

Legal Aid Providers: A Critical Resource for Accomplishing the Goals of Federal Programs to Assist the Poor

The provision of legal assistance to poor men, women and children is essential to ensuring equal access to justice in this country. The network of legal aid programs across the U.S. is the backbone that enables people, regardless of income, to be able to obtain high-quality, respectful, supportive legal advice and assistance to ensure basic human rights to housing, food, and to be free from abuse and violence in their home. Without these programs, homelessness will increase, domestic violence will not be eradicated, and the embarrassingly large percentage of children living in poverty in this country will increase exponentially. Nevertheless, legal aid programs are teetering on the edge of extinction. Existing private and public funding streams are in jeopardy because of a lack of national prioritization and of the legal needs of poor individuals. This document outlines the need for these programs and the need for increased and expanded funding that more accurately reflects the legal needs of the poor.

Legal aid programs – locally-based law firms for people living in poverty that provide essential advocacy and advice to the disadvantaged in every region in the United States – serve as a critical and unique resource for achieving the objectives of a number of federal programs designed to help poor people and their families escape the shackles of poverty and become self-sufficient members of society. Investment in legal aid can often represent the most effective way to accomplish the goals of a broad range of federal programs focused on empowering low-income people and vastly increasing the health and vitality of the communities in which they live.

Agencies within the Obama Administration should strongly consider the strengths legal aid providers offer as they make funding decisions dedicating vital federal resources to addressing the most serious problems facing economically disadvantaged communities.

For example, legal aid programs are in the forefront in our nation’s efforts to protect those facing family violence and abuse. The number one cause of homelessness for women and children in this country is domestic violence. Legal aid providers address this epidemic by providing critically-needed legal assistance to victims of domestic violence, the majority of whom are women and children, helping them obtain protection from abuse, custody, housing, employment and access to public benefits.

Quite simply, without legal aid services, many more thousands of victims of domestic violence, sexual assault and dating violence will be forced to stay in violent homes longer or forced into

An important 2003 study by economists at Colgate University and the University of Arkansas found that legal aid is the only service that reduces domestic violence over the long term, making the legal assistance components a solid investment in the larger programs to address domestic violence and its consequences. The study found: “While most services provided to help battered women do not impact the likelihood of abuse, the provision of legal services significantly lowers the incidence of domestic violence.” <http://www.lanwt.org/pdfs/exdo.pdf>

Having access to advice and counsel from law firms for the poor can have a dramatic effect on other critical federal programs as well. Lawyers for the poor can make the crucial difference in achieving the goals of a variety of programs within the Department of Housing and Urban Development. HUD funding is essential in helping families and communities face a number of critical problems related to affordable housing. These problems include the horrendously high rates of foreclosure, predatory lending, fair housing and developing equitable and effective community development projects.

Likewise, many programs of the Department of Health and Human Services reap significant benefits from the involvement of legal aid programs. Legal interventions have proved critically important for low-income and needy elderly individuals who are struggling to maintain access to basic necessities or to receive a fair hearing from governmental or judicial bodies. Persons with disabilities or in need of health care often find the availability of legal assistance to be the key factor in obtaining necessary assistance.

Legal aid attorneys understand all the factors that can pose barriers to self-sufficiency and have experience in addressing them quickly and comprehensively. They understand how complicated federal programs work within the maze of other institutions and service providers focused on assisting the poor. Legal aid programs are also making incredible strides through the use of innovative technology to significantly increase the number individuals they serve (which means a greater return on investment from the government's perspective).

Programs further have a long history as effective collaborators and partners with other agencies in ensuring that effective, holistic solutions are directed toward the most intractable problems. Substantial additional resources can also be leveraged through the widespread pro bono partnerships legal aid programs have developed with the private bar across the country.

Therefore, NLADA recommends that the Obama Administration encourages agencies to increase the funding for legal aid programs as service providers through appropriate federal programs aimed at alleviating poverty in this country. **A listing of a number of relevant programs within DOJ, HUD and HHS is included as Appendix A.**

CROSS AGENCY EASING OF BUREAUCRATIC BURDENS

While federal grant programs are valuable and help many thousands of people throughout the country obtain critical legal services, the programs are known today for being extremely bureaucratic and often inconsistent from agency to agency. This deters many good legal aid programs from applying for the funding and requires those who do receive the funding to unnecessarily expend unduly large amounts on grant administration.

NLADA suggests that the Obama Administration institute a cross-agency review to address some of the recurring problems that have plagued these programs in the past. These problems include:

1. **Seed Funding Grants.** The categorization of grants as “seed” programs makes it difficult to sustain projects when funding is variable and “term” limited. When combined with an inability to extend or carry over funds this can lead to severe disruptions in service.

Funding cycles don't always “connect” so that there are gaps in contract periods leaving extended periods where there is no funding. For example: a funding year ends at the end of the calendar year, the next Notice of Funding Availability comes out at about the same time with successful applicants not able to receive funding until months later. With various grant carryover limits it is difficult if not impossible to maintain project continuity and capacity.

Solution: Increase grant terms so that funding is granted for multiyear cycles; allow greater flexibility for carryover and grant extensions where appropriate; consider performance based systems such as the Fair Housing Initiatives Program that can extend grants for multiple year terms.

2. **Confidentiality.** The attorney/client privilege and confidentiality for legal service programs is an issue that arises in almost every grant and there is no uniform policy. Governmental agencies have different policies, there are different policies in the same agency and there are different policies depending on the level of government funding for the same programs— federal, state, or local.

Solution: Develop a set of standards that takes into account the need for the implementation of confidentiality needs and responsibilities that would provide guidance in their application.

3. **Case management systems and program policies.** There are a number of programs that can provide similar services to the same target population but their policies, case management systems, performance and evaluation standards are not compatible. Consequently, the integration of these programs into an efficient and effective case handling procedure is difficult, complex and duplicative. For example, the foreclosure crisis has generated new programs, the NeighborWorks National Foreclosure Mitigation Counseling Program and the Hope Alliance, both of which are in many ways duplicative of the existing Housing Counseling program. Legal aid programs that want to access these sources of funding have to deal with totally different administrative and management systems and philosophies. Plus, there are different policies for almost every management aspect of the grants. Even when the policies are similar there is a high degree of incongruity.

Solution: Every effort should be made to make the programs compatible.

4. **Caps and Limits.** Funding category limits inhibit local ability to respond to locally based challenges. A prime example is the 15% limitation on “social services” set forth in the Community Development Block Grant program. This cap limits what projects can be funded. Consequently, if for example an entitlement entity wanted to fund legal services to address a serious foreclosure problem they would be limited to the 15% cap.

Solution: Allow for local flexibility to address critical local needs where documented.

5. **Rural Impact.** While many of these programs are urban-based, a focus on the needs of rural communities is important to address some of the most stubborn problems of poverty. Many of the above mentioned issues have a disproportionate impact on rural communities due to the lack of existing infrastructure, community service organizations and organizational capacity. Currently there are some preferences for geographical location such as the Mississippi Delta, Colonias and Appalachia. An expansion to all rural areas would help insure services in and to these areas of need.

Solution: Expand the preference of the current rural areas to include more rural communities.

6. **Problems with statutory requirements for matching funds in certain grant programs.** The matching requirements of many programs do not reflect the current reality of the necessity of raising diverse funding for the basic provision of legal services.

Solutions: More reasonable matching requirements. Legal Services Corporation funds should be considered non-federal funds for matching purposes

The legal aid community stands ready to be a prime partner with federal agencies within the Obama Administration as they develop programs and policies that take on afresh the problems associated with poverty in the United States. We hope this proposal illustrates some of the many ways these law firms can assist and how their involvement can be more efficiently administered.

NLADA, founded in 1911, is the oldest and largest national, nonprofit membership organization devoting all of its resources to advocating equal access to justice for all Americans. NLADA champions effective legal assistance for people who cannot afford counsel, serves as a collective voice for both civil legal services and public defense services throughout the nation and provides a wide range of services and benefits to its individual and organizational members. NLADA has more than 700 program members representing more than 15,000 attorneys in the 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico and the U.S. Virgin Islands.

APPENDIX A

PRIORITY FEDERAL PROGRAMS

1. Department of Health and Human Services (HHS)

- A. Administration on Aging (AoA)
 - Title III Block Grants, Supportive Services Program
 - Title III Block Grants, Long Term Care Ombudsman Program
- B. Health Resources and Services Administration
 - 1. HIV/AIDS Bureau: Ryan White CARE Act
 - 2. Maternal and Child Health Bureau: funding for medical/legal partnerships (e.g., Healthy Tomorrows Partnership for Children)
- C. Center for Mental Health Services: Protection & Advocacy for Individuals with Mental Illness (PAIMI) Program
- D. Administration on Children and Families (ACF), Office of Family Assistance
 - TANF Block Grants (removing barriers to employment)

2. Department of Housing and Urban Development (HUD)

- E. Community Planning & Development
 - 1. Community Development Block Grant (CDBG) Program
 - 2. Continuum of Care Homeless Assistance, Supportive Housing Program
 - 3. Emergency Shelter Grants (ESG) Program
 - 4. Housing Opportunities for Persons with AIDS (HOPWA)
 - 5. Rural Housing and Economic Development
- F. Single Family Housing Programs
 - Housing Counseling Program
- G. Fair Housing and Equal Opportunity
 - Fair Housing Initiatives Programs (FHIP)

3. Department of Justice (DOJ)

- A. Office on Violence Against Women
 - 1. Legal Assistance for Victims (LAV) Grant Program
 - 2. Rural Domestic Violence and Child Victimization Enforcement Program
 - 3. S*T*O*P Violence Against Women Block Grant Program
 - 4. Family Justice Center Initiative, funding from the Grants to Encourage Arrest and Enforcement of Protection Orders Program
- B. Office for Victims of Crime
 - Victims of Crime Act (VOCA) Fund
- C. Office of Juvenile Justice and Delinquency Prevention
 - Title II Formula Grants Program
- D. Bureau of Justice Assistance
 - Tribal Justice Grants Program (Native American Rights Fund)

- E. Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC)
 - Grants for Prevention of Immigration-Related Discrimination