurance. Ensure that the staffing structure includes detailed work-plans.
 4. Draft a structure of a legalization project within your agency and present it to the leadership of your agency for input. Include in this discussion the staff needs of the

The first step is to win support from the organization's key stakeholders and backers.

project, the need for such a project, and the impact of the project on the rest of the agency.

5. Incorporate legalization in the agency's development plan for the upcoming year, including prioritization of funding for the project, amount of time required to prepare a project tailored to your agency, and the demand for legal services that will arise from a legalization program.
 6. Approach funders for grants to offset costs for outreach work and building legal services capacity, such as printing, recruiting and training volunteers, and obtaining BIA recognition and accreditation. Although there is no guarantee of funding, the closer we are to a legalization program becoming law, the better the chances of getting foundation funding.
 7. If your agency is affiliated with another institution, approach the leadership of the parent institution to fund a legalization project or to increase funding of an existing project. Consider creating a loan program to potential legalization applicants. It is important to recognize that many undocumented communities will turn to the Catholic Church for help obtaining assistance with legalization.
 8. To help your agency prepare for a change in the immigration law, use the institutional experience your agency gained when responding to previous changes in the immigration law that resulted in increased demand for legal services from your agency, such as the sunset of Immigration and Nationality Act (INA) § 245(i) in April 2001 or an extension of Temporary Protected Status (TPS). Re-visit and evaluate the agency's preparedness and response to those legal changes.
- Reach out to key partners in your area to collaborate on legalization work. For example, develop a coalition with ethnic apostolates, adult education or English as a Second Language (ESL) programs, priests' councils, and religious institutes. A coalition of agencies rather than one agency will be better able to address the needs of the community seeking to legalize. The larger the coalition, the better the chances of reaching out to more undocumented immigrants.

*Research is necessary.
Review data to
prepare for your
community's needs.*

- Research U.S. Census data and other sources to determine the scope of the undocumented population in your area. Evaluate the current size and services offered by the agency, and identify which communities the agency wishes to serve and it is currently serving (e.g., geographically as well as ethnically). Review the agency's intake trends over the past year or two and compare these

with demographic data on the undocumented in the service area. Determine whether there are communities that are being overlooked. This information will help the agency determine the potential demand for its immigration services.

II. MAKE SURE TO HAVE STRONG SYSTEMS IN PLACE NOW

Ensure that your immigration legal service organization currently has strong internal systems in place *and* that all staff comply with them. It will be easier to adapt strong systems to a new legalization project. Below is an overview of issues to consider in evaluating and improving your internal case management system. For more detailed information about identifying management and fiscal practices that can enhance the viability and success of your immigration service program, please refer to CLINIC's program management manual, *Immigration Management: Building Blocks for a Successful Program*.

Client Intake

Every agency should have a standard intake procedure that screens potential clients for basic eligibility, such as the immigration benefit being sought (e.g., naturalization or legalization). Emphasize to all clients the importance of notifying the government and your program about changes of address. At the end of intake, or informational session, provide a list of documents needed to complete their applications. Do not start working on the case until the client has *paid the fee* and *submitted all essential supporting documentation*. This policy will save your agency time, and keep the client more involved with the case. In general, people who pay for their legal services are more responsive to the legal representative. Make sure that the client understands from the beginning that the success of the case relies not just on the legal service provider but on the applicant.

These recommendations are not intended to cut off indigent or low-income undocumented people from legal services. Applicants who cannot afford to pay the agency fees should meet with a designated staff person to determine whether they qualify for a fee waiver or a sliding scale reduction in fees. If they qualify for a sliding scale reduction in fees, consider working out an installment plan.

Initial consultations

Experienced immigration practitioners should conduct the initial consultations for purposes of identifying the issues in the potential client's case. For a legalization project, this might not be possible and may have to be done by a recently-trained volunteer or new staff. In either case, there should be a consultation check-list that permits the intake interviewer to check-off all the eligibility requirements and possible bars to eligibility. It is extremely important to determine eligibility early on in the process and to identify any problems, rather than to discover them later at a more critical juncture in the case (e.g., near a filing deadline or, worse, after filing the application). This consultation checklist should be retained in the case file to document the consultation.

Retainer Agreements

A retainer agreement should lay out the responsibilities of both the client and the agency. It should set forth the responsibilities of the legal service organization as well as the responsibilities of the client. The agreement should be explained to the client, and the client should have sufficient opportunity to examine it. It should be noted in the file that the retainer agreement was explained to the client, and whether the explanation was provided in English or translated into the client's native language. If the client does not understand English, the agreement should be explained in his/her native language. The agreement should be written in easy to understand English, avoiding legal jargon when possible.

The retainer agreement should specify the services being provided and at what point representation ends. It should set forth the fee, if any, and should identify which services are included for that fee. The retainer agreement also should state that the agency cannot guarantee the outcome of the application, and that it is the client's responsibility to keep the agency informed, within a certain time period, of any

change in residential address, work address, mailing address, telephone number(s), and/or e-mail address. Likewise, the retainer agreement should explain that the client must assist with the preparation of the application and the development of the case by providing truthful information, timely responding to requests to submit documentation or an explanation as to why documents cannot be submitted, and arriving on time for all meetings with their representative and all government interviews/hearings.

The retainer agreement should include a description of the complaint process in case the client wishes to submit a complaint against a staff person.

Case Selection

Case selection requires the agency to set forth criteria by which to accept, turn down, and refer cases. For example, during a legalization program, your office may decide only to accept cases that are straight-forward and “uncomplicated,” but to decline cases that require filing an application for a waiver. The agency also might decide to reject any cases that involve criminal convictions or that were prepared incorrectly by incompetent immigration practitioners. Your agency’s criteria for accepting or rejecting cases should be made clear to all staff, and case selection should be monitored to ensure compliance with agency policy.

To ensure the case selection criteria is being followed maintain case statistics by type of cases selected for representation, number of cases opened and closed, and number of clients by nationality and gender. Select a staff person to maintain these statistics and ensure the agency is serving the community that it was created to serve. The designated person also should monitor the agency’s case load to track the case mix. A healthy case mix (e.g., some fee-generating cases and some grant-supported cases) will help maintain the long-term viability of the agency. The agency’s case selection criteria should provide for exceptions to the cases that are regularly declined by the agency. Compelling cases might include persons who cannot find assistance elsewhere, are suffering from illness or are elderly.

Agencies must be firm and consistent about turning away cases that fail to meet the agency case selection criteria. Accepting every case without proper evaluation could lead to eventual collapse of the agency due to over-stretched resources. In addition, overburdened staff ultimately will harm clients by providing low quality service. Train staff to decline cases in a respectful manner taking into consideration the devastating impact this information may have. Staff must be clear and compassionate in explaining the reasons for ineligibility and for declining the case. If the ineligibility is not explained, the person may simply move on to an unscrupulous immigration practitioner who will take their money and file an application.

Order CLINIC’s program management manual, *Immigration Management: Building Blocks for a Successful Program*:

<http://www.cliniclegal.org/Publications/GuidesHandbooks.html>

Case Management

A strong case management system establishes quality control and is essential to ensure that cases do not fall through the cracks. A case management system must clearly lay out the procedures for maintaining case files in order to ensure that all applications are reviewed before filing.

- **Uniform File Format:**

1. Each agency should establish a policy that sets forth how all case files will be organized. In well-established organizations, this might only require that the organization establish some way to differentiate the legalization files from the “regular” case files (e.g., through a color-coded file system or a separate filing cabinet).
2. Do not keep original documents in files, such as birth certificates, marriage certificates, passports, or other identity documents; instead, make copies of such documents for the file and return the originals to the client immediately. Maintain copies of all correspondence and applications filed with the government. The case notes should reflect that original documents were returned to client.
3. Always send government correspondence via secured, certified mail with return receipt to prove that the correspondence was received by the government. This will help the applicant prove that s/he filed a timely legalization application. In many cases, the return receipt is all that your office will have to prove that an application was filed with the government. It is essential that the agency train all staff members to match all certified mail return receipt cards with the case file, the corresponding white mailing slip and the photocopy of the item mailed. Make sure that staff complies with this system even if they are pressed for time due to high volume of cases. Considering that many agencies may have hundreds or even thousands of legalization applications when such a program becomes law, it is vital to establish a clear process for the filing of return receipt cards.

- **Tickler System**

It is important to have a method for keeping track of deadlines so that practitioners do not forget to file applications or appear at interviews or hearings. If a practitioner misses an important date, such as a filing deadline or an interview with the USCIS, then the application might be denied. The tickler system is just one way to ensure that a case does not fall through the cracks. If you use computer software for case management, a tickler system might be redundant for your office (or it might be a safety net in case there is a software glitch). Most computer software or internet-based case management systems include tickler (or call-up) systems as part of the program.

- **Case Notes**

Case notes are essential. They allow practitioners to understand the case, review the case history, and prepare for the work that still needs to be done. Case notes are particularly important when there is staff turnover. All notes written on the case should be dated and abbreviations should be easy to understand. If the office is expecting many of the same applications (e.g., legalization), consider creating a key to explain all abbreviations early on so that all staff use the same abbreviations for those applications (e.g., L/A - legalization application; L/I - legalization interview; BC - birth certificate; MC - marriage certificate, or C - client).

The case notes should reflect this information:

1. All attempts to contact the client or the government via telephone, U.S. Post mail, or e-mail, regardless of whether the attempt was successful. Should it be necessary to defend the agency in the future against complaints by the client or government, or even a malpractice claim, these notes will be very helpful.
2. All appointments, and whether the client failed to show up or was late for appointment. If client was present at appointment, notes on the nature of the appointment.
3. Failure by the client to fulfill the responsibilities listed in the retainer agreement should be reflected in the case notes (and possibly in a letter to the client). Should the agency later determine it needs to cease legal representation, the case notes will help document the basis for terminating representation. If the application is denied by the USCIS because of failure to submit required documentation or because the USCIS determines that the applicant provided fraudulent information on the application, the case notes will help re-create the case history. Should the client file a complaint against the agency for malpractice, you will have a record of all actions taken by the practitioner on behalf of the client as well as all actions taken or not taken by the client.

Case Closing

The agency should keep a photocopy of the government's grant or denial letter, and a copy of the immigration document granted (e.g., a copy of the front and back of the alien registration card). As soon as work is complete, the agency should have a prepared case closing letter that clearly states: (i) the agency has completed the legal services that it agreed to provide, (ii) it is ceasing legal representation of the client; and (iii) the person is no longer a client of the agency. This ensures that the former client understands that your agency no longer represents him/her. If there is no clear closing date of the case conveyed to the client, the agency may retain legal liability for the case and client. A definite date of closure helps the agency determine how long it must keep the file in archives before shredding it. Most states require legal files be retained in archives for a certain number of years.

For agencies that conduct group workshops and do not ultimately represent the legalization applicant, the closing letter can be incorporated into the retainer agreement. Alternatively, the agency can provide a copy of the retainer agreement to the applicant at the beginning of the workshop and the original closing letter at the end of the workshop with the legalization application. The agency would keep the original retainer agreement, copies of the application and the closing letter for its archives.

If your agency does not provide the client with a closing letter that terminates legal representation, the client may reasonably believe that your office remains his/her legal representative. If a filing deadline or interview is missed, your office might be held liable for legal malpractice. Therefore, it is imperative that you clearly convey in writing to the client (and to the government in cases where the agency is the attorney of record with the government) when you are terminating legal representation.

The agency should establish a policy for archiving closed cases so that they do not take up "active file" space. Moreover, agencies should verify within their states how many years they are required to keep legal files before they can be destroyed. For example, some states require that legal files be kept in archives for seven years from the date of closing the file before they are destroyed. When the case file can be destroyed, it should be shredded so that no one can access information from the file. Staff from the agency should witness the shredding to ensure that the files are not thrown in the garbage or simply stored away in a warehouse.

Consider having a standard letter to decline cases that is given to persons seeking legalization with your agency. The letter should state that your agency has refused to provide legal services to the person and that your agency does not represent the person. If time permits, the letter might briefly and clearly explain why your agency is declining the case (e.g., because the person's criminal conviction bars eligibility). The letter also should include a warning against *notarios* and a referral list to other respectable legal service providers in your community if the person wants a second opinion.

Financial Controls

Strong financial controls ensure that the agency is paid for its services and is not faced with the issue of misappropriation of money. During the legalization program of the 1980s, nonprofit legal service providers experienced a huge increase in the number of people seeking immigration assistance and, consequently, a massive increase in fees. Unfortunately, this led to embezzlement and mismanagement by staff in some agencies.

A future legalization program most likely will result in the same huge inflow of clients and client fees. To prevent fraud, the agency must institute a strong financial control system. Depending on the size of the agency, only a few people should be permitted to accept fees. The agency should create or obtain a customized fee receipt that includes the name of the agency, its address, and its telephone number so that the client will be able to identify easily which agency helped him/her. The client should be advised to keep the agency receipt as proof that he or she paid the fee for a specific legal service. The client should also save any money order receipts and cancelled checks that are paid to the USCIS because the receipts or cancelled checks might be the only proof that the client filed a legalization application should the USCIS lose the application.

The actual legal service provider should never accept fees (somebody else in the office should). The manager or supervisor of the immigration program should keep track of how many clients each staff person serves each day in order to report this to the financial control person at the end of the day. The financial control person can then compare the legal services against the ledger for the intake of fees for that day. This is one way to ensure that fees paid by the client are in fact received by the agency.

Training Materials and Law Library

If an agency decides to establish a legalization project, it must have adequate legal resources. The agency staff should have easy access to copies of the Immigration and Nationality Act (INA), Title 8 of the Code of Federal Regulations (CFR), the legislation passed, as well as analyses of the law. Soon after the legislation is passed, CLINIC and other national legal support agencies will develop a manual and trainings on the legalization program. The project must have access to secondary legal resources to permit research of legal issues that affect legalization applicants. This can be accomplished by purchasing the resource or purchasing CD-ROM software that permits access to the resources, such as Westlaw and Lexis/Nexis.

It will be vital for all legalization projects to have access to e-mail and the internet because information on practices and procedures before the USCIS will be updated constantly. All staff should be familiar with the following websites: The USCIS at www.uscis.gov, the Executive Office for Immigration Review (includes BIA decisions) at www.usdoj.gov/eoir, and the U.S. Department of State at www.state.gov/visabulletin.

Multiple Site Programs

Many nonprofit immigrant legal service programs have one main office with several branch or field offices that serve a large geographic area. This arrangement can be difficult for a program director to manage even without a legalization program. Once a legalization program passes, however, maintaining a cohesive agency with a unified response will be critical to providing effective services.

To prepare, you should determine whether your agency can afford to network the computers of all the agency's offices to permit sharing of case information and documents on the central computer network. Additionally, regular staff meetings are important to maintain consistent office practices. Since in-person staff meetings may be impractical with multiple offices, maintain communication through regular staff, and possibly web-based, telephone meetings. Appoint a staff person to be responsible for providing regular e-mail communications and newsletters to all staff and volunteers to keep them up to date on any changes within the agency and any changes with respect to the interpretation and implementation of the new law.

Referral Services

Make sure your agency has a list of other projects in the community that provide non-legal services (e.g., housing services, English as a second language classes, counseling services, health services, adult-care services, etc.). Give this list to all staff members and remind them to be aware of the non-immigration needs of persons seeking assistance at your agency. You want to ensure that your agency can link your clients with the services that they most need.

The most common type of referral needed at nonprofit immigrant legal service organizations is for private immigration attorneys or organizations that handle complicated immigration cases. You must make sure that the attorneys/organizations on your referral list are reputable and affordable. Include information about whether the referral organization or private attorney charges consultation fees. Keep track of entities and individuals within the community engaged in the unauthorized practice of law. With the consent of your executive director, consider sharing with other non-profit immigrant legal service organizations the names of entities or individuals engaged in the unauthorized practice of law. Warn immigrants in your community to avoid them. If necessary and appropriate, file complaints against such organizations or individuals.

Collect information about essential non-legal services in the area.

Organizational Administrative Policies and Procedures Manual

An administrative policy and procedure manual is necessary to guide staff. It also ensures that when there is staff turnover new staff will have a resource to which they can turn to determine office policies. A written manual ensures uniformity in office policies and procedures and helps maintain consistency in their interpretation.

The manual should be developed with the input of the executive director, the board of directors, and the staff of the agency. Because a legalization project most likely will operate for at least several years, the legalization project could develop its own administrative policies and procedures manual. If one already exists for the immigration legal service organization, it should not be difficult to adapt it to the needs of the legalization project.

III. VOLUNTEERS

A. Plan to Use Volunteers

During the IRCA legalization program, most immigration programs relied heavily on volunteers to meet the increased demand for legal services. Though veterans of the IRCA program viewed volunteers as a valued asset, they warned that some volunteers obtained immigration law training that they later used to work with *notarios* -- unauthorized practitioners -- to provide services. The next legalization program will have many more applicants than the IRCA legalization program. In addition, immigration law today is more complicated today than twenty years ago. An agency's ability to increase the provision of legal services to the community will be limited without more staff and volunteers.

B. Establish a Volunteer Coordinator Position

Establish a volunteer coordinator position. This need not be a new staff person, but can be filled by existing staff. The volunteer coordinator should be responsible for recruiting, orienting, training, coordinating and supervising volunteers. The agency should establish a minimal number of hours that volunteers will be expected to work. Volunteers that provide legal services should be supervised by a BIA accredited representative or an attorney. The volunteer coordinator should serve as a liaison between the volunteers and the staff to ensure that there is a smooth and efficient working relationship. The coordinator should maintain a database to track volunteer hours worked, length of time with the agency, and cases worked on. This will be useful for program management and grant reporting purposes.

Volunteers proved to be highly valuable during the 1986 IRCA legalization.

C. Recruit and Train Volunteers

Before the law changes, recruit volunteers to assist with your current services and to help conduct public education outreach to the community about the current state of immigration law and pending legislation. Recruit students from local colleges and universities. Set up an extern or intern program with a local college. Advertise internships in the university paper, and particularly at the foreign languages, political science, social work departments.

Establish a system to screen volunteers. To recruit trustworthy and supportive volunteers who are already informed about immigration or legalization issues, reach out to key partners in the community, such as the JFI point of contact, ethnic apostolates, ESL programs, social service agencies, pastoral care providers, immigration coalitions, and partner agencies.

Volunteers should be fluent in the language of your target community. Because immigration law takes time to learn, it would be ideal to incorporate some volunteers into your program now. Volunteers who start now will be more likely to assume a leadership or supervisory role in a future legalization project.

Thank volunteers for their help early and often. The training of the volunteers must include an orientation to the mission, structure of, and services provided by the agency as a whole, not just the legalization project. Within the legalization project, volunteers must know to whom they should report. They should be introduced to the staff of the organization. Obviously, volunteers cannot be trained on the eligibility requirements for a legalization program before the law passes, but they can be trained on basic immigration law and the current state of immigration law. It is also important to share information on pending immigration reform proposals with volunteers. This will help them understand what the immigrant advocacy community hopes to see (and avoid) in a new immigration law.

Volunteers should be asked for their input and suggestions. There should be regularly scheduled meetings with volunteers to brainstorm on issues, discuss their work, meet other volunteers, and celebrate or commiserate over cases. If possible, allow volunteers to work in the evenings or on weekends so as not to interfere with their daytime work. Be sure to publicly recognize volunteers for their contributions, and to include them in the agency's mailing list to receive the agency's newsletters and other publications.

The agency staff must be advised that they are working with a volunteer and not a paid staff person; therefore, they should not ask too much from the volunteer. From the beginning, discuss the project's and volunteer's expectations for their involvement. After volunteers are trained, they can assist staff conduct public education sessions on how to prepare for a future legalization program.

IV. ESTABLISH YOUR OFFICE AS THE SOURCE

Conduct a public education campaign that provides accurate information about current immigration law and the proposals pending before Congress. In addition, disseminate information on a variety of issues pertinent to immigrants, such as drivers' licenses, healthcare, taxes, etc. Start *now*, before immigration reform passes. It is important that your agency build trust with the immigrant community. If your office is perceived as *the* source in the community for truthful and accurate information, then the undocumented will more readily turn to you when immigration reform becomes law.

Although we do not know at this point what the requirements will be for legalization, these may include: (a) continuous physical presence in the United States for a certain period of time; (b) employment in the United States; (c) identity (that the applicant is who s/he claims to be); and (d) good moral character. Moreover, a legalization bill most likely will require the applicant to pay a fine in addition to any application fee. Additionally, it is important to recommend to immigrants to start saving now for potentially costly application fees, fines, and other immigration related expenses.

V. UNAUTHORIZED PRACTITIONERS – *NOTARIOS*

In some countries in Latin America, a *notario* refers to someone who can provide legal services. In the United States, a "notary public" is not authorized to provide legal services. Nevertheless, some people call themselves *notarios* in order to take advantage of unsuspecting immigrants, who think that *notarios* can provide legal services.

Part of your agency's education campaign should include identifying inaccurate information and disproving myths that are disseminated by unscrupulous immigration consultants and *notarios*. This will help prevent immigration consultants and incompetent practitioners from taking advantage of undocumented people with false promises of a "green card."

If possible, have persons damaged by unscrupulous immigration practitioners speak out publicly to the community. Develop a handout with names and contact information for reputable and low-cost immigration legal service programs and private immigration attorneys. Warn the undocumented community when you are distributing this list that they should beware of any agency not named on the list. Advise persons to question the qualifications of any immigration practitioner with whom they consult. This includes questioning the extent of the agency's immigration law experience and whether the person is a licensed immigration attorney or otherwise authorized to provide immigration *legal* services.

The office in your organization that handles inquiries from the undocumented should receive information on immigration reform from the same credible source, such as CLINIC, so that all

information distributed to the community is accurate and consistent. For those persons who choose not to avail themselves of your agency's legal representation, advise them through your public education presentations and materials to keep a record of their legal representative's full contact information, such as their name, address, telephone number and name of the business. The reason for this is that *notarios* and other unscrupulous immigration consultants often disappear after they provide legal services to the undocumented. Advise the undocumented not to use the services of an organization or individual that cannot provide contact information. Admonish them to get complete copies of everything the organization or individual files with USCIS on their behalf before leaving the office.

*Warn the public
against fraudulent
legal services –
which are sure to
exploit legalization.*

Warn people to be wary of any agency that requires payment in cash, or demands that checks or money orders be written out directly to an individual (or to "cash") rather than to the agency. This should raise concerns that the agency is not legitimate. Advise people to request a fee receipt for any services provided and to review the receipt immediately to make sure that it accurately reflects the amount paid and the services provided. The fee receipt should include the full name, address, and telephone number of the organization and the date the service was provided. Immigrants should always keep cancelled checks and any money order records because that might be the only proof that they paid for the legal services.

If a *notario* or immigration consultant is offering a deal to get a "green card" that is too good to be true, then it probably is too good to be true. Your agency's public education presentations should include a warning that if a person has been advised that they are not qualified for an immigration benefit and a *notario* or immigration consultant says that they are eligible, they must question the *notario* to explain why they are now eligible for the benefit (i.e., "why did they tell me no and you are telling me yes?"). Remind them that they could risk being put into removal proceedings if they unquestioningly trust such practitioners.

Finally, a public education presentation should include local information on how immigrants can file complaints against immigration consultants and attorneys who are not competent or who cheat them out of their money. This might not only help victims but it might help deter such practitioners from engaging in these practices in the future. In addition, it will create a public record of their activities for purposes of future prosecution.

VI. STRENGTHEN NETWORKS

A. Identify And Work With Existing Networks To Reach Out To Diverse Ethnic Groups to Conduct Public Education

Agencies must reach out to others to build a coalition on the local level. Catholic programs need to make it clear that they serve all people, regardless of their ethnic and religious backgrounds. The coalition can be comprised of consulates, religious organizations, social and legal service providers, business associations, ethnic organizations, and labor unions. A well-organized coalition will be able to disseminate information to a wide and diverse audience, and be an effective immigrant rights advocate. Before the passage of immigration reform, this coalition can conduct public education to the undocumented community on how to prepare for a potential legalization program and to warn them about *notarios*. After immigration reform passes, this coalition could be a valuable pool from which to recruit volunteers and assist in conducting informational sessions about the new law. An informal coalition might start out sharing information on advocacy efforts for comprehensive immigration reform and evolve into sharing training responsibilities, preparing comments on regulations, and advocating for a fair and transparent implementation of the new law.

Accelerate outreach efforts and build with existing networks to enhance public education.

Contact foreign consulates/embassies in the United States of the countries that represent the communities you serve to strategize how to conduct public education to your target communities. The consulates/embassies should have credibility with your target audience.

Establish relationships with media that targets immigrant audiences, and provide information through existing agency services such as ESL and adult education courses.

Under the IRCA legalization program, a disproportionate amount of advertising targeted the Hispanic community with little outreach to the non-Hispanic community. In a future legalization program, do not limit your outreach to one ethnic group even if it is the predominant beneficiary of your services. This will require a proactive presence in the international foreign language and local ethnic media – the primary media consumed by the target communities. Public Service Announcements, guest columns, and interviews will inform the community about legalization requirements, eligibility, and protocol. It will also warn them about the unauthorized practice of immigration law, which is likely to escalate during legalization.

B. Develop Relationships with *Pro Bono* Immigration Attorneys

Your legalization project will rely heavily on new staff and volunteers. This will mean a high volume of legalization applications being filed with the USCIS. Although a strong case management system requires that all applications must undergo quality control before being filed, you might not have sufficiently experienced staff to review all the applications that your office must file. If not, this may result in a bottleneck that will delay the filing of applications. Any delay in filing applications might result in clients leaving the agency to seek legal assistance elsewhere (e.g., a *notario*).

You should develop a working relationship with immigration attorneys in your community for the purposes of recruiting them as volunteers for group legalization processing workshops. Experienced immigration attorneys can provide quality control and oversight of applications. Identify now quality immigration attorneys in your community (as well as attorneys who are dishonest, inexperienced or incompetent).

One way to develop relationships with high-quality immigration attorneys is to develop a referral list that includes at least several attorneys. The staff of your office can provide this referral list to people for whom you cannot provide legal services, such as in complicated cases involving criminal convictions or cases where the person has a final order of removal. Establish a system to receive feedback from the referred people as to how their cases were handled (e.g., fees charged, services provided, etc.) to monitor the quality of legal representative's services and the reasonableness of their fees.

Program directors also might invite reputable immigration attorneys to participate on the agency's board of directors or participate on an advisory board for legalization. If you *successfully recruit pro bono attorneys* to help your agency with work now, these attorneys might continue to help your agency when a legalization program becomes law. If *pro bono* attorneys cannot volunteer with your office on a regular basis, maintain a connection with them for purposes of securing their help during legalization group processing workshops.

C. Develop a Relationship with the Local USCIS District Office.

Make sure that your office consistently files well-prepared application packets with the USCIS. USCIS staff will form opinions on legal representatives and agencies based on the quality of the applications and petitions they receive. If your agency regularly files inadequate application packets, USCIS will view your agency as unprofessional. Sloppy applications demand more USCIS time and resources, and are more likely to be denied.

During the IRCA legalization program of the 1980s, many agencies had strong relationships with the local Immigration and Naturalization Service (INS) District Offices. These agencies submitted well-prepared applications and were known in the community for providing competent services. During the last legalization program, the interpretation of the law changed often and practices were in flux. Many immigration legal service programs were able to advocate successfully to the local INS on behalf of their communities when there were gray areas in the new law because the agencies had good reputations with the INS. The INS listened to agencies that had respectable reputations and gave those agencies the benefit of the doubt. A future legalization program will bring with it similar debates about the interpretation and implementation of the law. Your agency should position itself to advocate effectively to the USCIS on behalf of your clients.

Non-profit immigration agencies should be involved in local USCIS and community-based organization (CBO) meetings. This will help you establish a rapport with the local USCIS District Office for purposes of conducting administrative advocacy on legalization. It will also help distinguish your agency from

Get involved in current local USCIS and community-based organization (CBO) meetings

notarios and fly-by-night agencies that will be set up to make quick money off of legalization. Represent your clients zealously and ethically. Stand up for their rights, but do it courteously and professionally so that you can reach common ground with the DHS on legalization issues when the time comes. Advocates who disrespect others because they have a different point of view will not make much progress negotiating with DHS. Establish your agency as a respected player in the community and DHS will be far more willing to deal with you.

Liaison meetings are also an important opportunity for your agency to learn local operating practices and procedures. Similarly, they are an opportunity to learn who "the players" are in the local office.

Although there might be a completely different staffing structure by the DHS under a future legalization program, knowing the current players and practices still might be relevant under the changed law.

D. Join CLINIC's Legalization Working Group and the Justice for Immigrants Campaign

As part of the Catholic Church's work on behalf of immigrants, the United States Conference of Catholic Bishops launched the Justice for Immigrants (JFI) Campaign: A Journey of Hope: The Catholic Campaign for Immigration Reform." The goal of the JFI Campaign is to maximize the Church's influence on immigration issues, consistent with the immigration reform principles enunciated by the Catholic bishops of the United States. You can join the national JFI Campaign by registering at the JFI Campaign website (www.justiceforimmigrants.org). This will allow you to receive updates and action alerts. Agencies should respond, to the extent possible, to all requests by the JFI Campaign to write or call Congressional representatives or senators.

CLINIC's Legalization and Advocacy Division focuses on legalization preparedness and ensuring successful implementation of a future legalization program. CLINIC members can report to CLINIC local practices or trends in the local DHS. In turn, CLINIC uses this information when advocating to the DHS on behalf of its membership. The DHS must often see a pattern of problems before it responds. The more member agencies report to CLINIC on local DHS practices, the better CLINIC will be able to advocate on a national level to DHS.

CLINIC members also receive regular updates on changes in the interpretation and implementation of the law. Often member agencies receive updates on changes in the law before the local DHS offices receive them. Membership in the CLINIC network will be especially important when the law changes because CLINIC is a large network and information sharing and communication will be essential to effective representation.

For those unable to become an affiliate member of CLINIC, it will still be helpful to visit CLINIC's Legalization webpage (www.cliniclegal.org/Legalization.html) and join CLINIC's Legalization Working Group by sending an e-mail to legalization_working_group-subscribe@yahogroups.com.

VII. APPLY NOW FOR BIA RECOGNITION FOR YOUR AGENCY AND ACCREDITATION FOR YOUR STAFF

Federal regulations authorize persons certified by the Board of Immigration Appeals (BIA) to represent immigrants before the DHS and the Executive Office for Immigration Review (EOIR). Before a new legalization law passes, make sure your office is authorized to represent immigrants before the DHS and the EOIR. Otherwise your agency will be engaged in the unauthorized practice of law.

Section 292 of the Immigration and Nationality Act and section 1292 of Title 8 of the Code of Federal Regulations set forth who can legally provide representation for immigration purposes. The two main groups who can represent immigrants before the DHS and the EOIR are licensed attorneys and BIA-accredited representatives. Therefore, make sure that your agency has attorneys on staff and/or that your agency is recognized by the BIA as being a nonprofit religious, charitable, social service, or similar organization that charges only *nominal fees* and that it has at its disposal adequate knowledge, information, and experience of immigration law. An agency that is recognized by the BIA can obtain accreditation for its staff to represent immigrants before the DHS and the EOIR. Apply now for BIA recognition and accreditation because it takes months for such applications to be decided. Concurrent approval of BIA recognition and accreditation is routine, so file for both simultaneously. CLINIC's member agencies should avail themselves of CLINIC's support for compiling and filing these applications. Attorney-led immigration legal service organizations do not need to apply for BIA

recognition if the attorney or attorneys will be the person(s) responsible for providing legal services. Agencies with attorneys might nevertheless consider obtaining BIA recognition and accreditation to increase the number of staff able to provide legal representation to immigrants.

A BIA recognized agency can officially represent immigrants before the DHS and the EOIR

Because federal regulations dictate who can represent immigrants before the DHS and the EOIR, so-called “immigration consultants” who are authorized by state law to provide certain services to immigrants are not authorized to represent immigrants before the DHS or the EOIR. State laws regulate “immigration consultants,” but cannot authorize the practice of immigration law before the DHS and the immigration courts.

The “practice” of immigration representation before DHS and the BIA, includes: advising immigrants about how to obtain immigration benefits; analyzing eligibility for those benefits; selecting the correct immigration form to complete; properly completing the form; and properly filing a petition or application. Immigration consultants who are not BIA accredited and who perform any of these services are, in fact, engaging in the unauthorized practice of law.

Whether your agency decides to have attorneys or BIA accredited representatives or both, make sure that your agency carries adequate professional liability insurance and that it is included in the budget of the legalization project.

VIII. ADVOCATE FOR PRO-IMMIGRANT PROVISIONS IN THE LEGALIZATION PROPOSALS

Advocates for immigrants must collaborate to push for the inclusion of pro-immigrant provisions in immigration reform proposals. Advocates must also analyze and monitor pending immigration reform proposals to ensure that anti-immigrant or restrictive provisions are not hidden in the proposals. In 1996, IIRIRA included provisions barring immigrant admission for certain immigration violations for three years, ten years, and, in some cases, permanently. These provisions turned out to be a nightmare for many people residing in the United States in unlawful status who later wanted to obtain lawful permanent residence.

The more clear and specific the pro-immigrant language of the new law, the less room the DHS will have to interpret the law restrictively. The following is a non-exhaustive list of provisions that will allow for effective implementation of any legalization law:

- A legalization law must provide funding for nonprofit, community-based organizations to conduct public education to the undocumented community about the eligibility requirements under the new law.
- Funding should be provided for immigration legal services, and be limited to nonprofit, attorney led and BIA-recognized agencies to avoid funding unauthorized practitioners of immigration law.
- The law should state that it is the *intent of Congress* not to require an unreasonably burdensome amount of documentary proof from applicants since undocumented persons often are not provided with documents such as paycheck stubs, bank statements, etc.
- Generous evidentiary standards, like the “preponderance of evidence” should apply to the whole application, not just to one eligibility requirement.

- The proposal should include broad waivers of grounds of inadmissibility and include a reasonable standard for deciding waiver applications. For example, INA § 212(a)(6)(A) (present in the United States without admission or parole) should be inapplicable to persons applying for legalization.
- The proposal should include a strong *confidentiality* provision. Immigrants must feel confident that information provided in the applications will not be used against them or serve as the basis to deport them.
- The proposal must include a long implementation period. The government will need enough time to set up an infrastructure, prepare regulations, conduct outreach, and implement a legalization program.
- The proposal should include a provision directing the DHS to serve ethnically and geographically diverse populations. Under the IRCA legalization, funding for advertising and outreach went primarily to the Hispanic community, which resulted in other ethnic groups being overlooked. This time Congress must ensure that all ethnic groups learn about and have an opportunity to benefit from the new law.

IX. ASSESS YOUR OFFICE FOR PHYSICAL SPACE AND INFRASTRUCTURE

If legislation passes, an estimated twelve million immigrants may qualify for legal status. Determine now whether there is sufficient space to serve the increased clientele, adequate space to store the new case files (whether the legalization files will be included with the agency's "regular" case files or filed separately), and sufficient desks, chairs and tables for potential clients to sit and where they can be screened and interviewed.

Identify free or low-cost space to conduct informational sessions on the eligibility requirements and application process under the new law. Incorporate rental fees for additional space into the budget of a legalization project. Consider the availability of space and staff or volunteers to provide child care to immigrants seeking services. Consider providing a safe child-friendly area with toys and coloring books. If there are dozens of people waiting in the office for services and many of them have their children running around the office, this might interfere with the staff's ability to effectively provide services.

Under IRCA, immigration legal service agencies extended hours and days of operations. Many offices were open seven days a week and late into the evening during the application period. Assess whether the agency can afford to provide extended hours and days of operations, and consider security issues resulting from extended hours of operation in the evening or days when the building is normally closed.

A legalization program will likely include an English language and U.S. civics requirement. This might be required after the undocumented person legalizes but before the person obtains lawful permanent residence. Consider whether your office should provide ESL and U.S. civics classes to the community. This might require additional space and resources.

Evaluate your physical space. Consider the inevitable increase in services following legalization

Group processing workshops were common during IRCA, and will probably be necessary in a future legalization program. Determine whether the agency has access to a space large enough to accommodate workshops. When conducting workshops off-site, make sure the agency's worker's compensation and liability insurance covers the location of such workshops. If the agency's insurance charges more for this coverage, make sure to include it in the legalization project's budget.

Assess the cost of tables, chairs, and, most importantly, copy machines for group processing workshops. It is important to make copies of the completed application, along with supporting documentation, for the client and for the agency's files. Consider budgeting for one or two copy machines that can handle large quantities of copies. A second copy machine is recommended in case one breaks.

Unlike during the IRCA legalization program, CBOs might not have to purchase cameras and film for photographs in support of future legalization applications because this responsibility will likely be handled by Application Support Centers (ASCs). Nevertheless, incorporate this cost into your assessment and budgeting in case the agency must provide photographs. Although the ASCs will probably also handle fingerprinting for legalization, consider a way to provide or secure fingerprint services for certain clients outside of the group processing context.

Weigh the costs and benefits of using computers for group processing workshops. Under the IRCA legalization program, few CBOs used computers for group processing primarily because computers were not yet common. Despite the fact that computers are ubiquitous today, consider whether it will be more efficient to complete applications by hand in black ink than to invest in computers, provide computer training to all staff and volunteers, and provide a technical assistance person to resolve the inevitable computer glitches and problems with the legalization "forms" software. Nonetheless, investigate program management software to manage case files. This software will be an important investment in order to manage the huge influx of cases.

CHAPTER THREE

AFTER LEGISLATION PASSES

I. INTRODUCTION

The successful implementation of a legalization program will require a swift and well-thought out strategic response after the passage of legalization legislation. Below are some recommendations that should be implemented as soon as a legalization law passes, taking into consideration the timeline established by Congress to implement the new legislation

II. APPOINT A LEGALIZATION PROJECT DIRECTOR

A legalization program will have a limited time period to file applications. Therefore, immigration programs must hit the ground running. The first thing to do is appoint or hire a legalization project director/coordinator.

In many cases, the legalization director can be the same person that coordinated the agency's legalization preparedness activities. In order to assist in the implementation of the legalization program, CLINIC's Legalization Project webpage (www.cliniclegal.org/Legalization.html) provides up-to-date information materials, technical support and information on trainings. It is highly recommended that legalization directors regularly visit the website for instructional manuals and updates on the new law and regulations.

III. IDENTIFY FUNDERS AND REQUEST FUNDING

Foundations and grant-makers will likely respond to a legalization law by funding legal and related services. Identify and approach all possible private foundations, individual donors, and government grantors. Your agency's leadership may also be willing to pursue individual donors to support legalization. Regardless, the executive director and immigration program director should devote time substantial toward seeking funding for the legalization project.

Cultivation of funders, primarily foundations, should begin *before* the law passes. Invite foundation officers to agency-sponsored events – e.g., public education talks on legalization in the community, group processing workshops, etc. When targeting a private foundation or a government grant-maker, know their interests and priorities.

In the lead up to legalization, educate funders regarding the importance of a legalization program. Explain to them what a good legalization project can accomplish (e.g., bringing undocumented people out of the shadows to become full members of society, helping the working poor, keeping families together, providing education against *notarios* who take advantage of the undocumented, etc.). Educating funders will raise awareness in the community about your agency as a whole as well as the legalization project.

Show funders demographic statistics on the undocumented in your area to illustrate the need for services. Provide them with statistics on the numbers of people you currently serve versus the expected increase in demand for services. Expand existing mailing lists to market the legalization project to a wider audience by obtaining names and contact information from the agency's leadership.

IV. PARTICIPATE IN REGULAR CALLS WITH CLINIC

Soon after the immigration law passes, CLINIC will hold regularly scheduled conference calls to provide updates from the national headquarters of DHS on interpretation and implementation of the new law. In addition, CLINIC will provide written materials, trainings, manuals, and reports on the new law. It is imperative that you and your staff learn the new law as soon as possible after it passes to convey accurate information to the communities that you serve. The conference calls will allow your staff to stay inform on the latest immigration regulations and policies. They will also provide a vehicle for your agency to report to CLINIC and other agencies on practices and trends in DHS local offices. CLINIC will use this information in its national administrative advocacy and in commenting on regulations. These conference calls will help local agencies to brainstorm and strategize on how to respond to DHS practices around the country and to create proactive practices to serve immigrant communities.

V. TRAIN STAFF AND VOLUNTEERS ON THE NEW LAW

If you did not do so before the legislation passed, you should recruit volunteers and hire new staff as soon as a legalization law passes. During the IRCA legalization program, religious and community leaders helped recruit volunteers. When the news breaks about a new legalization program, capitalize on the media opportunity and recruit volunteers from other institutions, such as schools and social organizations.

Soon after the passage of the new law, your staff and volunteers must be trained in the following:

- Basic immigration law
- The eligibility requirements for benefits under the new law
- The legalization application filing process
- Bars to eligibility (e.g., crimes or other grounds of inadmissibility)
- Internal case processing procedures for your office (i.e., from case intake/screening through quality control and archiving)

As soon as the new legalization application form is issued, determine how much time will be required to complete it and create a plan for processing the applications in your office. While you will likely serve a high volume of clients, do not forfeit quality for efficiency and speed. A well-trained staff will make fewer mistakes, and prepare better cases. Sloppiness does not save time as the agency will have to devote resources later to correct mistakes, not to mention time and expense on possible malpractice complaints.

Recruit volunteers and new staff as soon as a legalization law passes

Understand what the volunteer expects to accomplish by working with your agency

Experienced immigration staff might not need too much training on the new law, although they will need to learn the eligibility requirements and application process. Initial training of volunteers should consist of one or two evening sessions of three hours each. Assuming that the volunteers are new to immigration law, a training scheduled to start at 6 p.m. should cover the following topics:

6:00 – 6:15 p.m.	Introductions and purpose of training
6:15 – 6:30 p.m.	Overview of how to immigrate to the United States
6:30 – 6:45 p.m.	Who are the unauthorized immigrants? How does the immigration law impact the unauthorized immigrant population?
6:45 – 7:00 p.m.	What is the legalization program?
7:00 – 7:30 p.m.	Basic eligibility requirements for legalization program
7:30 – 8:00 p.m.	Bars to eligibility and grounds of removal (red flag issues)
8:00 – 8:30 p.m.	How to complete the legalization application
8:30 – 9:00 p.m.	Instructions on how a group processing session operates

Training should be done periodically as new volunteers join or new immigration regulations are issued. Previously trained volunteers can assist with training new volunteers. Hold weekly status meetings to get input from the volunteers regarding practice trends, problems encountered and how to handle difficult cases or clients. Approach the local chapter of the American Immigration Lawyers Association (AILA) to request help training staff and recruiting *pro bono* immigration attorneys to help your agency.

After the law passes, CLINIC will develop training materials and provide training on the changes in the law as well as technical assistance through its toll-free hotline and field office attorneys. The CLINIC trainings and materials will be in addition to CLINIC's regular conference calls, e-mails and website postings. All new staff and volunteers should be familiar with these resources.

New staff and volunteers should receive an orientation on the agency, its mission and the community it serves. Introduce the new staff and volunteers to the current agency personnel. Advise them on agency policies and procedures and inform them about the agency's culture. New staff and volunteers should feel welcome and understand how they fit into the agency.

Your agency must be clear upfront regarding its expectations of volunteers and in understanding what the volunteer expects to get out of working with your agency. Beware of people who volunteer merely to gain experience so that they can provide immigration legal services on their own. Although there is no way to guarantee that this will not happen, your agency can reduce this possibility by recruiting volunteers through known groups (e.g., the JFI Campaign, parishes, Pastoral Care of Migrants and Refugees (PCMR), etc.). Also, institute a policy that staff cannot work for *notarios* or immigration consultants.

Train your staff and volunteers to treat all clients with dignity and respect. Explain that the mission of your agency is to welcome immigrants and to assist them. Make sure that staff and volunteers understand that communication with clients and potential clients is confidential. Staff and volunteers should not gossip or joke about clients or potential clients. Discussion of cases should be limited to questions or comments about eligibility and procedures. Particularly in the case of group processing workshops, staff and volunteers should talk directly with the person seeking legalization assistance and not discuss specific cases in the open. Create a standardized form for volunteers to sign that sets forth your expectations for the volunteer, including the need to keep client information confidential.

VI. CREATE ESSENTIAL FORMS

Within the first month after the law passes, develop all your forms and materials, including:

- Informational session flyers
- List of documents to gather
- Handout for listing current and past residences
- Handout for listing current and past employment
- Intake sheets
- Client services agreements
- Volunteer consent forms
- File organization outline
- Closing letters, etc.

*For templates of forms, see the
Legalization Project's website:*

www.cliniclegal.org/Legalization.html

Preparation is necessary to implement the program. Materials and forms should be prepared ahead of time, and in languages spoken by the immigrant communities in the area.

VII. REVIEW FILES TO DETERMINE ELIGIBILITY

Review all the files in your office (both closed and pending) to determine who might be eligible to apply for legalization under the new law. Send out eligibility letters to the last known address of potentially eligible clients. Depending on the size of the pending and closed case dockets, the office might need to be closed for some time (e.g., a day, a week, etc.) in order to conduct the review.

VIII. ADVOCATE TO DHS FOR A JUST IMPLEMENTATION

Immigrant advocates must ensure that the DHS correctly interprets the intent of Congress in passing the legalization law. In particular, they must provide input on the development of the regulations and the creation of the legalization application, ensuring a streamlined application form that is not too burdensome or too time-consuming to complete. Advocates must ensure that DHS' *interpretation* of the new law does not eviscerate it. Local agencies can work with CLINIC to provide input into the development of the regulations, which will form the *executive interpretation* of the new law and determine (in part) how it is implemented. The following is a non-exhaustive list of advocacy issues that would ensure a positive and generous implementation of the law:

- Advocate for a short, clear application form. The longer the application form, the lengthier the application processing time will be. Since the legalization benefit's purpose is to bring undocumented people out from the shadows, the language in the application form should be straight-forward and simple and should stick to the basic eligibility requirements of the program.
- Advocate against excessive documentation requirements for legalization and waiver applications, and a forgiving standard by which USCIS will review affidavits/declarations and waiver applications.

- Advocate that DHS establish an inter-agency working group, including USCIS, CBP and ICE, to work with community-based organizations in the interpretation and implementation of the law. This might involve regularly scheduled liaison meetings between the DHS and community-based organizations. DHS should designate a representative to run liaison meetings who has authority over all three bureaus (USCIS, ICE, and CBP) and can ensure that representatives of the three bureaus are in attendance. This will ensure that all three DHS bureaus work together to interpret and implement the new law, and will prevent contradictions and inconsistencies among the three bureaus of DHS.
- Advocate for quick responses to Freedom of Information Act requests so that applicants can obtain their immigration records.
- Advocate against mandatory electronic filing of legalization applications because this might prevent thousands of people without access to computers or the internet from being able to apply for legalization, and push for permission to use black ink to complete applications and white-out to correct typos so that agencies may use a group processing format to assist people.

After the law's passage, agencies must work to ensure fair implementation.

Immigration legal service agencies must continue participating in local liaison meetings after the law passes to receive updates on changes in local interpretation and implementation of the law. Keep minutes of the local liaison meetings including who is in attendance from the DHS and the CBOs. Ensure that DHS follows through on issues they say they will address. Use the local liaison meetings to report bad practices or trends observed in the local DHS office. At the same time, advocates should praise the DHS when they identify positive or helpful DHS practices.

IX. ESTABLISH PROTOCOL FOR THE AGENCY'S LEGALIZATION PROJECT

A. "Regular" Immigration AND Legalization Cases?

Establish a policy about handling cases beyond the scope of legalization, and whether to focus exclusively on legalization or not. If the agency decides to focus only on legalization cases, create a list of reputable immigration lawyers and legal service providers for referrals of other types of cases.

Under the IRCA legalization program, many CBOs handled only legalization cases because of the huge volume of people seeking assistance to apply for legalization. Be aware that, as a matter of legal ethics, your agency cannot just stop working on its current caseload. You must devote a certain portion of time to your current caseload, even if you decide to accept only new legalization cases during the application period.

B. One-on-One, Group Processing, or a Combination of Both?

Determine whether your agency will continue to provide one-on-one legal services for legalization cases or rely exclusively on group processing workshops (or some combination of both). Under IRCA, many CBOs provided a combination of both services. Many CBOs offered group legalization processing workshops during the evenings and weekends when it was easier for applicants to attend such workshops, and provided individual services during the day for complicated cases or for cases

that required waiver applications or appeals (i.e., cases that could not pass easily through a group processing workshop or for people whose schedules did not permit them to participate in regularly scheduled group processing workshops).

The ability of your office to include group processing workshops depends on the size of your agency, its caseload, and its ability to recruit and train volunteers. The fewer the staff and volunteers your agency has, the more limited your ability will be to provide group processing workshops. If a sufficient number of staff and volunteers are not adequately trained in legalization, it will limit the effectiveness of the group processing model.

C. Form G-28: Notice of Entry of Appearance as Representative

Establish an office policy on whether to file Form G-28, Notice of Entry of Appearance as Attorney or Representative. One option is to let the client file the application on her or his own. Form G-28 notifies DHS that the applicant or petitioner has a legal representative. Its filing permits the legal representative to communicate with DHS on behalf of the client about the case, and to receive copies of any notices or correspondence sent to the applicant or petitioner. In general, the government will not speak with anyone, except the applicant, about the applicant's case unless there is a Form G-28 on file. Under the IRCA legalization program, many CBOs assisted undocumented immigrants to apply for legalization through group processing workshops. Often the CBOs did not file Form G-28 with the applications. Legal assistance was limited to completing the legalization application and filing it with the INS.

When establishing a policy on whether to file Forms G-28 with legalization applications, consider that case processing times can be quite lengthy and that, if filed, the agency will have long-term responsibility for the case. Whatever policy is established, it must be conveyed clearly so that the client understands the limits of the services provided by the agency. This also should be explained in the client services agreement.

If Form G-28 will be filed with the legalization applications, decide the extent of the representation. In particular, decide whether it will be limited to the initial legalization application but will not include renewal work permits or visas. If representation will be provided until the client's adjustment of status to lawful permanent residence, consider where and how the file will be kept during those years. Contemplate charging an annual *case maintenance fee* to cover the cost of keeping a file open for each year and for providing any updates on changes in immigration law or practice. Also, ensure the client understands that it is his/her responsibility to keep the agency informed of his/her contact information during that time period. Consider charging separate fees at each stage of the case, since it will be difficult to gauge the cost of representation from the first application filed to lawful permanent residency.

Once the legal representative files the Form G-28 your agency will continue to receive notices on the case until there is a decision or until the legal representative files a written notice with the government to withdraw as legal representative. Even if the legal representative ceases to work at the agency, the agency will continue to receive notices on behalf of that applicant. As with all correspondence to the government, a request to withdraw representation should be filed by certified mail return receipt requested. A common problem with the DHS is that former legal representatives continue to receive notices in cases from which they previously withdrew. The certified mail return receipt card will help prove to the DHS that you withdrew from the case. It will also help immigrants whose cases are closed for failure to respond to a notice that s/he never received because the DHS erroneously mailed the notice to the address of the former legal representative.

If the decision is made not to file Form G-28 with any legalization applications, make sure the client understands that he/she is fully responsible for the case, including for informing USCIS of address changes. Explain this directly to the applicant and in writing.

The legalization application will likely have a section that will require the person who helps the applicant complete the application (i.e., the “preparer”) certify that s/he helped prepare the application. For purposes of the group processing workshop, establish a policy concerning who will sign this “preparer’s” part of the legalization application. This might be the volunteer who helps the applicant complete the application, the *quality control* staff who reviews the application before filing, or the person who ultimately submits a Form G-28.

Although the Form G-28 is no longer required to be printed on blue paper, it is strongly recommended that you use powder blue paper.

X. ESTABLISH FEES FOR SERVICES

Establish an office policy on what services the agency fees will cover. In particular, decide whether there will be one set fee to complete, file and represent the client through the adjudication of the legalization application, or whether different fees will cover the costs of different steps in the legalization process. For example, separate fees can be established for:

- Screening and consultation on eligibility
- Application preparation (including preparation of affidavits and declarations)
- Application preparation, filing, and representation through the decision
- Preparing a waiver application for a ground of inadmissibility
- Representing complicated cases that require more time (e.g., immigration consequences of criminal convictions)
- Representing the client in a legalization interview
- Preparing and representing the client in an appeal of a denial of the legalization application.

Clearly explain the fees to the client and collect them up-front before service is rendered. The fees also should be outlined in the retainer agreement. Do not provide legal services and then ask for payment.

Do not collect cash because this could lead to misappropriation of funds. Veterans of the IRCA legalization program reported that some clients attempted to bribe staff with more money in an effort to speed up case work. Establish an office policy against accepting cash for services. Make sure your agency not only establishes financial controls, but adheres to them.

CLINIC member agencies are nonprofit, charitable immigration service providers that serve indigent and low-income people. Create fee caps for families. Remember, in addition to legal services fees, immigrants will need to pay fines, filing fees and other immigration related fees. The fee collection system must include a process for handling requests for a reduction in or waiver of the fee, based on economic necessity or other compelling reason. Ideally, the person in charge of the fee reduction and waiver requests should be different from the person who handles the legal service representation.

Establish a fee to charge for the legal services provided. This will help keep the client involved in the case and will generate revenue to offset any losses due to delays in funding from other sources. Decide whether to base fees on the cost of the services provided or on what other immigration legal service providers in the area charge. Unless the agency is fully-funded by grants, it must recoup a certain portion of the cost of the services in application fees; otherwise the agency will not be able to afford to continue providing legal services. Keep in mind that the purpose of charging a fee is to help your agency to continue to provide high quality service over a long period of time.

If your agency is recognized by the BIA, then it is required by federal regulation to charge *nominal fees* only. The term, *nominal fees*, is not well-defined. Therefore, BIA-recognized agencies should be

aware of what other recognized agencies are charging and set fees within reason so that they do not lose their BIA-recognition.

When the fee is paid, make sure the client receives a receipt for payment and that a legible copy is kept in the case file and in the accounting log. Make sure the client understands how long the process will take and emphasize that your office makes no guarantees about the outcome of the application.

XI. PROVIDE INFORMATION TO THE COMMUNITY

As soon as the law passes, conduct public informational sessions on the eligibility requirements for immigration benefits under the new law. Conduct the sessions in communities or parishes that have the greatest number of undocumented persons. Hold information sessions either on evenings or weekends, when potential applicants are better able to attend.

During these information sessions, advise the undocumented about the basic eligibility requirements for the program and how to file their own applications without having to resort to *notarios* or immigration consultants. Consider incorporating a screening session into the information sessions whereby trained staff or volunteers screen people to determine whether they are eligible to apply for legalization under the new law. If the screeners determine that certain persons are eligible to file an application, provide each eligible person with a flyer advertising a group processing workshop on another date, and a checklist regarding documents to gather and to bring to the group processing workshop. This will expedite the application at group processing workshops.

XII. PROVIDE HIGH QUALITY, EFFICIENT AND TIMELY LEGAL SERVICES

During the IRCA legalization program, many people went to unscrupulous immigration consultants and *notarios* because they grew tired of waiting for charitable programs to provide legal services. People wanted their “green cards” as soon as possible. Due to the fact that charitable immigration programs tried to provide thorough services, there were often long waits to prepare applications at their offices. This caused many people to seek immigration consultants’ services over BIA-recognized programs. While providing quality immigration services, programs must also focus on efficiency and handling a high volume of applications.

Disseminate handouts that explain the process so that clients come to your office prepared to complete applications. Develop an efficient screening process. Case screening is a key part of the entire process because it determines eligibility for legalization and whether to commit agency resources to the case. Refine all of the processes to provide accurate screening of clients, strong case management, and meticulous, thorough quality control. Strong systems will result in better services.

CONCLUSION

This manual is intended to be a starting point for discussion on preparing an immigration legal service program for a future legalization program. It is not the final word on how to set up a legalization project within an existing agency; nor does it offer complete guidance for starting an immigration program. Instead, it seeks to start a dialogue among the leadership and the frontline staff of the agency on preparation for what will be a consuming challenge. Directors who involve frontline staff and volunteers, and partner agencies in creating an effective legalization project will be the most successful.

The more time devoted to preparing for a future legalization project, the better situated an agency will be to respond in a competent and efficient manner when the law changes.

VISIT CLINIC'S LEGALIZATION PROJECT WEBPAGE

<http://www.cliniclegal.org/Legalization.html>

SIGN-UP FOR CLINIC'S LEGALIZATION UPDATES

<http://www.cliniclegal.org/Legalization/join.html>

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