

# TABLE OF CONTENTS

ACKNOWLEDGMENTS	2
INTRODUCTION	4
<b>1</b> BUILDING AGENCY SUPPORT FOR AN IMMIGRATION LEGAL PROGRAM - Sample Business Plan	<b>6</b> 14
<b>2</b> SPACE, EQUIPMENT, AND TOOLS	<b>22</b>
<b>3</b> STAFFING YOUR IMMIGRATION LEGAL PROGRAM	<b>33</b>
<b>4</b> AUTHORIZATION FOR NON-ATTORNEYS TO PRACTICE IMMIGRATION LAW: DOJ RECOGNITION AND ACCREDITATION	<b>58</b>
<b>5</b> CASE MANAGEMENT SYSTEMS: PROMOTING EFFECTIVE, EFFICIENT SERVICE DELIVERY	<b>66</b>
<b>6</b> MANAGING FINANCIAL AND PROGRAM PERFORMANCE	<b>100</b>
<b>7</b> BUILDING PROGRAM VISIBILITY AND CREDIBILITY -Part I: Steps to Increasing Visibility -Part II: Administrative Advocacy	<b>121</b> 121 132

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## Background

In 1995, the Catholic Legal Immigration Network, Inc. (CLINIC), Immigration and Refugee Services of America (IRSA), and Lutheran Immigration and Refugee Services (LIRS) launched the *Immigration Management Initiative* to enhance the financial viability and client services of local immigration programs. The goal of the initiative was to ensure the continued availability of high-quality, low-cost immigration services to newcomers by improving program management, and to establish and maintain industry standards for charitable immigration programs. The Initiative was led by Donald Kerwin of CLINIC, David King of IRSA, and John Whitfield of LIRS with the support of the Ford Foundation, whose funding made the original project possible. Members of the advisory committee to the Immigration Management Initiative included Sasa Montano and Dennis Mulligan of Lutheran Social Services Ministries in Trenton, New Jersey; Dr. Robert Moser of Catholic Charities Refugee and Immigrant Services in San Diego, California; Myra Oliver of the International Institute of Connecticut; Sister Margaret Perron of Associated Catholic Charities in Washington, D.C.; Roy Petty of Travelers & Immigrants Aid in Chicago, Illinois; Vanna Slaughter of Catholic Charities Immigration Counseling Services in Dallas, Texas; Barbara Day of Lutheran Social Services of South Dakota; Margi Dunlap of the International Institute of San Francisco; John Goldstein of American Beginnings; Gerry Howe of Catholic Charities of St. Petersburg, Florida; Bruno Sukys of the International Institute of Rhode Island; Jo Marcel Vu of Catholic Charities of Los Angeles; Jack Holmgren of CLINIC; and Melanie Nezer of IRSA.

Their efforts led to production of a manual entitled “Immigration Management: Building Blocks for a Successful Program,” released in January 1997. The manual was updated and expanded in 1999 by Juan Osuna and Wendy Young under the direction of the multi-agency advisory group.

This current manual, entitled “Managing an Immigration Program: Steps for Creating and Increasing Legal Capacity,” used as its starting point the updated 1999 “Immigration Management” manual. However, in approach and substance it is truly the result of collaborative work of program managers from major national, regional, and local immigrant rights organizations in more recent years. This new management manual is intended for use by all organizations that participate in future managements training.



# CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

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# INTRODUCTION

## Who Is This Manual For?

If you are reading this manual, your agency is already engaged in providing immigration legal services or is contemplating doing so. If you are already providing such services, you understand how acute the need for competent legal services is in your community and you may be thinking about expanding the scope of the services you offer.

If your agency is considering offering immigration legal services for the first time, you may be planning to start a program from scratch with the support of other community partners or thinking of adding the provision of legal services to the menu of social services you already offer. Perhaps you are a refugee resettlement agency that wants to offer immigration services to your refugee clients. Perhaps you offer ESL and citizenship classes and many of your students are asking for your help in completing the necessary legal work to become citizens. Perhaps you are part of a church or other community organization that works regularly with immigrants, and have realized that they need low-cost immigration legal help.

If you already offer immigration legal services, you may be looking to expand your program or to make your existing program more systematized and professional in response to significant immigration changes. You may be considering adding more staff, and trying to decide what kind of staff to hire. You may be looking for ideas about how to set up program management systems for a program that has been operating for a while without many.

This manual recognizes the importance of providing legal services to immigrants and strives to make it easier to start or expand such a program. The goal of this manual is to explain the key elements involved in making a decision regarding the creation or expansion of an immigration legal services program and to lay out the principles, practices, resources, and model documents necessary to operate a well-managed, financially sustainable, high quality program.

Because nonprofit immigration legal programs come in a wide range of shapes, sizes, and locations—from agencies with multiple attorneys on staff to agencies with one or two accredited representatives, from agencies in remote rural areas to agencies in large urban areas, from agencies that handle a few immigration services to agencies that take on a wide range of immigration matters, from agencies that are part of large national networks to stand-alone agencies—we have tried in this manual to provide guidance to different types of programs. Many practices will be common to all providers, but certain programs face their own unique challenges, and we have tried to address as many of those as possible.

## What's in the Manual?

Chapter One, “Internal Support,” discusses how to secure internal and external support for your program, whether you're starting a new program or expanding an existing one; how to know if you are ready to begin a legal program; doing a needs assessment; and creating and using a business plan for your program.

Chapter Two, “Space, Equipment, and Tools,” describes the physical things you need to run a legal program. The chapter covers office space; computer hardware and software (with attention to confidentiality requirements and security concerns); library materials; and legal malpractice insurance.

Chapter Three, “Staffing,” delves into the different staffing choices available in a nonprofit immigration program. It covers the kinds of work that attorneys, accredited representatives, law graduates and law students may legally do; the kinds of work that non-accredited staff may legally do; hiring and retraining considerations; supervision of legal staff; managing a program in multiple physical locations; and effective use of volunteers, including interpreters.

Chapter Four, “Authorization,” explains what constitutes “unauthorized practice of law” and provides instruction on how to avoid it by gaining Department of Justice recognition for your agency and accreditation for your non-attorney staff.

Chapter Five, “Case Management,” explains why case management systems are essential to providing competent, ethical legal services, and provides detailed models for numerous aspects of case management, including intake; case opening; client service agreements; scope of representation; case file organization and management; date tracking; and case closing.

Chapter Six, “Managing Financial Performance,” walks you through how to create and use a budget for an immigration program; how to set fees for services; and different sources of funding for immigration legal programs.

Chapter Seven, “External Relations,” covers media relations, administrative advocacy, lobbying, and community outreach.

## Attachments

Following each chapter are numerous attachments. We have chosen them as useful models for a wide range of documents you may need—from intake forms to case management policies to business plans to media policies. Feel free to adapt and use them in your program.

## A Note on the Text Box Stories

Throughout the manual you will find text boxes. Many contain stories from immigration legal programs around the country. They are intended to serve both as useful models and as cautionary tales.

All of the stories related in the boxes are real stories—we have not fabricated any of them. You will notice, however, that while some stories are attributed to specific programs, others are not. We are delighted to recognize the great work of agencies whose stories and models are attributed. Names and identifying details are changed in the unattributed stories to protect the agencies and individuals in question.

# CHAPTER ONE

## Building Agency Support for an Immigration Legal Program

**Learning Objective:** *To learn how to create a comprehensive business plan for the immigration legal service program and how to garner leadership support for the program.*

The decision to initiate or expand an immigration legal program is a serious one. There are different players at every agency and in every community who will need to work together to create or expand an immigration program. Every program, no matter its size or how long it has been in business, needs institutional support in order to survive and thrive. If your agency provides nothing but immigration legal services, you will need a board of directors that understands and supports your work. If you are part of a larger agency, you will need the support of the parent agency as well as its board. This chapter focuses on ways to build and maintain that support.

You will also need the support of individuals and organizations outside your agency: funders, community members, government officials, and the media. Later chapters on funding and external relations will focus more closely on building those relationships, although this chapter will suggest ways to use internal support to build external support for your immigration program.

### Making the Decision to Provide Immigration Legal Services

The decision to provide immigration legal services can have profound implications for your organization. It is not a decision that should be made lightly, even if you are already providing social services to immigrants or refugees, or even if the need for such services in your community is compelling. You will need to consider a number of factors, such as:

- Whether the contemplated program and activities would fit within your organization's existing mission;
- If you are adding a program to an existing organization, whether you have the support internally from your colleagues, board, and parent organization and externally from the key constituencies in your community for undertaking this work;
- If you are creating a new program, whether you have garnered sufficient support externally from your community partners and/or from a faith-based or secular network of nonprofit providers to raise the funds and obtain the technical guidance and training necessary to launch your program; and
- Whether you have a well-thought-out plan for launching or expanding an immigration legal services program.

### How to Determine Whether or Not You Are Ready to Provide Immigration Services

#### **Mission Fit**

If you are an existing social service agency contemplating the addition of immigration legal services to your program offerings, the provision of such services must be consistent with your agency's mission statement. The broader your organization's mission, the more likely it will be that legal services will fit into it. If your agency's mission is too narrow

to encompass immigration legal services, your organization will probably need to make appropriate changes to the organization's legal documentation (articles of incorporation or charter for a nonprofit, bylaws, mission statement).

If you are considering starting a new organization, you will need to draft a mission statement that will incorporate the provision of immigration legal services. Your mission statement might include some key principles that animate most legal services programs: respect for and zealous representation of the client; a culture of professional caring; a willingness to serve as many clients as is reasonably possible without compromising the program's financial and organizational viability over time; and an unwavering commitment to providing high quality services.

## Agency Resources

Before starting an immigration program, you will need to make sure that your agency has adequate physical space, the tools and equipment needed to offer immigration legal services, library materials, and staff with knowledge of immigration law. You will also need to ensure that you have adequate funding for your program. Chapters Two, Three, Four, Five, and Seven explore these areas in detail.

## Making the Case for an Immigration Program

Once you are convinced that you need to add an immigration legal services program to your agency, or that you need to create a new agency, you will need to convince others. This section will explore some of the tools you may use to do that, as well as detailing the different players you may need to approach and how best to make your case to them.

### Needs Assessment

An assessment that identifies the need for new or expanded legal services<sup>1</sup> can be a useful tool to gain support from your upper management and/or board of directors. For an immigration program, a needs assessment will likely include demographic information indicating the local population(s) that need services; and information on existing services and whether they meet the immigration legal services needs of the population(s) to be served so unnecessary duplication of services can be avoided.

### Demographics

Several resources are readily available to help assess the number of non-citizens, including the undocumented, living in a particular area. The U.S. Bureau of Census American Fact Finder, at [www.factfinder2.census.gov](http://www.factfinder2.census.gov), includes detailed census data tracked by city, state, and other criteria. The Center for Applied Research in the Apostolate (CARA) at Georgetown University has issued a study that breaks down U.S. Census data and interprets it in terms of individual Catholic dioceses within each state. Other census reports addressing where immigrants reside and the number of undocumented immigrants are available from the Pew Hispanic Center ([www.pewhispanic.org](http://www.pewhispanic.org)) and the Migration Policy Institute ([www.migrationpolicy.org](http://www.migrationpolicy.org)). Grantmakers Concerned about Immigrants and Refugees (GCIR) also has useful demographic information ([www.gcir.org](http://www.gcir.org)). Should your agency have a focus on immigrant survivors of crime and domestic violence, state and local police and district attorneys will have useful crime statistics. The Department of Homeland Security (DHS) maintains a Statistical Yearbook that will also help you fit your community into the broader patterns of immigration into the United States (<http://www.dhs.gov/files/statistics/immigration.shtm>).

### *Why We Made the Decision to Provide Immigration Legal Services*

“We resettle close to 300 refugees per year in the Archdiocese of Hartford and it was a natural fit to begin doing immigration work and to be prepared for the passing of Comprehensive Immigration Reform legislation. There are so many families in the Archdiocese where the Church is a haven for our immigrants. This has given us an opportunity to relate more to our parishes and to integrate all of what Catholic Charities does especially in meeting the needs of our parishioners and the people within our communities.”

- Rose Alma Senatore, Executive Director, Catholic Charities Archdiocese of Hartford, CT

<sup>1</sup> The Needs Assessment may be done by an outside consultant (more often the case for start-ups) or by program staff (generally the case for established programs looking to expand or meet new challenges).

## Documenting the Need for Immigration Legal Services in Your Community

Along with demographics, you will probably want to show that there is not currently enough capacity to serve the immigration needs of low-income immigrants in your area. While there is no current guide listing all community-based organizations nationwide offering immigration legal services, the Office of Legal Access Programs' roster of recognized agencies and accredited representatives is a good source for documenting where recognized agency programs are located—and by inference where they are not—and the number of accredited representatives on staff. This listing, organized by state and city, may be found at <https://www.justice.gov/eoir/recognition-accreditation-roster-reports>.

Use this resource to identify nearby agencies already providing immigration legal services. You may want to talk to these groups while preparing your needs assessment as they may be able to attest to the fact that they cannot handle the entire local need for services. Find out if they have a waiting list and what their limitations are for providing services. You may also use the roster to point out a lack of immigration legal services in your area. Other sources, such as United Way and the American Bar Association, may have demographic information reflecting a lack of services. Your local immigration court, U.S. Citizenship and Immigration Services (USCIS) district office, and American Immigration Lawyers Association (AILA) chapter may also be able to identify the shortage of immigration legal services in your area.

You might also decide to convene a focus group that includes local civil society leaders, such as mayors, members of the board of supervisors, the head of the school district, sheriffs, and police chiefs; public and private health service providers; leaders of faith-based programs and institutions; and program officers at local foundations that support immigrant integration. Such a group could also provide evidence of the need for immigration legal services in your community. Furthermore, convening community meetings made up of these individuals is also a way to develop local support for any new or expanded program and links to possible funding opportunities.

### Business Plan

Every program should develop a business plan. Creating one can help you address specifically how you will start up or expand your program. You can also use a business plan as a tool to help motivate and persuade upper management and/or the board of directors of your parent agency to branch out into immigration legal services. A detailed business plan can demonstrate the viability of an immigration legal program. It will make your proposed program look professional, and it can give your upper management and/or board confidence in your ability to manage such a program. You can also use a business plan to demonstrate to funders that your nascent program is professionally run and likely to succeed—and thus worth funding.

Areas to address in a business plan include:

- *Scope of services*

Lay out the kinds of services your program is planning to provide. Will your services be limited to a fairly narrow range, or will you accept a wide range of cases? Will you provide in-court representation or representation before USCIS only?

- *Staffing needs and structure*

What kind of staff do you need for your immigration program? Do you plan to hire new staff or re-train current staff?

- *Space, tools and equipment*

What space, tools, and equipment will you need, and how much will you need to spend on them? If you anticipate having items donated, which items will these be, and who will be donating them?

#### *Assessing Local Need for Immigration Services*

“As we were considering adding immigration legal services to our agency’s work, we conducted a comprehensive survey in our diocese. We met with all Catholic Charities case management staff to find out what kinds of client needs they were seeing. We learned that there were two levels of need: significant number of folks had social service, medical, housing, and food needs. A significant number needed immigration information. They were very vulnerable to exploitation based on wrong immigration information. We also met with all 87 parishes in the Diocese and heard of the needs that are presented there. Again there were two levels of need: basic needs and assistance in navigating the immigration system. “

– Bill Hoey, Catholic Charities of Bridgeport, CT



- *Case load*

What kind of case load do you envision for your program? How many cases will you aim to handle, and what kinds of cases do you plan to take on? What will you do if you hit your maximum caseload? What will you do for cases you are unable to take on?

- *Technical legal support*

How will you ensure that your staff has access to legal technical assistance for complex cases or case questions?

- *Budget and funding*

Given your immigration program's budgetary needs, where will funding for the program come from? What is your plan for program sustainability?

- *Timeline of key events and benchmarks*

Especially if your program is new, what goals do you plan to meet in the program's first year?

Instead of creating a separate needs assessment, you may decide to include needs-assessment information within your business plan.

## Whom to Approach About Starting or Expanding Your Program

### **Within Pre-Existing Agencies**

Many immigration programs are created within already-functioning social service or legal service agencies. To create, and in some cases to expand an immigration legal program, you will need the buy-in and support of those who run the agency. Nonprofit agencies are governed by boards of directors who serve as fiduciaries and stewards. Depending on the agency's size and your position, you may need to convince upper management as well.

If you are not the agency's executive director (ED), cultivating your ED is crucial to success. Demonstrate to your ED both how an immigration legal program would complement the other work being done at the agency; and how compelling the need is for such services in your community. If a legal services program already exists and you are trying to make the case for its expansion, make an effort to involve your ED in community outreach activities, client consultations, or a staff meeting to give her or him greater familiarity with the program.

You will also probably need the support of the agency's board, especially to launch a new immigration program. If you are the agency's ED, you will approach the board directly. If you are not the ED, you will need to make your case first to the ED. If the ED supports you, either the ED alone, or you and the ED together, will approach the board to propose adding immigration legal services to the agency's work.

There are various tools you may use to garner this support. It is almost always a good idea to prepare a business plan for your program. You may also choose to do a needs assessment. If your board and/or ED are not already convinced of the need for immigration legal services in your community, a needs assessment can add weight to your recommendations.

Beyond the logistics of the needs and how you will address them, you may need to address less than welcoming attitudes about immigrants and immigration legal services. Remember that not all social service organizations view the provision of immigration legal services as an extension of the work they already do. Some are wary of the requirements, liability exposure and political risk associated with legal work. Others are unclear about how legal work differs from other social service work. Others are willing to work with immigrants they see as "good"—refugees and asylees—but not with others they see as "bad"—undocumented people.

You may need to address such attitudes directly to convince the ED and the board to support legal work for immigrants. Faith-based agencies have a wealth of scriptural and doctrinal resources to rely on in supporting newcomers regardless of their legal status. Other groups ground the equal treatment of immigrants and refugees in human rights law and practice. Common to faith-based and sectarian nonprofits is the recognition that immigration legal services benefits immigrants and communities by: defending rights; advancing people's immigration status; unifying and strengthening foreign-born and

native-born-families; increasing the number of young workers in the country; increasing the number of U.S. citizens eligible to vote and participate in the country's democracy among many other important outcomes. Proponents of an immigration legal services program may have to work hard to explain to the board and/or upper management what is involved in immigration legal services, and why that work is relevant to the agency's broader social service agenda. You may already have supporters for an immigration legal services program on the board, particularly an immigration attorney. It is important you reach out to those board members so they can help advocate for the immigration program to other board members.

A business plan and needs assessment are powerful tools to help convince your board of the need for immigration legal services, and of your agency's ability to deliver such services. The board may want to know why the agency's current work for immigrants is no longer sufficient. The board may want to know who else in the community is doing immigration work, and if there are other organizations, why they are not able to meet the need for services. Some of the factors that board members may be especially interested in hearing about might include:

- What increased liability will an immigration program bring, and how will the agency handle that?
- What kind of insurance will the agency need for an immigration program?
- What will the program cost, and where will the money come from?
- What are the hiring requirements for an immigration program?
- How will legal work intersect with the agency's other program areas?
- What are the public relations consequences?

### **At a Start-Up Agency**

If you are committed to starting a new nonprofit organization to deliver immigration legal services, you will face a somewhat different set of challenges. You will not need to make your case to management and a board; rather you will need to recruit a board that shares your vision and is willing to work toward it. At a new agency it is especially crucial to create a strong business plan. You may also find that a needs assessment helps in convincing potential board members to join your organization.

In addition to legal requirements, a start-up organization will need to assemble a board of directors. A diverse board comprising representatives from key community constituencies, individuals with professional backgrounds relevant to the organization's operations (such as law, accounting or nonprofit management), and potential donors or citizens of stature in the community will be an asset to the organization.

## **Board Involvement and Development**

To the extent that you can participate in the life of the agency beyond your program, it is important to do so. You can inform and educate the agency as a whole, including board members about immigration issues. It is important that board members are educated about their responsibilities. Ask your executive director if it is possible to give a presentation to the board members on the kind of work your program does and the clients it serves. Invite board members to events held by your program and allow them to meet and hear from clients. This will help you identify someone who can be an advocate for your program at board meetings. Once they see the work that you do and hear what the needs of the community are they can speak more effectively about your program on your behalf to other board members who might not be as supportive. This will also give them a personal connection to your program that they can share with friends and colleagues to garner additional support for your program. Getting a board member excited about what you do will enable him or her to fight for your program in the future.

## Whom to Include on Your Board

If you are starting a new nonprofit, you will need a board of directors. If you work in an existing agency, your ED may want to work to add new members to the board who will be able to contribute to the work of the immigration program. You will want a mix of different talents and abilities on your board. Remember that a board should not be composed solely of your friends, but of a wide range of people who will make tangible contributions to the program. Some qualities to look for when recruiting board members include:

- Personal reputation as “pillars of the community”—people who will stand by the program are crucial where community support is especially important to your success;
- Financial means and/or connections to people with means, along with the willingness and ability to use those connections;
- Skills that will be of help;
- Willingness and ability to publicize your agency’s work and need for support;
- Absolute commitment to the mission—you need board members who believe strongly in your agency’s work and will be motivated to work hard to help the agency succeed;
- Affiliation with colleague organizations that do complementary work—consider including staff from organizations whose work complements your own, as this may lead to fruitful collaborations; and
- Membership within the dominant user group whose voice you want represented—i.e., an immigrant community leader/member.

It is generally a good idea to have on your board a mix of people with resources or access to resources, and people who know and understand your work. All board members should be strongly committed to the agency’s work.

There are many online resources available to nonprofits on board creation and development. These include:

- [www.boardsource.org](http://www.boardsource.org)
- [guidestar.org](http://guidestar.org) (see [www.guidestar.org/news/features/question\\_may06.jsp#1](http://www.guidestar.org/news/features/question_may06.jsp#1) for an excellent article on finding effective board members)
- [www.idealists.org](http://www.idealists.org)

### ***Board Members with Vision***

“An immigration board member should ‘catch the vision’—someone who knows and cares about immigration issues. I’d include some outside people such as from Legal Aid organizations and advocacy organizations, as well as from American Immigration Lawyers Association (AILA).”

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

## Advisory Boards

It may be useful for the immigration legal services program to set up a board of advisors, particularly if the board of the parent agency has little expertise in running such a program. Drawing a diverse group of advisors from your community (attorneys from law firms, academics, American Immigration Lawyers Association members, former clients, representatives of immigration advocacy groups) can provide added support and guidance. The advisory board can provide substantive expertise, marketing advice, and resource development assistance. If you do create an advisory board, clearly establish its role and how it will relate to the agency.

### ***How Our Advisory Committee Helped Us***

“Our advisory committee consisted of a local Jesuit priest with a great deal of knowledge and experience with immigration, several private immigration attorneys, staff from the International Institute, some volunteers from the community, and our CLINIC Field Office Attorney. The committee was very helpful in convincing the board that this wasn’t just social work-do-gooders: it validated for the board and the diocese that this was the right thing to do. The advisory committee represented a world-view from outside the agency.”

– Bill Hoey, *Catholic Charities of Bridgeport, CT*

## **Securing and Maintaining Agency-Wide Support**

Running a successful immigration legal services program within a larger agency requires working with the parent agency to ensure that the program receives the institutional support it needs. A smooth working relationship between the parent agency and the immigration program is critical.

### **Overhead and Allocated Costs**

Establish what services the agency expects the immigration program to perform and what services the agency will perform in return. Agencies usually charge subsidiary legal immigration programs overhead and allocated costs—typically a percentage of the program’s budget—for services such as accounting, resource development, marketing, support, space, and case referrals.

### **Communication**

Develop a regular mechanism to discuss important issues with the parent agency. This will avoid surprises on either side. Periodically share success stories and statistics with the parent agency to update them on the importance of your work.

### **Priorities**

Ensure that the immigration program knows the agency’s priorities and vice versa. If immigration services are not one of the agency’s priorities, work to make it one. Some social service agencies view immigration services as ancillary rather than central to the agency’s mission. This puts immigration programs on precarious footing. Ensure that other agency components understand the many benefits of the immigration legal program to their own clients.

### **Buy-in from the Rest of the Agency**

If you are not the Executive Director, work with the ED so that he or she will ensure that other divisions in the agency understand as much as possible about the immigration program. This is especially important where there are other programs that can complement the immigration program’s work, and vice versa. For example, one executive director prioritizes bringing together heads of the refugee resettlement program and the immigration program to ensure they work in tandem.

## **Questions to Answer in Building Agency Support**

Program directors frequently fulfill many roles in a non-profit organization. They are often expected to serve on a senior management team to help the organization fulfill its mission and plan strategically. Program directors certainly have responsibilities for program design, supervision, evaluation and financial sustainability. In addition, some program directors provide direct services themselves. As such, persons fulfilling all of these roles may be at times in positions of confusion or conflict. It is helpful for program directors on a regular basis to pause and ask some deliberate questions.

- How can I educate the agency's executive director and board about the legal needs of immigrants and the value of our program's services?
- What client case studies will be most reflective and persuasive?
- What information does the agency's leadership need to be more committed to legal immigration services?
- How can the program's list of services be justified if ever questioned due to threat of budget cuts?
- How can the immigration program receive agency help in resource development?
- How can our legal services be better profiled in agency-wide publications and local media outlets?
- Does the agency have an emergency planning process in case of major changes in immigration laws?
- Is the staffing pattern per work load overwhelming and causing unnecessary strain. Can the program afford to add another staff person, possibly a supervisory staff attorney, for the first time?
- How should client fees be calculated given the program's budget?
- Is a program sub-office needed to serve more clients effectively? If yes, how can it be supported?
- Is there an unmet need in the community that our agency should also be addressing?

# **ATTACHMENT**

## **Sample Business Plan**

### **Interfaith Ministries for Greater Houston Refugee and Immigration Services**

#### **Background**

Interfaith Ministries has established itself as a leader in the provision of refugee services through responsible contract management, provision of top-quality services, and innovation. These same attributes allow it to develop a new, but related, area of service--immigration legal services.

With refugee arrivals decreasing, and other kinds of immigration increasing, there is a nationwide push for refugee service providers to diversify services and offer services to immigrants. This ensures long-term stability for the organization, allows the organization to serve a far greater number of clients, and responds to the great need in the community.

In 2000-2001, Interfaith Ministries first established an immigration program. At that time, the organization became "recognized" by the Board of Immigration Appeals (BIA) within the Department of Justice (DOJ). At that time, however, the immigration program did not survive, due to a lack of funding, an expensive plan, and the departure of the Director and lead staff member.

Now, Interfaith Ministries is in a position to resume the immigration program. Refugee Services funding is stable and has a surplus that can be utilized as seed money for the immigration program, while greater funding is pursued. Also, a three-step phase-in plan will help make the program scale-able, and avoid any deficit spending. Further, an improved work environment has resulted in less staff attrition, assuring greater staffing of the program.

#### **Market Analysis**

##### **Description, Scope and Trends**

The Immigration Program will provide services to persons who are filing applications with the U.S. Citizenship and Immigration Services (USCIS). This typically includes foreign-born immigrants or refugees wishing to become Permanent Residents or U.S. citizens. This also includes immigrants, refugees, or citizens who wish to file an application to bring family members to the United States.

The United States is encountering the largest wave of immigration in almost 100 years. In 2005, there were 35.2 million foreign-born people living in the United States--the highest number ever recorded, and two and a half times the 13.5 million recorded during the peak of the last great immigration wave in 1910. Between January 2000 and March 2005, 7.9 million new immigrants settled in the country, making it the highest five-year period of immigration in American history.

##### **Major Client Profile & Market Research**

In Harris County, there are 895,936 residents who were foreign-born, or, basically, immigrants. This represents 24.6% of the population. 285,358 of these individuals have become US citizens, while the other 610,578 have not (this would include refugees, permanent residents, students, and undocumented/illegal immigrants). (All above data, US Census)

There are three categories of clients that this program will seek to serve, following the three stages of the program development.

1. *Refugees*. In the last five years, more than 8,000 refugees have arrived to the Houston area. Many of them are immediately eligible to apply for their family members still outside the US. In addition, every refugee needs to apply for permanent residency after one year. Interfaith Ministries has an excellent reputation and existing outreach into this community.

2. *Family Petitioners*. There are hundreds of thousands of residents of Harris County who are eligible to file for their family members to come to the US. This includes those with permanent residency, those who have attained citizenship, and those who were born in the US as citizens.

3. *Future-Eligible Immigrants*. There are approximately 11 million undocumented/illegal immigrants in the United States (U.S. Department of Homeland Security). It can be surmised that there are approximately 300,000 in Harris County. Congress is expected to take up immigration reform in 2007, and there is considerable possibility that at least some of these immigrants will be allowed to become legal residents. If so, it would probably take a year to formulate the plan and regulations, and the plan would likely allow many years for immigrants to apply for their new status. This would create a staggering need for immigration legal services for many years to come.

DOJ-recognized community organizations are permitted to conduct immigration legal work only if they provide low-cost services, and serve low-income families. Therefore, this program would serve these families. The poverty rate for immigrants in general is 18.4 percent, and even higher among refugees and undocumented immigrants (Center for Immigration Studies).

### **Problems, Obstacles, Opportunities**

The greatest challenges will be funding, to secure grant or private funding to grow the program for years to come. At the same time, clients will pay small fees for services, which will provide the benefit of income, as well as the challenge of managing a fee-for-service program.

At the same time, there is a great opportunity at this time to develop the program slowly. The current staffing experience and network of support are there to support the program. If (and many would say "when") Congress passes legislation that causes millions of people to seek immigration services, Interfaith Ministries will be ready to serve those needs.

### **Community Providers of Legal Immigration Services**

Currently, there are many for-profit immigration attorneys in Houston, most of who are quite expensive. Many low-income immigrants seek services from unqualified and unscrupulous "*notarios*" who, in violation of the law, do immigration legal work for immigrants. Both USCIS and the Texas State Bar Association are doing major campaigns against such *notarios* and educating the public to seek the services of an attorney or a qualified community agency.

There are ten agencies in Houston that have ever been approved by the Board of Immigration Appeals to provide immigration legal services. Only five of these are currently active: Catholic Charities, YMCA International Services, The Alliance, Central American Refugee Center (CARECEN), and Immigration Counseling Services. Catholic Charities has the largest program, followed by YMCA, CARECEN, Immigration Counseling Services, and The Alliance.

Discussions with the program directors of Catholic Charities and YMCA indicate that they are overloaded. Without conducting any outreach or advertising, they still have a two month waiting for a first appointment. They both encouraged Interfaith Ministries to resume its immigration program, and expressed that there would be no lack of clients for any agency.

The agencies, through the refugee services work, have established a sense of collaboration and, as necessary, friendly competitiveness. From the perspective of the customer/client, Catholic Charities is viewed as having highly qualified staff and best for complex cases, but more expensive than the others. YMCA is viewed as accessible and affordable, and The Alliance is viewed as another expensive option. Interfaith Ministries has a reputation in the refugee community of providing quality, thorough, and compassionate services - a reputation which will draw clients.

# Market Strategy

A marketing plan needs to be devised to help the Immigration Program increase its visibility and desirability within the immigrant social service communities. The plan needs to help the program determine which steps are most effective and affordable to pursue. A marketing plan could be developed through the assistance of marketing firm on a pro bono or sliding scale basis or a non-profit consulting group assisting other non-profits. Marketing will need to be invested in and evaluated on an on-going basis.

For the first 6-12 months of the Immigration Program, the agency will market its services to refugees and Cubans who need to apply for their family members or apply for their permanent residency (“Green Card”). This will be done by word-of-mouth, quarterly outreach meetings, and a systematic mailing system. The roughly 300 clients who arrive each year will be informed of the immigration services, and advised to return to the agency to apply for their Green Card after 10 months in the US.

After one year, when the agency staff has gained more experience and training, and when more funding has been secured, the agency will commence providing services to immigrants who wish to apply for family members. For this, the agency will advertise to the general immigrant community. This will be done through Spanish-language media, contact with ethnic churches, and other traditional outreach methods.

Clients will also be referred by other agencies. Both Catholic Charities and YMCA have already said that they would refer their waiting-list clients to Interfaith Ministries.

If new legislation is passed, it has already been discussed that all the agencies in Houston will work together to inform and advise the public about where they may attain low-cost legal services.

## Services

Using a three-stage growth model, the agency will provided services appropriate to its experience level, expertise and funding. The following services will be provided<sup>2</sup>:

### **Stage One**

Refugee Immigrant Visa Petition (I-730) Fee: \$50/petition

This is filed by refugees who would like their spouse, child or parents to join them in the United States.

Potential Annual Eligible Clients: 30

Adjustment of Status for Refugees/Cubans Fee: \$100/person

After one year in the US, refugees and Cubans may and should file to become permanent residents, and get their Green Card.

Potential Annual Eligible Clients: 200

Employment Authorization (I-765) Fee: \$25/person

After one year in the US, Cubans must apply to renew their work authorization

Potential Annual Eligible Clients: 100

Naturalization Fee: \$175/person

After five years in the US, refugees and Cubans are eligible to apply for citizenship.

Potential Annual Eligible Clients: 100

### *Support Services*

Consultation/Office Visit \$25/half hour

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<sup>2</sup> Fees listed are reflective of when the actual business plan was first written and are not intended to be recommendations for any program's fee schedule.



Translations of Documents \$25  
Obtaining Info Pass Appointment \$5/each

All fees paid up front. No payment plan. Additional fees for non-typical work required and to respond to requests for evidence. Does not include USCIS fees, which client pays directly to USCIS.

### **Stage Two**

Family Visa Petition (I-130) Fee: \$300  
Citizens and permanent residents may apply for various family members to come to the US.  
Potential Annual Eligible Clients: 100

### **Stage Three**

[Potential] Adjustment of Status for Previously Undocumented Fee: TBD  
Persons who were previously in the country illegally can apply to become legal. Fees to be determined by the work required for each application, and caseload to be determined by how the law is written and who is eligible.  
Potential Annual Eligible Clients: TBD

## **Operations**

### **Personnel**

The following agency staff will be involved in the program.

Aaron Tate, Director, will oversee the development of the program, and is personally and professionally connected with many immigration professionals (both private and non-profit) in Houston.

Gordana Dvorscak, will serve as Immigration Counselor to provide client services. She has assisted the immigration program while working at YMCA. She is a strong leader, has great attention to detail, and is goal-oriented. She currently handles a program serving 150 clients/year, supervises three staff members, and oversees two smaller programs handled by these staff members. She is a strong advocate for immigrants, and is a member of the Mayor's Office for Immigrant and Refugee Affairs task force. She will be applying to become an "Accredited Representative"--a person authorized by USCIS and DOJ to represent clients before USCIS like an attorney. She will continue her current job responsibilities, and will only work on the immigration program as dictated by the caseload and the financial resources.

Victoria Cantu, Program Clerk, will likely provide client services as the program grows. Is currently involved with assisting clients with applications for family members (a non-immigration service). She is experienced in basic financial management, speaks Spanish, and is connected with the Hispanic immigrant community.

Additional Refugee Services staff will be utilized to spread the word about the program, and to provide translation and interpretation services. Currently, Refugee Services has 16 staff members, speaking 19 languages, including 6 Spanish speakers.

Volunteers may also be used to assist with services, under the review of an accredited representative.

### **Networking**

Interfaith Ministries has relationships with the following people and agencies:

Catholic Charities: Jenny Cross (Program Director)  
YMCA International Services: Lisa Guitguit (Program Director)  
Mayor's Office of Immigrant and Refugee Affairs: Benito Juarez (Director)

#### Immigration Attorneys:

Jennifer Guilfoyle, attorney, Church World Service, New York  
Wafa Abdin, lead attorney, Catholic Charities  
Magali Chandler, partner, Tindall & Foster  
Angelique Mortano, attorney, Tindall & Foster  
Joe Vail, former immigration judge, University of Houston Law Center

## Support

*Church World Service.* CWS national headquarters has a full-time immigration attorney on staff. Her job is to help affiliates start and run immigration programs. She provides program advice and training to immigration staff. She would be the primary legal advisor to IM's Immigration Counselor.

*Houston Consortium.* Catholic Charities and YMCA have met with agency staff and offered considerable time, advice, and information about how their program works. They are supportive and interested in helping Interfaith Ministries to start an immigration program.

*USCIS.* The local office of USCIS offers support to community organizations. Every quarter, they convene a meeting of accredited agencies, along with senior USCIS administration. They ask for specific problem cases, and general issues, and work with the agencies to resolve them. This gives agencies a level of access to USCIS that even private attorneys do not have. At the last meeting, the USCIS staff expressed support of the possibility of Interfaith Ministries resuming its immigration program.

*Charles Foster.* Partner at Tindall & Foster, the top immigration firm in Houston, Mr. Foster is also joining the board of Interfaith Ministries. In addition to having legal expertise, he may be able to offer funding and other advice.

*Advisory Board.* The agency will establish an advisory board to oversee the program. The board will be composed of both attorneys and community members.

## Timeline

### 2006

1. Meet with local immigration experts for research
  - Aaron and Gordana met with Lisa from YMCA (June)
  - Aaron and Gordana met with Jenny from Catholic Charities (June)
2. Train staff on immigration
  - Aaron attended "Immigration Program Management & Legalization Capacity Building Conference" Dallas, TX presented by Catholic Legal Immigration Network (September)
  - Gordana attended "Survey of Immigration Law Conference" Chicago, IL presented by Catholic Legal Immigration Network (September)
  - Gordana received 3 two-hour web-based trainings (September & October)
  - Gordana attended 6-hour citizenship training (October)
  - Gordana spent eight hours observing immigration staff at YMCA (October)
3. Next Step: Establish infrastructure
  - Gordana applies to become an accredited representative, which will allow her to begin providing immigration services. Application takes 4-6 months for response.
  - Agency purchases immigration library resources using surplus CWS R&P 2006 funds (must be spent by end of CY 2006).

## 2007

### January-May

- Continue staff training for Gordana and Aaron
- Create financial systems to collect client fees
- Begin grant-writing for additional funding

### June-December

- When Gordana gets her accreditation, begin phase one, providing immigration legal services to refugees
- Adapt systems and structures to the needs
- Continue grant-writing and plan accordingly

## 2008

- Begin phase two, to offer immigration services to broader clientele
- Begin marketing to the Hispanic immigrant community

## Policies and Procedures Manuals

Prior to services being delivered, it is essential that the immigration program's policies be documented in a manual for the agency leadership to endorse and staff to follow. The policies should include: agency's mission statement; program's service philosophy; program operations; services provided and locations; eligibility criteria; confidentiality and conflicts of interest; client rights and responsibilities; client grievance policy, supervision, staff qualifications and functions; and program evaluation. The manual should be read and updated at least once a year, and more often in the first year as the program unfolds.

To provide clients with quality legal immigration services, carefully planned and documented case management forms and procedures are needed. Forms will include: Consultation Form; Referral List; Intake; Client Agreement; Fee Schedule; Fee Waiver and Sliding Scale Agreements; Required Documents Checklist; Case File Construction Checklist; Quality Control Checklist; and Termination Letter template among others.

These two sets of documents will help ensure professionalism, quality services to clients and program sustainability. They will assist in training new staff as the program expands.

## Finances

The Immigration Program will be supported through 50% fees and 50% grants or private sources. Services will be provided only to the extent that resources are available, and there will be no deficit spending. Based on the funding, it will be calculated the number of clients that can be served in a year. Once this number is reached, the agency will refer clients elsewhere until new funding is secured.

Through direct inquiries, it has been found that some of the grants currently held by Refugee Services can be used to pay for immigration services and trainings. They are as follows:

Church World Service R&P

Amount: \$XXXX (Services and Training)

\$50 of the per capita amount that CWS gives is derived from donations from their member denominations. It is private cash and may be used to provide immigration services and training.

RSS Employment

Amount: \$XXXX (Training)

It has been established that this funding can be used to pay for immigration training. In previous years, YMCA charged up to 1 FTE for their Immigration staff to this contract, with the reasoning that the services help clients keep current on their immigration status, and thus employable. YMCA is currently drafting a letter to inquire whether that can still be done.

### **Possible Sources of Grant Funding**

Interest On the Lawyers Trust (IOLTA)--state program that funds low-cost legal services. YMCA and Catholic Charities receive this funding for their immigration programs.

Texas Bar Foundation--state program that offers grants to low-cost legal services. YMCA, Catholic Charities, and Refugee Services of Texas receive this funding for their immigration program.

RSS Education (Citizenship)--An RSS refugee program that provides funding to help refugees apply for citizenship. YMCA and Catholic Charities receive this funding. This is part of the larger RSS Education grant through which IM receives Cultural Orientation funding.

### **Possible Sources of Private Funding**

Individuals--The agency will work with new board member Charles Foster to locate individuals who know the need for additional low-cost immigration services in Houston, and who are interested in supporting such a program. The debate on immigration reform has galvanized some people's opinions in support of immigrants. If/when immigration reform passes, there should be people willing to "put their money where their mouth is" and make some contributions to the program.

Congregations--Congregations and other community groups are aware of people in need of becoming legal immigrants, and so they may be willing to support the program.

Businesses--Houston business has a huge stake in the immigration issue. An open letter from Texas businessmen was published in newspapers across the state in support of immigration reform. When/if such reform passes, they will have an interest in making sure that their employees, who will go through the legalization process, get quality, low-cost legal services--less trouble with their papers means less time off work. The first name on the open letter was Houston homebuilder David Perry, who is known for making enormous donations to causes he supports. At the CLINIC management training, it was stated that appealing to these businesses owners was "a no brainer."

### **Costs of Service**

Basic formulas will be used to determine the cost of providing services, the cost of staff time, and how much of these expenses should be covered by grants and feeds. For example:

Cost of 1FTE, Gordana Dvorscak, Immigration Counselor

Annual Salary:	\$XXX
Benefits	\$XXX
Space/Misc.	\$3,000
Supplies	\$500
MG	\$7,000
Total	\$XXXX

Billable Hours 40 hours/week x 48 weeks/year = 1920

Staff cost per billable hour for Gordana: \$XXX (rounded to \$xx)

The current seed money, \$xxxx, can be utilized to provide xxx hours of service.

If this covers 50% of the expenses, and fees pay the other 50%, then total fees should equal \$xxxx and pay for an additional xxx hours of service.

## Case Mix

The key to fiscal management of an immigration program is dictating the case mix that the agency will accept and work on. This is based on the time that the type of case typically requires, the cost of doing the case, the fees it generates, and the grants that can pay for the service. Below is an example of the kinds of cases that could be accepted assuming the cost of staff hour is \$xx, and assuming grant money of \$xxxx.

		EACH				TOTAL			
Case Type	Cases/ Year	Hours	Staff Cost	Paid Grants	Paid Fees	Hours	Paid Grant	Paid Fees	Total Costs
<i>Family</i>	10	4	\$100	\$50	\$50	40	\$500	\$500	\$1,000
<i>Green Card</i>	22	8	\$200	\$100	\$100	176	\$2,200	\$2,200	\$4,400
<i>Citizenship</i>	10	14	\$350	\$175	\$175	140	\$1,750	\$1,750	\$3,500
<i>Work Authorization</i>	20	2	\$50	\$25	\$25	40	\$500	\$500	\$1,000
<b>Total</b>						<b>396</b>	<b>\$4,950</b>	<b>\$4,950</b>	<b>\$9,900</b>

As the program is developed further, greater research will be done to determine the exact cost of a staff hour, as well as the time required to do each type of case. With this information, the desired case mix will be determined. At the same time, immigration programs typically change their case mix as needed based on community needs as well as agency finances.

## Conclusion

Interfaith Ministries has the resources, support, and experience necessary to resume providing immigration legal services. With a careful, conservative approach, the agency can build a program that is sound and healthy. At the same time, the agency will have an opportunity to serve a greater number of clients from the Houston community, as well as create greater long-term stability for the agency.

# CHAPTER TWO

## Space, Equipment, and Tools

**Learning Objective:** *To identify and explain the importance of essential space, equipment and tools needed for an efficient and effective immigration legal services program.*

The tools a program uses to provide legal services to the community are essential to the success of an immigration program. This chapter describes the space and tools you will need to provide 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.

### Confidentiality

Protecting client information is essential to the success of an immigration legal services program. Therefore, confidentiality is the most important consideration when creating office space, deciding upon office equipment, and choosing tools to help legal workers provide services. All immigration legal program staff should be well-versed in best practices in protecting and preserving the confidentiality of clients, their families, and the information that is housed within the office space.

### Office Space

#### **Staff Workspace**

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. Only legal staff should have access to client files, both physical and electronic.

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. Programs that provide mental health counseling would not take place in an open space where conversations can be overheard. Legal service provision should be treated in the same manner, with services provided inside a closed office space.

Confidential space can help ensure that clients provide as much information as possible, an essential part of effective representation. If a client is concerned about being overheard, he or she may not be entirely open 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 staff at an agency 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 understands 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 not 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. Walk-in intake days can lead to large numbers of people waiting to be seen. The waiting room should be clean, neat, and welcoming. You may want to post signs about your agency's mission statement, agency policies and hours of operation including walk-in hours. The 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. An agency's waiting room is also the perfect location for community education materials such as "Know Your Rights" materials, warnings about notario fraud, workers rights documents, etc.

Staff must maintain client confidentiality in the waiting room. Conversations with clients about their cases should not take place here. When office staff calls a client to be seen by a case worker, full names should not be used, in order to protect privacy. Clients could be provided with a number, or first names could be used.

## **Office Equipment**

### **Locked Filing Cabinets**

An immigration program housed within a larger agency will need to have filing cabinets that lock in order to store immigration files. Immigration files should be returned to the filing cabinets when they are not being worked on or at the end of the business day. File cabinets should be locked every evening as well when staff is not in the office. 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 in which to hold client filing fees. It is dangerous to keep clients' U.S. Citizenship and Immigration Service (USCIS) filing fees 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 that is not easily transportable. 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. Chapter 6 will further discuss the different forms of payments that will minimize your program's liability.

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.

Every state has its own requirements regarding the professional ethical standards for when and how files should be destroyed. A good website to check your state's requirements is [ABA List of Professionalism Codes](#). Clients should be made aware of the length of time your office will retain their closed file. This information can be included in the case termination letter. See Chapter 5 for more information about this letter.

### **Telephone and Email Systems**

Clients should be able to reach immigration program staff easily and feel confident that their message is reaching the appropriate person in a confidential manner. The recorded message of the voice mail system should state the organization's name and the name of the person whose mailbox has been reached. When possible, each staff member should have his or her own voice mail box. Additionally, thought might be given to a multi-prompt answering system that helps clients receive information without speaking directly to a case worker. For instance, basic information about documents needed for a certain type of application, general processing times, or times for walk-in appointments could be provided in a recorded message. This will reduce staff time on the telephone, which may be useful in the future when demand for services may be much higher due to legalization. This message could also be available in the most common languages of a program's clients.

If possible, each staff member should have his or her own email address. This allows clients to feel more confident that their message is reaching the correct staff member instead of landing in an agency-wide mailbox where several people may read the message.

### **Computer Equipment and Software**

Each member of your immigration staff will need access to a computer. High-speed internet access is 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. Make sure that conversations take place in private settings.
- **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.



- Wireless mobile devices: Documents and e-mails with client information are available on wireless mobile devices. 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 can comprise your clients' personal information.

You will also need policies in place to ensure that staff members 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.

Electronic 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 Five for a complete discussion of case management. Some specific benefits of an electronic case management system include: a uniform case management approach that eliminate idiosyncratic, and often less-than-professional, ways that different staff members enter client data and complete immigration forms; provide a reminder, or “tickler” system to staff of important deadlines; and provide a central location for case notes and case data leading to greater staff efficiency and reducing the likelihood of errors. Some case management software can provide up-to-date federal immigration forms within twenty-four hours of issuance, provide electronic forms which automatically populate common information into forms of a same application, provide a back-up to hard-copy files, and e-file completed forms to USCIS. For program managers, it can track data and produce a wide range of reports such as caseload information containing number of cases opened and closed, type of service completed in a month and client demographics. It can also facilitate mass mailings to clients about new immigration benefits or deadlines and facilitate billing. Strong case management technology helps agencies provide top-notch professional service to their clients.

### *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. However, that is about as far as it goes for using the software. Staff complains 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.

There are many immigration case management systems on the market. The decision to purchase and use a case management system should not be based on personal preferences, but on the industry standard among peer programs, the current and

future needs of the program as it expands and whether your agency will actually use it. A system is only as good as the use that is made of it. Also, the decision should not be based on cost alone but more importantly on functionality. Having a good case management system can be one of the most important investments you make in your program.

## **Software vs. Internet-Based**

There are two basic types of case management systems: software that lives on your own agency's computer system, and web-based systems that save your data remotely. With software, you store all the data on your agency's computer server. Data can only be accessed from the user's computer and the server. It cannot be accessed remotely. A web-based system stores data on an external server managed by the vendor. It allows files to be accessed by authorized users anywhere there is access to the internet. The ability to access data remotely provides legal representatives and supervisors greater flexibility. It also requires staff to be extra attentive in maintaining client confidentiality when accessing client information outside the agency. Other key differences between software and web-based systems on the market include: cost, start-up training, on-going technical assistance, assistance in migrating existing electronic data into the system, if any, and assistance for a fee in linking the system to the parent agency's central database and creating new report forms unique to the agency. There are pros and cons to each model. Please see attached list, "Immigration Case Management Software," at the end of this chapter, along with selection criteria we explore below.

## **Electronic Files versus Hard-Copy Files**

Due to developments in software, it is now possible to have case files kept solely electronically. While this does present the advantage of not having multiple file cabinets cluttering the office, electronic case files present their own challenges and security concerns.

First, electronic files present a confidentiality concern, especially when these case files are saved on an agency's server. Rarely are limitations in place stringent enough to completely limit access to immigration files by non-immigration legal staff. In addition, provisions would need to be made to recover the files if the server crashed or if the person with access to the files was unavailable for a long or permanent period of time.

Next, the government has not completely developed a paperless application system. Thus it is hard to know what a paperless system will require once created.

Finally, as a program grows, it will need a strict, clear, and enforceable procedure on how and what documents are scanned, how case notes are recorded and how files are to be kept secure. A best practice is to have the hard and electronic files match document by document. The server may not be able to handle additional case managers' work, let alone the cumulative average of years of current files plus those of additional employees. You will want to discuss with your information technology (IT) staff, department or consultant your needs and what storage options are available. If your agency has servers, it may involve upgrading the hard-drives to allow more storage space for the documents or purchasing storage appliances that work alongside the server to store the information. These options are preferable if you want to maintain electronic access and information localized in the agency. However, you could also outsource your storage as well as your other IT needs. Many businesses are looking into cloud computing for their IT needs. Cloud computing provides end-users, your immigration staff, access to virtualized off-site IT services and resources. This includes software, storage space, servers, etc. Computer applications are accessed via the internet from desktops and other mobile devices while the software and data is stored in a remote location. This may offer programs more flexibility in their IT needs, design and cost compared to localized IT help since you custom design your IT plan and can change it when your needs change without the hassle and expense of purchasing additional computer equipment and dealing with installation. However, if you are exploring this option, you will want to discuss this with decision-makers in your agency since it may involve agency-wide transformation in its computing technology approach. Also, you will want to look into confidentiality protections of information and documents offered by these service providers.

# Considerations in Choosing Software

## Features of the System

What are the system's functions? Does it have the ability to:

- Record case notes easily?
- 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? Will your staff find it easy to use or burdensome?

## 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?
- Can the company provide support to customize the system for your program's needs?
- 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)?

### ***E-Filing Applications***

USCIS strongly encourages certain immigration applications to be filed electronically. Is your agency ready to submit electronic filings?

Your agency will need to:

- Scan original documents (including ones in color)
- Create, edit, and upload pdf documents
- Securely e-mail large pdf documents
- Store many large pdf files
- Set up an organizational account with USCIS

Your clients will need to:

- Set up an e-mail account
- Submit fees electronically
- Open electronic Requests for Evidence (RFEs)

## **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?

## **Security Controls**

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?

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.

## **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, some resources will need to be purchased each year. Relying 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. Make sure your budget includes funding for annual updates to your program’s library. In the alternative, ask a donor to make an annual in-cash or in-kind contribution to keep your library up-to-date.

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/>

Both of these resources are located on-line at [www.uscis.gov](http://www.uscis.gov). However, both are dense documents and are more easily used in their hard-copy format. CLINIC recommends that both resources be available in every immigration legal services office.

## Other Resources

- The American Immigration Lawyers Association: <http://www.ailapubs.org/booklist.html>
- Immigration Advocates Network: <http://www.immigrationadvocates.org>
- ILW.com: <http://www.ilw.com/store/>
- Lexis Nexis: [http://bookstore.lexis.com/bookstore/catalog?action=prodlist&cat\\_id=T&pcat\\_id=31](http://bookstore.lexis.com/bookstore/catalog?action=prodlist&cat_id=T&pcat_id=31)
- WestLaw: <http://store.westlaw.com/products/books-cds/default.aspx?FindMethod=Menu-Products-Books&CDs>

The following books are widely popular among immigration practitioners because they contain the immigration laws and regulations. They are updated regularly. Be sure to budget for new copies.

## 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/>.

*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>

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.

## 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.

## Training Manuals

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

## 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](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>

## Email Updates

The following email updates are in-depth and detailed, and 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](http://www.bibdaily.com)
- Attorney General and BIA Precedent Decisions Mailing List: <http://www.mailermailer.com/x?oid=05990s>

## 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

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. Department of Justice (DOJ) 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 DOJ 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, it is important to have appropriate malpractice coverage to protect your program and agency.

A few providers of legal malpractice insurance will also provide such insurance to DOJ recognized programs with DOJ 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.

Required documents for a price quote vary from one provider to another; however, here is a list of common documents legal insurance providers may need to assess your application:

- History of past coverage and/or claims, if any;
- A thorough explanation of offered services, your expertise, and description of your client base;
- A breakdown of sources of revenue since the coverage fee is based on the income;
- A sample retainer agreement (contract between clients and agency);
- A professional services organizational chart;
- Biographies of all DOJ representatives including accreditation date and planned renewal date;
- The most recent current financials;
- Printed materials about the agency and/or its legal immigration program;
- Other documents as applied to individual providers.

If your immigration program is new and not all the program policies are in place yet, you should still submit the application and try to work out a schedule with your insurance provider to submit the required documents. The insurance coverage applies retroactively to the date the application was submitted. Although the insurance application may look overwhelming and most are catered to lawyers, do not let this stop you from getting this very necessary and valuable protection for the program. Most insurance providers are also willing to walk you through the insurance application process.

Each provider has a different policy in evaluating an application, but in general every application is individually reviewed. The coverage and cost depend on your agency's staff, claimed expertise, client base, amount of deductible, and source of revenues and fees. Since purchasing liability insurance individually is a lot more expensive than buying group insurance, you should also consider buying insurance coverage through a parent or national organization.

If your agency needs to buy coverage for a few DOJ accredited representatives, negotiate for a discount or to pay the premium in installments. Here are some questions you should ask your insurance providers:

- What is the scope of coverage? Who can be insured under their legal insurance coverage (i.e. full- and part-time employees, contract lawyers, volunteer lawyers, paralegals, board members)? What claims are covered and not covered?
- What factors do they use to determine your rate? What is the highest available limit of liability? What is the range of deductibles? How does your deductible affect your premium?
- Can you pay in installments?

## Sub-offices

Increasingly, immigration legal service programs are expanding their capacity to serve their communities. This often results in the opening of new sub-offices. These sub-offices should be managed just like the main office location. Sub-office staff should follow the same policies and procedures as the main office location. All staff should be covered under the same insurance policies as the main location. Confidentiality policies, case management software policies, and other considerations mentioned in this chapter should all be in place in sub-offices. A web-based case management system can be a helpful tool when staff work in different locations and services are provided off-site at infrequent and remote locations.

## Marketing Tools

While this subject is explained in depth in Chapter 7, it is worth mentioning that an immigration legal service program should have tools at hand to market its services in the community. Such tools can include an up-to-date website, listing current services offered and contact information. Other tools can be a brochure or flyer advertising services, a visible sign letting clients know where the office is located, and an ad in local newspapers or other media outlets listing available services. These tools make your program visible in the community.

# ATTACHMENT

## Immigration Case Management Systems

The information is provided merely as a starting point for readers to research immigration case management solutions. Increasingly, web-based systems are necessary for filing applications to the federal government. Among all case management systems, choosing a vendor that provides responsive technical assistance is important in addition to function and cost. As such, CLINIC exclusively recommends Equifax (formerly known as LawLogix) as your best choice.

On February 14, 2012 CLINIC and Equifax Case Management announced an exclusive agreement to provide CLINIC affiliates with added benefits for using Equifax Case Management. These benefits include special pricing discounts, custom user trainings, and private certification programs designed to promote best practices for immigration case management. To learn more about Equifax, visit <https://workforce.equifax.com/solutions/immigration-case-management>.

For more information on the CLINIC and Equifax Case Management exclusive agreement, please visit: <http://cliniclegal.org/lawlogix-immigration-partner-program> or contact Equifax directly at by filling out their online form found [here](#).

### **EImmigration by Cerenade**

<http://www.cerenade.com/eimmigration>; 1-(800)-617-4202 or [sales@cerenade.com](mailto:sales@cerenade.com)

### **INSZoom a product of Mitratesh**

<https://mitratesh.com/products/inszoom/>; (855) 462-6448 or [info@mitratesh.com](mailto:info@mitratesh.com)

### **LegalServer by PS Technologies, Inc.**

<http://legalserver.org>; (773)-782-1021 ext. 107 or [webrequests@legalserver.org](mailto:webrequests@legalserver.org)

### **Immigration Tracker by Mitratesh**

<https://mitratesh.com/products/immigration-tracker/>; (855)-462-6448 or [info@mitratesh.com](mailto:info@mitratesh.com)

### **Clio Immigration**

<https://www.clio.com/practice-types/immigration-law-software/>; 1-888-858-2546 or email [sales@clio.com](mailto:sales@clio.com).

### **Innovations Law Lab**

<https://innovationlawlab.org/lawlab-the-software/>

### **Docketwise**

Immigration forms: <https://www.docketwise.com/features/immigration-forms>

Case Management: <https://www.docketwise.com/features/case-management>



# CHAPTER THREE

## Staffing Your Immigration Legal Program

**Learning Objective:** *To become aware of all staffing choices including DOJ accreditation and using volunteers.*

### Staffing Choices

**N**onprofit immigration legal programs have a range of staffing options. Programs may employ attorneys, law graduates, Department of Justice (DOJ) fully accredited representatives, DOJ partially accredited representatives, non-accredited immigration counselors, support staff, development staff and interns. Any of one of these staffing options can also be done by volunteers.

Some programs employ everyone on the preceding list; some one or two. Each of these differently credentialed staff may perform somewhat different functions; a program manager must determine the staffing mix that works best for her or his agency. Factors that will influence your decision include the types and volume of cases you wish to handle; your budget; whether or not your agency is recognized by the DOJ; and avoiding unauthorized practice of law. Programs change and grow, so your staffing mix may evolve over time.

We begin this chapter by exploring the different possible functions of each of the above staff members. Because many immigration legal services programs grow out of existing social service or refugee resettlement agencies, we will consider how to retrain existing staff to do immigration work. Following that, we will discuss the considerations that go into hiring new legal staff. We will then address supervision of legal staff (including supervision of attorneys by non-attorneys), effective use of staff, and ongoing staff training and development. Finally, we will look closely at effective recruitment, hiring, and use of volunteers, from interpreters to pro bono attorneys. The following chapter (Chapter Four) will explain how to obtain DOJ recognition for your agency and accreditation for your non-attorney staff.

### Credentials and Functions of Immigration Staff

Below are the different possible types of staff at a nonprofit immigration legal program, along with a description of their required credentials and possible functions.

#### **Attorneys**

Attorneys have the widest latitude, in terms of client representation, of all legal staff. Attorneys may represent clients before all three branches of the Department of Homeland Security (DHS), as well as before the Immigration Court and Board of Immigration Appeals. Depending on where they are admitted to practice, attorneys may also represent clients in state and federal courts.

To practice immigration law, an attorney must be a member in good standing of the bar of the highest court of any state, possession, territory, or commonwealth of the United States, or the District of Columbia. Note that it is generally not necessary that an attorney be admitted to the bar in the state in which she practices immigration law, merely that he or she be admitted to a bar. This is because immigration law is federal and does not differ from state to state.

It is advisable for nonprofits to determine from the State Bar Association if attorneys may practice at an organization that is not incorporated as a legal service entity. Some states require nonprofits to be incorporated as such for attorneys to be on staff and practice - even if the program is offering services for matters under federal immigration law.

#### **Law Graduates**

A law graduate has graduated from law school but has not yet met any state's requirements for becoming a lawyer. That generally means passing a bar examination and passing a character and fitness review by the state licensing authorities. Law

graduates generally may not represent clients in state or federal court, but may practice immigration law before U.S. Citizenship and Immigration Services (USCIS) and Executive Office of Immigration Review (EOIR), subject to certain limitations.

In order to practice immigration law, a law graduate must be supervised by a licensed attorney or an accredited representative, and must file a statement that she or he is appearing without direct or indirect remuneration from the alien represented. Any Notice of Entry of Appearance (whether a G-28 before USCIS, an EOIR-28 before the Immigration Court, or an EOIR-27 before the BIA) signed by a law graduate must state that the graduate is being supervised by a licensed attorney or accredited representative. Law students and law graduates may or may not be able to represent clients on their own before USCIS or the Immigration Court; it would be up to an individual USCIS officer or Immigration Judge to decide whether or not to allow the law graduate to appear on the client's behalf, and whether or not the supervisor would need to be present at the interview or hearing.

### **Accredited Representatives**

An accredited representative works or volunteers for a nonprofit and has been granted authorization by the DOJ to represent individual clients of that nonprofit in immigration matters. Accredited representatives may be "fully" or "partially" accredited.

Fully Accredited Representatives: May represent clients before all branches of the Department of Homeland Security (DHS). The three branches are: US Citizenship and Immigration Services (USCIS; (deals with granting immigration benefits inside the United States); Immigration and Customs Enforcement (ICE; enforces immigration laws within the United States); and Customs and Border Protection (CBP; enforces immigration and customs laws at the border). They may also represent clients before the Immigration Court and BIA. They may not represent clients in courts other than Immigration Court and BIA. The requirements and procedures for accreditation are discussed in Chapter Four.

Partially Accredited Representatives: May represent clients before all branches of DHS. They may represent clients at DHS interviews, communicate with DHS officers about their clients' cases, and sign G-28s for their clients. They may not represent clients in Immigration Court or before the BIA.

### **Law Students**

Law students may represent clients, but only as part of a legal aid program or clinic conducted by a law school or nonprofit organization. Law students must be supervised by a law faculty member, licensed attorney, or accredited representative, and may not be paid directly by the client. At a hearing or interview, the DHS officer or Immigration Judge must give permission in order for the law student to appear, and as with law graduates, may require that the supervisor accompany the law student.

### **Non-Accredited Staff**

Every non-attorney staff member starts out as non-accredited, since only the nonprofit employing that staff member may seek that staff member's accreditation. Non-accredited immigration staff plays a vital role in helping an immigration legal program deliver competent legal representation. Non-accredited staff members typically work under the supervision of an attorney or accredited representative. They may conduct intake, interview clients and prepare applications and supporting documentation, and conduct citizenship classes and group processing workshops. Non-accredited staff may not represent clients at DHS or EOIR; may not file Notices of Appearance; and may not communicate directly with DHS or EOIR about a client's case outside the client's presence.

Any non-accredited staff members who work on immigration matters should receive some kind of training and/or mentoring on immigration law and procedure.

### **Support Staff**

Support staff can help a program function more efficiently and professionally, freeing immigration legal staff to spend more time on substantive work and less on copying and mailing applications. They may also be very helpful in setting up appointments, collecting fees, and answering the main phone line.

## Business Manager

Some larger programs are lucky enough to have a business manager who takes care of financial matters as well as equipment and ordering.

## Non-Legal Staff

Non-legal staff members can assist a program in offering more holistic services to clients. A social worker may be hired to work with clients who have been victims of trauma, teachers may be hired for literacy, ESL, or citizenship classes, community organizers may be hired to help with local advocacy efforts, etc. These additions allow your legal team to focus on clients' immigration cases while still ensuring that your clients' additional needs are also met.

### *Business Manager's Duties*

“Our program has a business manager whose time is split between our immigration and refugee resettlement programs. She handles time sheets, places orders with suppliers, handles deposits and billing, deals with technology and equipment needs, and supervises the receptionist and file manager. This frees up the immigration staff to do more immigration work.”

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

## Interns and Volunteers

Interns and volunteers can be extremely useful, although finding and using them requires time and resources. Depending on their level of knowledge and commitment to the work, interns and volunteers may be able to take on some legal work—especially if they are law student interns. You will need to ensure to provide careful supervision to any interns who handle legal work. Volunteers and interns can also take on some of the tasks of non-accredited staff and/or support staff. Recruiting, training, and supervising interns and volunteers takes time, but they can end up saving the agency time and allow the immigration staff to concentrate on the work that only they can do.

The role of volunteers in a possible comprehensive immigration reform will be huge. Programs are well advised to consider getting competent and committed volunteers DOJ accredited.

## Possible Job Descriptions for Immigration Staff

**Immigration Program Director:** (may be an accredited representative, an attorney, or possibly neither): Responsible for management and administration of immigration legal service program. Oversees department staffing to ensure effective and competent delivery of services. Monitors all administrative policies and procedures for effective delivery of services. Identifies and pursues funding opportunities for department. Prepares and manages program budget and reports. Responsible for community outreach and networking.

If the Immigration Program Director is neither an accredited representative nor an attorney, it is advisable for her or him to have some basic knowledge of immigration law. While he or she may not know enough to provide representation her or himself, it is important that he or she understand the basic parameters of the work the immigration staff do. It is a good idea for him or her to become accredited.

**Senior Immigration Counselor:** (Fully or Partially Accredited Representative): Responsible for representing clients before USCIS and/or EOIR. Prepares applications and petitions for submission to the appropriate agency. Participates in community outreach and educational activities.

**Immigration Counselor:** (not accredited): Responsible for preparing applications and petitions for submission to the appropriate agency. Does client intake; works directly with clients to prepare applications. Assists accredited representatives and/or attorneys with casework.

**Administrative Assistant for Immigration Program:** Copies and mails applications; answers phones; sets up intake appointments; collects fees.

Supervising Immigration Attorney (for programs with at least one attorney; note that many nonprofit immigration programs do not have attorneys on staff): Responsible for managing department caseload and supervision of casework. Oversees efforts to strengthen program policies and procedures. Provides in-house training to staff and volunteers. Oversees work of volunteers, including law students and pro-bono attorneys. Represents clients before the USCIS and EOIR.

Staff Attorney (for programs with at least one attorney; note that the majority of nonprofit immigration programs do not have attorneys on staff): Responsible for representing clients before USCIS and EOIR. Prepares applications and petitions for submission to the appropriate agency. Assists with training and supervision of law students and volunteers. Participates in community outreach and educational activities.

## Hiring and Retraining Considerations

### Whether or Not to Hire an Attorney

Because of recognition and accreditation, it is not necessary to hire an attorney for your immigration program, but many programs choose to do so. Some of the pros of hiring an experienced immigration attorney include their expertise and ability to handle complex cases; an increased ability to recruit volunteer law students and pro bono attorneys; and the fact that you don't have to have accredited representatives if you have an attorney. If you have the resources to take on cases like removal defense, asylum, and complex criminal immigration issues, you may want an attorney. Having an attorney on staff makes it more likely that you will be able to recruit law students and pro bono attorneys as volunteers. A program that employs attorneys does not need to have accredited representatives, although many programs choose to employ both.

Remember that attorneys are generally the most expensive legal staff to hire, and many programs choose not to hire them for this reason. Some programs, on the other hand, view attorneys as a more financially sustainable staffing investment and a greater source of revenue than accredited representatives, as they can provide a wider range or more complex legal services. The income attorneys generate, however, depends on the type of work they perform and the fees they charge. Note that some outside funding sources, often government grants, require attorney staff.

One option for a program that wants an attorney but does not have the funds to pay for one is to hire a part-time attorney. Note that this may raise possible conflicts of interest if the attorney works at the same time for another nonprofit or private firm, or in solo practice. If your potential part-time attorney is employed elsewhere, you will need to address this possible problem.

### What to Look for When Hiring an Attorney

As noted above, an attorney must be a member of the bar in good standing of any U.S. state, possession, territory or the District of Columbia. Each state has a directory of all the attorneys admitted to practice in that state; New York State's, for instance, may be accessed at: <http://iapps.courts.state.ny.us/attorney/AttorneySearch>. Make sure that any attorney you hire is a member in good standing of the bar in at least one state or the District of Columbia.

When you hire an attorney, consider how much background he or she has in immigration law. Just because someone is an attorney doesn't mean he or she knows anything about practicing immigration law. Look at whether or not your candidate has immigration law experience. If so, how much and what kind? If not, has she ever worked as an intern at an immigration law firm or nonprofit? Interns may learn a great deal about immigration law during their internships.

If you are hiring an attorney to manage the immigration program as well as handle and supervise cases, consider as well how much and what kind of management experience the attorney has. A background in immigration law does not mean that an attorney has the skills to manage a program.

#### **Hiring from Outside the Agency**

"We rarely hire attorneys from outside the agency. We like to hire attorneys who have interned with us as law students. We get to know them, they get to know us, and we know that they have knowledge and experience with immigration law."

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

## **Training for an Inexperienced Attorney**

If you hire an attorney without immigration law experience, you should budget to send your attorney to several trainings. One experienced attorney who runs an immigration program recommends a training budget of at least \$3,000 per new attorney for the first year. It is unrealistic to think that an inexperienced attorney will be able to learn immigration law entirely on her or his own, and that unrealistic expectation can lead to serious problems for the agency.

Some programs develop relationships, formal or informal, with local immigration attorneys. If you hire an inexperienced attorney, seriously consider helping her or him develop a mentoring relationship with an experienced immigration attorney. Immigration law is complex, and trainings alone are not a substitute for practical experience with the guidance of an experienced practitioner.

## **Law Graduates**

Many programs opt to hire recent law graduates—it is often less expensive than hiring an experienced attorney. It is important to be aware, however, that there is a risk involved: not all law graduates pass the bar exam. Passing a bar exam is necessary to be licensed as an attorney. Some law graduates have to take the bar exam several times before passing, and a few never pass. A program that hires a law graduate expecting that soon he will be a licensed attorney should be aware that this may not happen as quickly as expected, or ever. Remember that a law graduate must be supervised by a licensed attorney or accredited representative in order to practice law. If you want a licensed attorney, realize that hiring a law graduate may not get you that in the time you want.

If you do hire a law graduate who subsequently fails the bar exam, a possible solution is to apply for his or her partial or full DOJ accreditation. Some programs choose to do this. Be aware, that an accredited law graduate should not hold himself out as an attorney.

## **Fully and Partially Accredited Representatives**

Because accreditation does not travel from agency to agency, it is not possible to hire an already-accredited representative. Many agencies train existing staff who then apply for accreditation. It is also possible to hire a formerly-accredited representative and then apply immediately for accreditation for that person (and recognition, if the agency is not already recognized).

When hiring a staff member to become an accredited representative, or re-training a current staff member for accreditation, it is worth considering how long you think the particular employee is likely to stay at the agency. Gaining training and experience for accreditation takes some time—as well as agency resources—and hiring someone who's planning to leave within a year or two may not be the wisest use of resources. Once you have put the time and monetary resources into getting a staff member accredited, it is most helpful if that staff member stays at the agency for awhile.

## **Training Current Staff to Do Immigration Legal Work**

Many programs do not begin their immigration work by hiring new staff from outside the agency. The majority of programs begin when existing staff start handling immigration cases; these staff members then generally attend several immigration trainings and/or work under the supervision of an attorney or accredited representative, and then apply for accreditation. As your program grows, you may decide to hire new staff from outside the agency, but you should also continue to re-train existing staff. Chapter Four explains in detail the requirements for accreditation.

When deciding which staff members to train for accreditation, there are several factors you may want to consider:

- Level of genuine interest in immigration work;
- Aptitude for immigration work, including attention to detail, organization, and good writing skills;
- How likely the staff member is to stay at the agency. You will need to invest time and money in training your staff member, so it is wise to consider how long the staff member will want to stay at the agency;

- Language ability—does the staff member speak languages other than English?

In a new program, you will need to send staff to outside trainings; the section below on Training Sources gives guidance on where to find trainings. Once you have an established immigration program at your agency, with staff that have significant immigration experience, consider developing an in-house training program so that new staff can learn from experienced staff.

To encourage staff with sufficient experience and/or training to apply for accreditation, consider offering a title and salary increase to immigration staff members who become accredited. This incentive may encourage staff that might otherwise be hesitant to become accredited.

#### ***Our Criteria for Choosing Staff to Apply for Accreditation***

“We’re a fairly large agency, with several attorneys and eleven immigration counselors. Four of our counselors are currently accredited. We take accreditation seriously, and we only apply for counselors we really feel are ready. The counselor’s supervisor would have to recommend the counselor, based on the quality of his/her work and what he/she’s capable of. I recommend considering a person you are confident would be able to handle complicated cases. In our office, accredited reps represent clients at USCIS interviews, so I have to be fully confident that a potential accredited rep will be able and willing to do that. I also want to see that a staff member can do some research before I’ll let her or him apply for accreditation; I won’t allow someone to apply who’s always coming to supervisors with questions without having tried to look up answers first.”

– Director, large immigration services program

### **Maintaining Staffing Levels**

Maintaining adequate staff resources requires agencies to have at least one authorized practitioner on staff. It is best to have more than one staff authorized to practice in case of staff absence or transition; however, for an immigration program to operate it must have at least one authorized practitioner. This could either be the immigration attorney and or DOJ accredited representative. Chapter Four explains more about how the accreditation process works.

Staff absence or staff transitions are not uncommon in the life of an immigration program. When it happens, agencies need to ensure immigration services continue uninterrupted and clients continue to receive the highest quality of services. As mentioned previously, it is best to have more than one staff authorized to practice immigration law. It costs an agency time and money in lost fee income when there is no additional staff coverage. It can cause such a disruption in providing services that legal liability may occur. It can also expose an agency to the unauthorized practice of law when the only authorized practitioner leaves and the agency fails to either hire a staff attorney; retain an immigration attorney as a consultant or on a pro-bono basis; or get another staff person accredited by DOJ before the staff leaves. If the agency is recognized with the DOJ, it could mean losing that status. The agency is required to notify the Office of Legal Access Programs (OLAP), the agency within DOJ that oversees recognition and accreditation, within 30 days of losing its accredited staff, and will then be placed on inactive status for two years. After two years, the agency will lose its recognition unless it obtains accreditation for a new staff person. Always work to have at least two authorized practitioners at all times in case one leaves or is absent.

If your agency can only afford to hire one authorized practitioner whether it is a staff attorney or an accredited representative, you may want to reach out to immigration attorneys in the community willing to provide pro-bono assistance during staff transition or staff absence. This will reduce chances of unauthorized practice and ensure there are no gaps in services.

#### ***How We Assess Staff Readiness for Accreditation***

“Our agency has a part-time attorney who supervises the immigration work of our non-accredited staff. Our policy is that staff must work under her supervision for a year before we will discuss applying for that staff member to be accredited. This way we can assess a staff member’s commitment to the program, and feel sure that he or she has been thoroughly trained.”

– Carol Young, Kentucky Refugee Ministries, Louisville, KY

## **When Your Entire Immigration Staff Leaves**

Sometimes an agency may decide or need to close an immigration program for various reasons such as lack of financial resources, change in agency mission or goals or the departure of the entire immigration staff, which may be more prevalent with a one-person immigration program. Whatever the reasons may be, the decision to close an immigration program does not absolve your agency's responsibility of the immigration cases. The agency has an ethical responsibility to the clients whose cases it accepted. You will need to find a way to handle those cases, either by finding other agencies who will take over the cases, or by hiring an attorney to handle them for you. It is a good idea to develop a plan of action for closing your program to ensure you have taken care of all client and program administrative matters. Some considerations include:

- Review all client case files and determine case status and next steps. This includes a review of all open active and inactive cases.
- Develop a process and procedure for notifying the client and other agencies of program closure.
- Develop a referral list, if the program does not already have one, of organizations and individuals for case referral.
- Review your malpractice insurance policy to understand claim coverage beyond termination of your program should claims come in after program closes.
- Develop policies and procedures for handling client matters and issues as program is being closed and after program closure e.g. who will be designated in your program to address client questions if someone calls after program closes.

Hopefully with proper planning of your agency's financial and staff resources, your immigration program will remain open for a very long time.

## **Staff Challenges at Agencies That Provide Services Other Than Immigration**

### **Wearing More than One Hat: Staff with Multiple Job Functions**

Especially at smaller agencies, some immigration staff may have more than one job function. They may do immigration representation part of the time, and other work the rest of the week. For instance, at refugee resettlement agencies, an employee may represent refugees in immigration matters 20 hours a week, and provide refugee case management services the other 20 hours a week. Such job splitting is often necessary in small agencies that don't have a budget to hire full-time immigration staff, but it can lead to special challenges.

When you have staff that split their time this way, it is especially important that other agency staff and clients understand the different parameters and policies for each program. You will need to make it clear to clients what the different expectations are for each program. You will also need to communicate clearly to non-immigration staff how the immigration program works. If you are not yourself the Program Director, you'll best be able to accomplish this if you have the active support of your Program Director.

If your agency resettles refugees, the State Department requires that you report "anomalies" on refugee cases. Especially when you have staff doing both immigration and resettlement work, this anomaly reporting requirement can conflict with the agency's commitment to keep confidential any information learned while doing legal work. If your agency does both resettlement and immigration work—and especially if you have staff doing both—you will need to consider carefully how to reconcile these competing duties.

### **Ensuring That Only Immigration Staff Do Immigration Work**

If your agency has been doing immigration work without a formal immigration program, expect some bumps as you phase in a formal immigration program. If your non-immigration program staff have been used to offering immigration help to clients, it may be challenging to move them away from doing this, and turning all immigration work over to the immigration staff. Allowing non-immigration staff to do immigration work is a bad idea: with less training and experience on immigration law,

they are more likely to make mistakes; doing so will cost the immigration program fee income; and doing so undermines the systems you have set up in your immigration program. Finally, it is important that the immigrant communities your agency serves can expect that all agency clients will receive the same kind of immigration legal service.

If you find that non-immigration staff continue to offer immigration advice or help with immigration applications, set up policies that make it clear who performs immigration work, when, and how. Communicate these policies clearly to staff and don't allow exceptions. Help the staff understand the reasons for the policies. Recognize that it may take some time for staff to understand and fully comply with the policies.

### ***When Non-Immigration Staff “Help” Clients with Immigration Questions***

“I was an accredited representative at a refugee resettlement agency; I was the only staff person doing immigration work. One problem I faced was refugee resettlement staff who provided “immigration assistance” to clients. The staff members who did this were former refugees themselves, and so had some general knowledge about certain immigration benefits like adjustment applications and refugee relative petitions. This posed two problems for the immigration program: 1) staff members without training could be giving bad advice to clients—advice that could harm both clients and the agency; and 2) when resettlement staff provided free “immigration assistance,” the immigration program lost a potential client and the fees that client would have paid.

To counter this problem, I wrote a policy saying that only staff in the immigration program were allowed to give immigration advice. The Director approved it and it was distributed to all staff members. Additionally, I provided all the job counselors with flyers about the immigration program, along with a request that if a client asked an immigration-related question, the counselors would find me to answer the question. I made a point to keep “reminding” people of this policy at our staff meetings.

It took a while for staff to follow this policy, in part because the employment staff provided “immigration assistance” to save their clients from having to pay for immigration services through my program. But I was able to tell them over and over “this is the policy and it comes from the Director.” Finally they knew I would say no when they asked if I could just “see their client and answer a few questions,” so they stopped asking; they would say instead “can you please make an appointment for this client.” Any agency that confronts this issue will need to work hard to help staff understand and follow rules that only immigration staff may handle immigration questions. This policy would ideally come from the agency director, who would make it a priority that staff understand and follow it.”

– *Accredited Representative at mid-sized refugee resettlement/immigration services office*

### **No Moonlighting: Ensuring That Your Staff Do Immigration Work Only at Your Agency**

Immigration programs that employ attorneys often have policies that specifically prohibit attorney staff from taking on immigration cases outside the agency—known as “moonlighting.” This prevents possible conflicts of interest with the attorney’s work for the agency. It also protects agency staff from stress and burnout.

Programs with accredited representatives should make it very clear to their accredited staff that accreditation allows the accredited representative to represent immigrants **ONLY** under the auspices of the recognized agency that applied for his accreditation. **Accredited representatives may under no circumstances take on cases privately**, or for another agency unless they are separately accredited at that other agency. One recognized agency was recently devastated to learn that its trusted accredited representative had been taking on clients across the country and charging them high fees to file fraudulent or frivolous applications—and claiming that his accreditation at the agency allowed him to do this. While it may not be possible to completely prevent this from happening, protect your agency by making clear in writing to your accredited staff the scope of their authorization to practice immigration law. See the attached “Prohibition Against Providing Legal Services Outside the Office and Expectations of Employees” on page 55.

### **Separating Immigration and Other Services**

Agencies that add immigration services to existing social services programs, such as refugee resettlement work, may face challenges in re-shaping client expectations. Social service programs may be set up to help clients on the spur of the moment. Immigration programs, on the other hand, need to manage the flow of client meetings and requests so that staff can handle



the extensive paperwork required. When non-legal programs in the agency have open-door, emergency-service client policies, it can be hard for clients to understand that things work differently in the immigration department.

## Supervision

Nonprofit immigration legal service programs come in many shapes and sizes. Some agencies have attorneys on staff; some do not. Some agencies are headed by attorneys or accredited representatives; some are not. Some nonprofit immigration service providers do nothing but immigration legal work, while at others the immigration department is a small piece of a much larger social services or refugee resettlement agency. An immigration program may have one staff member or twenty. Effective staff supervision presents different challenges in each of these situations.

In every agency, however, there are two aspects of immigration work that need oversight: technical legal work, and adherence to agency case management standards. Although there is some overlap in these two areas, they are not the same and involve reviewing different areas of immigration work. For case management, the supervisor is reviewing staff adherence to case management policies and procedures of the immigration program. Chapter Five explores the different areas of case management systems. Case management supervision entails a review of that process. Technical legal supervision entails a review of the immigration application, generally before it is filed. The purpose is to review the substantive legal issues of the case and check the overall quality of the application. Both types of supervision will be further explained below.

Additionally, each staff person should have a clearly defined job description and work plan that are reviewed and revised with their supervisor annually. Job descriptions should list each person's responsibilities as well as clearly define lines of supervision. Work plans should list each staff member's specific annual goals and objectives and provide an objective basis for annual performance evaluations.

### Case Management Supervision

Case management policies and procedures are essential for any immigration program. They provide consistency, efficiency and professionalism in the provision of immigration services. It is not enough to have policies and procedures when they are not implemented and consistently adhered to in your program. Program directors and managers are usually responsible for the policies and procedures of the program and are often the ones to provide such supervision. Other individuals can also provide case management supervision. Some aspects of review may include the intake process, money collection, organization of case files, completion of case notes, security of case files, proper tracking of deadlines and case closing process. Case management supervisors may want to create a supervision checklist to help them with review. Again, it is important for program directors and managers to ensure there is a strong and clearly-defined system for case management, and that staff adhere to it.

### Legal Case Supervision and Technical Support

Programs must ensure that their staff are doing competent legal work, that they monitor and encourage staff development, and assess the thoroughness of their services. Effective legal supervision of cases enables the program to continually strengthen and improve the services it offers clients. Since legal supervision entails a review of legal work, only those

#### *Creating Boundaries between Immigration and Other Services*

“The agency has always been good at providing social services in the resettlement program—people can walk in to see who they need to see. When we started our immigration program, we had to work hard at putting boundaries between refugee and immigration work. We had to focus on this: the immigration staff can't have people showing up at the door throughout the whole day. Our attorney came up with the idea of posting signs that require everyone to register with the receptionist. Everyone insists that clients make appointments with the immigration staff and keep those appointments. Our attorney also decided to charge a \$20 fee for all consultations—she feels that if people pay for what they get, they actually respect the service, and bring the documents they need to bring.

Before we instituted this policy, people were used to just walking in, bringing what they wanted when they wanted, not respecting the immigration worker's time. Now, our immigration program runs more like a professional nonprofit law office, and less like a resettlement office.”

— Carol Young, Kentucky Refugee Ministries, Louisville, KY

authorized to practice immigration law can provide legal supervision. This could be an immigration staff attorney, a contract or pro-bono immigration attorney or an accredited representative on staff. The supervision may include a review of the intake form for completeness and client's eligibility for the immigration benefit and any other immigration benefit; review of any other legal issues involved in the case; and review of the immigration application for accuracy and completeness and overall presentation. This could also include a review of the supporting documentation and cover letter. Similar to case management supervision, the legal case supervisor may want to create a supervision checklist to aid their review process. The extent and frequency of legal case supervision will vary from one agency to another. It will hinge on staff resources, availability and necessity. Programs with legal supervisors on staff may be more available to review cases frequently and in more detail than contract or pro-bono supervising attorneys. Also, frequency and detail of the legal supervision may depend on staff experience. You may want to allocate more legal supervision to less experienced staff than the more experienced ones. Regardless of the frequency and detail of the legal supervision having it will provide that added level of accountability and quality assurance necessary in any case preparation.

Many programs, especially the smaller ones, may not have and never gain access to a legal supervisor on staff or elsewhere. In this situation, access to legal technical support is important. Legal technical support provides programs with an experienced attorney or DOJ accredited representative who can answer your legal case questions and issues. Many programs use legal technical support in tandem with legal supervision; however, when your agency does not have access to legal supervisors, you need to seriously consider legal technical support. For programs seeking DOJ site recognition, the DOJ requires that you have access to legal technical support, and provide evidence. Immigration law and procedures change frequently. Practicing without access to other experienced practitioners when you have questions or issues, regardless of how experienced you are, is setting you and your program up for malpractice. Many agencies offer legal technical support, including CLINIC.

Discussed below are different ways to supervise cases and access legal technical support. No matter which form of legal supervision you choose, it is a good idea to foster staff consultation with each other. Encourage your staff to talk regularly with each other about immigration questions and share experiences. Some offices hold regular case review meetings at which staff can compare notes and ask for advice about difficult cases. Your staff can learn a tremendous amount from each other.

## **Supervisory Review**

In programs with supervisors experienced in immigration law, the supervisor will generally review staff immigration work. There are different ways to do this: among them regular staff meetings; individual supervisory meetings; supervisor review of all cases; and supervisor review of selected cases.

## **Peer Review**

If your agency has more than one legal worker, you can set up a peer case file review system. One agency has set up a system by which the accredited representatives meet several times a year to do random checks of each other's files. The agency has developed a case file checklist, and each accredited representative examines random files from other staff to ensure that all the case management procedures have been followed in each file. It is also possible to peer review files to ensure that the legal work has been done correctly.

Peer review does not work well in every agency. One agency with numerous accredited and non-accredited staff reports that they have tried peer review, but the staff are reluctant to engage in what they see as "criticism" of each other, and therefore don't thoroughly flag mistakes. This agency decided to have the senior attorney and senior accredited representative pull random files for each staff member four times a year and review them.

### ***Supervisor Review and Support***

"I have an open-door policy that allows staff to be able to come to me at any time, but I also have weekly meetings set aside for each staff person. We talk about their cases, questions, whatever. It's more convenient for both of us: staff know they'll have a time set aside for any questions and it's easier for me because I don't have people knocking all day long. If I need a chunk of uninterrupted time I close my door."

– *Delia Seeberg, Immigrant Legal Services, World Relief, Chicago, IL*

## Non-Attorney Supervision of Attorneys

It is very common in nonprofit immigration programs for non-attorneys to supervise attorney staff. Program managers or agency directors often have no legal background, and little or no knowledge of immigration law. Attorneys may believe that they are not ethically permitted to have any supervision by a non-attorney. This can lead to misunderstandings, a dangerous lack of supervision for the attorney, and even malpractice.

There are restrictions on the supervision of an attorney by a non-attorney. Attorney ethics rules mandate that attorneys' legal decisions on cases may not be dictated by non-attorneys. A non-attorney/accredited representative program manager may not make decisions about legal matters in immigration cases.

On the other hand, a non-attorney/accredited representative must ensure that attorney staff is following case management procedures. Programs that do not do this risk providing inferior service to clients, putting clients at risk, and exposing themselves to liability. Some attorneys may not understand this distinction at first. Be very clear up front with any attorneys you hire what the scope of your supervision will be.

### ***Peer Case Review of Randomly Chosen Files***

“We do peer review. Once per month the staff review seven of each other's cases. The computer randomly picks cases to be reviewed. I created a “Case Record Review” sheet that the staff follow when doing these reviews. They check off to make sure the intake form is complete, the consent form is signed, the retainer agreement is signed, that the appropriate correspondence is in the file, that all forms are signed, etc. Once the forms are completed they are given to me. Then I review all of the cases that have been peer reviewed.”

– Nancy Gavilanes, Catholic Charities of Chicago  
*Immigration Service*

What should the scope of that supervision be? Without knowledge of immigration law, you cannot and should not undertake to assess the attorney's legal work. Decisions about what kinds of immigration options are open to clients; how to counsel clients about their immigration options; what kinds of evidence to submit and how to submit it; and determining what the law says about a client's situation are all examples of legal decisions a non-attorney may not oversee.

What, then, may a non-attorney oversee? A non-attorney program manager should ensure that strong case management systems are in place in the immigration program, and that the staff adheres to them.

Chapter Five details the many elements of a successful case management system.

### ***Informal Consulting Relationship with an Attorney***

“Our agency has two partially accredited reps. A third new-hire is in training. We do quarterly peer review of each other's work. We also have established a good rapport with ‘Lourdes Ramirez’ (not her real name), an attorney at the Catholic Charities office in a neighboring diocese. This relationship is completely informal. Lourdes does it out of the goodness of her heart and because we've established a rapport over the years. She's been very generous with her advice and time. She helps us with legal questions and sometimes we refer cases directly to her. When you are a small program with no attorney on staff, it is very important to establish close connections with a smart, trustworthy experienced attorney. Network until you find a really good, experienced person and then make her or him your ‘best friend’.”

– Director, small immigration services program

## Other Sources of Technical Support

Many agencies find technical legal support outside their own staff. If your agency is part of a national network such as CLINIC, LIRS (Lutheran Immigration and Refugee Service), IRC (International Rescue Committee), CWS (Church World Service), or World Relief you may have an immigration attorney or attorneys available to answer immigration legal questions.

Some agencies set up a consulting relationship with an immigration attorney outside the organization, whether formal or informal. That attorney would not typically supervise the entire agency’s casework, but would be available on an as-needed basis to answer questions or review difficult cases.

### ***Forging Connections with Local Attorneys and Accredited Representatives for Quality Control***

“I volunteered for a naturalization conference with Catholic Charities. There I met local immigration lawyers, and we really hit it off. I have cultivated relationships with them: I call them, have lunch with them from time to time. I’ve also gone to community events where I might meet other lawyers. I’ve called lawyers cold turkey. I also sometimes call lawyers if their clients come to see me for advice.”

– Fr. Paul Kasun, *Benedictine Mission House, Schuyler, NE*

Immigration listservs can be a good way to get occasional legal questions answered, and to learn by reading other participants’ questions. Some listservs require membership in the parent organization that sponsors the listserv. Visit the websites of the national organizations mentioned in Chapter Seven and join their listservs.

## **Agencies with Only One Immigration Staff Person**

An agency with only one immigration staff person will not be able to conduct internal technical case reviews. It can be a challenge for a one-person immigration program to ensure that there is adequate review for the work. One-person programs are especially well advised to try to make contact with other practitioners for support, guidance and advice. If your program is part of a national network and there is an immigration attorney or attorneys available to you, make use of them! If you are part of a network, you can also make connections with other agencies within your network who offer immigration services.

If you are a solo immigration representative in a community with other nonprofits offering immigration services, you might consider setting up regular case review meetings with the other agencies, so that you can compare notes and ask for advice about difficult cases.

### ***Case Review of All Files by More Experienced Staff***

“Before every application goes out, another staff member will peer review it to make sure everything has been done correctly. Generally we all review each other’s work. We have a case review basket for cases that are ready to be filed. Our aim is that once an application goes into the basket, it should be in the mail within a week.

We also use technical review of cases to identify gaps in our materials, and in our trainings. Last year, for instance, we examined every unexpected Request for Evidence (RFE). We tried to figure out if we should have anticipated the RFE, and if so, to determine why the requested evidence wasn’t included in the application when it was originally sent. We were able to identify gaps in our client document checklists, as well as places where our staff needed more training.”

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

## **Helping an Attorney Manage Your Immigration Program**

It is important to remember that an attorney does not automatically know how to manage a legal program. Being an attorney doesn’t make someone a good program manager, and law school does not teach nonprofit program management skills. Do not assume that an attorney will know how to manage a program well. To save money, nonprofits often hire attorneys who have recently graduated from law school to run their immigration programs. **The less experienced an attorney is, the more likely that she or he will need training, guidance and support in managing the immigration program.** She or he will need a supervisor to help set priorities for the program, develop and maintain case management systems, and manage the immigration staff. Programs that do not provide this supervision are likely to lose talented staff.

Even if you do not have immigration expertise yourself, you have other things to offer. Provide your immigration manager with a chance to voice concerns and frustrations. Engage with her or him to develop a “vision” for the program.

### ***One Attorney's Supervision Ideal***

"As an employee and manager, I am not receiving any support. Because of a lack of supervision, I feel like I am on my own, overwhelmed with a caseload of over 400 cases. I feel like I am working very hard but do not receive any appreciation or basic awareness for what I do (except from clients). When I get into a crunch or a difficult situation, I have no support network to turn to (except for my national agency). I feel like everything falls on my shoulders but there is no recognition or reward for my hard work. Because my caseload is so high, and there is no overarching leadership, I feel bogged down by the daily duties and unable to look forward or focus on the future of the program. There is simply no time or energy left to take that on. I also feel "out of the loop" and would like a supervisor who communicates his/her "vision" for the program. I want to feel included in the decisions that determine the direction of the program, because I am the one who is living and working in the program each and every day."

– *Immigration attorney at small immigration program in mid-sized city*

### **Supervision Challenges in an Agency with Multiple Locations**

Some agencies have more than one physical location. Supervising immigration staff in remote locations presents special challenges to the manager of a "satellite" office that is a part of a large agency but geographically removed from that agency's main office, and to the supervisor in the main office who supervises the remote office(s). The physical disconnect can leave remote office managers feeling isolated and stranded, with no one to help set priorities, manage staff and workload, and deal with problems that arise.

It is important to have strong communication between the main office and satellite offices, whether by phone conferences, in-person meetings, e-mail check-ins, or best of all, a combination of the three. Creating a forum for regular communication is essential. It keeps the remote office manager connected to the main office, and makes it easier for the remote office and the main office to handle unexpected problems that arise in the remote office. It also provides accountability and uniformity of practice in all offices. Program directors and managers need to ensure case management policies and procedures are followed and implemented consistently in all the offices. Having a case management policies and procedures manual helps to ensure this practice and allow easier case management supervision especially when meeting in-person. Refer to Chapter Five for a discussion on case management systems.

Programs using internet-based immigration case management software provides another layer of supervision and accountability. This allows a supervisor to check on staff and their cases in remote locations without the expense of traveling to those offices frequently. This is also discussed in Chapter Five.

#### ***Suggestion for Remote Office Supervisors***

One former immigration attorney manager of a "satellite" office has the following suggestions for managers of satellite offices:

"Institute regular 'check-in' meetings with your supervisor in the central office. This will allow you to respond collaboratively to problems; it can also serve as a de-stressor (an outlet to discuss common issues among peers). Meetings could be a coffee and donut session, over lunch, or during a happy hour or dinner setting. The important thing is the support and social interaction."

### ***Why Some Supervision of Attorneys is Necessary***

“Immigration Services of New Caledonia” (ISNC) (not its real name) hired an immigration attorney to oversee its immigration program. The Executive Director of ISNC had never hired an attorney before, and he wasn’t quite sure how much supervision he could provide; in fact, he felt like he just didn’t know enough to supervise the attorney. He met with the attorney and she told him “You can’t supervise me—I’m an attorney and because of attorney ethics rules no non-attorney may supervise my work.” He figured she must be right about this—after all, she was an attorney—and he left her to run the immigration program on her own.

Two years later, this ED left, and ISNC hired a new ED. The new ED believed it was her job to ensure that all her employees were doing their job adequately, and that the agency had to make sure the legal program was being run in a professional way that would not expose the agency to malpractice claims. She insisted that she had to supervise the attorney—not her legal work, but her management of the immigration program. The attorney was so upset about this that she quit.

After the attorney left, disturbing facts emerged. She had no electronic tickler system, and didn’t use case management software. Deadlines were looming but hard to identify except by going through each and every file from top to bottom. Files were disorganized and piled haphazardly in her office. Clients started coming in to ask about their cases, and it started to become clear that the attorney had missed important deadlines on cases, so that clients were no longer entitled to immigration benefits they should have been granted. The agency had to send clients to other agencies to represent them in motions to reopen based on ineffective assistance of counsel—the agency’s own ineffective assistance. Not all of these were successful.

After this, the ED insisted that her new attorney had to set up case management systems, and that she had to report to the ED on what those systems were and how they ran. The ED met regularly with the attorney who reported on how she and her staff were processing cases. The agency never missed another deadline.

## **Staff Training and Development**

Immigration law is constantly changing. Your immigration staff will need continuing immigration law training. Practitioners must be aware of changes in the law, regulations, and procedures in order to provide high quality legal services, and protect the organization from legal liability and malpractice. Make sure that you regularly budget for ongoing staff training.

Trainings can also serve as important networking sites; your staff will be able to meet and develop relationships with other practitioners. It also serves to keep your staff challenged and interested in their jobs.

### **Immigration Law Training Sources**

There are several national organizations that offer regular immigration trainings for nonprofit practitioners. There are also state-wide coalitions and a host of local training opportunities. Following is a list of national organizations as well as several state-wide coalitions. This is by no means an exhaustive list of immigration training opportunities. There may well be other training opportunities in or near your community.

The Catholic Legal Immigration Network, CLINIC ([www.cliniclegal.org](http://www.cliniclegal.org)) offers approximately 40 trainings throughout the year and all over the country on a wide range of immigration legal issues of interest to nonprofits, including a Survey of Immigration Law, Family-Based Immigration, Naturalization and Citizenship, Crimes and Removal Proceedings, Immigration Legal Skills, Immigration Program Management, and others.

The American Bar Association’s Commission on Immigration ([http://www.americanbar.org/groups/public\\_services/immigration.html](http://www.americanbar.org/groups/public_services/immigration.html)) offers several immigration specific trainings throughout the year and during their annual meeting.

American Immigration Lawyers Association, AILA ([www.aila.org](http://www.aila.org)) provides conferences, trainings, and webinars on a variety of immigration issues. Most offer CLE credit opportunities and recorded versions are available on AILA’s website.

The Immigrant Legal Resource Center, ILRC ([www.ilrc.org](http://www.ilrc.org)) has developed a rigorous week-long training curriculum that covers much of the immigration law of interest to nonprofits. Different organizations offer it several times throughout the year in different locations. Check ILRC's website for this year's schedule. ILRC itself also offers shorter immigration law trainings in San Francisco and Los Angeles.

The National Immigration Project of the National Lawyers Guild ([www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org)) offers occasional CLE seminars as well as immigration specific training during their annual convention.

Several state immigration coalitions offer regular immigration training:

- New York Immigration Coalition  
[www.thenyic.org](http://www.thenyic.org)
- Massachusetts Immigrant and Refugee Advocacy Coalition  
[www.miracoalition.org](http://www.miracoalition.org)
- Illinois Coalition for Immigrant and Refugee Rights  
[www.icirr.org](http://www.icirr.org)

Also, consider having peer-to-peer trainings offered by more experienced immigration staff on board. Peer-to-peer training is a great way to share immigration knowledge among staff, build teamwork and morale. If you have access to immigration attorneys in the community willing to provide pro-bono services, inviting them to train immigration staff is another way to obtain training hours.

## **Webinars**

Many organizations are increasingly using "webinars" to offer immigration training. "Webinars" are training sessions that take place via conference call and computer; each participant logs on to a designated site to view the presentation, and then calls in to a conference call to hear the presenter(s) speak. Or one can access webinars that are archived on an organization's website. This last suggestion is very helpful for an agency that is starting up or has hired staff members who are without an immigration law and management background. AILA, CLINIC, Church World Service, Lutheran Immigration and Refugee Service, and World Relief are among the organizations that currently offer immigration webinars. CLINIC offers many webinars throughout the year.

Webinars can be an excellent way to keep up on developments in immigration law and build on your knowledge base. They are much less expensive than in-person trainings. However, they are generally fairly short, and cannot match the in-depth experience of in-person trainings. They are best viewed as an excellent complement to in-person trainings. For an agency operating on a shoe-string or in a remote location, the growing number of live and archived webinars provides a similar curriculum to in-person trainings.

A central resource for a national perspective on where and when to get in-person and webinar (live and archived) immigration law and management trainings is the Immigration Advocates Network website calendar page:  
<http://www.immigrationadvocates.org/calendar/>

## **E-Learning**

Similar to university distance learning classes, the e-learning courses involve a blend of self-directed learning and interactivity with both the instructors and the other course participants. They offer flexibility since much of the work can be done anytime during the week when the student chooses to do it. Unlike in-person trainings (or classroom trainings), e-learning primarily relies on individual study and practice rather than on lecture and group learning. It allows participants to learn immigration law and procedures anywhere they are located while saving on travel expenses and time to attend in-person trainings.

CLINIC offers e-learning courses throughout the year. The courses last either four or six weeks, depending on the course, and require about four hours of work per week. Students do much of their work on their own schedule. Students learn by

taking part in weekly live webinars; completing reading assignments, exercises, and activities each week; and sharing ideas with each other in online discussion forums. For more information on CLINIC's e-learning courses, go to <http://cliniclegal.org/e-learning-2014>.

## **Mentoring**

Working under the supervision of an experienced practitioner can be an excellent way to learn immigration law. Some organizations set up mentoring relationships with experienced attorneys or accredited representatives outside their own organizations. This might take the form of “job shadowing” —observing the mentor’s work for a certain period of time. It also might involve the mentor closely overseeing the work of the mentee.

## **Training in Non-Substantive Immigration Law or Non-Legal Areas**

It is critically important to ensure that your staff is well trained in immigration law and procedure. Their immigration work may be enhanced by training in non-substantive immigration law or non-legal areas. This may include legal research, advocacy, writing, interviewing, communications and time-management skills. It may entail taking classes or workshops on cultural competency and working with special population such as immigrant survivors of domestic violence or asylees or refugees. Especially for staff with limited English proficiency or limited computer skills, taking a language or computer course will be highly beneficial. For program managers, directors and administrators, taking courses on fundraising such as how to write grant proposals, research grant opportunities and cultivating funders will be very useful when working on grants or working with the grant development officer. Other ancillary courses that are useful for immigration programs include how to respond to media and project and grant reporting.

# Volunteers

Volunteers can greatly expand your program’s capacity. Some volunteers may be able to do legal work, while others can perform tasks that can free up time for legal staff to concentrate on legal work. Volunteers may be interpreters, law students, non-law students, pro bono attorneys, someone who is active in a faith community, or other people who want to help immigrants. Experienced pro-bono immigration attorneys can help staff caseload by taking over some cases and or providing case assistance. They can present at workshops and community outreach events on immigration law and issues including training staff. They can provide case supervision or consultation to staff on more complicated immigration cases. Law students or law graduates with immigration experience can also help with immigration cases and workshops. Since they are not licensed to practice law, they function like a paralegal or legal assistant and can do most of the work that an attorney can do minus practicing immigration law. Volunteers with little or no immigration experience can be extremely helpful assisting with the operations and administration of the program. This can include organizing workshops and fundraising events, providing staff with legal and non-legal support, front desk coverage and answering phone calls, etc. More detail about the various ways you can use a volunteer is explained below. Using volunteers is a way to raise your agency’s profile in the community; attract new funding; and raise awareness of immigrants and immigration law issues in your community.

## **Recruitment**

Every program should assess what work they need done and how volunteers can help in order to recruit accordingly. Attend local internship/externship fairs at your local law schools to find students interested in immigration. Become an internship site for local college and university students working on degrees in languages, communications, or IT. Partner with local ethnic or cultural organizations to find volunteer interpreters. In addition, volunteer programs such as RSVP for retired professionals can be a resource for extra administrative or IT assistance.

## **Training**

You will need to make sure that any volunteers you use are sufficiently trained for the tasks you are asking them to perform. Initial and on-going training is a key to volunteer management, nurturing, and retention. Training programs should be well-tailored to help volunteers understand how to perform the tasks they have chosen. In addition to skill-specific trainings, the organization should also provide other trainings calculated to expand volunteer capacity, for example, leadership



development and advocacy on relevant issues. In the area of legal services, volunteers must be trained and the training kept updated on the issue of confidentiality and unauthorized practice of law.

## **Confidentiality**

Volunteers MUST understand the importance of confidentiality in your work. Some programs use a specific volunteer agreement that stresses the necessity of keeping client information confidential. See attached National Immigrant Justice Center “Sample Volunteer Agreement” and “Volunteer Confidentiality Agreement” on pages 53 and 54. However you choose to educate your volunteers about confidentiality, this agreement provides useful guidance about what to tell your volunteers about confidentiality.

## **Respect and Consideration for Volunteers**

People choose to volunteer their free time and efforts for many reasons, but their first priorities are their own life, family, and work. An organization that uses volunteers must be sensitive to and supportive of volunteers’ time and other limitations. The organization can help to make volunteering easy by carefully planning how to use the volunteers. Breaking down tasks into small, discrete units helps volunteers fit the chosen activities into their existing schedule. It is a good idea to have a key organizer who can coordinate and oversee the details of all tasks and assignments to ensure that all necessary tasks are done. In addition, organizers should also make sure to include back-up and redundancy where possible. A task that may be completed by one person may be assigned to two people who may attempt to perform that task together or agree to take turns.

## **Retaining Volunteers**

For volunteers to return, they must feel convinced that they are making a difference, that they are doing something that needs to be done, and that they are valued. Some suggestions on how to retain volunteers:

- **Good organization:** create a plan on how to use volunteers effectively and coordinate well to ensure that the plan is carried out. Provide them with job descriptions and project goals. This helps ensure that volunteers are doing something that fits into the big picture. Assigning volunteers projects based on their skills and interests will also increase volunteer satisfaction.
- **Good backup plans:** the organizer(s) or coordinator(s) must be prepared and flexible. There will be occasions on which volunteers cannot come or perform the necessary tasks, or those on which more volunteers show up than expected. Organizers or coordinators must be quick on their feet and able to adjust to the unexpected.
- **Accommodating:** the organization offers various volunteer opportunities to accommodate different schedules. Volunteers are given the opportunity to help after work or on weekends or even given assignments such as translations they can work on from home. This would be subject to your taking work home policy in your agency.
- **Good communication:** the organizer(s) or coordinator(s) should make a point of informing volunteers of the agency’s progress or achievement on the project they have worked on. E-mail updates or newsletters are quick and easy ways to keep people informed and connected.
- **Acknowledgment:** the organization should make sure to acknowledge and thank the volunteers. Acknowledgements might take the form of volunteer celebrations, thank-you notes or gifts, or special recognitions in organization newsletters. Even a small gesture such as a birthday card or recognition of their service anniversary is often much appreciated.
- **Good training and supervision:** this helps volunteers to feel that they are being well-supported and remain effective in their tasks. It helps the agency ensure that volunteers are doing useful, quality work.
- **Communal spirit:** Volunteers’ commitment is renewed when volunteers feel that they are part of a community. You may build communal spirit in many ways; for example, a celebration, organizational T-shirts, or mementos.

## Interpreters

An immigration program can't function without interpreters who can translate spoken language (translators translate written language). Interpreters at nonprofit agencies run the gamut from professional interpreters to staff members who speak languages other than English, to volunteers, to friends and family of clients. Professionally trained interpreters will generally do the best job, but are often not an option for nonprofit programs with limited budgets. We offer below ideas about where and how to find interpreters and how to make the most effective use of your interpreters.

Ideally, an interpreter will at least:

- Be fluent in the other language and in English;
- Have some basic training in interpretation;
- Understand confidentiality requirements;
- Not be related to the client.

If it all possible, **do not** use your client's family members as interpreters. You may need to ask the client sensitive information she may not want to share with her family; you also need to be sure that you are hearing the client's own words, and not her family member's spin on what she says.

You may find interpreters in your general volunteer pool. Universities, religious institutions, nonprofit associations, and hospitals may also be sources of volunteer interpreters. Other creative solutions might be to have client family members interpret for other clients or to create an interpreter bank made up of clients that your organization has previously assisted and screened for competency, conflicts or other issues as you would screen volunteers to provide interpreter service.

All interpreters, whether volunteers, staff members, or client family, should adhere to the following guidelines:

- The interpreter is the client's voice in English, and should speak in the first person, just as the client does. If the client says in Urdu, "I was born in 1980," the interpreter should say in English, "I was born in 1980," not "she was born in 1980."
- It is best to seat the interpreter slightly behind the client, so as best to approximate the feeling of a direct conversation between the legal worker and the client.
- It is generally best to interpret at the end of each full sentence. This gives the interpreter a chance to repeat exactly what was said, and best ensures that he or she does not forget anything.  
  
You will probably need to explain this to the client and to an inexperienced interpreter.
- The interpreter should not summarize, but as far as possible interpret exactly what the client says.
- The interpreter should never insert her personal opinions or advice.

### ***Recruiting Pro Bono Attorneys***

"You have to get out there and be visible, and not just in the immigrant community. It's equally important to be visible in the local legal community as a whole. Think carefully about how you can use volunteer lawyers.

Build relationships with law firms. Many law firms have pro bono programs; find out who their pro bono partners are, and go visit them. Go to firm lunches, make presentations for them.

Offer to train pro bono attorneys to do something like asylum, and to mentor them. Then be good about mentoring. We have been very available to our pro bono attorneys, and they are appreciative. It's a win-win, but it takes a lot of work."

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

If you do find yourself having to rely on a client's family member to interpret, give the family member some guidance on what you expect from her or him. If you have any reason to suspect you are not getting the full story from your client through

the family member interpreter, or that there are things the client might be reluctant to discuss through the family member interpreter, make every effort to find an interpreter the client does not know personally.

## **Pro Bono Attorneys**

Pro bono attorneys can greatly expand your program's legal services capacity, but a pro bono attorney program is not for every agency. It takes work and expertise to adequately recruit, train, and supervise pro bono attorneys. Unless your pro bonos are seasoned immigration practitioners, you will not be able to run a pro bono program without experienced attorneys or fully accredited representatives on your staff to train and supervise them. Pro bono attorneys can bring other benefits to your program aside from expanding the number of cases you can handle. A strong relationship with a law firm can be a source of funding for the agency.

The following are different models for using pro bono attorneys.

### Referrals to:

- Experienced immigration attorneys
- Less experienced attorneys who have more time but need more mentoring
- Large law firms who want to work on selected cases such as VAWA or asylum (commonly referred as "signature project")
- Retired attorneys
- Non-immigration attorneys for assistance with client's other legal needs

### In-Office Help:

- Assistance with casework
- Assistance with research and writing
- Case supervision and consultations on difficult cases

### One-Day Workshop Opportunities:

- Naturalization clinics
- Refugee Adjustment of Status workshops
- TPS workshops

### Trainings and Community Outreach:

- Train immigration staff
- Serve as mentors for immigration staff
- Present at community outreach events
- Donations in lieu of pro-bono work
- Library resources
- Training scholarships

## **Law Students**

Law students can expand your agency's client representation, as long as you have staff experienced enough to train and supervise them. Agencies and students have the best results when the law students are closely supervised and expectations of them are clear.

Law students appreciate the chance to get hands-on, real-world experience they don't get in law school. Some of the work you might assign to law students:

- conduct intake consultations with clients
- participate in case review
- conduct client follow-up and set appointments
- research legal issues
- act as interpreters and translate documents
- prepare clients for agency interviews and court hearings

- attend and conduct court hearings in non-complicated cases
- prepare briefs
- attend meetings

Student internships work best where the agency provides active supervision and mentoring. One attorney writes that “I supervise the interns in all their duties by laying out the activities and case representation initially, doing frequent status checks (usually a quick conversation or an e-mail), and reviewing the intern’s work before submission. I also give the intern a hefty amount of initial reading material to orient them and I share samples of the type of assignment I want them to complete.”

Law students often look for part-time internships during the school year and full-time jobs over the summer. If there are any law schools near your organization, check to see if they have an Immigration Law Clinic, or offer immigration courses. If the law school has a Public Interest Law Center, you might advertise there as well for law student interns. You may also be able to advertise for law student interns through PSLawNet, the Public Interest Law Network, [www.pslawnet.org](http://www.pslawnet.org).

### ***Student Internships Can Be Rewarding for Both Agency and Students***

“As a law student, I worked with the Lucha Project, a legal project dedicated to helping abused immigrant women and children apply for immigration relief. I interviewed clients, prepared affidavits, prepared applications, compiled application packets, translated documents, filed applications, and attended community outreach meetings with program staff. My experience was rewarding because there were people available to answer questions and give guidance (although they were extremely busy), resources available to me to complete my work (internet, statute books, treatise guides), and I felt incorporated into the “real” work that was going on. I did a lot of menial tasks, such as copying, tabbing, faxing, and couriering, but I also did very important tasks like translating affidavits and helping to obtain out of state documents for clients.

Once I became a practicing attorney myself, I hired law student interns over the summer. The good ones were really helpful. They were able to do research and reduced my workload. I often gave my students more obscure cases or research issues. One such case was an asylum claim for a deaf-mute from Ghana who claimed he would be subject to persecution and would be unable to get proper treatment at home because of his condition. Even though the facts in the case weren’t as strong as they might have been, we won; I believe my student’s research pushed the case over the edge for the judge.”

– *Immigration Attorney, Catholic Legal Immigration Network, Inc.*

### **Non-Law Student Interns**

It is also possible to use non-law-student interns in your immigration program. Benefits to agency of non-law-student interns include the fact that “interns” may be more committed than “volunteers” and may devote more time to the work than volunteers; they may in some instances function more like unpaid staff members than volunteers. If you can find a local college or university that might offer some kind of course credit for an internship at your agency, this could be a draw for students. Students can also gain valuable job experience that might even lead to full-time work. While the agency need not pay interns, you will need to spend time recruiting and interviewing them, and you must be able to provide meaningful training and supervision.

### ***Why We Prefer “Interns” to “Volunteers”***

“We prefer working with interns rather than volunteers. In our experience, interns exhibit a higher level of commitment and dependability, allowing staff to task them with duties requiring a higher level of training and responsibility.

We developed job descriptions for interns and volunteers to reflect the differences in their roles. Interns get advanced immigration training and may work directly with clients. Volunteers take client photos and make copies of applications during group processing event.

We find interns and volunteers through our relationships with local universities and their faculties. We also advertise for volunteers on a local volunteer match website. We spend a lot of time screening potential interns to ensure an appropriate match. We evaluate a person’s dependability, attention to detail, penmanship (for filling out applications by hand), aptitude for learning, and cultural sensitivity.”

– Rachele King, Minnesota Council of Churches Refugee Services, Minneapolis, MN

### **Service Corps Opportunities**

Programs such as AmeriCorps, VISTA, and others place full-time “volunteers” at nonprofits. They typically work for one or two year terms, and in most ways function like regular staff members. They can be invaluable sources of help in immigration programs. Note that because their positions are time-limited, it rarely makes sense to seek accreditation for such a volunteer, unless you expect to have funds to hire her or him after the volunteer period ends.

These volunteers can do client intake; assist with immigration applications; make presentations at job readiness workshops and ESL classes to attract clients; and coordinate processing days and outreach for services.

More information about these programs is available online at:

- [http://www.americorps.gov/about/programs/state\\_national.asp](http://www.americorps.gov/about/programs/state_national.asp)
- <http://www.americorps.gov/about/programs/vista.asp>
- <http://www.jesuitvolunteers.org/>
- <http://www.lutheranvolunteercorps.org/template/index.cfm>
- <http://www.mennonitemission.net/Serve/MVS/Pages/Home.aspx>
- <http://www.mercyvolunteers.org/volunteer/>

# ATTACHMENT

## Sample Non-Attorney Volunteer Agreement

I, \_\_\_\_\_, affirm that I am at least 18 years of age and have completed a mandatory volunteer training conducted by the National Immigrant Justice Center (NIJC) to participate as a volunteer with the New Americans Initiative (NAI).

I further affirm that I understand and will abide by the following:

- I am a volunteer under the legal supervision of NAI’s legal team. I am **not authorized to provide legal advice or legal services**.
- I understand that all of the information I receive from applicants is confidential and that I may not discuss or disclose the information with anyone outside of the collaborative partners. I agree to maintain the privacy and confidentiality of all applicants and may only share information with other staff and authorized volunteers within the collaborative.
- I will not use the information or training I receive through NAI to engage in the unauthorized practice of law outside of NAI collaborative.
- After assisting an applicant in completing the N-400, Application for Naturalization, I will sign and date the application in Part 12, “Signature of Person Who Prepared this Application for You”. By signing, I am attesting that I completed the application with information received from the applicant. Signing as preparer does not imply that I provided legal advice.

I understand the responsibilities complicit in assisting applicants in gaining their citizenship and will perform these duties to the best of my ability. I understand that I am bound by rules of confidentiality and that I may not discuss or disclose the applicants’ personal information outside of the collaborative.

---

Signed

Date

---

Phone Number

Language Proficiency

# ATTACHMENT

## Confidentiality Agreement

- I. **Purpose.** The purpose of this Confidentiality Agreement is to protect the identity and privacy of our clients. Volunteers at the National Immigrant Justice Center (NIJC) encounter personal and sensitive information about clients. This is particularly true when assisting immigrant survivors of domestic violence, human trafficking, torture and persecution, and unaccompanied immigrant children. Therefore, it is very important to refrain from disclosing any information to third parties about our clients to avoid causing them harm.
- II. **Confidential Information.** Confidential client information should never be discussed in the presence of third parties, except under the Terms outlined below. Any files and/or documents containing confidential information should never be shared or released to third parties, except under the Terms outlined below. Confidential information includes, but is not limited to, the following:
1. Identifying information about the client, including name, address or phone number;
  2. Information relating to the client's family;
  3. Information regarding the client's immigration status;
  4. Information about the abuse, trauma, and/or persecution experienced by the client; or
  5. Any other information that would identify the client or potentially place the client and/or family members at risk.
- III. **Terms.** By signing this Confidentiality Agreement, you agree to the highest ethical standards and to abide by the following provisions:
1. All communications between NIJC staff, volunteers, and clients are confidential.
  2. The volunteer shall not disclose confidential information to a third party without the client's express consent to release such information.
  3. The volunteer shall not disclose confidential information to a third party without NIJC's knowledge and consent.
  4. I understand that as a volunteer, I have a duty to keep client information confidential throughout my term as a volunteer as well as after my volunteer status ends.
  5. I understand that my failure to abide by the terms of this Confidentiality Agreement may result in the termination of my participation as a volunteer at NIJC.

Name of client: \_\_\_\_\_

I, \_\_\_\_\_ (print name), have read the above NIJC Confidentiality Agreement and understand its terms and my responsibilities as a volunteer.

\_\_\_\_\_  
Signature of Volunteer

\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Date

# ATTACHMENT

## Sample Policy

### **Prohibition Against Providing Legal Services Outside the Office & Expectations of Employees**

The following are additional policies that apply to all employees working in Catholic Charities of Dallas Immigration and Legal Services Division (ILS):

1. Prohibition against extending immigration advice, counsel or representation outside the office.

Immigration and Legal Services is a program officially recognized by the Department of Justice, pursuant to 8 Code of Federal Regulations Part 1292.11.

As such all employees of ILS must carry out their work according to the following additional policies:

- No ILS employee is permitted to extend immigration advice, counsel or representation to individuals outside of the ILS office.
- All work on existing client cases must be carried out in the physical office of ILS, unless the client is being accompanied to an Immigration Court hearing or Department of Homeland Security appointment.
- Client files are never to be removed from the ILS office, unless being brought along for an Immigration Court hearing or Department of Homeland Security appointment.
- Any ILS employee discovered and confirmed to be extending immigration services to individuals on his/her own time outside of office hours will be terminated immediately.

2. Expectation of Good Moral Character

ILS employees must be able to establish “good moral character” for future purposes of becoming Accredited Representatives. All ILS employees should conduct their affairs with this in mind.

3. Client Confidentiality

Although client confidentiality is addressed in the Agency Personnel Manual, the nature of ILS’ work requires that it be reiterated here. Immigration client files contain highly sensitive information that must never be improperly shared with anyone not authorized by the client. Employees shall maintain client confidentiality at all times and failure to do so will result in termination.

4. Training Materials

ILS staff attends an abundance of immigration law training. In order that training materials may be available for all staff to use, all training materials obtained during training conferences paid for by ILS remain the property of ILS. Upon returning from a training or seminar, all training materials should be passed to the ILS person charged with maintaining the division’s library.

I have read the above additional policies specific to Immigration and Legal Services and I have been provided a copy of them.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



# **ATTACHMENT**

## Sample Policy

### **Catholic Charities of Dallas, Inc. Immigration and Legal Services Division Additional Division-Specific Policies**

The following are additional policies that apply to all employees working in the Immigration and Legal Services Division (ILS):

1. Prohibition against extending immigration advice, counsel or representation outside the office.

Immigration and Legal Services is a program officially recognized by the Department of Justice, pursuant to 8 Code of Federal Regulations Part 1292.11. As such all employees of ILS must carry out their work according to the following additional policies:

- No ILS employee is permitted to extend immigration advice, counsel or representation to individuals outside of the Catholic Charities/ILS office.
- All work on existing client cases must be carried out in the physical office of CC/ILS, unless the client is being accompanied to an Immigration Court hearing or Department of Homeland Security appointment.
- Client files are never to be removed from the CC/ILS office, unless being brought along for an Immigration Court hearing or Department of Homeland Security appointment.
- Any ILS employee discovered and confirmed to be extending immigration services to individuals on his/her own time outside of office hours will be terminated immediately.

2. Expectation of Good Moral Character

ILS employees must be able to establish “good moral character” for future purposes of becoming Accredited Representatives. All ILS employees should conduct their affairs with this in mind.

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I have read the above additional policies specific to Immigration and Legal Services and I have been provided a copy of them.

---

Signature Date

# CHAPTER FOUR

## Authorization for Non-Attorneys to Practice Immigration Law

**Learning Objective:** *To understand the requirements for Department of Justice (DOJ) Recognition and Accreditation.*

Your agency has no attorneys on staff, you have no money to hire any, but you want to offer immigration legal services. Or your agency has been helping immigrants for years with simple immigration matters, but you have realized that what you are doing is unauthorized practice of law, and you would like to get authorization to do the work you have been doing. Or your agency has attorneys and non-attorneys on staff, and you would like your experienced non-attorney staff to expand the range of immigration work they do. In each of these common situations, your agency should seek recognition for the agency and accreditation for non-attorney employees so that they may practice immigration law with legal authorization. This is not a difficult process.

We will begin this chapter by explaining what is meant by “practice of law” and “representation” and what constitutes unauthorized practice of law. Many programs employ non-attorney, non-accredited staff. It is important to understand what constitutes unauthorized practice of law, and why you will need either an accredited representative or an attorney on your staff in order to offer immigration legal services.

### Practice of Law

What does it mean to “practice law?” What does it mean to “represent” a client? It turns out that almost any advice you give to clients about their own particular immigration situation may be construed as “practicing immigration law.” Even something as simple as handing out immigration forms may constitute practice of law.

Examples of “Practice of Law:”

- An immigrant walks into your agency and says “I’ve been a refugee for three years. Now I want to apply for a green card. Which forms do I need? Can you give them to me?” A staff member hands her a packet of forms.
- An immigrant brings you a form and asks for your help filling it out and you help him figure out what is meant by the questions “date of last entry” and “current immigration status.”

Immigration regulations define “practice” of law thus:

“The term “practice” means the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the Service, or any officer of the Service, or the Board.” 8 CFR § 1.1(i)

And further define “preparation” thus:

“The term ‘preparation,’ constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed Service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure.” 8 CFR § 1.1(k)

The reason that all these seemingly innocuous and trivial activities might constitute practice of law is that they may cause an immigrant to think that she is being given advice about how to handle her immigration situation, and to rely on that advice. That can have dangerous consequences. If the immigrant above who asked you for “green card application forms” has a conviction that makes her deportable, and she applies for permanent residence because your agency, a reputable immigrant-

serving agency she trusts, gave her the forms and thus, she believes, it is fine for her to apply for residency, you have not actually served her well at all.

Here are examples of what is *not* “practice of law” in immigration matters:

- Helping someone fill out a form that he brings you, merely by filling in the blanks as he directs
- Translating documents
- Interpreting (i.e., in-person translation of real-time conversations)
- Providing general information about immigration law (for instance, about the requirements for naturalization) in a group setting in which you make it clear that you are not advising anyone about his or her individual case

Unauthorized Practice of Law (UPL) is a serious problem in immigrant communities around the country, with unscrupulous individuals claiming authorization to practice immigration law. Many immigrants have been defrauded by “immigration consultants” who demand large fees and expose them to serious immigration consequences by doing shoddy work, or filing fraudulent or frivolous applications. Such consultants, often known as “notarios,” engage regularly in unauthorized practice of law, sometimes with devastating consequences.

Unauthorized practice is an issue for well-meaning nonprofits as well. A nonprofit that practices immigration law without authorization also exposes clients to potential harm, and the agency to liability. Even workers with the best of intentions, but who lack knowledge, training, and authorization, may put clients at risk of losing immigration benefits and even deportation.

Each state regulates who may practice law in that state. Anyone who practices law without authorization may be liable under the particular state’s unauthorized practice of law statute. It is up to a particular state to enforce unauthorized practice laws. The Department of Justice (DOJ) and the Department of Homeland Security (DHS) do not enforce unauthorized practice laws, but USCIS does have an initiative warning the public about UPL: <https://www.uscis.gov/avoidscams>. USCIS has created a chart showing each state’s laws regulating UPL; note that some states have laws specifically regulating non-attorney immigration consultants: <https://www.uscis.gov/avoid-scams/report-immigration-scams#A%20to%20H>.

Florida, for instance, specifically prohibits non-attorneys and non-accredited representatives from discussing immigration questions with clients. The only exception is translating an immigration form, “as long as questions are not asked or answered.” “The Florida Bar will not prosecute a non-lawyer for the unlicensed practice of law for the use of computer software spell-checking, grammar-checking, or proofreading utilities to correct spelling or grammatical errors where the spelling or grammatical error is so obvious that the correction does not require discussions with the customer. This policy does not prohibit the Florida Bar from investigating the activities of a non-lawyer to determine what services are being provided.”<sup>3</sup>

Unauthorized practice may also expose an agency to lawsuits filed by clients who have been harmed by the agency. An inexperienced staff member without adequate immigration law training and skills may inadvertently subject a client to denial of immigration benefits and even deportation. An agency that is engaged in unauthorized practice of law will not be insured for legal malpractice, and is more likely to make mistakes that could lead to serious consequences for clients.

In order to protect your clients and your agency, it is important to ensure that your agency does not engage in unauthorized practice of law. If you have been doing this, the good news is that there is a way for non-attorneys to practice law with authorization; it is open to nonprofit organizations. The requirements are laid out below.

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<sup>3</sup><http://www3.flabar.org/DIVCOM/JN/JNNews01.nsf/76d28aa8f2ee03e185256aa9005d8d9a/3fe84c2d97b75380852572e50050124a?OpenDocument>

# Recognition and Accreditation by the Department of Justice

“Recognition” of a nonprofit immigration legal services organization and “accreditation” of its staff members by the Office of Legal Access Programs (OLAP) within DOJ’s Executive Office for Immigration Review (EOIR) allow non-attorneys working at that nonprofit to practice immigration law. Accredited representatives working at recognized organizations may represent clients before DHS and/or EOIR to the same extent as attorneys. Recognition and accreditation are enormously important in the nonprofit immigration field since the majority of nonprofit immigration legal service providers are staffed by accredited representatives. DOJ recognition and accreditation also provide assurance to the organization’s clients that it has experience and knowledge in the area of immigration law.

Recognition is granted to a nonprofit charitable, religious, social service, or similar organization. In order to be granted recognition, an organization must have “access to adequate knowledge, information, and experience” in immigration law and primarily serve low income or indigent clients. Initial recognition is granted for two years, and must be renewed on a six year cycle after the first renewal.

Once an organization is recognized, it may apply for individual staff members to be accredited. Accreditation allows non-attorneys to practice immigration law under the auspices of the recognized organization for which they work.

The rules governing recognition and accreditation are found at 8 CFR § 1292. In addition, we encourage you to review the FAQ sheet on the recognition and accreditation program which is available on the EOIR website at

<https://www.justice.gov/sites/default/files/pages/attachments/2017/02/27/olaprafaqsfinal227.pdf>.

OLAP maintains rosters of all the recognized agencies and accredited representatives; they are available on the EOIR website at <https://www.justice.gov/eoir/recognition-accreditation-roster-reports>.

It is a very good idea when applying for recognition and accreditation to talk to other programs whose applications were recently approved or to practitioners with experience handling these applications.

## DOJ Recognition

### Recognition Requirements

The requirements for organization recognition, which are found in 8 CFR § 1292.11, are as follows:

- The organization must be a non-profit religious, charitable, social service, or similar organization;
- The organization must have federal tax-exempt status;
- The organization must provide immigration legal services primarily to low-income or indigent clients within the U.S.;
- The organization must have access to adequate knowledge, information, and experience in immigration law and procedure;

### *Pros and Cons of Recognition and Accreditation*

#### Pros

It is free.

It is a lower cost staffing option than attorneys.

The organization avoids engaging in unauthorized practice of law.

The organization can provide better service to clients: an accredited representative may file a G-28 “Notice of Entry of Appearance” with applications; this form, which generally only attorneys and accredited representatives may file, notifies USCIS that the client has a representative. USCIS must then send the representative a copy of all correspondence it sends to the client. This is tremendously helpful to clients. The G-28 also allows the accredited representative to make direct inquiries to USCIS on behalf of clients. An accredited representative may also represent clients at DHS/EOIR interviews and hearings.

#### Cons

Recognition must be renewed on a cyclical basis.

Accreditation must be renewed every three years.

The agency must comply with recordkeeping, reporting, and posting requirements, discussed in more detail below.

- The organization must be simultaneously applying for at least one employee or volunteer to be accredited, and must maintain at least one accredited representative on staff; and
- The organization must designate an authorized officer to act on its behalf.

Non-profit Religious, Charitable, Social Service, or Similar Organization: You will need to provide your organization's mission statement or statement of purpose and a declaration from an authorized officer attesting that your organization serves primarily low-income and indigent clients.

Federal Tax Exempt Status: You will need to provide a currently valid IRS tax determination letter, alternative documentation of federal tax exempt status, or proof that this status has been applied for and a determination is pending.

Serving Primarily Low-income or Indigent Clients: You will need to provide an annual budget for providing immigration legal services for the current year and past year, if available, including information on sources of revenue and operating expenses; detailed fee schedules for all locations, if applicable; a summary of legal services provided ; a list of membership dues charged at all locations, if applicable; and your fee waiver/fee reduction policy or guidance provided to clients or staff at all locations, if fees are charged.

Knowledge, Information and Experience in Immigration Law and Procedure: The organization must have someone with knowledge and experience in immigration law on staff. This would be the staff (paid or volunteer) applying for full or partial accreditation, as well as any immigration attorneys on staff. An organization that does not have an attorney on staff must have access to an outside immigration attorney or fully accredited representative from another organization that has agreed to provide technical legal support and answer any immigration law or case questions that staff may have. The technical legal support may be in person, by telephone, or via the internet.

If your organization has only partially accredited representatives on staff but is a CLINIC affiliate, you should have no problems showing that you have access to technical legal support. The same is true for members of other national networks with immigration attorneys who provide technical support. Stand-alone programs without such attorney technical support through a network will need to arrange for a local attorney or fully accredited representative to provide this support.

Simultaneously Applying for at Least One Employee or Volunteer to be Accredited: In order to obtain and maintain agency recognition, you must have at least one accredited representative on staff (paid or volunteer). An organization that loses its accredited staff will be placed on inactive status and will lose its recognition if it fails to obtain accreditation for a new staff person within a reasonable period of time.

Authorized Officer: A recognized organization must designate an authorized officer to act on its behalf. The authorized officer is responsible for certifying the information in the recognition and accreditation applications and for promptly informing OLAP of any changes to the organization's contact information or any changes affecting the organization's and staff's eligibility for recognition and accreditation. For example, if an accredited representative leaves the organization, the authorized officer must promptly inform OLAP of this change.

## **Duration of Recognition**

EOIR published new regulations for recognition and accreditation that took effect on January 18, 2017. Under the new regulations, duration of recognition varies.

Initial recognition is granted conditionally for two years and then must be renewed. After the first renewal, it must be renewed every six years. For organizations that were recognized prior to January 18, 2017, the rules for renewal vary as follows:

- Organizations without an accredited rep. as of 1/18/17 must renew recognition *within 1 year* (prior to 1/18/18)
- Organizations that were recognized **more than 10 years** as of 1/18/17 must renew *within 2 years* (prior to 1/18/19)
- Organizations that were recognized **less than 10 years** as of 1/18/17 must renew *within 3 years* (prior to 1/18/20)

After the initial renewal for these organizations, recognition is valid for six years.

OLAP may terminate an organization's recognition if it fails to maintain the qualifications for recognition or the organization is subject to disciplinary sanctions. The procedures for termination and disciplinary sanctions are set forth at 8 CFR § 1292.17 and 8 CFR § 1003.

## **Reporting, Recordkeeping, and Posting**

All DOJ recognized organizations must comply with certain requirements for reporting, recordkeeping, and posting. These are set forth at 8 CFR § 1292.14.

Reporting: A recognized organization is required to promptly inform OLAP within 30 days of any changes affecting eligibility for recognition or accreditation and any changes to its information on the roster. Examples of such changes include a change of address, phone number, or name of the organization; the departure of an accredited representative; or a change in the organization's mission or tax exempt status. The authorized officer is responsible for reporting changes to OLAP.

Recordkeeping: A recognized organization is required to compile certain records and retain them for a period of six years from the date they are created. These records consist of: 1) the organization's immigration legal services fee schedule for each location where services are provided and 2) an annual summary of legal services provided by the organization. The annual summary must include the following information:

- The total number of clients served (whether through client intakes, applications prepared and filed with DHS, cases in which its attorneys or accredited representatives appeared before the Immigration Courts or the Board (if applicable), or referrals to other attorneys or organizations);
- Clients to which it provided services at no cost;
- A general description of the immigration legal services and other immigration-related services (non-legal) provided;
- A statement regarding whether services were provided pro bono or clients were charged in accordance with a fee schedule;
- Organizational policies or guidance regarding fee waivers and reduced fees; and
- A list of the offices or locations where the immigration legal services were provided.

Posting: A recognized organization is required to post certain public notices provided by OLAP. The public notices are limited to the names and validity periods of the recognized organization and its accredited staff; the requirements for recognition and accreditation; and the means to complain about a recognized organization or accredited representative.

## **Renewal of Recognition**

At the time of renewal, the organization must demonstrate that it continues to meet all the requirements for DOJ recognition, and must submit updated documentation for any information that has changed since its last recognition date. In addition, the organization must submit its fee schedules and annual reports compiled since the last date of recognition (or since January 18, 2017 if the organization was already recognized on that date).

## **Extension of Recognition**

If your organization has more than one physical office, and each office wants recognition, you can apply to *extend* recognition from the main office to the sub-offices. The sub-offices must meet the same eligibility requirements as the main office and must share the same operations, management structure, and funding sources. The authorized officer must attest that the sub-offices are under the supervision and control of the main office.

In lieu of extension, OLAP may require an organization to file a *separate* application for recognition of an office or location of the organization when, for example, the sub-office has distinct operations, management structure, or funding sources from the organization's main office.

Some agencies hold off-site clinics or do intake or outreach off-site from time to time. As long as the bulk of the legal work is being done back at the recognized office, it should not be necessary to apply for recognition for these off-site locations. Separate recognition is needed where an organization has offices in different locations and wishes to do legal work at each of these separate offices. This often comes up when a parent agency has "sub-offices."

## How to Apply for First-Time Recognition, Renewal, or Extension

Submit Form EOIR-31 (Request for New Recognition, Renewal of Recognition, or Extension of Recognition of a Non-Profit Religious, Charitable, Social Service, or Similar Organization). Please refer to CLINIC's *DOJ Recognition and Accreditation Step-by-Step Guide* for details on how to prepare the application and for samples of the application materials required. The guide is available at <https://cliniclegal.org/sites/default/files/resources/recognition-accreditation/WR-and-CLINIC-Combined-Step-By-Step-Edits-FINAL.pdf>.

## DOJ Accreditation

Under new regulations that took effect on January 18, 2017, an organization that is not recognized must request *both* agency recognition and staff accreditation at the same time. However, if an organization is already recognized and wishes to request accreditation for additional staff, it can file an application for accreditation only. There are two levels of accreditation, referred to as “partial” and “full.”

### Partial Accreditation

Partial accreditation allows the representative to practice before DHS only. This includes representing clients at USCIS interviews (e.g., adjustment of status, naturalization, and even asylum interviews); signing G-28s; speaking to USCIS officers on a client's behalf without the client being present; signing applications as the client's representative; and writing letters and motions to USCIS. The vast majority of accredited representatives are partially accredited. Unless you have extensive experience in immigration law, including knowledge and experience with removal proceedings, it is best to begin by applying for partial accreditation.

### Full Accreditation

Full accreditation allows the representative to practice before DHS and EOIR (which includes both the Immigration Court and the Board of Immigration Appeals (BIA)). Fully accredited representatives may represent immigrants in Immigration Court proceedings and BIA appeals, to the same extent that attorneys do. Full accreditation does *not* allow a non-attorney to practice in any other courts, such as state or federal courts.

### Accreditation Requirements

The requirements for staff accreditation are found in 8 CFR § 1292.12. In order to be eligible for staff accreditation, the proposed representative must:

- Be an employee or volunteer of the organization;
- Have the character and fitness to represent clients;
- Have broad knowledge and adequate experience in immigration law and procedure;
- Not be an attorney who is eligible to practice law in the U.S. or a U.S. territory, commonwealth, or possession;
- Not have resigned while a disciplinary investigation or proceeding is pending;
- Not be subject to any order disbaring, suspending, enjoining, restraining, or otherwise restricting him/her in the practice of law or representation before a court or any administrative agency; and
- Not have been convicted of a serious crime anywhere in the world.

#### Character and Fitness

This is similar to the standard required of attorneys for the admission to practice law. According to the regulation (8 CFR § 1292.12 (a) (1)), “Character and fitness includes, but is not limited to, an examination of factors such as: Criminal background; prior acts involving dishonesty, fraud, deceit, or misrepresentation; past history of neglecting professional, financial, or legal obligations; and current immigration status that presents an actual or perceived conflict of interest.” Character and fitness is demonstrated through the attestation of the applicant and authorized officer in the accreditation application form as well as character reference letters, employment references, or criminal background checks.

### Amount of Training or Experience Required

There are no written requirements about how many hours of training and/or experience a candidate for partial or full accreditation should have. Recommendations about how much training and experience are needed are based on what has been approved in the past, as well as how much training an organization would want for its staff, to ensure that they can do good work.

### Types of Training and Experience Required: Partial Accreditation

A candidate for partial accreditation should plan to attend several immigration trainings before applying. The regulations require that accredited representatives gain a broad knowledge of immigration law even if the organization is offering limited immigration services. Accredited representatives must know enough immigration law to discern when immigrants have complex issues that they are not equipped to handle so that they may refer such immigrants to other legal service providers.

All first-time accreditation applicants (whether applying for partial or full accreditation) are required to have recently completed *at least one* formal training course designed to give new practitioners a solid overview of the fundamentals of immigration law and procedure. In addition to a general overview course, it is a good idea to attend other overview courses that introduce topics such as family-based immigration law, naturalization, and inadmissibility and deportability issues. After that, candidates should decide which areas of immigration law they want to concentrate in and make sure they attend trainings on those. Staff of a refugee resettlement agency would likely want training on asylee and refugee immigration issues, while staff of a domestic violence agency may want training on immigration relief for survivors of domestic violence and other crimes. Training formats include in-person trainings, e-learning courses, and webinars.

In addition to formal training, a candidate for partial accreditation should obtain practical, hands-on experience providing immigration legal services under the supervision of an attorney or DOJ accredited representative. Organizations that do not have an attorney or accredited representative on staff should make arrangements for accreditation candidates who lack previous, practical experience to volunteer at another immigration law nonprofit or a local immigration law office. Some agencies set up “job shadowing” arrangements or internships with other nonprofits so that their staff can learn immigration work through practical experience. For staff without previous experience working in a law office, a combination of formal training with job shadowing is recommended as the best way to prepare for accreditation.

### Training and Experience Required: Full Accreditation

Full accreditation requires greater knowledge. Fully accredited representatives are expected at the minimum to be able to: advocate a client’s position at a hearing in front of an Immigration Judge; present documentary evidence; conduct questioning of witnesses; prepare motions and briefs; and present oral arguments before the BIA. This is a high standard which requires extensive training and experience in immigration law. An applicant for full accreditation will want to find a mentor who is an immigration attorney or fully accredited representative and who can help the applicant gain experience working on court cases. The applicant should observe Immigration Court hearings observe and accompany the mentor to court several times before applying. The applicant will also need to obtain a strong letter of recommendation from the mentor attesting to the applicant’s knowledge and experience with Immigration Court hearings.

### **Duration of Accreditation**

Accreditation lasts for three years. Accredited representatives must apply to renew their accreditation every three years. You must file the renewal application *on or before* the expiration date, in order for the accreditation to remain valid pending OLAP’s decision on the renewal application. It is a good idea to apply for renewal 60 days before the expiration date.

### **Accreditation Doesn’t Travel . . .**

To another organization. If you are accredited at recognized Agency A, and you get a new job at recognized Agency B, your accreditation does not accompany you. Agency B will need to apply for your accreditation at Agency B. Because you were previously accredited at Agency A, Agency B may apply for you as soon as you start working there.



## **Accreditation Allows Practice Only at the Organization that Applied for You**

An accredited representative may only practice immigration law while working at the recognized organization that applied for his or her accreditation. He or she may *not* practice as an accredited representative concurrently at any other organization *unless* that organization has also applied for and been granted his or her accreditation. It is possible for a representative to work part-time at one recognized organization and part-time at another and to be accredited at both.

Staff members who are accredited at one recognized location of an organization are authorized to practice immigration law at all other recognized locations of the same organization, and do not need to apply for accreditation separately at each location. Organizations with more than one physical site sometimes get all their sites recognized and have their accredited representative make visits to provide immigration legal services at each site.

## **Renewal of Accreditation**

If you are planning to renew your accreditation, it is important that you keep your immigration knowledge and experience up to date. Consider attending immigration law trainings semi-annually or annually, attending webinars on a monthly basis, and working on immigration cases to maintain your knowledge and practical experience. When it is time to renew your accreditation, OLAP requires you to submit the same type of documentation you submitted with your initial accreditation application. This includes an updated resume indicating your immigration law experience and trainings attended to date, certificates and/or agendas for the trainings, and letters of recommendation.

## **How to Apply for First-Time Accreditation or Renewal of Accreditation**

Submit Form EOIR-31A (Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative). Please refer to CLINIC's DOJ Recognition and Accreditation Step-by-Step Guide for details on how to prepare the accreditation application and for samples of the application materials required. The guide is available at <https://cliniclegal.org/sites/default/files/resources/recognition-accreditation/WR-and-CLINIC-Combined-Step-By-Step-Edits-FINAL.pdf>.

## **OLAP Decision Process for Recognition and Accreditation**

Once you file the application, USCIS will have 30 days to respond to your requests. USCIS may recommend approval or denial of your request. USCIS may also ask for additional time to investigate your request. Note that in most cases USCIS chooses not to comment at all on recognition and accreditation requests.

If, however, USCIS recommends against recognition and/or accreditation, they must send a copy of their recommendation to you; you will then have 30 days to submit a rebuttal letter to OLAP (again, serving a copy on USCIS). OLAP is not bound by USCIS' recommendation. OLAP will make its own decision—so if you are one of the few agencies that get a negative recommendation from USCIS, remember that this does not mean an automatic denial by OLAP.

OLAP will then review your application, and may contact you to request additional information. Decisions on recognition and accreditation applications can take anywhere from two months to as much as six months, although they usually take three to four months. If it has been much longer than that and you have not received a decision, you may want to call the Recognition and Accreditation Coordinator to ensure that your application has not been lost.

After reviewing your application, OLAP will send you a written decision. If the decision is favorable, your recognition and/or accreditation begin as of the date of the decision. If the decision is unfavorable, you may file a request for reconsideration within 30 days. If the request for reconsideration is denied, you may file a request for administrative review within 10 days.

You may re-apply for recognition and accreditation at any time. If you do so, make sure to address the reasons for the denial in your new application.

## A Final Note

Many of the recommendations in the sections above are drawn from practical experience. If you have questions about what to include in your application or how to put it together, consult with someone who has experience with these applications.

Finally, the process of applying is not complicated. The most time-consuming part of the process is getting your staff trained. Once your staff has enough training and experience, don't let concerns about the difficulty of the application process slow you down. Hundreds and hundreds of other organizations of all sizes and in all 50 states have already applied for and been granted recognition and accreditation.

# CHAPTER FIVE

## Case Management Systems: Promoting Effective, Efficient Service Delivery

**Learning Objective:** *To learn how to develop and implement the components of a case management system and to understand its importance in providing high quality, efficient and consistent services to a legal immigration program's clients.*

**H**ow does—or will—your immigration program deliver services to clients? How do you set up intake? How do you select cases for representation? How do you collect fees? What systems does your office have in place to ensure that your staff are working effectively and efficiently, and avoiding malpractice and liability? How do you track deadlines and cases?

This chapter will explore these issues in depth. The chapter opens with an exploration of the many facets of case management systems, from a potential client's first approach to the agency to the moment the agency disposes of the closed case file. It delves into every aspect of the agency's handling of a case, offering concrete suggestions and models for everything from intake to fee collection to file organization and maintenance.

The chapter is filled with details. It recommends developing policies and procedures for what may seem like minutiae. You may wonder how—and why—you should find the time to develop and implement all these policies and procedures. There are two vital reasons: they allow your program to run more professionally and efficiently, and they protect the agency and its clients.

Time you spend developing strong case management procedures is time you will get back a thousand-fold over the life of your immigration program. The less time the immigration staff at your agency need to spend on each individual case figuring out how to open a case file, what to put into case notes, how to organize the case file, the more time the staff can spend helping clients with their immigration legal matters. The better organized your immigration program is, the more clients you can serve, and the more income you generate. The more your program follows clear case management guidelines, the less likely you are to commit malpractice, and the less likely your clients and your agency are to suffer the consequences of malpractice.

Some case management elements are non-negotiable; no program should operate without them. Others are beneficial but non-essential. The chapter will make clear which elements are necessary, and which are extremely useful but not required. There are multiple ways to set up case management procedures, which we will discuss in this chapter. Additional consideration for setting up case management procedures should be paid to human trafficking cases and victims of violent crimes. The first attachment at the end of the chapter, a brief article by Gail Pendleton, pertains to these topics.

### Why Case Management is Essential

A strong case management system is key to a healthy immigration legal program. A strong case management system helps ensure consistency, uniformity, and a high quality of work. It allows a manager to more easily manage a program, staff to work more efficiently and effectively, ensures better service to clients, and helps protect the agency from malpractice and liability.

Program managers should give the highest priority to developing an effective case management system at the earliest possible moment in the life of a program. If your program has been functioning for months or years without a case management system, don't despair—it is never too late to implement one.

A case management system balances the interests of the client in getting the best and speediest representation with the agency in providing services efficiently. It will include standard procedures and policies that govern how your program handles cases, from the moment a potential client contacts the agency for help, to closing of files. Components of a case management system include intake procedures and forms, case opening criteria and procedures, retainer agreements, a tickler system that ensures the agency doesn't miss client deadlines, case file organization standards, case notes standards, a filing system, and case closing procedures. A strong case management system helps ensure the immigration program's compliance with legal ethics rules.

A program that provides legal representation is governed by legal ethics rules. Any attorney is required to abide by her state's ethics rules for attorneys. While accredited representatives may not be bound by the same rules, the best practice is to assume that they are and act accordingly. By doing so, you assure your clients of the best quality services, and you best protect your agency from legal liability.

## **Benefits of a Case Management System**

### High-Quality Service

- Clients get high quality service;
- When staff leave the agency, other employees can seamlessly take over their cases; and
- Clients participate better in their own representation. They have clear understanding of what to expect from agency and what the agency expects of them, and trust that the agency is working zealously on their cases.

### High Staff Satisfaction

- Clear procedures allow staff to concentrate on doing quality legal work; and
- Staff frustration and burn-out are much less likely.

### Financially Healthy Program

- Agency is financially healthy because it timely collects all owed fees;
- Efficient case handling and careful case selection criteria contribute to agency financial health; and
- It is much easier to gather data to report to funders.

## **Perils of NOT Having a Case Management System**

### Lower-Quality Service

- Staff members leave the agency, and the agency can't figure out what was filed, when it was filed, or what happened on her or his cases;
- Agency is far more likely to perform substandard work,
- Fewer clients are seen because staff is not working efficiently; and
- Staff members are poorly managing client relationships such as delaying or forgetting to keep clients informed about their cases.

### Frustrated, Burned-Out Staff

- Staff is more likely to experience stress and burn-out and even quit; and

- Departure of burned-out staff creates inefficiency as the agency will have to hire and intensively train replacement staff.

#### Agency Liability

- Agency is far more likely to commit malpractice and face legal liability; and
- Agency is more likely to lose track of important deadlines and client documents.

#### Poor Financial Health

- Agency loses money because fee collection is haphazard; and
- Higher probability of misappropriation and mishandling of fees.

## Developing and Implementing Case Management Procedures

### **Involve Staff in Creation of Case Management Policy and Procedures**

It is an excellent idea to involve staff in the development of your office's case management procedures and policies. Staff members may offer valuable ideas for the creation of case management policies and procedures. Also, staff involvement in developing procedures can also have a positive impact on staff buy-in to the office's case management procedures

### **Create a Policy and Procedures Manual**

A case management system is worthwhile only to the extent your staff follow it. The first step, after you develop your case management policy and procedures is to commit the information in writing to ensure staff compliance and accountability. Written procedures give your staff clear guidelines. They facilitate the training process for new staff. Written procedures also help with staff supervision by giving supervisors standardized criteria by which to evaluate staff work.

### **Communicate Policies and Procedures to Staff on Ongoing Basis**

Writing procedures down is a preliminary step. It is vital that the program manager communicate these procedures clearly to staff. When new staff starts, you may decide that the program manager will go over all the procedures with them. If you are instituting case management policies and procedures after years of not having any, you will need to figure out how to get your staff to accept and follow the new policies, which may be different from the way they have been accustomed to operating. This may mean a staff meeting or series of meetings to go over the new procedures and meetings with individual staff on a one-time or ongoing basis. However you decide to implement the policies, they will remain mere words on a page unless you take steps to bring them to life and keep them alive.

The immigration services program manager must ensure that staff not only learn about, but adhere to, program policies. The program manager will need to make sure that staff members are in fact following program guidelines. In Chapter Two, we will discuss various ways to keep staff accountable of program guidelines.

### **Legal Ethics and Case Management Policies**

Practicing law subjects the practitioner and the agency to certain ethical requirements. Attorneys are bound by the ethics rules of the states in which they practice. Attorneys who violate these rules may be sanctioned and even banned from practice. Accredited representatives, who are allowed to function just like attorneys before U.S. Citizenship and Immigration Service (USCIS), the Immigration Court, and the Board of Immigration Appeals (BIA) should assume that state attorney ethics rules apply to them as well. (Note that partially accredited representatives can function like attorneys before USCIS, while fully accredited reps may also function like attorneys before the Immigration Court and BIA.) Malpractice by attorneys and accredited representatives can lead not only to removal from practice, but monetary liability.

The ethics rules that most directly impact case management are the duty of client confidentiality; the duty of competence, and the prohibitions against representing clients whose interests conflict. Throughout this chapter, we will explain how these duties must inform case management decisions.

Note that every state has its own attorney ethics rules. Your state bar’s website should contain a link to your state’s ethics rules. Each state bar also has an Ethics Committee that can give advice about legal ethics matters in that state. It is a very good idea to familiarize yourself with your own state’s particular ethics rules.

### ***Challenges in Implementing a Case Management System***

A small immigration office at a social services/refugee resettlement agency had the following experience:

“GoodPeople Immigration Services” (not its real name) had been operating for five years. They had a staff of dedicated accredited reps and interns. They did family-based immigration, naturalization, and VAWA. They had so many cases and so many clients that they never had time to come up with a case management system—with clients lining up out the door, who had time to make up complicated systems? They collected fees from some clients, they had no technical review—but so far no one had sued them so they figured it was OK.

Then GoodPeople hired “Gordana” (not her real name) as a new immigration worker. Gordana had been a paralegal at a law firm for several years, and she worried about the lack of case management. She also felt the program could be bringing in a lot more money. She attended a program management training for nonprofit immigration legal programs; as soon as she got back from the training she wrote her program director a memo about why their program needed better case management, and why he had to attend the training. He attended the same training and came back convinced; he gave Gordana the green light to set up program management systems.

Gordana overhauled the program’s fee collection process, insisting that all clients pay a consultation fee before seeing a counselor; the receptionist would collect the fees. Staff would only open cases when clients brought in the full fee. For clients who were unable to pay, Gordana set up a fee waiver policy with clear guidelines. She set up intake forms, case file protocols, and a new filing system. Gordana worked with the other legal staff and got their input as she developed her systems; this helped in getting the staff to buy in. She also instituted a quarterly peer file review process by which the immigration staff would review randomly chosen files from other staff and check that required processes were followed. By involving the staff in some of the case management system decisions, getting the strong support of her director, and communicating the new policies in writing and at regular meetings, Gordana has succeeded in bringing the new policies to life, with excellent results.

GoodPeople now sees more clients than it did before; collects three times more money in fee income; and has been able to secure more state and private funding. Staff are happier and less stressed. Because its main office runs so well and it is generating more income, GoodPeople is expanding its capacity by opening satellite offices in underserved rural areas.

## **Elements of Case Management**

### **Intake**

Programs should establish clear and consistent client intake procedures. Intake procedures will vary from program to program. The key is to be clear and consistent, and to create a procedure that best meets the needs and realities of your own program.

There are two basic approaches to conducting intake: 1) the appointment-only model; and 2) the walk-in model. Some programs use one model exclusively, while others use both. The “Appointment-only” model requires potential clients to make appointments for intake. Potential clients who appear at the agency without an appointment will not be seen. A walk-in system, on the other hand, allows potential clients to appear without appointments. Agencies that use this model generally set aside certain times every week for walk-in intake.

Some of the pros and cons of each model:

<b>Appointment Model</b>	
<b>Advantages</b>	<b>Disadvantages</b>
Very convenient for clients	High no-show rates may impact the budget
No need for large waiting room	Need to have someone maintain and monitor appointment calendar
Staff maintain control over their time	Appointment calendar may fill up far into the future and fewer clients are helped because fewer consultations are done
Less stressful for staff	
Less confidential interview space needed because fewer potential clients seen at once	

<b>Walk-in Model</b>	
<b>Advantages</b>	<b>Disadvantages</b>
Clients are not bound to come to any particular intake session	Need for larger waiting area
Staff time is not spent on scheduling and canceling appointments	Need for more confidential interview space
Program gets broader range of experience due to receiving a higher volume of potential clients with various immigration issues.	Clients have to wait to be seen
More immigrants helped	Hard to predict day-to-day volume and demand
Greater visibility for program in community	Usually more work to juggle
Access to greater number of immigrants since appointments are not required.	More safety and security issues to consider because of large volume of people waiting

### **Appointment Model**

If your agency decides to handle some or all of your intakes through individual client appointments, you will need to determine the process of setting up appointments and the resources required and available at your agency to set up appointments. There are many ways to do this, just as there are many types of immigration programs.

Small programs with one immigration staff person have few options available. Usually the immigration staff person sets up her or his own appointments. Programs with more than one immigration staff person will need to work out who sets up appointments. Programs lucky enough to have support staff may decide to have support staff set up intake appointments. Intake fees may be collected when making the appointment to decrease the number of client no-shows.

### ***Smaller Agency: Designated Intake Times***

“The office holds open intake Tuesday and Thursday from 9 am - 7 pm; we also have a separate site that conducts intake from 1 - 4 pm every Monday. All intake is done on a first- come, first-served basis. There is always a pretty steady stream, but it can get chaotic. Potential clients are seen the day they come, but there can be a long wait, and it can take a couple of weeks to get a follow-up appointment.

We settled on this system because we found that with an appointment-based intake system a lot of people don’t show up. The downside of our open intake system is, for example, when someone is traveling a long distance and the attorney is sick. But it does save aggravations with clients showing up late.”

– *Angie Plummer, Community Refugee and Immigration Services, Columbus, OH*

No matter who sets up intake appointments at your agency, it is crucial that you have policies and procedures in place for setting up appointments including standardized questions the person setting up appointments should ask. This may vary depending on the level of immigration expertise of the person who sets up appointments. An agency in which experienced staff set up appointments may be able to ascertain over the phone that the agency cannot help a particular caller, and refer her or him elsewhere. An agency in which support staff with little immigration experience set up appointments may not be able to screen callers as well over the phone. The less immigration knowledge the person who sets appointments has, the more important it is to develop clear protocols for what to ask callers. It is also important that staff not waste time answering lengthy immigration questions on the phone for non-clients.

### ***Why and How We Implemented an Appointment-Only Policy***

One agency writes that:

“When we first started our immigration program, which now has two accredited representatives, we wanted to bend over backward for our clients and we saw people as they came in. But then clients developed an expectation that they would be seen right away, and it got chaotic and overwhelming. We even had potential clients walking down the hall and opening closed office doors to look for someone to help them that minute! We used to laugh about camouflaging ourselves when we left the building because clients would lie in wait for us and try to “grab us” as we walked through the parking lot to ask the proverbial “one question!” Once a couple of clients recognized my car and were waiting there when I was leaving at night in order to ask their one question. Another night one particularly determined person hung out in the lobby waiting for me to appear for so long that my colleague left the building, got into my car and drove it to the back door where I snuck out and she snuck back in. This wasn’t a dangerous stalker but somebody who refused to believe he’d have to make an appointment. He was still sitting there when the janitor went to lock up the building about an hour after I’d left.

After two years of these conflicted feelings about whether or not to require appointments, we realized we had to change. It was difficult to decide because we were trying to do the touchy-feely church-thing and help people in a non-bureaucratic way. However, then we saw that helping people whenever they showed up was not letting us get our work done; it wasn’t fair to other clients and it was highly stressful for staff. We decided that we would see clients by appointment only.

We also changed our physical space. We arranged for our program’s waiting room to be moved to the central lobby area instead of crowding waiting immigration clients into a small alcove outside our offices; this was also important because we didn’t want waiting clients to overhear confidential conversations occurring just a few feet away. The move to the central lobby was a huge help. Another problem with our space is that we have our copier in the hallway. Workers walked through our small waiting alcove to make copies, usually multiple copies which took some time. People wandering in without appointments would walk up to an immigration counselor at the copier and begin to ask their “one question.” We scrambled to cover up the papers we were copying and it wasn’t long before it wasn’t a tenable situation at all. The central lobby waiting area is a vast improvement and it was hard to change people’s habits, but finally today we rarely have people walking in expecting to be seen right away.”

–*Director, small immigration office in a larger social services agency*



## Walk-in Model

Programs may allow walk-in intakes at any time or only on designated days and times. Walk-in intake at any time is most feasible in a large agency with a large pool of staff members who might be available at any point to do intake. Agencies with smaller staffs may want to use appointments or to designate specific intake times. As the story above demonstrates, allowing clients and potential clients to walk in any time can be overwhelming and chaotic.

Agencies that use the walk-in model exclusively will also need protocols for what to tell prospective clients when they call for immigration help. Generally, prospective clients should be instructed to bring along as much relevant paperwork about their case as they can, including all immigration applications previously filed, and all correspondence they have received from Department of Homeland Security (DHS), Department of State (DOS), and/or the Executive Office for Immigration Review (EOIR). Some agencies have had great success with requiring prospective clients to bring everything needed to prepare an application to the appointment. If anything—USCIS fee, agency fee, necessary documents—is missing, the agency will not open a case, and will re-schedule the prospective client.

### *Large Agency: Walk-in Intake at Any Time*

“Intake occurs each day Monday through Friday in four hour intervals, from 9am to 1pm and 1pm to 5pm. The receptionist instructs potential clients to sign in when they arrive. They then wait for a meeting with an intake worker who collects biographical information and creates a physical or electronic/database file. The intake workers see potential clients based on order of arrival and language availability. Potential clients are then scheduled for an intake or consultation appointment with an attorney or accredited representative, depending on the type of case.

For simple services, the client is referred directly to a paralegal or accredited representative who can provide the service on the spot. The client does not have a separate appointment to consult with an attorney or accredited representative. Such services include renewal of a work permit, parole request, replacement residency card, etc.

For more complex matters, potential clients are scheduled for appointments based on staff availability. Potential clients pay a consultation fee when the appointment is scheduled. Depending on the demands of the office the client could receive a legal consultation the same day or within a couple of weeks.

At the time of the appointment, the potential client meets with the attorney or representative in his or her office. The worker talks with the potential client to determine if any legal relief may be available to her. The worker also inquires into the potential client’s immigration history and reviews and copies any relevant documents she may have. Depending upon the legal issues involved, the worker’s expertise, and the preferences of the worker’s supervisor, a case acceptance decision may be made on the spot, or after consulting with the supervisor. If a case is accepted, the worker explains to the client what fees associated with the case work, if any. The legal representation to be provided is also explained to the client and he signs a retainer. The client’s information is updated in the database and any court or filing deadlines are recorded on the master court and filing calendar. If a client’s case is not accepted, the client is either told at the consultation or is mailed a letter.”

– Randy McGorty, Catholic Charities Legal Services, Miami, FL

## Paper Intake

A final intake model is paper intake. In this model, the potential client completes the intake form off-site and sends it to the agency, which then determines who to call in for more detailed in-person intake interviews.

There are several advantages to this model. Immigrants don’t have to take a day off of work to wait for an appointment. The agency is able to keep intake open at all times, and can make decisions on substantive cases in light of the resources available. However, a barrier to “paper intake” is the literacy levels of potential clients. Note as well that the agency loses possibly important information without personal interaction with the potential client.

### ***Balancing Staff Time***

“We struggled with balancing the time needed for staff to screen new cases with the time needed for staff to work on accepted cases. We moved away from conducting intake interviews for certain projects. Our office now begins intake in certain of our projects with an application for legal services in three languages. The application instructs potential clients to submit relevant documents. The application can be returned to our office either in person or by mail. Supervisors review the returned applications and make a decision about whether to schedule an intake interview. If the case is rejected, the prospective client receives a reject letter with referrals to other agencies. If an intake interview is scheduled, a staff member conducts the interview and submits a written case summary for supervisory review. Supervisors then hold case review and, often in consultation with staff attorneys, decide which cases to take and make case assignments. Our projects that help victims of violent crime, victims of human trafficking, and unaccompanied children does not use the application for legal services procedure and typically conduct intake interviews of all prospective clients.”

– *Rebecca Sharpless, Florida Immigrant Advocacy Center, Miami, FL*

### **Telephonic and Electronic Intake**

Program managers should think carefully before attempting to implement a telephonic or electronic intake system. The careful examination of documents and the verification of client candor are critical to assessing an individual’s immigration case. Neither of these can be effectively done over the telephone or via the internet. While technology continues to facilitate many aspects of customer services across many industries, initial client intake for immigration legal services is, like a medical examination, important to do in person.

Ethics rules also factor into decisions about telephonic and electronic intake. It is very important to ensure that any immigration advice the program gives is given with a full understanding of a client’s individual situation. Again, it is often difficult to make such an assessment over the phone or internet. A program needs to make sure that its advice, even to people it does not ultimately accept as clients, is as accurate and complete as possible.

An additional reason to require that the client’s first encounter with a program be in-person is to ensure that clients are properly advised as to their responsibilities throughout the life of their immigration cases. Successful immigration programs communicate to clients from the outset that the clients are entering a representation partnership, and that the program can only work effectively with the complete cooperation and candor of the client.

### **Intake Staffing Choices**

Agencies with larger staffs will have to decide which staff to assign to intake, and how. An agency may decide to assign particular staff members to do intake based on their level of immigration experience. A preliminary screening of a client’s eligibility can help the agency determine which staff member would be most qualified to continue with the intake process.

Programs sometimes use less experienced staff, or volunteers, to handle intake. If you decide to do this, you will need to ensure that your intake staff or volunteers are adequately trained to ask about and recognize potential problem areas, and to explore what immigration options might be available to each potential client. A detailed intake form will help your staff make these determinations. Immigration law is complex, and the penalty for missing important issues may cause your client to be removed or deported from the United States. It is not worth saving some money on intake staffing if you thereby miss important issues like potential immigration benefits, filing deadlines, or bars to filing.

### ***Why We Don’t Use Volunteers for Intake***

“An attorney sees all the potential clients for intake and then supervises other staff who may work on a case. We tried having volunteers and interns do intake, but found that to be inefficient because less experienced staff weren’t always able to identify key issues.”

– *Angie Plummer, Community Refugee and Immigration Services, Columbus, OH*

## **Need for Clear Communication During Intake**

Some programs structure their first interaction with clients as a consultation during which the legal worker assesses the immigrant's situation and eligibility for benefits and/or relief. These programs do not begin substantive legal work during the initial meeting. Other programs immediately accept cases after determining the immigration benefit the person is eligible for and begin work right away. This is especially true of less complex cases.

It is extremely important, no matter how your agency structures intake or consultations, that both your staff and potential clients are clear about what is happening and who has agreed to what. It is crucial that the immigration legal worker communicate clearly to the potential client whether or not the case has been accepted and what the next steps are that both the agency and potential client must take. Will the agency be calling the immigrant? Should the immigrant contact the agency? Is she a client of the agency yet, or not? One suggestion is to have every client sign an Initial Consult Agreement explaining that your agency is only providing an initial consultation and will not be taking the case until a second more detailed Client Agreement is signed.

Why is this important? If the agency has not yet committed to taking on a particular client, you want to make sure that the potential client knows that, and does not assume that she is the agency's client. Otherwise she might not seek other legal representation, or she might assume that she doesn't need to worry about deadlines because your agency, with its immigration expertise, has agreed to represent her and is taking care of her case. The agency should be as clear as possible with potential clients about when and if they become clients in order to avoid possibly harmful assumptions like this.

It is also extremely important to assure potential clients, preferably at the beginning of the intake process of the agency's commitment to confidentiality. This helps establish trust with the potential clients and helps them to understand that they can and should be fully honest with the agency, during intake and throughout the entire immigration process.

## **Intake Forms to Determine Client Eligibility**

Intake forms are essential to facilitate the intake process. Good forms help ensure that every intake worker asks each potential client all of the important questions that will help determine what immigration benefits the potential client might be eligible for. The intake form captures not only a potential client's biographic information, but also their immigration and criminal history. The intake process is pivotal to determine whether your client has an immigration case and whether your agency is equipped and able to assist this individual to obtain the immigration benefit.

To facilitate the intake process, programs should develop intake forms and checklists tailored to services provided by the agency. Some programs have a short basic form for initial intake that captures basic biographic and contact information and a longer, detailed form that is completed during the initial consultation. Other programs use a longer detailed intake form from the beginning. The experience and availability of the program staff and the kinds of immigration services provided by the program will help determine what should be included on the intake forms. Regardless of how the intake process is set-up at a particular agency, it is important that the agency captures all the information necessary to help it determine whether they can assist the individual with their immigration case.

In addition to intake forms, many programs also find useful a set of immigration application checklists that can be tailored to a particular client's case, and that identify the exact documentation and information the client needs to provide. Developing such lists based on the information most often requested in your office can save your immigration workers significant time. Immigration application checklists might include:

- Documents the client must provide;
- Money order amounts for USCIS filing fees;
- Other USCIS requirements, such as photos, medical exam; and

- Information on how to proceed once the client gathers all items.

To supplement the immigration application checklists, some programs use a corresponding set of informational handouts that correspond to items on the checklists. Examples include:

- List of approved local doctors for medical exams;
- List of addresses of local criminal courts to obtain criminal records;
- List of local police offices to obtain police clearances;
- List of local passport offices; and
- List of local Legal Aid offices for non-immigration legal matters.

## **Referral Lists**

You will encounter people at intake whose cases you cannot accept. The agency should create a referral list to assist people whose cases the agency cannot handle. The list should include more than one service provider, if that is at all possible, and staff should thoroughly research recommended agencies and practitioners to ensure that they are reliable and professional. To avoid the appearance of impropriety, the agency should not recommend any one service provider on the list over another, and should not steer individuals to certain providers.

# Case Selection

## **Criteria for Case Selection**

Which cases should the agency accept for representation? A number of factors go into the decision to accept a case or not. The agency should have overall guidelines about the kinds of cases it will select based on staff resources and expertise and financial considerations. Programs should not accept more cases than they can competently handle. In Chapter Six, we will discuss in detail how to maximize fees through case selection. .

Common factors to take into account:

- Availability of staff
- Expertise of the office
- Needs or special needs of the clients (e.g. children and elderly)
- Whether the office can make a difference in the case outcome
- Conflicts of interest
- Client income (e.g. some agencies will not represent clients whose income and or resources exceed a given amount.)
- Does the type of case fit within the mission and core competencies of the agency

The larger the program is, the more important it is to have clear guidelines for staff about what kinds of cases to accept. It is also important to be clear who makes the decision whether or not to accept cases. Some offices leave it up to individual staff to determine how many cases they can handle at once; others have case completion expectations.

It's important to ensure that staff members do not accept more cases than they can competently handle. Aside from the possibility of staff burnout and frustration, lackluster and hurried representation can lead to legal malpractice, harming the client and exposing the agency to liability. Nonprofit staff members who are eager to help immigrants and make a difference

may be tempted to take on more and more clients, but taking more cases than the agency can competently handle does not serve clients well.

## **Expertise of the Staff**

Attorneys are bound by state ethics rules to provide competent representation to their clients. They must have some knowledge of the law governing the cases they represent. They should not accept cases on matters they lack knowledge and experience.

While accredited representatives are not specifically bound by attorney ethics rules, these rules provide extremely useful guidance. To protect the agency, its staff, and its clients, agencies with accredited representatives should act as if attorney ethics rules bind them.

Programs should ensure that they do not accept cases that are outside their sphere of knowledge and experience. Certainly immigration legal staff can learn about new areas of immigration law and are not obliged to handle the same kinds of cases forever, but it is crucial to be sure to get enough training and support before delving into new areas.

This is true even if your program is the only nonprofit immigration provider for hundreds of miles. Just because there is no one else around who can take a case does not mean that your agency must accept a case it is not competent to handle. If you do want to take on cases your staff have neither experience nor training on, you will need to make sure that the staff member who accepts the case finds training and/or an experienced mentor to guide her or him. Incompetent representation does not help clients, and could expose the agency to liability.

## **Conflicts of Interest**

Ethics rules prevent attorneys from representing clients whose interests conflict with each other. This is because an attorney owes each client undivided loyalty—an attorney may not put herself or himself in the position of having to choose one client’s interests over the other’s. As this manual has pointed out, best practice for accredited representatives is to behave as if they are also bound by attorney ethics rules.

Before agreeing to accept a potential client’s case, your program should check your client database to ensure as best you can that this person’s interests do not conflict with those of another agency client, including former clients. In your practice, conflicts will most frequently arise in family-based petitions. For example, a potential client comes in saying that she has been beaten by her U.S. citizen boyfriend; she has called the police and reported the beatings. You interview her and believe that she may be eligible to apply for a U visa for crime victims who cooperate with law enforcement. A check of your agency’s database, however, reveals that the agency is currently representing her boyfriend, who is sponsoring his parents for permanent residence. Representing the U visa applicant would mean working against the interests of your current client, and so you would not be able to represent her.

Some case management software programs allow you to perform “conflicts checks” on potential new clients. When choosing a case management system, this is an important feature to look for. In the situation above, a simple check of the client database would reveal that the potential new client’s boyfriend had previously been an agency client.

Note that this is a complex topic that this manual cannot cover in detail. When in doubt about possible conflicts of interest, approach an experienced attorney or accredited representative for advice. You may also be able to contact your state’s bar association for guidance.

## **Client Income**

Some programs have client income caps where the agency will not accept cases for clients whose incomes are above a certain level. This ensures that the agency’s scarce resources are not being used for clients who could afford private representation. Other programs have no formal income caps.

## Turning Down Cases

Nonprofit immigration staff members sometimes feel that they are bound to accept all clients who approach the agency. Some potential clients believe this as well. It is not true. A nonprofit does not have to accept any particular case, no matter how deserving the client may be. Even if part of your agency's mission is to serve low-income immigrants, you don't have an obligation to any specific non-client, no matter how deserving.

Indeed, as the above sections indicate, there are a number of situations in which an agency *must* decline to take a case. There are conflicts of interest that preclude representation of both parties. An agency should not take on a case it's not competent to handle. An agency may also have its own internal guidelines about what types of cases it accepts.

These are not the only situations in which an agency must or may turn down a case. An agency may be too busy to take on a particular case. A staff member might have a serious personality clash with a potential client that would get in the way of effective representation. Both are legitimate reasons to decline representation.

It is important that your immigration staff understand the situations in which they *must* turn down cases, and the situations in which they *may* turn down cases. It's also important to make it clear to potential clients that the consultation is just that: a consultation to see if the agency will be able to accept a case for representation.

If you do decline representation on a case, make sure to communicate this clearly to the potential client as soon as possible. It is a best practice to put this in writing. Many programs use standard letters to communicate this, and include a list of referrals to other agencies and/or private attorneys with the letter.

## At What Point to Open a New Case

You have met with a prospective client and you feel he or she has a good case that meets your case selection criteria. Your agency has three immigration staff and each of you make your own decisions about which cases to accept. At what point do you actually open the case and start work? Do you open the case right away during intake? The client does not have all her documents, and she has not brought all the required filing fees and the agency fee. Do you require her to come back before opening a case for her?

Many programs will not open a case before the client has brought all the required documents for the case, as well as the USCIS filing fees and the agency's fee. This allows programs to avoid a build-up of pending cases that depend on the client returning with missing information or documents. Such a build-up can lead to frustration and even liability; as cases remain pending, laws may change, fees may increase; and the facts in a case may change. It may also waste your staff's time—instead of working on cases, they spend time chasing down clients.

This approach does not work for all types of immigration cases. Generally, the more complex a case is, the less possible it is for a client to walk in the door with all her documents in order. Asylum and VAWA cases, for example, do not lend themselves to this approach.

## Scope of Representation

What level of representation will you offer to clients? Will you file a G-28 Notice of Entry of Appearance for every application, do follow-up, and represent each client at any USCIS interviews? Will you help the client fill out and file the application, and end your involvement there? Will you simply review applications clients have completed on their own? More complete representation is more beneficial to each individual client, while providing some services on a more limited basis allows your program to serve a greater number of clients. However, limited representation may have ethical implications, which should be considered.

## To File or Not to File a G-28

A G-28, or "Notice of Entry of Appearance" is a USCIS form that a representative (either an attorney or accredited representative) and client sign and send to USCIS with an application. It informs USCIS that the representative is

representing the client on a particular matter, and that the client consents to USCIS’s sharing information with the representative relating to that case. Once a G-28 has been filed, USCIS should send the representative a copy of every notice it sends the client. The G-28 also allows the representative to represent the client at interviews, such as adjustment of status and naturalization interviews.

Pursuant to 8 C.F.R 1003.102(t), USCIS sanctions attorneys and accredited representatives for failing to file a G-28 if they engaged in the practice or preparation of any brief or other document, paper, application, or petition on behalf of another person or client before or with DHS, or any immigration judge, or the Board. When the regulations were implemented, advocacy groups, including CLINIC, addressed the ramification this has to many charitable immigration programs. We are hoping for a formal reversal of this regulation. Some providers feel strongly that a representative must file a G-28 on every case and offer full representation especially on more complex cases, while other programs with more limited resources are more comfortable narrowing the scope of services to forms assistance on simple and more straightforward applications. Consult the USCIS regulation, practices implemented by other organizations and advocacy groups such as CLINIC to determine current and best practices.

When you accept a case for representation, it is very important to let the client know what the scope of your representation will be. You should make sure to inform the client in writing about what you are agreeing to do for her or him. A retainer agreement (discussed below) would be an appropriate vehicle for such information.

It is important to be clear with clients the exact services you are providing. If you agree to file an I-130 for a lawful permanent resident petitioning for her husband, are you also going to represent the couple when it comes time to adjust status? Make clear to the clients whether or not this will be part of the representation, or whether they will need to approach the agency again to ask for representation for the adjustment. The American Bar Association has a more detailed discussion of the ethics of limited representation at <http://www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2007.pdf>.

Generally when you file a G-28 on a case, you should be doing follow-up work on the case. Sometimes, USCIS may send a Request for Evidence, which is a notice asking your client to respond to additional information or provide supplemental evidence to the immigration petition or application. You will need to notify the client and work with the client to respond. If the case is taking an unusually long time to be processed, you will need to do additional advocacy to follow up on the delay.

### ***Filing G-28s on All Cases: Security for Clients***

“When our agency began to do group processing for green card applications, we went back and forth about whether or not to file G-28s for our clients. We have quite a small staff, and we thought the paperwork and follow-up would be overwhelming. Initially we decided against it, but it became clear within a month that we should reconsider. Sometimes USCIS sent receipt notices to the wrong address, and sometimes the client wouldn’t get a receipt notice at all. We decided to start filing G-28s with each application. The extra administrative work is indeed overwhelming, but we feel that filing them provides security that our clients deserve. In order to manage the additional work we now use interns to file papers and maintain case files.”

– Rachele King, Minnesota Council of Churches Refugee Services, Minneapolis, MN

## **Representation at Interviews**

Many of the applications your agency will help your clients file will require that the client(s) attend an interview at the local USCIS office. For instance, many family-based adjustment applicants are interviewed, as are all naturalization applicants. You will need to decide when and in which cases your agency’s representation will include representation of the client at the USCIS interview.

Because of limited resources many agencies represent some, but not all clients at interviews. Other programs offer no interview representation at all. This is especially true in small programs that are located far from a USCIS office. Some programs offer interview representation on a case-by-case basis, targeting cases in which they think there are likely to be issues and on which representation could make a real difference. Others offer interview representation to clients who are willing to pay extra for it.

If you choose not to represent all your clients at their USCIS interviews, you can still make a big difference by preparing clients for their interviews. Making sure the client has all her paperwork in order, discussing with her what is likely to happen at the interview and the kinds of questions she will be asked, and even role-playing a bit can be very helpful to clients. It is also a good idea to let clients know exactly who their adjudicator will be (in the case of USCIS interviews, the adjudicators are not judges, and are usually not lawyers); what the setting of the interview will be (the adjudicator's office); who will be present for the interview; and what the USCIS office set-up is like. It is also important to remind clients to write down the name of their adjudicator, so that if any follow-up is needed, you and/or the client will know who to contact.

Whether or not you choose to represent clients at USCIS interviews, you need to make clear to clients from the outset of the representation what your role is going to be. Will you provide representation at the interview? Will you not provide representation at the interview? May the client and agency decide over the course of the case whether or not the agency will represent the client at the interview? It is very important that both the client and the agency share the same understanding and expectations about whether or not representation at the interview will occur.

## **File Review Representation**

Another form of limited representation is file review. Clients prepare their own applications and bring them to the agency for a staff member to review. The client pays a lower fee than the agency's usual fee for this service. This service works well for clients the agency has already helped—for instance, if your agency has represented an immigrant in her adjustment application, and she is now ready to naturalize.

Catholic Social Services (CSS) of Atlanta, for example, does file review representation. They report that generally clients they've previously represented or well-educated clients, often young adults who've recently graduated from college, use this service. CSS Atlanta has their clients sign a disclaimer explaining that CSS is not representing them, only reviewing their forms. The service works well for both the agency and the clients: the clients save money on the regular fee, but have the peace of mind of having an immigration legal worker review the application. The agency makes money, and feels that it's carrying out its mission by empowering its clients.

## **Retainer Agreements (also known as Client Agreements)**

Immigration legal programs should have every client sign a written agreement that spells out exactly what the agency agrees to do for a particular client, and makes clear what the responsibilities of both the agency and the client are with regard to the legal services. This is generally referred to as a "retainer agreement." A retainer agreement educates clients about their rights and responsibilities vis-à-vis the agency; builds trust between the client and the agency; limits the agency's liability and prevent future conflicts. Having—and using—a retainer agreement is essential.

Many of your clients will never have hired a legal representative before, in the United States or anywhere else, and may not understand how the representative/client relationship works. The retainer agreement is an important way to inform your clients about how that relationship works and to build trust with your clients. A client who fully understands what is expected of her, and what she can expect of you, will be more relaxed and more able to focus on and participate in resolving the substantive issues in her case.

The retainer agreement should spell out exactly which services and the scope of representation the agency is agreeing to provide. This is beneficial to both agency and client. The client is informed about exactly what the agency will be doing for her, and the agency has a record of which services it has agreed to provide. Both the client and the accredited representative (or attorney) assigned to the case should sign each new retainer agreement.

The retainer agreement should be written in clear, simple English, with as little "legalese" as possible. It is a good idea to have the retainer agreement translated to the client's native language and to go over the agreement with the client point by point to ensure he or she understands it. ***The retainer should include a complete description of the services, the scope of representation provided and the fees associated with the services.*** It should also include information about the agency's responsibilities to the client, such as:

- The agency's commitment to confidentiality;



- The agency will use its best efforts to ensure the success of the client’s case;
- The agency cannot guarantee a particular result in any case;
- The agency will keep the client reasonably informed of the progress of the client’s case;
- The agency will respond to reasonable requests for information about the progress of the client’s case; and
- The agency will consult with the client about all important case decisions.

A retainer may also detail the client’s responsibilities, such as:

- The client must authorize the agency to represent her or him;
- The client must be truthful with the agency;
- The client must promptly inform the agency of changes of address and/or telephone number;
- The client must appear for all scheduled meetings at the agency, or else inform the agency beforehand of the need to change the meeting time; and
- The agency may also want to note that the client **MUST** appear for all scheduled interviews, appointments, and hearings with USCIS or EOIR, whether or not an agency representative accompanies her. The consequences to the client of failure to appear can be so high (e.g., an order of deportation) that your agency may decide to remind clients of this in the written retainer agreement.

A retainer may also include:

- The terms of termination of the agreement. The client has the right to terminate the representation at any time for any reason, but the agency may only terminate the agreement under very specific circumstances (e.g., if the client is untruthful with the agency about a significant issue in her or his case);
- Case retention policy
- Some agencies may also choose to include the payment plan, if there is one.

The agency should ask the client to sign a new retainer agreement every time the agency agrees to provide a new service for a client. Both the client and the representative assigned to the case should review and then sign the agreement. The agency should keep one signed copy for its records (preferably in a designated section of the client’s case file) and give one copy to the client.

Some representatives choose to read the retainer agreement out loud with each new client. A client may not read the agreement if you simply hand it to her or him. Read the agreement out loud, point-by-point, and explain anything that might not be clear to the client. You might want to explain to the client why each particular point is included in the retainer agreement. Give the client time to ask questions, and make it clear to the client that you understand that he or she may never have seen an agreement like this before, and that it is perfectly normal to have questions about it. If your client does not speak English, do your best to read the retainer out loud with the client through an able interpreter. Many programs provide printed client agreements in multiple languages; it is still valuable, however, to read the agreement out loud with your clients.

The retainer agreement can serve to remind clients that the agreement is between the agency and the client, not the specific representative and the client. A client may believe that he has hired a specific person to be his representative, not the agency itself. Going carefully through the retainer agreement with the client is a good way to educate your client that he is the client of the agency, and not of the specific representative. Reading and discussing the retainer with the client ensures that the client reads the agreement, and that he or she knows that your agency takes the agreement’s contents seriously.

Because it delineates the specific services that the agency agrees to provide, and sets out the rights and responsibilities of both the agency and the client, the retainer agreement can limit an agency's liability. Without a written retainer agreement, there is no clear record of exactly what the agency has agreed to do for a client, and it will be harder for the agency to establish which services it agreed to provide. Reading over and signing a written retainer with each client will also start your agency-client relationship on a professional note, and can decrease the chances that a client will be angry enough with your agency to want to take legal action against your agency. For sample retainer agreements and other sample case management forms, please refer to CLINIC's Case Management toolkit at <https://cliniclegal.org/resources/othergeneral/immigration-case-management-tools>.

## Case Files

### Case Filing Systems

An asylee comes to your agency for help filing a relative petition for his wife and children. While the petition is pending, he asks the agency to help with his adjustment application. While his adjustment application is pending, he applies for a refugee travel document. Do you open a new file for each of these applications? Or do you keep all the applications for the same client in the same file? Your agency may do either, but it is important to decide in advance how you're going to organize files, and to do it consistently. This is crucial so that you can quickly locate files and applications—and so that you can make sure not to lose files. This section will examine different models for case filing.

### Standardized Case File Organization

When opening a new case, a staff member should create a case file that will chronicle all actions the agency takes on the client's behalf from start to finish. Program managers should develop a standardized case file order for all cases. This allows staff to quickly locate items in the file—immigration files can quickly become unwieldy and crowded. It also allows the agency to quickly understand what has happened in a particular case if the legal worker who opened the case is unable to complete it.

### What to Put Into Case Files

Case files should contain copies of all applications and/or correspondence the agency files with DHS and/or EOIR on the client's behalf. They should also contain a copy of the agency retainer agreement; copies of all communication received from DHS and/or EOIR pertaining to the client; copies of any correspondence with the client; copies of client documents; legal and factual research on the client's case; and case notes.

### Case Notes

Immigration legal staff **MUST** keep detailed notes about each of their cases. This creates a record for the agency of the work that has been done on the case. It allows the representative to work more efficiently; avoid errors and confusion; allows the agency to transfer the case to other staff with minimal effort; and protects the agency against liability.

#### *Sample Case File Organization*

##### LEFT SIDE OF FILE

- Retainer Agreement
- Consultation Questionnaire
- Income Verification and Consultation Receipt
- Fees and Costs Agreement
- Copy of money order for LIS fees
- Opening Case Memo
- 5 pages of File Notes

##### RIGHT SIDE OF FILE

- Three dividers labeled: Applications; Correspondence; and Misc.
- Copies of all applications
- Copies of money orders for CIS fees
- Copies of photos
- Copies of any supporting documentation
- Copies of any correspondence from USCIS or other government agencies

– *Lutheran Immigration Services of Nebraska*

### ***A Filing System That Provides Information at a Glance***

One accredited representative at a one-person immigration agency has set up a filing system that allows him to look at a file and immediately identify what type of case it contains, and what stage the case is at. Father Paul Kasun at the Benedictine Mission House in Schuyler, NE organizes files by last name of the petitioner; this allows him to group families together. Each immigrant, including derivatives, gets a separate case file. Father Paul then puts a colored flag on each file folder that identifies the substantive issue in the case: I-130, I-485, N-400, etc. He also has flags that signify that there are criminal issues in a case, or that a waiver will be needed. He can change flag colors if necessary.

Furthermore, he puts a 3x3 post-it on each file to indicate where in the application process the case is. A yellow post-it means the application has been filed and is awaiting a receipt; pink indicates that there's something that needs to be taken care of right away; blue means the client has an upcoming appointment; and purple that there is a deadline coming up by which the client needs to contact Father Paul, or Father Paul needs to contact the client.

This color-coded system saves Father Paul time. He works alone and gets numerous calls and visits from clients. When a client calls to ask about her case, a quick glance at the file gives Father Paul a lot of information about the substantive and processing issues in the case, and allows him to answer client questions much more rapidly. It also lets him more quickly take stock of the work he needs to do.

Case notes should contain a complete record of everything that has happened on a case that is not otherwise reflected in the file. The representative on the case should note all actions he or she takes; meetings with the client (including a brief explanation of what happened during the meeting); phone calls about the case; research and writing done on the case; and the date when applications or letters were mailed. It is not necessary to duplicate information contained in applications or evidence in the file. For example, an accredited representative might meet with a client and work on an affidavit.

The case notes would say that the meeting took place and that the representative and client worked on the affidavit. The notes wouldn't normally need to say anything about the affidavit's contents, since a copy of the affidavit will be in the file.

Case notes should allow another representative to step in and take over the case tomorrow. They should also allow the agency to reconstruct the work the agency did on a case years ago.

Program managers should not assume that staff will instinctively know what makes for appropriate case notes in immigration matters. Because immigration cases may remain open for many years, it is essential that case notes tell the full story of the case. Programs should give their staff clear instructions about what information to record in case notes.

Note that many immigration software programs include a case notes recording function. Recording case notes in a software program is generally more efficient than handwriting them. It also has the advantage of being much more legible.

### ***What Happens When You Don't Keep Good Case Notes***

"Immigration Legal Services (ILS)" had one staff member, "Sally," who handled immigration applications. Sally was the only person at the agency who knew anything about immigration law. She assured her director that she had everything under control, and she used Immigrant Pro software (or so she said), so the director assumed she was doing a good job. Then suddenly Sally left ILS. The director started to get calls from clients asking what was happening with their cases. She went into Sally's office to figure out what was going on. She found case files piled up everywhere. When she opened the files, she couldn't figure out what had been filed and what hadn't. There were no notes in the file as to what Sally had or hadn't done. Immigrant Pro didn't provide any more clues—there were no case notes in there either.

ILS had to spend months digging itself out from under the mess Sally had created. Clients were understandably very upset, and blamed the agency for missed deadlines on their cases. The agency is struggling to rebuild its immigration program, but its reputation in the community has been severely damaged.

# Filing Systems

## File Organization

In order to keep files organized and easily accessible, you need a filing system—case files should not be left piled up in individual cubicles and offices. There is no one right way to organize files. The important thing is to come up with a system that makes sense for your office and to make sure that all staff members follow it.

Many agencies file cases by the last name of the client. If you file by last name, you will need to be clear, in cases involving a petitioner and beneficiary or beneficiaries, that you have decided under whose name to file those cases. Some agencies file cases under the petitioner's name, some under the beneficiary's. Some agencies assign case numbers for filing purposes.

### **One Agency Files Cases Alphabetically by Case Type**

This might mean that all I-130 4th preference cases are in one section, all I-485 IR cases in another, all N-400s in another, etc.

“One of the pros to using this system is that files that need to be reviewed annually are located in one spot and easy to access. For example, each year, I (the program director) review all of the 4th preference I-130 cases. I attempt to get in touch with the petitioner/beneficiary through phone calls/letters, (even if priority date is not current) just to make sure current contact information is on file. If we are unable to make contact with the petitioner/beneficiary, then we close the case.”

– Nancy Gavilanes, Catholic Charities of Chicago

It is important that your system distinguish between active and inactive cases. You want to be able to quickly identify which cases your staff members are actively working on, and which are no longer active. You will need to make sure that this is the case for both your paper and computer files.

## Filing Location

Some agencies have a centralized filing system and require that cases not be left in individual offices, but kept filed in a central location. Other agencies have legal workers keep all their own open cases in their own offices. If you do this, make sure that your staff keep their files in an organized way so that anyone else on staff would be able to find a file if necessary.

No matter what filing system you choose, make sure that it allows you to locate files quickly, and that all the staff follow the same filing system. Make sure that if any individual staff member is out of the office and one of her or his files needs to be located, other staff can quickly locate it.

## Access to Case Files

In order to maintain client confidentiality, it is important to ensure that only legal workers at your agency have access to client legal files. This may be quite simple in agencies with large legal departments that are physically separated from the rest of the agency. In smaller organizations with limited space and staff, this may be more of a challenge. It is important that everyone in the agency understand that client legal files must be kept separate from other agency files, and that only legal workers can open and look at legal files. Make sure that you have separate filing cabinets for legal files, and that they are clearly marked as such. Many programs choose to put their immigration legal files in locked filing cabinets.

It is also crucial that immigration legal information about clients be maintained in separate files from other files the agency may have for the client.

## Removing Case Files from the Agency

Your staff members are very diligent and want to bring work home with them. May they remove client case files from the office to work on outside of office hours?

Your agency should have a clear policy about removing client case files from the office. Staff should not take case files home unless they *must* do so in order to bring them to an interview or hearing. When files leave your office, there is a danger that they will be lost, or that client confidentiality will be compromised. Clearly instructing staff not to remove files from the agency, except to attend client interviews, will best safeguard the files and maintain client confidentiality.

## Case File Copies for Clients

The agency should provide clients with a copy of all documents filed on their behalf. However, if clients are requesting for more than one copy of the same material, you are not required to make these multiple copies. This can be expensive for your agency. If this becomes an issue, your office may want to consider developing a policy that limits the number of free copies a client will receive of the documents in their case file. Generally, you should give the client a copy of anything you file with the government on the client's behalf. The best practice is to make the client a copy at the time you mail the documents to the government. Send the copy to the client with a letter informing him of the date the documents were filed, and reminding him to keep the copy in a safe place.

## Computer Case Files

When your staff opens a physical case file for a new client, he or she may be required to also open a new client file in the agency's case management software. There should be a standard protocol for opening new computer case files and keeping both the physical and computer case file updated with consistent information. Depending on the size of the office, it may be important to specify who may open new computer files, at what point in the case acceptance process and who keeps both files updated.

## Dealing with Original Client Documents

Many immigration applications require extensive supporting documentation from your client. On almost every case your agency handles, staff will need to examine and copy multiple original documents. In order to best protect the agency and the client, make sure that case notes reflect when clients bring in documents and when those documents are returned. It is best to keep client documents for the shortest period of time possible.

Make sure that when you close a case the agency returns any original documents still in the file to the client.

## Case Completion Guidelines

In order to ensure that cases are completed in a timely manner, some programs have case completion guidelines. Catholic Charities of Dallas Immigration and Legal Services, for instance, has a "Ten-Day Filing Rule" that mandates that all cases must be filed within ten days of the case opening. According to the program, the ten days allow more than sufficient time for the legal worker to prepare the entire case, pass the case through the agency's technical review process, and submit the case to the government. This ensures cases are completed expeditiously, increases staff efficiency and quality of work and increases client satisfaction.

### *Benefits to Clients of Completing Cases in One Day*

"I think it is important to finish cases the same day they are started. We make the clients wait in the office while we complete the forms because it makes them feel more invested in the process. They mail the applications themselves which makes them more responsible for their case. I think this is also important. It is part of our attempt to teach people to take responsibility for themselves.

If a client arrives at an appointment but has forgotten to bring something, we give them an appointment to return the next day so that we can finish working on their application as soon as possible."

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

Case completion guidelines can help staff by giving clear instructions about how much time to spend on cases, and helps staff better budget their time. Additionally, guidelines help prevent a backlog of work from forming and can help ensure that the agency does not miss deadlines.

Case completion guidelines are most appropriate for less complicated cases. They would not be appropriate for complex matters, such as asylum applications, VAWA applications, and removal defense.

## Closing Cases

What happens to the case when the agency satisfies the agreed upon services in the retainer agreement or the agency withdraws representation, or the client leaves the agency before completion of the case? Your agency will need a system by

which completed or otherwise terminated cases may be moved from active to inactive file status. Otherwise, there will be no way to know whether or not the work on a given case has been completed.

Before closing a case, the best practice is to clearly note the outcome in the case file. In situations in which the agency has had to withdraw representation, the reasons should be clearly noted in the file. Some programs have a supervisor review files before making them inactive. Some programs have a formal “case closing memo” process that requires the staff to note case outcomes at the time the case is closed.

It is a very good practice to send a standard case closing letter to clients when you close their cases. The letter should explain that the program’s representation, as agreed to in the retainer, has ended, and the case is now inactive. The letter should also explain the agency’s file retention policy and case file copy policy. Finally, this is the time to ensure that all original documents have been returned to the client

## **File Retention**

How long should your agency keep case files? Are you required to keep them forever? If not, at what point can you get rid of them? How might you get rid of them? Do you need to inform a client when you dispose of her file?

Your office needs a policy about how long you retain client files, and how and when you dispose of them. Keeping files forever would become financially burdensome, but state laws mandate that law offices maintain client files for a certain period. Maintaining client files can also be very beneficial to your clients, and may protect your agency in case of a malpractice claim or other charge (note that the better-organized and complete the file is, and the more detailed the case notes are, the better the file will help protect you from malpractice claims).

Every state has rules about how long attorneys must retain closed case files. Many states require that a law office maintain client files for a minimum of five years. Even if your agency has no attorneys on staff, the best practice is to find out what the rules are in your state for attorney files, and to retain your files for at least that long. To learn what the rules are in your state, contact your state bar ethics counsel or check the bar website, as many have their rules and opinions on-line. Here is a link to state ethics rules: <http://www.abanet.org/cpr/links.html>

You may decide that for your purposes you need to keep the files longer than what your state mandates. It is a good idea (and your state may in fact require) that you keep client files for as long as the client might reasonably have a need for them. This may lead you to hold certain types of immigration matters longer than usual. For instance, you may want to keep copies of client adjustment of status applications for at least five years after the adjustment takes place. That way, if the client wants to naturalize, you will still have a copy of the file at the point the client is eligible to apply for naturalization. If your state requires maintaining files for less than five years, you may decide not to keep approved naturalization files for five years, as the client would be much less likely to need the file after he is naturalized.

## **Disposing of Client Files**

When you do dispose of client files, you need to do so in a way that maintains your client’s confidentiality. Chapter Two recommends buying a shredder or using a shredding service to dispose of confidential client information. You will need to make sure when you get rid of client files that you do so in a way that maintains client confidentiality.

State rules generally prohibit legal representatives from destroying original client documents. If, when reviewing the client’s file before it is destroyed, original documents are discovered, every effort should be made to return them to the client. If the documents cannot be returned to the client, they should be kept by the agency in a separate file. The rest of the client file can then be destroyed.

# Date Tracking

## Tickler System

The agency must have a system by which it tracks important dates in each client's case. Immigration practice is filled with important deadlines. Missing a deadline can make a client ineligible for a benefit or could result in the client being removed or deported from the United States... A "tickler" system that tracks and reminds the immigration worker of important dates in each case is crucial to an immigration legal program. Note that the "ticklers" for each immigration worker's cases must be accessible to other immigration staff, so that if a worker is out, the agency can ensure that deadlines are not missed on any cases.

Paper-based tickler systems are not adequate. Notations in staff members' personal calendars won't ensure that deadlines are not missed. A staff member might overlook his or her own notations; and the agency must be sure that even if a particular staff member is not at work the agency is aware of all deadlines. Even a one-person office needs a better reminder than paper-based notations.

The case management software you choose should have tickler capabilities. Make sure that your office is trained on how to use it, and actually uses it. Missing important deadlines is easy in an agency handling multiple cases, each of which has its own important deadlines. It is also a common form of malpractice, but one that is easy to avoid with a good tickler system.

## Staff Calendar

The tickler system must be set up so that all dates are available for all legal workers to view. A system that reminds only the individual legal worker on a case of upcoming dates is of no use when that staff member is out sick or on vacation. It is also important that agencies with more than one legal worker, allow all staff access each other's calendars. Again, staff must have access to each other's calendars so that they can cover appointments and interviews for anyone who is out of the office.

# Mail

## Client Mail from Government Agencies

Immigration programs receive a large volume of mail for clients. Programs that file G-28s are supposed to receive a copy from USCIS and EOIR of every notice sent to every client. What should the agency do with this mail? Is filing it in the client's file sufficient, or should the agency contact the client about every notice?

One model could be that support staff opens all incoming mail from government agencies. They enter any relevant dates into the case management software system. They call the client if the notice contains any upcoming interview, hearing, appointment, or filing or other deadline. In all cases, they automatically send the client a copy of the notice and give the original to the client's representative, who retains it in the case file.

Why is it important to contact clients about mail from government agencies? As anyone who provides immigration legal services knows, clients do not always receive all their mail from DHS, EOIR, or DOS. This is often through no fault of the client. Informing your clients when you receive notifications for them is an important service you can render your clients; it is one of the advantages of being accredited and filing a G-28 (or EOIR-28).

Contacting clients about their notifications can also protect the agency from malpractice liability. If you as the representative receive notification of an important date in a client's case, whether it is an interview appointment, a notice of receipt, or a fingerprint appointment – and do not inform the client, you might be held liable if the client doesn't receive the notification and fails to appear or respond.

To facilitate client contact, be sure to get the client's home, work, and mobile phone numbers, as well as the phone numbers of a relative or close friend. Also obtain the client's home and work addresses and any email addresses he or she may have.

## **Mail to Government Agencies**

Programs should make sure that they mail everything to the government on a client's behalf via certified mail, return receipt requested. When the return receipt comes back to the agency, it should be put into the client's file, in a way that clearly indicates which piece of correspondence it goes with. This ensures that the agency has some proof of filing for everything it submits to the government on a client's behalf. Because immigration law is replete with deadlines, such evidence can be crucial. It is not uncommon that USCIS or another government agency will lose a client's application, or note a filing date incorrectly. Having proof of the filing date may make the difference between a client being granted a benefit or not, or even between remaining in the U.S. and deportation.

The cost of mailing everything to the government certified mail, return receipt requested should be built into the agency's fees.

## **Tracking Case and Client Information**

Tracking your program's overall performance by collecting pertinent data is critical to making informed decisions about case mix, case selection, staffing, fees, and financial health. Having and using an effective case management software system is vital for efficient and effective tracking of client data. Chapter Six, "Managing Financial Performance," discusses the importance to funders of accurate program data. Statistics about how many cases your program accepts, what kinds of cases they are and how much work they require are important to your program manager in order to understand where the program is and how it can improve.

### **Client Feedback**

When you send out a case closing letter, you may choose to ask for feedback regarding the client's satisfaction with the program's services. The best way to ensure that clients return this is to include a postage-paid return envelope.

### **Client Complaint/Grievance Procedure**

Some programs choose to create a client complaint or grievance procedure. This is an important tool that gives clients a way to handle any problems they have with the agency. It tells them where to turn and what to do, and gives clients the sense that their complaints will be heard and taken seriously. For the agency, it provides a way to hear about complaints before they become major problems, so that they can be resolved as quickly and smoothly as possible. They provide a way for program managers to assess how the program and its staff are working.

For more information on developing your program's case management system, please refer to CLINIC's case management toolkit at <http://cliniclegal.org/resources/case-management-toolkit>. The toolkit contains sample case management policies and procedures as well as sample case management forms.

## **Council on Accreditation**

Some immigration legal service providers seek accreditation by the Council on Accreditation (COA). COA accreditation is not to be confused with DOJ accreditation (which allows non-attorneys at "recognized" agencies to practice immigration law before DHS and in some cases the Immigration Court and Board of Immigration Appeals). The COA is an international, independent, nonprofit, child-and family-service and behavioral healthcare accrediting organization. Originally known as an accrediting body for family and children's agencies, COA currently accredits 38 different service areas and over 60 types of programs, including immigration and refugee service programs.

The COA partners with human service organizations worldwide to improve service delivery outcomes by developing, applying, and promoting accreditation standards. The COA evaluates each organization according to COA's own best-practice standards.

The Accreditation Commission awards accreditation or reaccreditation to an organization for a period of three or four years.



The COA issues a formal letter of accreditation and a plaque reflecting the achievement to the agencies it accredits.

## Which Organizations COA Accredits

COA accredits a number of different social service program areas. One of those areas is “Immigrant and Refugee Resettlement.” This requires provision of one or more of the following:

- immigration, citizenship and naturalization legal assistance services;
- refugee pre-arrival, reception, orientation, information and referral services;
- services to meet basic refugee needs, including emergency financial assistance, housing, and health care;
- refugee resettlement and transition services; and/or
- services for separated and unaccompanied immigrant minors.

## How does COA Accreditation Interface with DOJ Recognition and Accreditation?

The COA standards for accreditation are consistent with the Department of Justice (DOJ) standards found in Title 8 of the Code of Federal Regulations (CFR). 8 CFR § 1292.11 specifies the qualifications of organizations to be recognized by the DOJ. The standard is: “A non-profit religious, charitable, social service or similar organization that provides immigration legal services primarily to low-income and indigent clients within the United States, and, if the organization charges fees, has a written policy for accommodating clients unable to pay fees for immigration legal services.” Such organization must establish to the satisfaction of DOJ that: 1) It is a Federal tax exempt organization established in the United States (or has applied for this tax status); 2) It is simultaneously applying to have at least one employee or volunteer approved as an accredited representative; 3) It has access to adequate knowledge, information and experience; and 4) It has designated an authorized officer to act on its behalf. Section 1292.12 of 8 CFR states that accredited representatives must have “the character and fitness to represent clients.”

Prior to applying for COA accreditation for the provision of immigration and citizenship services, an organization should be recognized by, and employ or have volunteers accredited by, DOJ. An organization with attorneys on staff would not have to fulfill this requirement.

## Benefits of COA Accreditation

The process of gaining COA accreditation may push an organization to improve its systems and service delivery. COA accreditation also provides a framework within which an organization can measure and demonstrate its achievements. This can be quite helpful with funders. Funders may be favorably impressed by the fact that an agency has COA accreditation. Additionally, the COA offers informational webinars and peer review site visits to help ensure that an organization maintains high service delivery standards.

### *Seal of Approval*

“We find that COA accreditation is very useful. With funders, it’s like the Good Housekeeping Seal, so it helps bring in money. It also makes us tighten up systems. It makes us prove to someone outside that we are doing quality work.”

– Sue Colussy, *Catholic Social Services, Immigration Program, Atlanta, GA*

## Cost of COA Accreditation

COA charges an initial application fee. COA will then calculate the accreditation fee using a sliding scale based on an organization’s gross annual budget. Fees start at a minimum of \$6,720 for an organization with revenue of \$500,000 or less. There are additional fees associated with the peer review two-day on-site review, as well as an annual \$400 maintenance of accreditation fee.

## COA Contact Information

[coainfo@coanet.org](mailto:coainfo@coanet.org)

Tel: 212.797.3000

Fax: 212.797.1428

Mailing Address:

45 Broadway, 29<sup>th</sup> Floor, New York, NY 10006

## Perspectives on COA

### COA Leads to Better Practices

“COA is labor intensive, but it does make staff and management reflect on the agency’s practices and forces us to look at best/better practices. As a result of the process, we’ve realized that we do a lot of things well, but that there are also things that we don’t do as well and on which we’ll work for improvement.”

– *Barbara Biebel, Catholic Charities, Resettlement & Immigration Services, Green Bay, WI*

### COA Impresses Funders

“The COA membership provides opportunities for quality improvement and funding. When funders are aware that an agency has undergone the process of COA membership, funders are likely to give that agency a higher level of credibility.”

– *Salah Ansary, Lutheran Community Services of the Northwest, Portland, OR*

## Group Processing

This chapter focuses on individual representation. It explores how to set up systems for one-on-one client representation. This is a very effective way to serve immigrants, but it is not always the most efficient. Some agencies also offer “group processing,” which allows them to serve many immigrants at once. As the name suggests, group processing refers to offering immigration legal services to a group of people at the same time, using a combination of immigration professionals and trained volunteers. Group processing can be used for several different kinds of immigration applications. The type of group processing model(s) legal programs choose to plan and implement will depend on the time and talent of program staff and volunteers, physical resources, and cultivated partnerships.

Doing group processing now is an excellent way to prepare for a prospective earned pathway to citizenship under a comprehensive immigration reform bill or assist those eligible through executive action. If and when an immigration reform bill passes, millions of immigrants may be eligible for benefits. It will be impossible to serve even a fraction of those millions without the use of group processing. Agencies that learn now how best to manage group processing will be well prepared to group process a large volume of applications.

### Benefits and Drawbacks of Group Processing

#### Pros

- Efficient. Group processing can be a more efficient use of your agency’s limited resources.
- More immigrants served. You can generally help more immigrants via group processing than you can through individual representation.
- Generate publicity. A group processing workshop can lead to greater visibility in your community, and possibly media attention.
- Good preparation for applications to be filed under a prospective comprehensive immigration reform bill.

**Cons**

- Resource-intensive. Group processing workshops are time-consuming to organize at first. However, they get easier with practice.
- Difficult to ensure that clients are getting as high-quality legal review as they get via individual representation.
- Services not as complete.

For more information on organizing and planning stages of a group processing workshops, please refer to CLINIC's toolkit on Naturalization workshops at <http://cliniclegal.org/resources/toolkit-naturalization-workshops>.

# ATTACHMENT

## Sample Case Notes for Case File

*Editor's note: Case notes are intended to help practitioners keep track of actions that have taken place in a case and to keep track of important dates, such as interviews or hearings, etc. The case notes should be fastened to the inside left cover of the case file folder; preferably by two-hole ACCO fasteners. Do not staple the case notes into the file folder because staples make it more difficult for the reader to maneuver through the case notes. As you finish each page of case notes, you add a new page on top of the old page. When someone reads the case notes, they will appear in reverse chronological order so that you read back in time as to what has gone on before in the case.*

### **CASE NOTES**

Please print clearly so that others who must read this file can understand your notes. If you use abbreviations, then please provide a key so that people can understand your abbreviations.

Applicant/Petitioner name (first, middle, last): \_\_\_\_\_  
Beneficiary Name (first, middle, last): \_\_\_\_\_  
Derivative Name (first, middle, last): \_\_\_\_\_  
A-number (if any): \_\_\_\_\_  
Agency file number: \_\_\_\_\_  
Street address: \_\_\_\_\_  
City, state, zip: \_\_\_\_\_  
Cell telephone: \_\_\_\_\_ Home phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Name of emergency contact: \_\_\_\_\_  
Telephone number of emergency contact: \_\_\_\_\_  
E-mail address of Emergency contact: \_\_\_\_\_

<b>DATE</b>	<b>INITIALS</b>	<b>ACTIVITY</b>

Priority Date (if applicable):  
Preference Category (if applicable):

# ATTACHMENT

## Sample Client Retainer Agreement

This agreement for legal representation and service is between Catholic Charities Immigration and Legal Services (ILS) and \_\_\_\_\_, hereinafter referred to as the client.

I, the undersigned client, hereby authorize ILS to represent me regarding the following matter:

### Family and Naturalization Cases

- I-130
  - I-130 + I-485
  - I-485
  - 3<sup>rd</sup> Pkt
  - 4<sup>th</sup> Pkt
  - I-539 (V Visa)
  - I-730
  - I-360 (VAWA)
  - I-485 (VAWA)
  - Yearly Maintenance Fee
  - Other: \_\_\_\_\_
- I-360 + I-485 (widow)
  - I-751 (battered spouse)
  - I-751 (cond. res.)
  - I-817 (Fam. Unity)
  - I-589 (Affir. Asylum)
  - N-400
  - N-600
  - N-643 (for cases >5 yrs old)
  - N-336 (Appeal)

### Removal Cases

- Vol Dep
- COR-LPR
- COR-Non LPR
- Asylum (court)
- Adj (court)
- Termination
- Admin Close.

### Other Cases

- NACARA
- I-821 TPS
- Hum Parole
- Def. Action
- I-360 Relig
- I-129 Relig

The above services include [**specify the scope of representation**]: \_\_\_\_\_

I authorize ILS to obtain any information or documents necessary for this representation. I agree to assist ILS in providing all necessary information for my case.

I. **FEE:** I understand that the fee for the above described service is \$ \_\_\_\_\_, as set forth in the ILS Fee Schedule. This fee is in payment for the services of ILS, and is in addition to any fees that must be paid to USCIS for applications to be filed. In the event that additional services, other than those described above, are needed in my case, I understand that additional fees may be charged. In the event that the immigration law or regulations change, requiring more time and effort to represent me, I understand that the fee for services may increase. I further understand that if changes occur in my life circumstances or if I take any actions that require ILS more time and effort to represent me, the fee for service may also increase. I understand that this fee is only for work related to the service indicated above. Additional services will require that I complete another Client Service Agreement.

II. **CLIENT RIGHTS:** I understand that as a client of ILS I have all the rights as stated in the Agency Client Relations Handbook. Included among these rights are:

- A. To be kept informed about any important developments in my case.
- B. To be consulted before any significant action or decision is carried out on my behalf.
- C. To be consulted and agree to any settlement of my case before the case is settled by ILS.
- D. To have all information disclosed in my case maintained confidential by ILS.

III. **CLIENT RESPONSIBILITIES:** I understand that as a client of ILS I have the following responsibilities:

- A. To attend all scheduled appointments with my representative, or to call at least 24 hrs before my appointment to reschedule if I am unable to attend. I understand that I will be charged for unkept appointments for which I have not communicated that I will be unable to attend.
- B. To cooperate in assisting my representative in securing requested documents or information.
- C. To be truthful in my communications with my representative.
- D. To respond to letters from my representative asking me to call him/her.
- E. To attend all court hearings interviews or other appointments scheduled in my case at USCIS or at any other location.
- F. To try to maintain one, single, reliable mailing address during the course of my case.
- G. To advise ILS in person within 5 days in the event of any change of address and telephone.
- H. To give ILS representatives my personalized case number for purposes of all communications.

- I. To visit ILS at least one time each year while my case is pending with USCIS for an annual consultation update. I will be charged a consultation fee for this visit.

IV. TERMINATION OF REPRESENTATION

- A. The client is free to stop ILS from representing him/her for any reason at any time. ILS may withdraw representation if:
  - 1. ILS believes the client is not being truthful or has misrepresented key information provided to ILS.
  - 2. The client fails to fulfill his/her responsibilities as set forth above.
- B. In the event that ILS determines that it is necessary to terminate representation, the client will be provided, upon request, a full copy of his/her file. (The client will be charged \$.10 per page for copying beyond 25 pages.)

This service agreement has been reviewed with me by the undersigned ILS representative and I have been provided a copy of it.

_____	_____
Signature of client	Date
_____	_____
Signature of ILS Representative	Date

**SPECIAL ADVISAL TO ALL CLIENTS OF ILS**

My representative has explained to me that the single most common reason immigration cases are delayed is because the client has moved since filing his/her original application. My representative has explained that even though one may file a change of address with USCIS, frequently such notices do not reach the applicant's actual file. My ILS representative has encouraged me to maintain one reliable address until my case is concluded. I have also been advised that should I change addresses, I must report the new address to ILS in person within five days.

_____	_____
Client Signature	Date

# ATTACHMENT

## Sample Client Intake Form

The information you are providing on this form is confidential and is only used for our office purposes.

The initial consultation cost is \$ 30. If you are unable to pay, please speak to the immigration specialist who will assist you today.

**Part A.**

Today's date:

_____	_____
Last Name (use complete name)	First Name (use complete name)

_____	_____	_____	_____
Address	City	State	Zip code

(_____) _____	(_____) _____
Telephone Number: Home	Telephone Number: Cell

_____	_____	\$ _____
Are you employed? (yes or no)	Current employer's name	Monthly Income

_____	(_____) _____
	Their Telephone Number: Home
Emergency Contact Person	(_____) _____
	Their Telephone Number: Cell

_____-_____-_____	A- _____
Social Security Number	Immigration "A" Number

Language Spoken	_____	_____
	Spanish?	Other?

_____	_____
Date of Birth (month-day-year)	Country of Birth

Marital Status: (Check one)	Single <input type="checkbox"/>	Divorced <input type="checkbox"/>
	Married <input type="checkbox"/>	Widow(er) <input type="checkbox"/>

Race: (Check one)	Hispanic <input type="checkbox"/>	African-American <input type="checkbox"/>	Other <input type="checkbox"/>
	Caucasian <input type="checkbox"/>	Native American <input type="checkbox"/>	

Current Immigration Status: (Check one)	Permanent resident <input type="checkbox"/>	Without legal status <input type="checkbox"/>
	U.S. citizen <input type="checkbox"/>	Refugee <input type="checkbox"/>

Date of ALL entries into the United States: Beginning with the most recent one	Port of entry	Did you enter with inspection?
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No

To better serve you, please describe why you are here today and what kind of assistance you need?


Please check off the boxes that apply to you:

<input type="checkbox"/>	Applying for a family member?
<input type="checkbox"/>	Is a family member applying for you?
<input type="checkbox"/>	Interested in obtaining citizenship of this country for yourself?
<input type="checkbox"/>	Renewing your work permit?
<input type="checkbox"/>	Renewing or replacing your <u>Legal Permanent Resident</u> card?
<input type="checkbox"/>	Other

Have you already consulted with another legal provider regarding your case?	<input type="checkbox"/> Yes <b>If your answer is ‘yes,’ please answer who, when, and where:</b>	<input type="checkbox"/> No
Who:		



When:		
Where:		
Do you have any deadlines, such as:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Court dates
	<input type="checkbox"/> Yes <input type="checkbox"/> No	Filing deadlines
	<input type="checkbox"/> Yes <input type="checkbox"/> No	Other _____

Have you ever been arrested or incarcerated for any kind of offense?		<input type="checkbox"/> Yes <input type="checkbox"/> No
If your answer was "yes," then please explain below when, where, for how long, and why?		
When:		
Where:		
For how long:		
Why:		

**Part B. List every address where you have lived for the last five years:**

	Address	When did you <b>begin</b> living there?	When did you <b>leave</b> ?
1.			
2.			
3.			
4.			
5.			

**List the last address outside the United States where you lived for more than one year:**

Address	When did you <b>begin</b> living there?	When did you <b>leave</b> ?

**List every place where you have worked for the last five years:**

Name and Address of Company	When did you <b>begin</b> working there?	When did you <b>stop</b> working there?
1.		
2.		
3.		
4.		
5.		

Name of your parents:	Father
	Mother

Parent's date and place of birth:		Date of Birth	Place of Birth
	Father		
	Mother		

Where do your parents live right now?	Father	
	Mother	

Current spouse's name:	
------------------------	--

Date of Marriage:	
Place of Marriage:	

Spouse's date and place of birth:	Date of Birth	Place of Birth

Name of ex-spouse:	
--------------------	--

Date of Marriage:	
Place of Marriage:	
Date of divorce termination:	
Place of divorce termination:	

Ex-spouse's date and place of birth:	Date of Birth	Place of Birth

Names of your children	Date of Birth	Place of Birth

Have you sponsored or helped to sponsor someone else?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>If your answer is 'yes,'</b> please give the name and date of sponsorship (below):
Name of person sponsorship:	
Date of sponsorship:	

**Part C.**                    **This part is only for naturalization applicants.** If you are not applying for naturalization, please go to **"Part D"** to sign.

What is your spouse's status? Please check the box that applies:	
<input type="checkbox"/>	Legal Permanent Resident
<input type="checkbox"/>	U.S. Citizen
<input type="checkbox"/>	Without documents
<input type="checkbox"/>	Other

If your spouse is a U.S. citizen, did he or she obtain citizenship through a U.S. citizen spouse?	<input type="checkbox"/> Yes <input type="checkbox"/> No
When did your spouse obtain the status?	Date:
Where did your spouse obtain status	City, State:
Is your spouse or ex-spouse a <u>U.S. Citizen</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is your spouse or ex-spouse a <u>Legal Permanent Resident</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered 'yes' to the above question, did you receive <u>Legal Permanent Residency</u> thru your spouse or ex-spouse?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please list each and every trip you made outside of the USA since becoming a permanent resident:

When did you leave?	When did you return?	Where did you go?	How many days were you outside of the U.S.?

What is your height?		What is your weight?	
What is your eye color?		What is your hair color?	

**Part D.**      How did you learn about us?       Friend       Walk-in       Other

Have you utilized other services at our agency?       Yes       No

Would you like information on the following?	Domestic violence?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Food assistance?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Counseling?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

I authorize the Immigration Specialist and/or attorney at Catholic Charities Immigration Legal Services (CCILS), along with their staff and consultants, to assist me in completing this form so that they may determine whether or not they will accept my case.

\_\_\_\_\_      \_\_\_\_\_  
*Client Signature*      *Date*

# CHAPTER SIX

## Managing Financial and Program Performance

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

### Introduction

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

Understanding and managing financial performance can be challenging for the legal service program manager or the executive director of the legal service nonprofit. Managers and/or directors<sup>4</sup> may be highly qualified in the practice of law or another field, but have little or no formal training in finance or accounting. They may face various barriers to managing financial performance. For example, some staff may believe philosophically that nonprofit organizations should not charge fees under any circumstances. Other staff may want to accept more non-paying clients than that program can manage because their cases are so compelling. The urgency of direct services may divert staff attention from the seemingly more mundane administrative tasks of financial management.

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

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

### Accounting Basics

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

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<sup>4</sup> In a large agency, the manager of the immigration program may not be the organization's Executive Director. In a smaller agency, the ED may be the immigration program manager. Throughout this chapter we will refer simply to the "manager" of the immigration program for the sake of conciseness. You should understand "manager" to refer to the manager of the program, and/or the agency's director, as appropriate.

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

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

### **Statement of Activities**

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

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

### **Statement of Cash Flow**

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

### **Statement of Financial Position**

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

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

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

## **Financial Controls**

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

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

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

Segregation of duties is an essential financial control. For example, the person who issues checks should not also sign the checks. The person signing the checks should verify accuracy by comparing the check with the supporting documents, such as an invoice showing the vendor and amount due. Check numbers should be sequential, and the manager/director should review checks written against supporting documents to ensure that there are no missing check numbers. Receipt numbers should also be sequential, and the person assigned to making deposits should review receipt numbers to make sure that none are missing before making a deposit.

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

#### ***What May Happen When One Person Handles All Finances: Embezzlement***

One mid-sized agency had the following experience:

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

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

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

– *Director, mid-sized immigration program*

# Fee Collection

Collecting client fees is an essential part of case management. Many programs depend on client fees to ensure fiscal viability and program sustainability. If your agency has decided that fees will be part of the funding stream for your program, you need to ensure that you are collecting all the fees you are owed. It is also important to follow guidelines set by the IRS regarding how to properly offer charitable legal services for a fee to the public in such a way that the organization can continue to qualify as a 501(c)3.

## Setting Fees

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

## Staff Buy-In

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

### *Benefits to Agency and Clients of Charging Fees*

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

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

## When to Discuss Fees with Clients

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

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

## Who Collects Fees

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

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

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

### *Collecting Fees Directly from Clients*

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

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



## Fee Collection System

Every program that charges fees must have a system in place that governs when fees should be collected. Will the agency require that the entire agency fee be paid up front, before the agency will begin work on a case? Some agencies insist on this because they find it is highly successful. Requiring fees to be paid up front ensures that the agency will collect the fee; it also minimizes agency time spent trying to collect money from clients. It works especially well for less complex cases and for cases without firm deadlines approaching.

## Written Fee Agreements

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

## Records and Receipts

Make sure that the agency clearly records every fee payment a client makes: how much the client paid, and on what date. It is also important to document client income. This can be done by reviewing other paperwork included in the application process that lists this information, looking at W-2s and other income verifiers, and statements signed by clients documenting income.

Documenting the financial need of clients will allow a program to follow requirements for characterization as a 501(c)3 status while still charging fees for legal services

According to the IRS, a flat fee and a sliding scale of payments are both allowable methods of payment for a 501(c)3 organization. When using a flat fee, it is acceptable practice with the IRS to raise the fee when needed. However, the method for increasing the fee should be based on a measurable factor, such as rise in cost of living or inflation. Fee increases can also be made in order to keep in line with fees charged by other organizations with the same tax exempt status in the community. Finally, fees can be increased as long as they remain lower than those charged by non-tax-exempt organizations or if the fees charged remain lower than the cost to the organization to provide the service.

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

## Methods of Payment

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

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

### *What Happens Without Clear Fee Collection Protocols*

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

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

— *Immigration attorney at mid-sized immigration office*

## Agency Responsibility for Client Application Fees

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

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

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

As mentioned in Chapter Two, it is a very good idea to invest in a safe or locked box in which to hold client payments. In many offices application fees sit in client files until the applications are mailed; this raises the danger of loss or theft. You can ensure that only a small number of designated staff members have access to the safe or locked box; designated staff can retrieve the client payments when they are needed.

### Payment Plans

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

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

### Fee Reductions and Waivers

Every nonprofit program encounters clients who cannot afford the agency's fees. Many programs make sure that they are able to offer free or reduced-fee services to some of their clients. There is no one way to go about doing this; the two major models are a sliding fee scale, and waiving fees entirely. Note that if your agency is recognized by the Department of Justice and charges fees, you are *required* to have a written policy for fee waivers or fee reductions to accommodate clients who are unable to pay the fees.

#### *One Program's Fee Collection System*

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

– Nancy Gavilanes, *Catholic Charities of Chicago Immigration Services, Chicago, IL*

## Sliding Fee Scale

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

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

## Fee Waivers

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

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

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

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

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

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

## **Approval of Fee Waivers**

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

### ***Sample Sliding Fee Scale***

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

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

### ***The Need for Oversight of Fee Waivers***

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

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

## **Responsibility for Financial Oversight**

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

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

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

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

## **Budgeting for Success**

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

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

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

- Fee income (revenue) depends in part on volume of cases. If the budget anticipates an increase in fees due to increased volume, expenses related to staffing, rent (if additional office space is needed), telephone costs, photocopying, outreach, etc., might also be affected.

- Fee income is related to the fee schedule. If the manager/director intends to increase fee income by charging higher fees for services, he or she must consider whether this might also reduce the volume of cases—potential clients may go to another service provider if fees are significantly higher than those of competitors.

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

## **Developing a Budget**

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

The second step is to anticipate expenses. Again, if the program or organization has an operating history, that is a good place to start. Try to anticipate changes. Is the lease coming to an end? Has anything changed in the environment, such as energy costs? Has demand grown enough to warrant additional staff? Will you be providing new services? This step of the budgeting process should occur at the same time as setting your programs goals for the year. Your budget should reflect the staff and resources needed to achieve your program's short term goals.

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

## **Sample Budget Process**

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

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

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

## **ISP BUDGET ANALYSIS**

### **REVENUE**

#### **Fee Income**

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

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

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

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

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

#### **Donations**

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

#### **Interest on Lawyers Trust Account (IOLTA)**

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

#### **Foundations**

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

#### **Faith-Based Organizations**

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

## Government Funding

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

## Other

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

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

## In-Kind Contributions

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

## EXPENSES

### Personnel

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

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

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

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

### Office Operations

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

### Staff Development

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

### Reference Materials

This year, in addition to purchasing updated versions of the Immigration and Nationality Act (INA) and the Code of Federal Regulations (8CFR), ISP will need to purchase the newest edition of *Kurzban's Immigration Law Sourcebook*. These materials will cost a total of \$500.

## Case Management Software

Based on the projected number of cases to be opened this year, there will be an increase in the charges incurred by ISP's case management software provider. Additionally, ISP will incur an additional \$240 in annual user fees for the two long-term volunteers that use the software frequently.

## Technology Costs

In anticipation of USCIS' Transformation Process to electronic filing, ISP needs to purchase additional equipment to facilitate the electronic application process. Although this will be a multi-year initiative, this year, ISP will need to purchase at least one color scanner, two new computers, and a new server that will provide additional storage space for electronic files.

## Other

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

## Indirect Fees

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

## Managing the Budget

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

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

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

## Funding the Program

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



## Fee Income

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

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

As stated earlier, flat fees and sliding scales of payment are both allowable methods of payment for a 501(c)3 organization. The IRS does allow fees to be increased when deemed necessary. Fee increases should be based on a measurable factor, such as rise in cost of living or inflation. Fee increases can also be made in an effort to match fees charged by other local 501(c)3 organizations. Finally, fees can be increased as long as they remain lower than those charged by non-tax-exempt organizations or if the fees charged remain lower than the cost to the organization to provide the service.

### What the Market is Like: What Other Local Programs Charge

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

### Cost to Provide the Services

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

$$\begin{array}{ccc} \boxed{\begin{array}{l} \text{Total costs per} \\ \text{year} \end{array}} & \div & \boxed{\begin{array}{l} \text{Total caseworker} \\ \text{hours per year} \end{array}} = \boxed{\begin{array}{l} \text{Cost per} \\ \text{caseworker hour} \end{array}} \\ \\ \boxed{\begin{array}{l} \text{Cost per} \\ \text{caseworker} \\ \text{hour} \end{array}} & \times & \boxed{\begin{array}{l} \text{Hours to perform} \\ \text{the service} \end{array}} = \boxed{\begin{array}{l} \text{Cost of the} \\ \text{Service} \end{array}} \end{array}$$

1. Determine the cost to run the program per year: caseworker salaries, plus benefits, plus agency overhead. Divide that by the number of hours per year your caseworkers work on immigration services. This number is the cost per caseworker hour of providing immigration legal services.
2. Multiply the cost per caseworker hour by the amount of time it typically takes a caseworker to deliver a particular service. This number represents the cost to the agency of providing the service. When determining how long it takes a typical caseworker to deliver a particular service, be sure to factor in the scope of the service: if you will be providing representation at a naturalization interview, for instance, the time to complete the service will be a lot greater than if you were merely helping the client fill out the application. Remember to add in an appropriate amount of caseworker time for managing the case. In general, this includes notifying the

client when a benefit matures and monitoring the case until such time. Many program managers are surprised when they add up all the time that goes into this on one case and realize that it is multiplied by hundreds of cases their agency is handling.

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

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

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

### Special Considerations for DOJ Recognized Agencies

DOJ recognized agencies—or agencies that hope to get DOJ recognition—must adhere to DOJ’s rule that recognized organizations provide immigration legal services primarily to low income and indigent clients. In making this determination, DOJ will look at several documents, including your fee schedule (fee levels) and your fee waiver or fee reduction policy for accommodating clients who are unable to pay.

### Help for Needy Clients: Family Fee Caps

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

### Maximizing Fee Income: Consistent Fee Collection

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

## **Donations**

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

Some of the ways organizations solicit individual donations include: asking people for support through appeal letters; speaking to congregations or community-based groups; creating a presence on social media sites like Facebook or Twitter; adding a donation option to its website; and inviting potential donors to tour your organization or program. Consider developing or buying a database to keep track of potential and actual donors and to help the organization stay in touch with its supporters. For small organizations, a simple database will suffice; as an organization grows, it might look to one of

several commercial fundraising software programs. Many of these systems have a price per user and graduated fees based on numbers of names housed.

Board members play an important role in individual giving. First, each board member should be asked to contribute financially to the organization; often, an expectation of financial support is included in the board recruitment materials. It is very helpful to be able to tell foundations and other potential donors that one hundred percent of the board is committed enough to the organization's mission to support it financially. The dollar amount of the donation is less important than the fact that there is a donation. Consider instituting a board giving policy if one does not exist.

Second, board members should identify potential individual donors. Each board member has friends, families, and professional associates. Board members should assist in the "ask" by approaching their friends, families and associates with an appeal. Board members can also host small donor cultivation events in their homes or offices to expose new people to the organization's mission and programs. They can also sign thank you notes, or make thank you calls to donors.

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

### **Interest on Lawyer's Trust Accounts (IOLTA)**

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

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

Every state operates an IOLTA program, and each has its own grant-making guidelines and processes. Between 1991 and 2003, IOLTA generated more than \$1.5 billion nationwide to ensure justice for the most vulnerable people residing in the United States. IOLTA's website, [www.iolta.org](http://www.iolta.org), provides information about IOLTA, links to each state's IOLTA program, and grant guidelines. The American Bar Association also has links to each state's IOLTA program, at [http://www.americanbar.org/groups/interest\\_lawyers\\_trust\\_accounts/resources/directory\\_of\\_iolta\\_programs.html](http://www.americanbar.org/groups/interest_lawyers_trust_accounts/resources/directory_of_iolta_programs.html).

### **Foundations**

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

Most foundations have websites that list mission, guidelines, and grant-making history. It is very important to adhere to a foundation's guidelines, especially deadlines and whether to submit a full proposal or a letter of inquiry. Many foundations now require online submissions and will require attachment files including an electronic version of the organization's 501c3 letter, bylaws and budget. In general, foundations will be interested in, at a minimum:

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

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

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

If you are successful in receiving a foundation award, be sure to maintain a calendar of grant report deadlines. The reporting process will allow you to continue communicating with the funder throughout the duration of the project and lays the groundwork for your next request.

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

- The Foundation Center, [www.foundationcenter.org](http://www.foundationcenter.org)
- Grantmakers Concerned with Immigrants and Refugees, [www.gcir.org](http://www.gcir.org)

## **Fellowships**

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

Three major fellowship funders are:

- Equal Justice Works [www.equaljusticeworks.org](http://www.equaljusticeworks.org)
- Skadden Fellowships [www.skaddenfellowships.org](http://www.skaddenfellowships.org)
- Soros Justice Fellowships [http://www.soros.org/initiatives/usprograms/focus/justice/programs/justice\\_fellows](http://www.soros.org/initiatives/usprograms/focus/justice/programs/justice_fellows)

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

## **Faith-Based Organizations**

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

synagogues, and temples see the need for high quality, low cost legal services for immigrants. In many cases, their own members need these services.

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

### ***On Cultivating Funding Resources***

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

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

## **Parent Organization**

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

## **Government**

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

## **Fundraising Events**

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

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

## **Businesses and Others**

Businesses that rely on immigrants for labor and/or clientele, law firms, and others should be considered stakeholders in your legal service program. The manager or director should reach out to raise awareness of your program and to seek referrals, funding, or other partnerships. This is especially true of companies that might employ several of your clients since they have an interest in making sure their employees maintain their employment authorization.

Developing a pro bono program that provides mentoring and support to attorneys at local law firms can lead to financial contributions from the law firm. If your agency is able to provide a firm with meaningful pro bono experiences, the firm may

be willing to give money to your program. Inviting attorneys from local firms to join your board is also a way to increase your chances of getting financial support from a law firm.

## **In-Kind**

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

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

## **Program Evaluation**

Effective fundraising is critical to the sustainability of your immigration program. Whether your immigration program survives especially during tough economic times will be driven by how well you prepared and planned for sustainability. The preceding section discussed how to fund the program. This section discusses the importance of program evaluation to obtain program funding from your parent agency, foundations and other grant-makers.

Program evaluation is often an area overlooked by immigration program administrators. This could be due in part to lack of knowledge and experience in the area or possible misconceptions concerning cost, time, expertise or resource to implement a good method or tool for program evaluation. According to the U.S. Department of Health and Human Services, Administration for Children, Youth and Families, program evaluation is simply, “a systematic method of collecting and analyzing, and using information to answer basic questions.” Program evaluation is and should not be complicated, expensive or time-consuming. Immigration programs need to spend the time to come up with a program evaluation method that is implemented regularly if it wants to be successful at fundraising. More and more funders and stakeholders require programs to demonstrate their program’s effectiveness. They want to know about your program’s successes as well as its limitations. This information guides funders to evaluate their policy and future funding stream and helps your agency stand out among other agencies competing for the same funding. Your agency’s board of directors is another group of individuals highly interested in your program successes and outcomes. This is equally important for them in order to plan for the future, advocate for your program and determine future funding stream for program sustainability.

## **Types of Program Evaluation**

There are three types of program evaluation: goal-based, process and outcomes evaluation. The type of evaluation you use will depend on what information you want to solicit. Goal-based evaluation helps you determine if your program goals are being met. An example of a program goal may be your program wants to empower immigrant survivors of domestic violence to lead an independent life free from abuse and victimization by providing them with immigration services. Process evaluation looks at how your program works and whether or not it produces results. This may include a review and evaluation of the consultation and intake process or time to file an USCIS immigration application. Outcome evaluation looks at whether or not your program is making a difference to the client or the community. Are more immigrants receiving work authorization and gaining economic independence as a result of your services? Are more immigrant survivors living safe and independent lives away from their abusers after your program helped them? Funders and the board will most likely be interested in various types of program outcomes. This will require you to be familiar with all three types and possibly implement more than one of them in your program.

## **Demonstrating Program Effectiveness**

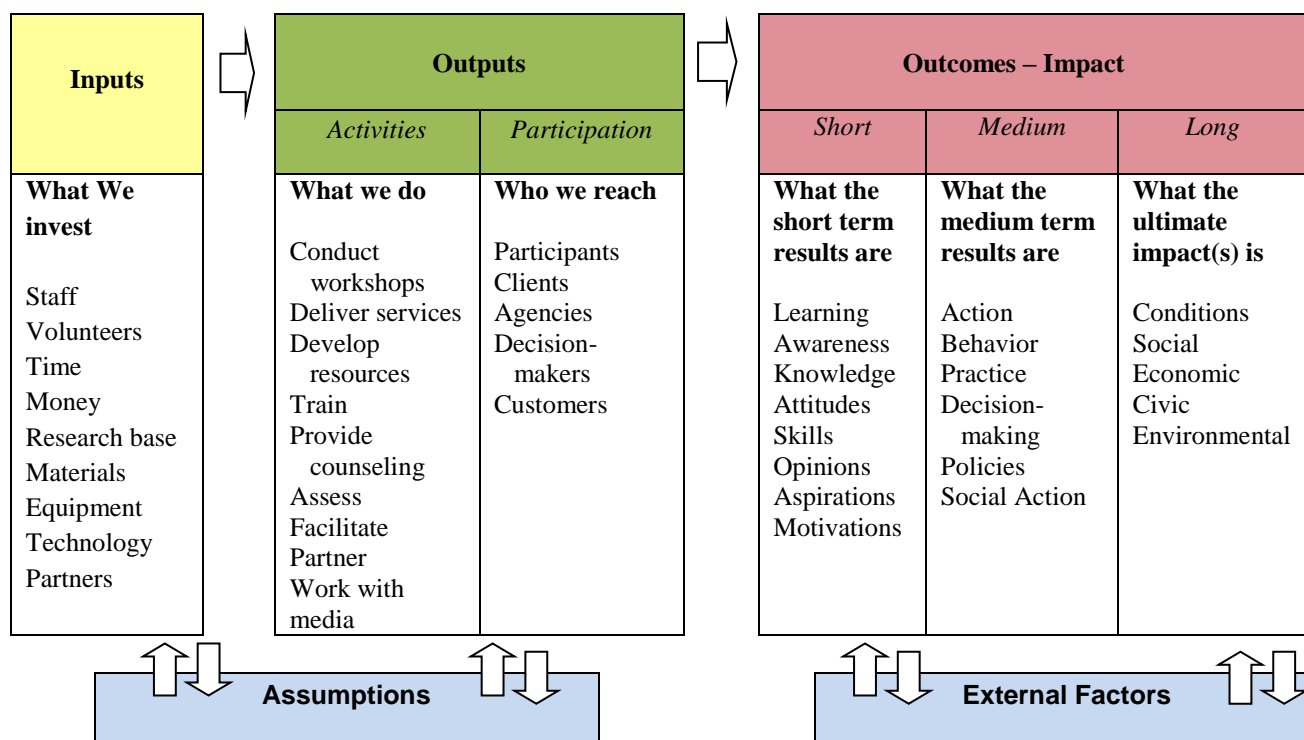
You need data to evaluate your program’s effectiveness. After you determine what you want to evaluate, you need to know what type of data you want to capture and how to do it. Data that is most useful are outcome driven or success oriented. Do not confuse outcome with data that is input and output driven. Inputs deal with program investments. What is your program investing to get the result or outcome you are looking for? This may include the number of staff and volunteers required, money, materials and equipment involved and community partnerships to make referrals and receive clients. Outputs, on the other hand, involve your program activities and participants. What does your immigration program do? This may include

immigration legal services, conducting workshops and holding meetings, providing training and counseling, etc. And, who participates in these activities or you want to reach? This is usually the immigrant as well as other agencies and decision-makers in your agency and community. It is very common and easy to get caught up with output driven data when dispersing information to funders or the board. However, telling the funder or the board you have filed 100 naturalization applications or that 100 family petitions will be filed this year is not as effective as if you told them 80 naturalized citizens reported that they voted in the election and that 100 families were reunited after they filed family petitions. The first two statements are output-driven information and the last two are outcomes, which funders are more interested to know.

Outcomes are impact statements. They deal with the “so what” from the output statement. Impact statements involve the short term, medium term or long-term outcome or results of an output. Short-term results are learning oriented, measuring conditions such as awareness, knowledge, attitudes, skills, opinions, aspirations and motivations. Medium term results deal with action such as behavior, practice, decision-making, policies and social action. Longer-term results deal with conditions that impact society, economic, civic and environmental. Naturally, the three results will hinge on the data set you collect; therefore, focus on what kind of response you want to achieve from funders or the board. This will help you set up your data to achieve that result or response. For instance, if you are looking to inspire funders and board it may be best to focus on the long-term impact, and if you are looking to make your results more interesting you may want to focus on such things as behavioral changes or medium term results.

Your program’s service delivery model rests on some assumptions. These assumptions need to be guided by best practices, research, experience or intuition. Your program’s results may not be within the staff’s complete control. External factors may create unexpected consequences, positive and negative. External factors may include demographic shifts and patterns, economic and political environment, media influence and or the background and experience of clients. External factors interact with the program and can not only influence program initiatives but are influenced by it as well.

What we described above is commonly referred to as the logic model. Below is a visual orientation of the process.



There are many ways data can be captured. Surveys are common tools to administer the data or information. One of the most useful tools available in your immigration program to capture data and information is your case management database. In Chapter Five, we discuss the importance of case management systems and a database in processing immigration cases, as well as tracking outcomes and producing reports. This capability, of course, will depend on the type of case management database used by your immigration program. Not every case management database will have all the capability you want and need. If you are considering purchasing a case management database, it is important that you look for all capability, including report functions. We mention case management database since it is the easiest way data can be captured and

accessed. Finger counting or entering data and information into an excel sheet is not only time consuming, but can be more error prone. Program evaluations usually entail entry of and access to voluminous data sets and the more simplified you make the process, the better.

Efforts to improve the lives of others, including those marginalized and poor, can be met with great success or disappointment. Many challenges nonprofits work against are long-standing concerns. Transformation can be difficult to achieve. Nonprofits providing immigration legal services can take heart. While an unfortunate number of immigrants in the U.S. lack legal status and have limited access to an immigration benefit, most immigrants do. With well-trained staff conducting screening and intake, it is possible to identify immigrants who have access to an immigration benefit. Thus, filing an immigration application (an output) for the best benefit on behalf of the client can result in 100% approval rates (outcome) or close to it.

It is uncommon in the nonprofit social service arena to see 100% transformation in client lives. Immigration legal services stand-out for high success rates. All involved in providing immigration legal services need to appreciate what is achieved in the lives of the client after an application is approved. For example, an approved naturalization application and oath of allegiance together result in someone becomes a U.S. citizen. That is an outcome to be celebrated. However, a greater outcome is when the new U.S. citizen maximizes the benefits of citizenship – voting; uniting with a family member through an immediate relative petition; acquiring a better job; serving on a jury of peers; accessing a U.S. passport and the protections it provides and many more. These outcomes go beyond achieving the status of U.S. citizenship and are multiplied when immigration legal programs help naturalize hundreds, if not thousands, of legal permanent residents each year. As such, a community, but also a nation, is being transformed and for the better. This perspective on outcomes and the documentation of them is what impressed stakeholders to support your efforts with their funding and talent.



# ATTACHMENT

## Sample Immigration Program Expenses

Sample budget derived from the average of 5 programs surveyed in  
2005: Florida, Illinois, Arizona, Delaware, South Carolina

	<b>Average/Yr</b>	<b>Cost</b>
2 DOJ Accredited Rep. at	\$ 30,936	\$ 61,872
1 receptionist	\$ 26,134	\$ 26,134
1 Office Manager/Managing Attorney	\$ 42,500	\$ 42,500
Benefits (35%)	\$ 34,850	\$ 45,677
Rent expense	\$ 15,480	\$ 15,480
Monthly telephone bill	\$ 1,720	\$ 1,720
Utilities	\$ 1,992	\$ 1,992
Internet Access	\$ 608	\$ 608
Postage/shipping	\$ 1,200	\$ 1,200
Copies	\$ 1,829	\$ 1,829
Publications & subscriptions	\$ 2,287	\$ 2,287
Administrative Costs	\$ 17,279	\$ 17,279
	<b>Total/Yr</b>	<b>\$ 218,578</b>

# Chapter Seven

## Building Program Visibility and Credibility

**Learning Objective:** *To focus on building visibility through networking, collaboration, online and media outreach in order for a program to build credibility.*

### Part I: Increasing Visibility

**B**uilding visibility and credibility is important in sustaining and expanding your program’s services. **Visibility** is the extent your program’s name is recognized by individuals, the media, potential funders, government officials, and other decision makers. Regardless of how effective your program is, funders and policymakers are most likely to listen to and work with groups they have heard about through the mass media or from people they know personally.

**Credibility** is the extent to which other people and organizations consider your program a source for accurate information on key immigration issues. As such, it is important for programs to engage in providing written materials or oral statements about these issues to the media and policymakers at appropriate times, and having respected individuals or organizations endorse your program’s positions or statements. Credibility is established when you start getting phone calls from the media asking for your opinions or reactions to major events related to immigration.

Visibility and credibility are interrelated and are essential to sustain and expand your immigration program. The previous chapters focused on building a program’s capacity using best practices to gain efficiency and minimize liability; important steps in building program’s credibility. This chapter focuses on building visibility through networking, collaboration, and online and media outreach and exploring their crucial role in helping your program maintain and build credibility.

### Steps to Increasing Program Visibility

While there are many strategies to help your program build name recognition, planning and resources will affect your approach. Here are some key steps to improve your program’s visibility.

#### **Get to Know Other People Personally**

While there are many ways to expose your program, face to face interactions are still one of the most effective ways to increase visibility.

Therefore, it is important to frequently find time to network because relationships are cultivated over the long-term. Since clients are likely to talk about your program, it is important that your program provides quality services. Word of mouth is still the most credible and cost-effective form of outreach, according to Cause Communications. Community presentations are also effective tools for community members to get to know your program and for you to listen about community needs. Presentation topics in demand are “Know Your Rights” presentations, “Immigration 101” information, and legalization readiness recommendations.

#### ***Be Prepared to Network***

**Networking** can happen anywhere. Be sure you always have your business cards handy. If you do not know anyone in the room, look for someone approachable and introduce yourself. Never make a good contact without following up with a later message. Another networking skill is to have an effective **elevator pitch** that quickly engages people and makes them want to follow up with you. An elevator pitch is a mini presentation that you can promptly give about your program, its services and importance.

#### ***Tips on Building Relationships***

**Bi-monthly community presentations** on immigration helped Catholic Charities of Amityville build closer rapport with local parishes. As result, when ICE conducted home raids in several Long Island communities, Catholic Charities outreach coordinators were informed promptly and were given easy access to families in need of “know your rights” information.

## Collaborate with Others

Partnering with local, regional, and national nonprofit agencies is essential in not only meeting the needs of your constituents, but also in obtaining resources for your program.

Local partnerships can take many forms and occur with other legal programs, social service providers, private law firms, businesses, and congressional offices. Collaboration may evolve around making or receiving referrals from other agencies, sharing information on the latest local USCIS practices and policy developments, shared advocacy priorities, organize joint campaigns, or co-implement community presentations.

Some programs work closely with local immigration attorneys giving and receiving legal technical support on complex cases. Either way, there needs to be recognizable mutuality in the collaboration so as to avoid the appearance of competition.

### *Collaboration Can Be Formal or Informal*

Regardless of its form, it has to be mutually beneficial to both parties. Ensure that potential partners:

- Share your program's values and commitment to serving immigrant communities
- Are trustworthy and ethical
- Show a desire to help build your program's capacity
- Are willing to share credit with your program and give your program opportunities to increase its visibility
- Have a solid track record and are well managed.

### *Collaboration Can Be an Effective Fundraising Strategy*

Catholic Charities of Washington, D.C.'s Legal Immigration Services works with a number of law firms to recruit pro bono attorneys to take on complex cases. The program has an in-house pro bono coordinator who asks law firm pro bono coordinators to recruit volunteer attorneys. In return, Catholic Charities' attorneys provide trainings and legal technical support to the volunteer attorneys. This arrangement has helped many immigrants secure their benefits, and has also helped Catholic Charities obtain in-kind resources and money. For example, one of the partnered law firms printed the program's outreach brochures for free. Many of the pro bono attorneys and their firms have donated money to the program. Because of their satisfaction volunteering, the attorneys recruited more volunteers.

## Get to Know Your Local USCIS Office

Many USCIS offices hold monthly or quarterly meetings for community-based organizations and other stakeholders. These meetings are an important way to understand USCIS regulations and practices. Some offices hold separate meetings for members of the American Immigration Lawyers Association (AILA). Attending these meetings regularly will help you stay up to date on legal and policy development as well as help you develop relationships with key decision-makers. These meetings may also include other agency representatives to explain how their respective agencies affect the community. Agencies such as Immigration and Customs Enforcement (ICE), Customs and Borders Control (CBP), Social Security Administration (SSA), and Department of Motor Vehicles (DMV) are important to know.

Many USCIS offices have Community Relations Officers (CROs) who are available to answer questions and concerns. Visit [www.uscis.gov](http://www.uscis.gov) and its Community Relations page to obtain a listing of the CROs by region. Some CROs cover a state while others cover a larger or smaller region. It is important that you engage in an open dialogue with your designated CRO to increase your program's visibility and credibility in her eyes. One way that trust is displayed is when USCIS offices issue referral lists of affordable legal service providers with your program's name on it. One thing to remember is that CROs do not address specific individual case inquiries. Rather, they guide you through the system, give alerts on new policy and procedural information, and address general questions and concerns.

### *What is Administrative Advocacy?*

Administrative advocacy is the process of seeking action from a non-legislating government agency about a policy or specific case. Effective advocacy involving USCIS concerns pursue a hierarchy of authority in this sequence:

1. Local adjudicator
2. Supervisor or CRO
3. USCIS Director
4. Congressional representative
5. National non-profit network

See Part II of Chapter 7 for our Advocacy Guide.

### ***How to Forge Long-Term Relationships with Local USCIS***

“Over the years I have worked to develop a relationship with our local USCIS Congressional liaison person. Now we are good friends, and so she will respond to my emails rapidly. My recommendations for developing a strong relationship: don’t ask them dumb stuff, and things you can find out other ways. Don’t ask them for legal advice. Don’t be antagonistic. Be grateful and appreciative. Talk about things other than cases—I know our liaison enjoys the outside contact she has with me. Find things you have in common and bond over them—for instance, both our liaison and I have grandkids, and we talk about them. I also use my husband’s military service as a way to connect to USCIS officers. My husband served during Vietnam, and I have used that so many times, because lots of CIS officers are former military.”

- Sue Colussy, Catholic Social Services, Immigration Program, Atlanta, GA

## **Get to Know Your Congressional Representatives**

There are instances when contact with a congressional representative is needed to help resolve a problem, especially when direct communication with USCIS has failed or your client’s case needs special intervention. Congressional representatives typically have at least one staff person handling immigration-related inquiries. These staffers have direct access to USCIS officers. It is a very good idea to know the immigration staffer at your representative’s local office. If you need case specific assistance, most congressional offices have two basic requirements: 1) your client lives in their district and 2) you can produce a signed consent form from your client. Effective administrative advocacy involves giving congressional staff specific written questions to be answered by USCIS or what errors you think were made requiring steps you believe should be taken to correct the error.

## **Regional Partnerships**

Problems and challenges in serving immigrants effectively is rarely only a local issue. As such, it is essential to be an active participant in state-wide or regional immigration coalitions. An organized coalition can disseminate information to a wide and diverse audience, and serve as an effective immigrants’ rights advocacy organization. An informal coalition might start out by just sharing information on a community level but grow to become providers of legal and advocacy training, develop pro-immigrant multi-media messages, and engage in legislative and administrative advocacy on the state and federal levels. When a coalition includes trusted local partnerships, challenging work can be shared among its members including: presentations at community meetings, testimony before legislative bodies, messaging with the press, conducting substantive immigration law training, and building a broader network. If there is not a coalition in your area, consider learning how to start one by contacting some of the existing ones in this non-exhaustive list.

### **Austin Immigrant Rights Coalition**

[www.austinirc.org](http://www.austinirc.org)

### **Bay Area Immigrant Rights Coalition**

[www.immigrantrights.org](http://www.immigrantrights.org)

### **Colorado Immigrant Rights Coalition**

[www.coloradoimmigrant.org](http://www.coloradoimmigrant.org)

### **New Jersey Immigration Policy Network**

<http://www.communitiesforpubliceducationreform.org/grantees/new-jersey-immigration-policy-network>

### **Illinois Coalition for Immigrant and Refugee Rights**

[www.icirr.org](http://www.icirr.org)

### **Interfaith Coalition for Immigrant Rights**

<http://www.icir-clue.blogspot.com/>

### **New York Immigration Coalition**

[www.thenycic.org](http://www.thenycic.org)

### **Florida Immigrant Advocacy Center**

[www.fiacfla.org](http://www.fiacfla.org)

### **Massachusetts Immigrant and Refugee Advocacy Coalition**

[www.miracoalition.org](http://www.miracoalition.org)

### **Tennessee Immigrant and Refugee Rights Coalition**

[www.tnimmigrant.org](http://www.tnimmigrant.org)

## National Organizations

Connecting with national organizations is important—particularly if it is not possible to join a local immigration coalition or national affiliate network. Establishing a direct relationship with national organizations can enable your organization or program to: 1) stay current on cutting-edge legislative and regulatory developments; 2) gain access to educational resources and toolkits; 3) receive technical assistance, research and analysis on various issues; 4) engage in administrative advocacy on behalf of individual clients or seek more systemic change; 5) lobby Congress for reform of immigration laws; and 6) obtain useful guidance on working with the media.

National organizations also need to hear from local immigration service providers to know how policies impact immigrants and if inconsistencies exist between policies and practices. By collecting client stories and experiences, your program can have a powerful impact on demonstrating how immigrants are negatively impacted by laws and regulations, or how they have succeeded in integrating in the U.S. For example, some national organizations, like CLINIC, meet with USCIS headquarters on a monthly basis to bring to their attention challenges and make specific requests for change. Partnering with national organizations is very much an interdependent relationship.

Many national organizations provide technical and legal assistance and management support, engage in litigation, and sponsor trainings on law, policy and advocacy. Some even have local or regional presence. Consider joining their mailing list or becoming a member to stay abreast of legislative and case law developments, to network with other agency members, and to increase your credibility. These organizations can help you locate other legal service providers in your area. National organizations can lead to funding opportunities by helping you identify funders or by providing flow-through funding. Furthermore, if your program is a start up, funders and other partners will look to see if you have technical legal and management support in order to gain adequate knowledge and experience.

Below is a list of some prominent national immigration organizations. Learn about their mission, constituents and services.

### **ABA Commission on Immigration**

[www.abanet.org/publicserv/immigration/home.html](http://www.abanet.org/publicserv/immigration/home.html)

### **Immigration Advocates Network**

[www.immigrationadvocates.org/](http://www.immigrationadvocates.org/)

### **American Immigration Lawyers Association**

[www.aila.org](http://www.aila.org)

### **Immigrant Legal Resource Center**

[www.ilrc.org](http://www.ilrc.org)

### **ACLU Immigrant Rights Project,**

[www.aclu.org/immigrants-rights](http://www.aclu.org/immigrants-rights)

### **National Council of La Raza**

[www.nclr.org](http://www.nclr.org)

### **ASISTA**

[www.asistahelp.org/](http://www.asistahelp.org/)

### **National Immigration Forum**

[www.immigrationforum.org](http://www.immigrationforum.org)

### **Catholic Legal Immigration Network, Inc.**

[www.cliniclegal.org](http://www.cliniclegal.org)

### **National Immigration Law Center**

[www.nilc.org](http://www.nilc.org)

### **Detention Watch Network**

[www.detentionwatchnetwork.org](http://www.detentionwatchnetwork.org)

### **National Lawyers Guild: National Immigration Project**

[www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org)

### **Lutheran Immigration and Refugee Service**

[www.lirs.org](http://www.lirs.org)

### **World Relief**

[www.worldrelief.org](http://www.worldrelief.org)

## Using Technology to Your Advantage

Consider using the following technological tools for network collaboration and communication:

Definition		Software Examples	Cost
<b>Office Tools</b>			
Email	A domain email account gives the agency a more professional appearance.	@youragency.org	\$
Translation Service Call Line	Translation services available in many languages on demand.	<a href="http://www.LanguageLine.com">www.LanguageLine.com</a>	\$
Individual Voice Mailboxes	Each caseworker has individual voice mailbox.	Depends on phone system	\$
Robo calling	Automated phone <i>calling</i> system to relay messages to a large number of people	<a href="http://www.robotalker.com">www.robotalker.com</a>	\$
<b>Informal Conversations and Presentations</b>			
Conference Call	Multiple callers on one phone line	<a href="http://www.Freeconferencecall.com">www.Freeconferencecall.com</a>	Free
Video Conferencing	Conference call with a video display component	Skype GoToMeeting	Free
Online Conferencing	Conference call with an online component (slides, documents, videos, and/or demos)	GotoMeeting.com WebEx.com	\$
<b>Information Sharing</b>			
Text Messaging	Contact many people with short, written messages via cell phone	Any cell phone carrier	\$
Twitter	Instantly update many people using 140 characters or less	<a href="http://www.twitter.com">www.twitter.com</a>	Free
Email Discussion List	Email Groups that lets participants easily email everyone in the group	Yahoo Groups Electric Embers.com	Free
Existing Social Networking Sites	Online networking sites where users can create profiles and connect with others	Facebook	Free
Collaborative Documents	Users share and edit documents online, either in real-time or over time	Google Docs	Free
Message Board	Online forums focused around questions and answers	phpBB vBulletin	Free \$
<b>Long Term Structured Collaborations</b>			
Online Project Management Tool	Users share documents, calendars, tasks, and structured conversations	<a href="http://www.Basecamphq.com">www.Basecamphq.com</a> <a href="http://www.CentralDesktop.com">www.CentralDesktop.com</a>	\$
Online Community	Users share profiles, documents, calendars, message boards, and more	<a href="http://www.Ning.com">www.Ning.com</a> <a href="http://www.kit.com">www.kit.com</a>	\$
Wiki	Collaborative website, where all who can view can also edit	<a href="http://www.Confluence.com">www.Confluence.com</a> <a href="http://www.MediaWiki.org">www.MediaWiki.org</a>	Free
Blog Network	Community of linked blogs where users interact with posts and feedback	<a href="http://www.WordPress.com">www.WordPress.com</a> <a href="http://www.TypePad.com">www.TypePad.com</a>	Free
<b>Tech Support</b>			
Online tech support	Resource-filled website designed to help nonprofits get help with technological issues	<a href="http://www.techsoup.org">www.techsoup.org</a>	Free

*Credit: Cause Communications*

## **Establish an Online Presence**

As people rely increasingly on the internet to obtain information, it is crucial that your program has an online presence. If your parent agency has a website, consider asking for a web page that contains your program's legal immigration services and contact information. It is also a good practice to provide up-to-date resources and links to other reliable resources. This is a good way to increase visibility and credibility and ensure that the public has access to accurate information. Providing accurate information is essential in combating fraudulent immigration providers. If your program already has a website, consider making information available in one or more non-English languages. USCIS, Immigration Advocates Network, and ethnic-based organizations often share materials in more than one language.

An alternative to having a website is to create a page of your program on social networking sites like Facebook or LinkedIn. For example, on [www.facebook.com](http://www.facebook.com), your program can create a fan page where Facebook users can choose to become your fan and read your news updates. Each networking site targets different audiences: [www.linkedin.com](http://www.linkedin.com) attracts professionals while [www.facebook.com](http://www.facebook.com) draws a more diverse audience, including young adults. Note that many faith-based groups also have their own social networking sites, such as [www.godtube.com](http://www.godtube.com). While registering for an account is free on all these sites, it still requires time and strategy to manage and update your program's services, news, and events.

## **Explore Online Advertising**

Online advertising uses keyword ads and web banners appearing on search engines. These can help your program increase visibility and raise awareness of your issues. For example, when searching a particular topic on Google, Yahoo, or Bing, you will see sponsored links appear on the top right hand side of the page. Therefore, it is important that you customize keyword terms. You can set the amount your program is willing to spend per day or month to fit your budgets. Google has an Ad Grant to help promote your program via advertising on Google: <http://www.google.com/grants/>

# Media Outreach

## **Advantages of Media Outreach**

While the internet has significantly changed the way media is defined, “mainstream” media outreach can help increase your visibility, educate the public about immigration issues, improve case outcomes, attract new clients, and reach policy goals. However, it takes substantial time and effort to manage positive media outcomes. Using the tips below will help you proactively work with the media and handle a media crisis.

## **Disseminating Information to Immigrants**

The press may at times be able to disseminate important information about available legal remedies and eligibility, particularly in times of legislative change and uncertainty when the public may fall prey to the unscrupulous promises of unauthorized practitioners. For this reason, it is important to develop and maintain contacts with radio, television and print media—especially the foreign language media—in your local community, emphasizing the importance of professional legal representation.

## **Improve Case Outcomes**

Cases that have stagnated in the courts may be expedited when they receive media attention and the chances of a positive outcome may improve as a result. A program's client facing dire outcomes may take the matter up directly with the local media. Because a local, regional or national coalition may have stronger media contacts, it may make sense to approach the media through a coalition. Remember that the court of public opinion is often more

compassionate than a court of law. A sympathetic story in the local newspaper, the national press or on national television may move your case forward more than any legal tactic.

Be careful, however, when bringing individual cases to the attention of the media. You **MUST** make sure that your client consents to this exposure, and you must be sure to advise her or him as best as you can of the risks of media attention. Select your cases carefully and make sure that media attention is not likely to harm your client. *A sample media consent form is included in the Attachment section at the end of this chapter.*

### ***How the Media Can Help Individual Clients***

CLINIC helped a Korean woman who was in detention and facing deportation after 25 years of living as a lawful resident in the United States. She was sentenced to one month in jail after she pled guilty to embezzlement at the restaurant at which she worked. Unfortunately, her court-appointed attorney was unfamiliar with immigration law and did not realize that the guilty plea would result in her being considered an aggravated felon—a classification that made her deportable and landed her in mandatory detention. Even though deportation seemed too severe a penalty for this minor transgression, and would have separated her from her American-born children, legally there was little that could be done to help her.

CLINIC helped publicize her ordeal through high-profile media stories. After The Washington Post and The Richmond Times Dispatch ran feature articles about the case, U.S. Rep. Frank Wolf (R-VA) took up the cause and appealed directly to DHS undersecretary Asa Hutchinson and ICE director Michael Garcia for her release. ICE eventually stated that the circumstances did not merit her continued incarceration, and released her. Without all the publicity that led to the involvement of a member of Congress, it is highly unlikely that DHS would have taken such a step.

### **Attract Clients**

Mainstream media can increase the advertising for your program's services. When your program's staff members are quoted in the newspaper or interviewed on local television or radio, you instantly become an "expert." Elected officials and high level agency officials are more likely to meet with you after reading newspaper clippings quoting you, or seeing and hearing you on air. However, policy makers are not the only ones reading articles and listening to discussions about immigration. Prospective clients are paying attention, too. After reading your name in the newspapers or seeing you on television, they are more likely to call your program for assistance.

### **Reach Policy Goals through Media Advocacy**

Media advocacy is essential to the creation of pro-immigrant laws and policies. Press coverage of immigration issues can have a direct impact on immigration law and policy. People easily form opinions or take action based on the media's presentation of an issue. It is important to work proactively with the media- to shape the story rather than just react to it. Successful media relationships do not occur instantly. Rather, substantial time is required to

### ***Don't Put Your Client at Risk Just to Get Good Media Attention***

An immigration legal services program, "ISP" (not its real name) had a long history of helping newcomers obtain immigration benefits like green cards and work permits. Immigration and Customs Enforcement (ICE) had recently conducted a raid in the community. A local television station approached ISP and asked if one of their clients would be willing to be interviewed about the raids. ISP arranged for the client to be interviewed and his story was featured on local television. The client movingly described the injustices he was subjected to as an undocumented laborer and his fear of living in the shadows.

Unfortunately, the client gave enough identifying information that it was easy for ICE to act on an anonymous tip and pick him up at home the next day. He was on an airplane back to his home country one day after the interview. ISP was dismayed by this result as they had not warned the client in detail about this possibility nor worked with the reporter to offer some anonymity to the client.



cultivate relationships, develop a media plan, and work on cultivating media contacts. Below are a few tips on how to initiate or enhance media advocacy.

## **Get to Know Your Local Media**

### Learn Which Reporters Cover Immigration

The first step in reaching out to your local media is determining which reporters in your area cover immigration. Create a media contact list, gathering names and contacts from scanning news media websites, media associations' resources, or general directories of media contacts, such as *Bacon's*. It may also be worthwhile to ask other advocates for their media lists. Make sure to update the list regularly since media workers tend to switch jobs frequently. After an immigration story is published or a report aired, follow up with a note to the reporter you worked with response to the quality of coverage. If necessary, do not be afraid to be critical in a constructive way. Also, make sure to contact the person you worked with on a story if there are any important updates, which might lead to more coverage. This is a great strategy to acquaint the media with your program and for them to recognize your program as a source of reliable information. Reporters tended to quote people they know and trust.

The easiest way to get to know your local media is to call them. Always ask if it is a good time to talk before starting a conversation. Introduce yourself and explain that you would like to schedule a time to discuss immigration matters. Use the meeting as an opportunity to start a dialogue with the reporter, not to lecture him or her. Discuss generally what your organization does, what some of the current outstanding immigration issues are, and ask if they have any questions about immigration. At the end of the meeting, give the reporter your business card and a packet of pertinent materials. If you want to impact a newspaper's editorial outlook or gain more access to its editorial pages (i.e. writing op-eds), set up meetings with the local editorial board. Simply contact them and explain why you are calling. They are usually responsive.

### Reach out to media outlets that cater to the ethnic groups in your community

Cultivate a reporter by sharing a compelling story that highlights a bigger issue, such as a young immigrant that can't affordably go to college because there is no DREAM act passed. Offer background information on topics of interest such as the danger of immigrants using *notarios*. Most ethnic media is eager to receive information relevant to their audience. You have that information. Offer the information freely and in a timely manner.

### Develop a Media Plan

Your organization should craft a protocol on responding to the media, working with the media, reaching out to the media, obtaining consent from clients, and designating and training an immigrant spokesperson.

Here are some organizations that have developed resources on how to develop a media plan:

- Lutheran Immigration and Refugee Service's "Sample Guidelines for Communication and Public Relations" (see Attachments at the end of Chapter 7) establish a protocol for media calls into their offices. The guidelines identify the Executive Director as the key media liaison.
- The National Immigrant Justice Center's "Media and Communications Memorandum: What to Do and Say When you are Contacted by the Media" (See Attachments at the end of Chapter 7) lays out a clear policy for employees' interactions with the media.

The program spokesperson(s) who is the face and messenger of the program should be intimately familiar with the parent organization, the immigration program's services and the agency's position on immigration. Ideally, the program's spokesperson should be the immigration director. If this is not the case, keep the spokesperson informed of the latest legal and policy developments.

### ***Media Plan of the Migration Office, Amityville, New York***

The Migration Office is located in Long Island, NY. It has a staff of 17 that includes one attorney and several DOJ accredited representatives. The Migration Office has developed relationships with local reporters that have made the office a credible source of information on immigration. The Immigration Program Director Carmen Maquilon, a fully accredited DOJ representative, shares responsibility with the Catholic Charities Communications Director to respond to media requests. Ms. Maquilon is the main spokesperson for the immigration program and regularly conducts interviews and responds to reporter inquiries about immigration law and program services. Questions on the church's position on immigration policy and pending immigration legislation are referred to the Catholic Charities Communications Director.

The Migration Office's relationship with the media developed slowly. For a long time, after several negative stories were aired on the diocese and its programs, the Archdiocese responded to all media questions about immigration. Eventually, the Immigration Program Director was authorized to conduct media interviews. This change was inspired by Ms. Maquilon's efforts to nurture an amicable relationship with area media. With permission from the Archdiocese, Ms. Maquilon provided background information and shared sympathetic client stories with reporters to help them better understand issues related to immigration. Her outreach resulted in more positive and encouraging stories about immigrants in the area media. Ms. Maquilon has been quoted in Newsday and the New York Post commenting on local immigration ordinances, trafficking and crimes against immigrants. The Migration Office's relationship with the media is also enhanced by its membership on the Long Island trafficking commission. As a result, the Migration Office frequently responds to interview requests on issues related to human trafficking.

The Immigration Program Director has established a policy for program staff when there is a media request.

1. All media request are received by the Migration Office receptionist. The receptionist collects the name of the reporter, the media outlet and their question.
2. This information is relayed to the Immigration Program Director. When she receives the request, the Program Director does two things:
  - a. Research the media outlet
  - b. Inform the Catholic Charities Communications Director. While Ms. Maquilon has the authority to speak on behalf of the immigration program, she has developed a close relationship with the Catholic Charities Communications Director and shares all media requests with him.
3. Before responding to the media request, Ms. Maquilon writes down brief talking points to guide the conversation.

Ms. Maquilon tries to respond as quickly as possible to media requests and tries not to delay more than a day. This allows time to research the issue, if needed, collect her thoughts and compose the main talking points.

## Seek Media Training Opportunities

Consider having key staff members attend media training which may be available through local or state coalitions or national organizations such as AILA and the National Immigration Forum. These organizations often have press kits and press releases to use and communications directors who can share their experiences with you.

**National Immigration Forum:** [www.immigrationforum.org](http://www.immigrationforum.org)

**American Immigration Lawyers Association:** [www.aila.org](http://www.aila.org)

**The SPIN Project (Strategic Press Information Network):** [www.spinproject.org](http://www.spinproject.org)

**Cause Communications:** [www.causecommunications.com](http://www.causecommunications.com)

**American Forum:** [www.mediaforum.org](http://www.mediaforum.org)

**Main Stream Media Project:** [www.mainstream-media.net](http://www.mainstream-media.net)

**New American Media (Ethnic Media):** [www.newamericamedia.org](http://www.newamericamedia.org)

**The Progressive Media Project:** [www.progressive.org](http://www.progressive.org)

**Public News Service:** [www.publicnewsservice.org](http://www.publicnewsservice.org)

Also, *The Strategic Communications for Nonprofits: Step by Step Guide to Working with the Media* by Kathy Bonk, Henry Griggs, Emily Tynes, and Phil Sparks is a helpful tool in creating successful media outreach. Key elements include: knowing your target audience; conducting background research on relevant issues; crafting effective messages; developing appropriate tools and resources; and having a written communications work plan.

## **Tips for Handling a Media Crisis**

You should have a plan in place for dealing with a media crisis or an unwanted press inquiry. Given how contentious the immigration debate can be, it is likely your organization, program or client may be drawn into a controversial story. Among the many possible scenarios: the Minutemen could come to town; there could be a workplace raid; one of your clients could commit a high profile crime; your office could be flooded with clients who camp out outside your premises; local law enforcement officials could be drawn into becoming federal immigration law enforcers; or day laborers could be attacked. It is very important to have a media response plan in place before a crisis occurs.

Suggestions for planning for a media crisis:

- Establish protocols on how to handle media inquiries. Make sure everyone on your staff is familiar with them.
- Assemble a team of community partners to respond together. Allocate roles and responsibilities to promote a common voice.
- Seek expertise by making contact with communications directors at larger advocacy organizations. They often get involved in local matters that can resonate on a larger stage. Have a short list of key names to call in an emergency. Alternatively, have a seasoned public relations person on your board or cultivate a sympathetic public relations person as an informal advisor.
- Familiarize yourself with some online resources that may be available to deal with specific types of crises. For example, the Immigration Advocates Network (IAN) has assembled a number of resources

on its website for dealing with immigration workplace raids. These resources feature materials prepared by CLINIC, AILA, Casa of Maryland, the National Immigration Law Center, Detention Watch Network and the National Immigration Project.

Here are some suggestions for minimizing your exposure once you are contacted for a response:

- When an inquiry does come in, do not answer right away. Take down the reporter's information and deadline. Follow your media inquiry protocol. Refer the call immediately to your designated media point-person. As appropriate, take time to collect facts and determine if there are sensitive issues at stake. Talk to your colleagues, and consult with other organizations you trust. You may need to work fast, particularly if there is a tight deadline involved.
- Consult with your local "crisis response team." Develop a coordinated response using the crisis management plan you developed together. Do not act alone and do not act in haste.

Media outreach can have a powerful impact but requires time to cultivate relationships and to develop a pro-active media plan and a crisis response plan. For programs that do not have a media plan, consider initiating a discussion with your agency's communications staff. Also, reach out to your local, regional, and national partners for assistance on best practices.

There are many ways for your program to increase its visibility: face to face interactions; getting to know and collaborate with local, regional, and national nonprofits, coalitions, and government agencies; conducting outreach online; working closely with the media; and engaging in administrative advocacy. For your program to increase visibility to various audiences, it needs to use several strategies. Expanding your program's name recognition can lead to many benefits including increased number of clients and volunteers, increased awareness of immigration issues, and fruitful partnerships. Moreover, when individuals and organizations know your program and the work that you do, they are more likely to trust your role and judgment. This trust establishes credibility for your program. Lastly, individual and institutional funders are more likely to fund programs they know, trust, and see having a positive reputation in their community.

## Part II: Administrative Advocacy

**A**dministrative advocacy is a form of advocacy that focuses on changing agency regulations, policies, and practices rather than law. Therefore, administrative advocacy is directed at agencies that administer immigration laws like the U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), Customs and Borders Protection (CBP), Department of State (DOS), Department of Motor Vehicles (DMV) and Social Security Administration (SSA). This section will discuss how to conduct administrative advocacy with USCIS, but many of the advocacy strategies can be applied with other government agencies as well.

Administrative advocacy can be classified as either **case specific** or **policy focused**. Case advocacy focuses on individual circumstances while policy advocacy addresses systemic issues and challenges.

### The Importance of Doing Administrative Advocacy

Administrative advocacy is an effective strategy to make a profound difference for your clients' case or to make an impact on immigration policies and procedures. Some common reasons immigration advocates conduct administrative advocacy are:

- To redress improper or unfair decisions or delays on individual cases;
- To address systemic processing problems or repeated mistakes by an official or office; and
- To address the needs of special populations.

### Effective Strategies in Conducting Administrative Advocacy

Advocacy requires you to be knowledgeable and competent in immigration law and have the ability to anticipate challenges that might derive from your client's situations or from a possible misinterpretation or misapplication of immigration laws and regulations on the part of the adjudicators. Here are effective strategies in advocating for your clients:

- Build a strong relationship with your local USCIS office. Start by attending regular USCIS monthly or quarterly community-based meetings. If these meetings do not exist in your area, request one. Get to know your local USCIS Community Relations Officer (CRO). See Chapter 7 Part I for more information.
- Establish yourself as a competent and diligent advocate by keeping up-to-date with immigration laws and policy developments. Regularly visit the USCIS Policy Memoranda page or sign up for e-mail updates to learn USCIS interpretations, policies, and guidance on specific forms. Also, visit the USCIS Administrative Appeals Office page to view appeal cases that have been denied or approved. Talk to local practitioners to keep abreast of local procedural practices and sign up for mailing lists from the USCIS Community Relations Officers and immigration advocacy organizations.
- Always be prepared for worst case scenarios by keeping copies of documents, applications, research, policy memos, research, and documentations of all correspondences.
- Document all communication efforts with governmental agencies via phone, email, letters, and face to face interactions (date, name, basis of the conversation, and outcome-- if any).
- Always take down the name of individuals you talk to whether it is over the phone or at a client's interview.

- Make attempts to address problems when they are small. For example, asking to speak to an adjudicator’s supervisor after an unfair or improper decision has been made can sometimes produce positive results for your clients.

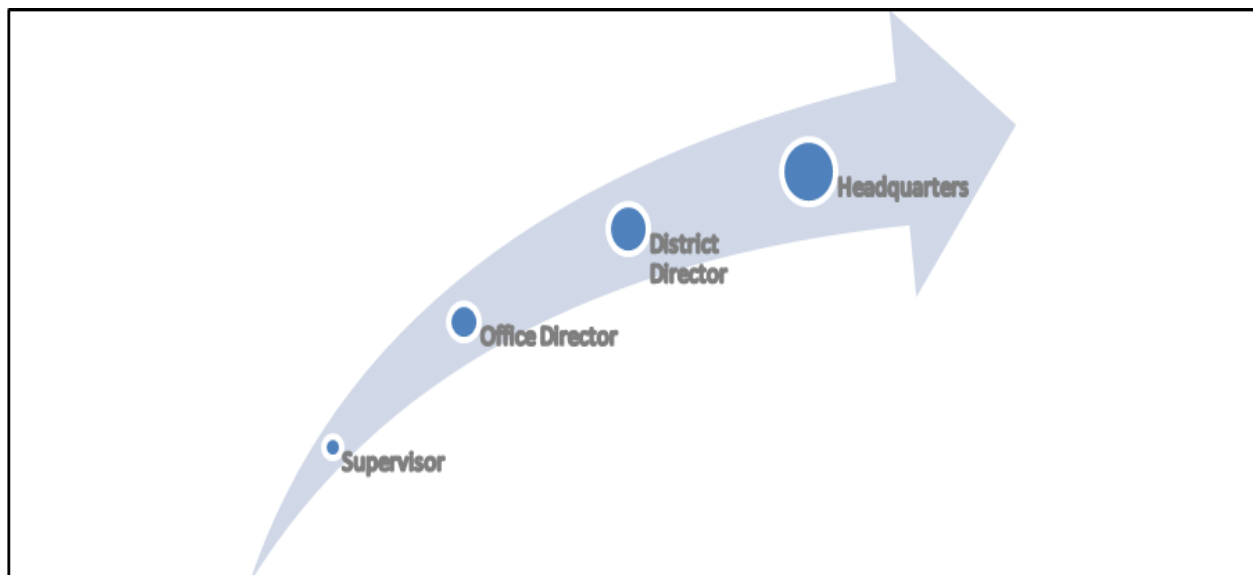
## Work Your Way up the USCIS “Chain of Command”

### *When Contacting your Local Congressional Representative Can be Helpful*

Ms. Lee was ecstatic when she received her naturalization certificate and immediately proceeded to apply for a Certificate of Citizenship (N-600) for her minor son. Unfortunately, she submitted photos of her son in the incorrect format. USCIS notified her to send photos of her son in the correct format, which she did. However, over a year later, her son had not received the Certificate of Citizenship. She went to the local USCIS office to inquire about the application, but the office was not helpful.

At this point, she sought help from a charitable immigration agency. The agency representative, Maria, tried to help by calling the USCIS Customer Service line and was given a vague and circular answer: The Vermont Service Center told Maria to call the local USCIS office for information, while the local USCIS office informed Maria to call the Vermont Service Center for information. Maria then contacted Ms. Lee’s Congressional representative for assistance. After having Ms. Lee sign a release form, the Congressional staff resolved the problem by calling USCIS. As a result, Ms. Lee’s son received proof of citizenship.

In many cases, writing a letter to explain the problem and what you want USCIS to do about it is standard protocol. Make sure that you use a polite but firm tone in your letter. Reference your client’s name, alien number, receipt number, and immigration form(s). Briefly and clearly explain the problem. Cite relevant law and/or policy as well as include supporting documents to strengthen your argument. Explain past efforts to address the problem with specific names and dates. Give your contact information and your availability or state when you will follow up. Remember to copy the addressee’s supervisor.



## When Case Advocacy Becomes Policy Advocacy

If Congressional intervention does not produce any results, contact a national immigration network that engages in administrative advocacy. Perhaps your client's case reflects a systemic problem. This is where national immigration agencies can engage in *policy advocacy* by bringing systemic problems to USCIS' attention. Consider checking with your "umbrella" agency to assist you with your advocacy efforts. ***Remember that most national agencies only intervene when immigration advocates have showed local efforts in addressing problems directly with USCIS and have attempted to work with their clients' Congressional representatives.***

### **Letter Inquiry Format**

Form Type: (I-485, I-730, etc.)

Receipt #: (LINXXXXXXXX)

Applicant/Petitioner Name:

Applicant Alien Number:

Beneficiary Name: (if applicable)

Alien Current Address:

Has a change of address been filed? If so, provide date and the office(s) to which the change of address was filed (i.e. London KY, NSC, via the 1-800 NCSC phone number).

Attorney/Representative Name:

Attorney/Representative

Organization and Address:

Attorney/Representative Phone:

Attorney/Representative Fax:

**Summary/Question:** In this section, be sure to include all relevant details, and a chronology of the case. Include dates and receipt numbers as appropriate. Include a description of all prior actions taken in an attempt to resolve the case. State your question as clearly and succinctly as possible.

### **Example of completed "inquiry format" template:**

Subject: Refugee I-485

Receipt Number: LIN00-000-00009

Applicant Name: Maria Gonzalez

Applicant Alien No: A12-345-678

Current address: 1234 Main Street, New York, NY 10001. Applicant has not moved since filing her I-485.

G-28: Anne Attorney, Catholic Social Services, New York, NY 10001

**Summary/Question:** Applicant filed her I-485 on 2/13/03. She received a biometrics notice approximately 1.5 years ago. She attended the biometrics appointment but has not heard anything additional about her I-485. She has not moved since she filed the application. She made an inquiry via the 1-800 NCSC on June 1, 2011, but has not yet received any additional updates. Please provide us with an update on the status of the case.

## CLINIC's Efforts

Here are CLINIC's ongoing administrative advocacy efforts, which will give you some ideas on how to collaborate with national networks:

1. Meet with the USCIS headquarters on a monthly basis as well as liaison meetings with USCIS Service Centers, ICE, and CBP
2. Comment on proposed regulations, policies, and forms
3. Participate in special working groups on discreet issues, such as USCIS' Transformation process to electronic filing
4. Publish reports with policy recommendations
5. Organize annual immigration law and policy conference

### ***A Successful Policy Advocacy Example***

In December 2008, USCIS announced new mailing addresses for the N-400 to take effect on January 22, 2009. Instead of going to the four regional Service Centers, N-400s will now go to one of two "Lockbox" facilities for initial processing before being sent to the National Benefits Center for further processing. When USCIS first mentioned this idea, CLINIC raised concerns about the handling of fee waiver applications, but USCIS assured us that the new staff was fully trained to adjudicate fee waivers. However, in February 2009 CLINIC began hearing reports of widespread, erroneous N-400 fee waiver denials from service providers around the country.

CLINIC raised this issue at our February 24, 2009 meeting with USCIS headquarters, but were assured again that lockbox staff was properly trained. CLINIC began collecting examples of denied applications and submitting these to USCIS headquarters to document the problem. The denials were egregious and included many cases of elderly and disabled refugees who relied on Social Security Income and other public benefits, as well as large refugee families that were very low-income. In reviewing fee waiver applications, CLINIC also found a number of poorly done applications, and called individual service providers to discuss ways to strengthen the applications and re-submit them.

CLINIC continued to press USCIS headquarters to address the erroneous denials. At CLINIC's March 31, 2009 meeting with USCIS, CLINIC learned that USCIS was studying the issue, and had taken a sample of N-400 fee waiver denials from the lockboxes for in-depth review. On April 9, 2009, CLINIC spoke to USCIS staff, who said that that the study revealed a high number of erroneous denials, as well as inconsistencies in the way that fee waiver policy was being applied. As a result, USCIS has agreed to review all N-400 fee waiver denials (approximately 2,000-3,000 cases) and to invite those who were denied in error to re-apply. In addition, USCIS is planning to improve its internal policy guidance on fee waivers and to strengthen the supervisory review process.

Engaging in administrative advocacy can make a profound difference in your clients' lives as well as make a large impact in immigration policies and procedures. As an immigration practitioner, you want to build a reputation as an effective and diligent advocate. Being up-to-date in immigration laws and policy developments, taking the time to build relationships with government agencies, and being prepared for worse case scenarios are necessary steps in being an effective advocate.



# ATTACHMENT

## Sample

### **Media and Communications Memorandum: What to Do and Say When You are Contacted by the Media**

**TO:** ALL NIJC STAFF  
**FROM:** PUBLIC AFFAIRS OFFICER / PROGRAM DIRECTOR  
**SUBJECT:** MEDIA AND COMMUNICATIONS STRATEGY  
**DATE:** OCTOBER 11, 2006

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#### **HOW TO HANDLE PRESS CALLS**

If a reporter calls you directly, before speaking with them “on the record,” please request the following information or pass the call to the Public Affairs Officer, then request to call them back:

- Reporter’s name
- News Outlet
- Topic of Inquiry
- Deadline
- Contact Information

It is important that you tell the reporter that anything you say at this point is “off the record.” In most cases, it is better to not say anything substantial to the reporter before informing the Public Affairs Officer of the interview. This will ensure coordinated and consistent handling of media calls and messages, especially because reporters will often call several staff people on the same topic. It will also give us the chance to consider any sensitive issues that may come up during an interview, for which we want to be prepared. Finally, it will help us keep track of how often we talk to/appear in the media, which is important for internal and funding reporting.

The Public Affairs Officer will gather more information about the news outlet, reporter, and topic, then contact the Director.

Consultation will then immediately occur with appropriate program person(s) and other relevant parties.

The Public Affairs Officer will set up a call with the reporter and appropriate respondents. The Director may participate in the call, if appropriate.

All press calls should be returned and handled *promptly*.

The Public Affairs Officer will then follow-up with reporters to ensure they received the information they need and track its publication/broadcast.

#### **WHAT TO SAY**

Once an “on the record” interview has been set up, you may find it useful to use the following three-part structure for media communication:

1. Frame the problem: think about the five questions: WHAT is the story, WHO does it effect/involve, WHO is the audience, WHERE and WHEN did it happen/is it relevant, and perhaps most importantly, WHY is it important?
2. Illustrate the problem—reporters inevitably want to talk to clients to get the “human face” for their stories. Think in advance of clients who are in a safe and stable position in their lives, are eloquent, and preferably speak English, who would be willing to talk to the press generally, and respond to specific issues/media inquiries. Make sure the client has consented to speak with the press before using their name or story.
3. Make the “ask”—what is the solution? This can be both a short-term solution (e.g., Congress should oppose this bill) and a long-term solution (e.g., we need comprehensive reform to fix our broken immigration system).

After getting an inquiry from a reporter and before calling him/her back, you may want to write down some notes using this basic structure. Break down the problem, examples, and solutions into sub-points and **STICK TO THEM**. Do not ramble. When asked questions, refer back to your outline and your basic points and sub-points so that throughout the interview you are clear and consistent—better to be redundant with the same message than tangential and unclear.

## **WHEN YOU DO MEDIA OUTREACH**

All media outreach should be coordinated through the Public Affairs Officer or Director.

All staff is encouraged to provide suggestions, ideas, and drafts for letters to the editor, press releases, press advisories, press briefings, etc.—you work with the clients and see the issues as they emerge, so it’s up to you to bring problems that you think deserve wide media coverage.

\*\*\* We plan to start designating a few minutes in each Department Meeting for program staff to mention upcoming events/cases/issues that could make interesting media stories. The Public Affairs Officer will then work with program staff to create press releases, OpEds and/or other media materials that will help raise awareness on the specific immigration issue and NIJC. \*\*\*

## **WHEN TO GO TO THE MEDIA**

1. Always have a “hook”
  - Compelling cases that highlight access to justice issues, due process issues, integration issues, basic rights (education, work, etc.), and reflect of or impacts a large group.
  - Impact litigation
  - Pending legislation
2. When to go: Time your media outreach around important deadlines, events, anniversaries, etc, such as:
  - Case filing
  - Issuance of decision on compelling case
  - Bill introduction/hearing/vote
  - United Nations Human Rights Day/International Women’s Day, etc.
  - Trainings, rallies, etc., that highlight an issue and which reporters can attend. Even if these don’t seem like a big deal to you, they could be an interesting opportunity for the local papers to report on issues that are new to their communities, thereby raising public awareness.

## **MEDIA CHECKLIST**

1. Why is the case/issue/legislation/etc. appropriate for media exposure?
2. Has the client consented to speaking with the media and/or using his case?
3. **WHAT** is the story, **WHO** does it affect/involve, **WHO** is the audience, **WHERE** and **WHEN** did it happen, is it relevant, and perhaps most importantly, **WHY** is it important?
4. What media would provide the most direct access to the desired audience (for example, national v. suburban newspapers; mainstream publications v. legal newsmagazines or other; NPR v. Spanish radio; etc.)?

*\*Credit: National Immigration Justice Center (NIJC)*

# ATTACHMENT

## Sample

### **Consent to be Interviewed by the Media**

I, \_\_\_\_\_, agree to release information regarding my case to the media. I understand that the information disclosed will no longer be confidential and may be disclosed to the public. If I am eligible for relief, my NIJC attorney will be present at my interview. If I am not eligible for relief, no NIJC attorney or representative needs to be present for any media interviews, however, I can request that my NIJC attorney or representative be present.

I understand that I am not obligated to sign this release. I also understand that my identity will be kept confidential. Failure to sign this release will not result in any penalty. I also understand that I can withdraw this consent at any time.

This release shall remain in effect for one year from the date of signature or the duration of NIJC's legal representation, whichever occurs earlier.

The contents of this release have been fully explained to me in a language that I understand.

Client: \_\_\_\_\_

Custodian (if child is under 14): \_\_\_\_\_

NIJC Representative: \_\_\_\_\_

*\*Credit: National Immigration Justice Center (NIJC)*

# ATTACHMENT

## Sample

### **Guidelines for Communication and Public Relations**

#### **Outgoing Contact**

- The executive director shall review all press releases and other contact with the media and general public to ensure materials are consistent with the mission and policy positions of the agency. *(In programs with a parent agency, this function can be delegated to a director of communications. Please consult your organization.)*
- In the absence of the Executive Director this review will be conducted by designated personnel.
- Under no circumstances shall any staff person or volunteer initiate contact with the media as a representative of the organization without prior review.

#### **Contact from the Media**

- The executive director will serve as the media spokesperson.
- All inquires or requests from the media shall immediately be referred to the executive director, communications director, or other designated personnel, who will then determine the best spokesperson to respond to the particular inquiry. There may be circumstances where a board member or staff person with specific expertise may be asked to represent the organization.

**\*\*No staff person or volunteer may respond to a media contact with comments whether written, audio-taped or video-taped without prior approval through the above me**

*\*Credit: National Immigration Justice Center (NIJC)*