

CHAPTER TWO

Space, Equipment, and Tools



The heart of an immigration program is its staff, and you will invest most of your resources in employing and training them. But an immigration program also needs physical space, computers, and books. This chapter describes the space and tools you will need to obtain for your program. We will cover office space; office furniture and equipment; computer hardware and software; law library materials; and malpractice insurance. Throughout the chapter we will explain why each of these elements is necessary for your program.

OFFICE SPACE

Staff Workspace

Your legal staff will need to be able to interview clients and discuss client matters without being overheard. You will also need to ensure that only legal staff have access to legal files, both physical and virtual. Legal representatives have a duty to maintain their clients' confidentiality. This is non-negotiable. The requirement to maintain confidentiality imposes constraints on a legal program: it must ensure that conversations with and about clients are not overheard; and that only legal staff have access to client files, both physical and on the computer.

The need to maintain client confidentiality imposes requirements on the office space a legal program uses. The program must ensure that client interviews are not overheard by non-legal staff, by other clients, and by anyone else at the agency. For most agencies, this means that client interviews must take place in rooms with walls and doors.

Confidential space can help ensuring that clients are as forthcoming as possible—essential to effective representation. If a client is concerned about being overheard, he or she may not be entirely forthcoming with her or his representative. If a client feels sure that only her or his representative can hear what the client says, the client is more likely to be completely forthcoming.

In a stand-alone immigration agency, this is generally not hard to accomplish. If all of the agency's staff work in the immigration program—whether as attorneys, accredited representatives, paralegals, or support staff—they all may have access to legal files and conversations about clients. You should, however, set up your space so as best to ensure that clients do not overhear confidential conversations with and about other clients. A waiting room that is separate from interview and office space should help with this.

Confidential space can be more of a challenge for small immigration programs housed within larger nonprofit agencies. When your immigration program has only one or two staff members, and they don't have their own offices, how can you maintain client confidentiality? There are also challenges for agencies with larger immigration staff that offer services other than immigration services. Refugee resettlement agencies, for instance, often assist their refugee clients with immigration matters as well as offering them resettlement services.

Agencies like these will have to come up with ways to ensure that conversations with and about clients are private. You may have a conference room that your immigration staff can use for client interviews, or you may have staff offices that are empty at times and can be used by immigration staff. In an agency with both immigration and non-immigration staff, it is important to make sure that the staff understand the requirement of confidentiality and adhere to it. It is also important to ensure that your non-immigration

staff understand that immigration staff will have to use common space for private client meetings from time to time.

Many agencies with attorneys, accredited representatives, and/or non-accredited immigration workers on staff allocate offices to attorneys and cubicles to accredited representatives and non-accredited staff. If your program does this, you must make sure that your cubicle space is physically separate from the rest of the agency; or that all client interviews and phone conversations that identify clients take place in closed rooms.

Maintaining Confidentiality When You Have Limited Office Space

One resettlement agency with a staff of eight full and part-time employees found what seemed to be a perfect way to keep afloat financially: free use of office space in a local church. The program was given a large room that they divided up with desks and bookcases. The entire staff worked in this room. The program offered immigration services along with its resettlement work. Refugees who needed immigration help would see the accredited representative, who was also a caseworker, at her desk in an alcove in the corner. There were tall bookcases all around her desk.

What was the problem with this set-up? The accredited representative had no confidential space in which to interview clients. The agency's other clients could overhear conversations she had with immigration clients. Other clients might overhear phone conversations about her immigration clients. Her immigration clients might be less than forthcoming about sensitive information, like their criminal histories—with devastating immigration consequences—if they did not feel their conversations with their representative were truly private.

How to solve this problem? The agency was getting free rent and could ill afford to pay for a larger space with private rooms. However, there was a small, unused office space next door to the agency's space. Even though the agency could not use this space as a permanent staff office, they were able to negotiate with the church to use it as a confidential client interview room. The accredited representative was able to get a used laptop donated, and would take the laptop into the interview room with her when she met with immigration clients. She used a cell phone in this small room to conduct confidential phone conversations about her immigration clients.

Waiting Room

Depending on the way you conduct intake, you may need a sizeable waiting room, because walk-in intake days can lead to large numbers of people waiting to be seen. The waiting room should be clean, neat, and welcoming. Signs should be in languages appropriate to your client population as well as in English. You might also want to have toys for children in the waiting room.

Staff must maintain client confidentiality in the waiting room. Conversations with clients about their cases should not take place here.

OFFICE EQUIPMENT

Locked Filing Cabinets

An immigration program housed within a larger agency will need to have filing cabinets that lock in which to keep immigration files. It's imperative that immigration files be maintained separately from the rest of the agency's files, and that only immigration staff have access to the immigration files. If possible, keep immigration files in a separate filing room from the rest of the agency's files. This segregation of immigration files is necessary to maintain required client confidentiality.

Locked Safe for Filing Fees

You should also have a locked safe or box in which to hold client filing fees. It is dangerous to keep clients' U.S. Citizenship and Immigration Service (USCIS) filing fee money orders tucked into individual files, or to keep them in desk drawers or individual offices. The best way to protect your clients and your agency from having money disappear is to invest in a locked safe. All filing fees will be kept locked in the safe until the legal worker is ready to mail out the application. Strictly limit the number of people with access to the key or safe combination.

If you do not have a safe (and even if you do), strongly consider not accepting client filing fees until the application is ready for mailing. The shorter the time period in which the agency is responsible for client money, the better for the agency.

Shredder

Your immigration program will generate copious paperwork, much of it with confidential client information on it. It is a very good practice to get a shredder for your office, or to pay for a shredding service.

COMPUTER EQUIPMENT AND SOFTWARE

Each member of your immigration staff will need access to a computer. High-speed internet access is rapidly becoming a must. USCIS has plans to expand its e-filing program, and immigration programs will need the technological capability to e-file. You may decide to use other mobile computer technology to allow your staff to work from remote locations, such as doing intakes off site. Those can be tremendously useful, and can expand your program's ability to offer efficient legal services, but note that there are issues relating to basic professional and ethical concerns that you must carefully review.

With mobile technology, the following devices present different security concerns:

- **Mobile Telephones:** Cell phone conversation frequently occurs in very public places and poses serious confidentiality concerns.
- **Laptop Computers:** Laptop computers are more attractive targets for theft than \ desk top units. Documents left open on the computer desktop may be visible to others. Set screen savers to activate automatically after a period of idleness and require a password to resume.
- **Personal Digital Assistants (PDAs):** Documents and e-mails with client information are available on PDAs. When discarding these devices, practitioners should ensure effective purge of the stored information.
- **Removable disks/drives:** USB flash drives are very convenient, but easily lost. New USB flash drives now feature security functions such as encryption and password protection.
- **Public (unsecured) internet access.**

You will also need policies in place to ensure that staff who end their employment with the agency turn over all computer equipment, including flash drives.

CASE MANAGEMENT TECHNOLOGY

No immigration legal program should operate without case management technology. Used well, it allows programs to operate far more efficiently and accurately; makes missed deadlines and inaccuracies much less likely; allows program managers to easily track client data; and makes it much easier to track finances. A good case management program is one of the most important investments you can make in your program.

Computer case management systems are much more than “forms-generating” programs. Case management technology should be integrated into almost all aspects of case management; see Chapter Four for a complete discussion of case management. A computer case management system enhances case management: it can remind staff of important deadlines; provide a central location for case notes; and save client data, leading to greater staff efficiency and reducing the likelihood of errors. For program managers, it can track data, produce a wide range of reports; and facilitate billing. Strong case management technology helps agencies provide top-notch professional service to their clients.

There are many immigration case management systems on the market; you will need to choose the best one for your immigration legal program. The most important consideration in choosing a system is to find one that your agency will actually use. A system is only as good as the use that is made of it. If the system is used solely for form-filling, it is not doing the agency much good.

Why the Least Expensive Option is Not Always the Best Choice

The following story is based on the experiences of several nonprofit immigration agencies:

“ACE Immigration Services” bought a low-cost immigration software package (\$199 special nonprofit rate!) about seven years ago. The agency has been happy with its ability to print out beautifully formatted immigration forms. And every ACE staffer makes a point of entering the client into the system. But that is about as far as it goes for using the software. Staff complain that it is too difficult to learn how to utilize the case management functions and that they do not always work.

An ACE counselor received a notice from USCIS that his client had been denied an extension of her employment visa. The counselor was busy that day and decided to wait until the following week to contact the client. He did not put a reminder in the immigration software. After a week, the notice was at the bottom of a pile of papers on the counselor’s desk and he had forgotten all about it. His client remained in the U.S. for another year and several months, until her mother fell gravely ill and she wanted to go home to visit her. She came to the ACE office to inquire about the status of her case. The counselor was mortified to have to tell her that, because of his error, she had overstayed her status for more than a year. She had accumulated more than a year of unlawful status. Therefore, if she left the U.S. to visit her dying mother, she would activate a ten-year bar to permanent immigration. She had no one to qualify as a relative to get a waiver of the 10-year bar.

ACE decided to get more expensive software that comes with solid training and technical support. And the staff made a commitment to learn and use the software faithfully, realizing they had been penny-wise and pound-foolish in their choice of immigration case management software.

Software vs. Internet-based

There are two basic types of case management systems: software that lives on your own computer system, and web-based systems that save your data remotely. With software, you save all the data on your own computer server. Web-based programs save all the data on their own servers. There are pros and cons to each model. An internet-based system, for example, allows easier remote access to data, but you will need to ensure that the system’s security is adequate. **Please see attached list, “Immigration Case Management Software,” on page 23, along with selection criteria we explore below.**

Considerations in Choosing Software

Features of the System

What are the system’s functions? Does it:

- Have the ability to easily record case notes?
- Track billing?

- Track client dates and deadlines? Does this “tickler” system have alerts and reminders?
- Have a calendar function? How dynamic is the calendar?
- Generate reports? What type? How easy is it to produce customized reports?
- Identify the petitioner, beneficiary, and derivatives on the same case? Your system should help your staff easily match the petitioner with the beneficiary and derivatives throughout the case.
- Perform conflicts checks (see “Conflicts of Interest” section under “Case Selection” in Chapter Five)

Ease of Use

- How easy will this program be for your own staff to use? Knowing your staff’s technological capabilities, is this program a good fit for your employees?

Training

- Does the company provide training along with the system?
- How extensive is the training?
- Will they provide it for you on-site, or will they provide it from a remote location via the phone and/or internet?
- Approximately how much training time will they provide?
- Will they train each staff member individually, or everyone in a group?
- Does the training cost extra?

Technical Support

- Does the company provide ongoing technical support? Ongoing support is crucial. Without technical support, a program is not worth having.
- How much does the technical support cost? Is it built into the cost of the program?
- How can you access technical support? Telephone? Email? Both?
- What’s the procedure for getting assistance—can you speak to a live person, or do you leave a message and wait to hear back?
- Approximately how long does it take your company to respond to technical assistance questions?
- Will your agency need internal IT staff support, or will you need outside IT consultants to install and run this system?

E-filing and Remote Access

- Does the system permit e-filing with USCIS?
- Can users access the system from remote locations (i.e. from outside the office)?

Cost

- How does the company bill for this system?
- What are the costs, if any, of licenses for users?
- What is included in the cost?

Once you have researched various options and narrowed down your choices, it is a good idea to speak to immigration legal providers who use these systems. Find out what their real-life experiences have been: what they like and dislike about their systems. If you are part of a network, your network will be a good place to find providers to talk to. If you are not part of a network, try contacting other agencies in your area. You can also ask the company itself for customer references; make sure to let them know you want to speak to nonprofit agencies.

In choosing an internet-based case management system, practitioners will be well-advised to consider many factors relevant to what each program has to offer. However, information security remains the same

issue of concern for all products. Here are some of the points that you should consider and explore before making any decision to acquire a web-based case management system:

- *Physical and technological security:*
 - Does the program use encryption?
 - What are the backup and retrieval procedures?
 - Where is the server located? Is there a backup server at a different location? Is there adequate security protocol limiting access to the servers?
 - What security procedures are being used to ensure the integrity and privacy of stored information?
- *Access security:*
 - Who controls user access?
 - Who are the users? Have they been sufficiently trained and sensitized to security precaution?
 - Does the organization have adequate personnel policies and practices to ensure integrity of the system and stored information?

With regard to physical and technological security, practitioners should ensure that the contract with the chosen case management system provider contains sufficient safeguard and warranty.

LAW LIBRARY

Every immigration legal program must have a library of immigration research materials. There are many materials available online, but note that you will need at least some materials in printed book form. Keep in mind that because immigration law changes constantly, you will need to obtain new books every year. There is no way around this; reliance on an outdated copy of the Immigration and Nationality Act could have disastrous consequences for a client—and for your agency, which might be liable for malpractice.

Encourage your staff to make frequent use of the library materials. The best representatives understand and are comfortable using legal reference materials. If you find that your books are still stiff and unread by the end of the year, consider getting training for your staff on doing basic legal research.

Minimum Library Requirements

In order to be able to offer competent legal advice to clients, you will need to have various reference materials. Every agency that offers immigration legal services **MUST** have access to, at a minimum:

- An up-to-date copy of the Immigration and Nationality Act (INA)
- An up-to-date copy of Volume 8 of the Code of Federal Regulations (8 CFR)

Where to Buy the INA and 8 CFR

Various publishers put out editions of the INA and 8 CFR. The text of these editions is the same. Each lays out the law and regulations slightly differently. You may prefer one edition to another; in the end, however, the least expensive edition will be sufficient.

The federal government's Government Printing Office publishes the INA and 8 CFR annually. You may find a GPO physically located near you, or you can order it through their website:

<http://bookstore.gpo.gov/>

Other resources include:

- The American Immigration Lawyers Association: <http://www.ailapubs.org/booklist.html>
- ILW.com: <http://www.ilw.com/store/>
- Lexis Nexis: http://bookstore.lexis.com/bookstore/catalog?action=prodlist&cat_id=T&pcat_id=31

Note that these books, which contain the immigration laws and regulations, are updated yearly. You will need to budget for new copies every year.

General Treatises on Immigration Law

The program will also need a general secondary source on immigration law; the most widely used is *Kurzban's Immigration Law Sourcebook*. This is an excellent overview of immigration law. It is updated every two years. It is available at <http://www.ailapubs.org/>.

There are other treatises on immigration law available. *Immigration Law and Procedure* by Charles Gordon, Stanley Mailman, and Steven Yale-Loehr is an excellent source (though expensive). It is available through LexisNexis at: <http://bookstore.lexis.com/bookstore/product/10420.html>

Subject-Specific Books

As your program grows, you will want to add secondary source materials on specific areas of immigration law, such as naturalization and citizenship, family-based immigration, and crimes and immigration. The subjects you choose should be tailored to the nature of your program's practice.

Further Library Materials

Your immigration library will also contain manuals from trainings your staff have attended. These can be valuable learning and research tools.

There are numerous other treatises on immigration law available. As you determine which areas of law your program will concentrate on, you will want to add books on those topics to your library.

Periodicals

There are several periodicals that cover developments in and analysis of immigration law, including:

- *Interpreter Releases*, published weekly:
http://west.thomson.com/store/product.aspx?r=5085&product_id=15867076
- *Bender's Immigration Bulletin*, published twice a month:
<http://bookstore.lexis.com/bookstore/product/10762.html>

Both of the following email updates are in-depth and detailed, and both can be a very useful addition to your immigration library:

- Immigration Daily: emailed daily: <http://www.ilw.com/immigdaily/>
- Bender's Daily Immigration Bulletin: www.bibdaily.com

Other Ways to Access Immigration Library Materials

It is a best practice to have up-to-date copies of the Immigration and Nationality Act and 8 CFR in your office, along with as many secondary sources as you can reasonably afford. Some programs supplement their own libraries by getting access to local law libraries. If there is a law school in your area, consider exploring whether your staff might be able to get free or low cost access to the school's library. Note that this is not a substitute for having basic research materials on hand in your office—it is not realistic to think that staff will have the time to visit a law school every time they have an immigration legal question—but a law library can be a very useful resource for occasional complex questions.

INSURANCE

Insurance

All programs, new and existing, large and small, rural and urban, need some form of insurance to protect against legal malpractice. One lawsuit can bankrupt a program, its staff, and its board. Attorneys should have legal malpractice insurance. Board of Immigration Appeals (BIA) accredited representatives do the same legal work as attorneys and should also have legal malpractice insurance. Boards of directors and non-legal staff working at programs doing immigration legal work need to have errors and omissions insurance.

Malpractice insurance protects the agency from liability when the agency makes errors that harm a client. If your agency's BIA accredited representative or attorney misses a filing deadline and as a result your client is ordered removed, your agency will very likely be found to have committed legal malpractice. If, however, your client is deported because the judge after hearing all the evidence and arguments did not agree that she deserved relief from removal in a case, that is not necessarily legal malpractice. Due to the deadline-rich environment of immigration legal practice, unfortunately there are plenty of opportunities to commit malpractice.

Legal malpractice insurance is available for attorneys at a rate of one to two thousand dollars per year. A few providers of legal malpractice insurance will also provide such insurance to BIA recognized programs with BIA accredited staff and no attorneys. Programs with accredited representatives but no attorneys should make sure that they are insured for legal malpractice.

Employees and members of the board of directors should be protected by Directors and Officers (D & O) insurance. This protects them from liability arising out of negligence and/or some reckless and even willful misconduct in their supervision of the agency and their volunteer work on behalf of the agency. Such policies are very common and fairly standard and are offered by all major insurance companies. Here are a few examples of lawsuits that may be brought against your agency:

- Asset mismanagement.
- Not providing services when there was no reasonable reason not to.
- Wrongful termination of an employee.
- Discrimination against an employee or client.
- Harassment of employees or clients. The most common claims are for sexual harassment.

Having D & O insurance will provide a legal team to safeguard the agency and the directors and officers. Otherwise, your agency might incur extremely costly legal fees dealing even with non-meritorious claims. All policies are different and you must shop carefully to get a good policy.

ATTACHMENT**IMMIGRATION CASE MANAGEMENT SOFTWARE**

CLINIC makes no recommendations about the programs listed below nor does the listing of any program below mean that CLINIC is promoting that particular program. The information is provided merely as a starting point for readers to research immigration case management solutions.

AILA Link (law library on CD-Rom)
www.AILApubs.org (800) 982-2839

LexisNexis Immigration Law Interactive Drafting System (IDS)
<http://bender.lexisnexis.com/bender/us/> (800) 223-1940 or (800) 833-9844

LexisNexis Practice Advantage
<http://www.lexisnexis.com/practiceadvantage> (877) 810-5324

LexisNexis Time Matters practice management software.
<http://www.timematters.com/> (800) 328-2898

LawLogix
www.lawlogix.com (877) 725-4355
 Brian Taylor (928) 282-5227 sales@lawlogix.com

Immigrant Software: *Immigrant Professional, Case Management Gold, or Immigrant Online* (three different programs). At time of writing of this list, *Case Management Gold* and *Immigrant Online* are undergoing redesign. This information is for *Immigrant Professional*.
<http://www.immigrantsoftware.com/> 530-587-9262 sales@immigrantsoftware.com

ImmForms Plus 5.0 (CD-ROM)
<http://west.thomson.com/default.aspx> (800) 848-3475 or (800) 344-5008
 You can also ask about the separate “Immigration Practitioner” package, which is a package of legal research programs.

Immigration Aide (now has a Windows-based program)
www.immigrationaide.com (410) 444-3704 or (877) 248-5119

Immigration Research Information Service (IRIS) LawDesk (CD-ROM) by Thomson-West
www.west.thomson.com (800) 328-4880

ILSForms by Immigration Law Systems, Inc.
www.ILSSYS.com (614) 252-3078 or Support@ilssys.com

INS Zoom.com U.S. Immigration Management System (usIMS)
www.inszoom.com or (925) 244-0600 or info@inszoom.com

ImmigrationWorks
www.immigrationworks.com (800) 350-4727
Sales@ImmigrationWorks.com (732) 743-2300

Thomson-Elite ProLaw (created for private law firms)
www.prolaw.com (800) 977-6529 or prolawinfo@thomson.com