

# EMERGENCY SOLUTIONS GRANTS (ESG) AND LEGAL ASSISTANCE FUNDING: A PROMISING MODEL

The U.S. Department of Housing and Urban Development (HUD) Emergency Solutions Grants (ESG) program plays a crucial role assisting people to quickly regain housing stability in permanent housing after experiencing a housing crisis and/or homelessness.<sup>1</sup>

Studies repeatedly show the importance of legal interventions in keeping people housed.<sup>2</sup>

That's why ESG allows its recipients to use funds for legal assistance.<sup>3</sup> Unfortunately, there are several unintended administrative barriers to using ESG for legal assistance, when civil legal aid nonprofit programs are ESG recipients.

## A Promising Alternative

A promising alternative to legal aid programs serving as ESG subrecipients is one in which a non-legal services organization with greater administrative capacity serves as the sub-recipient. Legal aid programs may then serve as contractors (also known as vendors in some jurisdictions) to the ESG subrecipients. The ESG subrecipient retains responsibility for meeting grant requirements that typically pose administrative barriers for legal aid programs that lack the appropriate staff and intake processes. This simple best practice model alleviates most of the administrative barriers to legal aid partners, and enables ESG funds to improve outcomes by getting people the legal help they need to achieve housing stability.

**In 2021, Kofman & Associates, LLC conducted a national survey about legal aid programs' experience with ESG funds.<sup>4</sup>**

Thirty-nine legal aid programs representing 24 states identified the following administrative barriers to using ESG for legal assistance that supports housing stability:

- ▶ Obtaining Certification of Habitability Standards for Clients.
- ▶ Obtaining Lead-Based Paint Certification.
- ▶ Adhering to some of the ESG/ ESG-CV Universal Data Elements, Data Standards/ Elements & Data Collection Requirements.
- ▶ Utilizing a reimbursement process to receive ESG/ESG-CV payment for services.

# Best Practice Findings: Contractor/Vendor Legal Aid Programs<sup>5</sup>

## Certifications

- ▶ Legal aid programs are not responsible for Obtaining Certification of Habitability Standards or Lead-Based Paint Certification.

## Data Collection & Confidentiality

- ▶ If a client is flagged as ESG-eligible through the legal aid program's intake process, they are provided with information regarding ESG supportive services as well as a release of information form. If information is shared by the legal aid program with a third party, including the ESG subrecipient, it is limited to the name of the client (only with a release of information) to ensure attorney-client confidentiality requirements are fulfilled. All other information shared with a third party is aggregate.
- ▶ ESG subrecipients can also handle data collection directly (through a referral from the legal aid program contractor).

## Staff Allocations & Reimbursement

- ▶ A percentage of staff time can be determined and allocated annually rather than adjusted monthly, quarterly, or even based on individual clients;
- ▶ Billing can be done monthly rather than quarterly.

## Intake & Eligibility

- ▶ Legal aid programs can accept clients directly, utilizing their own intake process without significant modifications and refer clients to the ESG subrecipient to satisfy additional ESG requirements and provide other essential services.
- ▶ Legal aid programs can also take referrals from community partners, as well as the ESG subrecipient (but ESG subrecipient referral is not required);
- ▶ Legal aid programs determine client ESG eligibility. If questions regarding ESG eligibility arise, dedicated legal aid program staff handle eligibility questions directly with the ESG subrecipient.

### Endnotes

1. Emergency Solutions Grant Program, U.S. Department of Housing and Urban Development. Retrieved from: <https://www.hudexchange.info/programs/esg/>
2. Key studies and Data About How Legal Aid Improves Housing Outcomes, The Justice in Government Project, April 6, 2021. Retrieved from: <https://legalaidresourcesdotorg.files.wordpress.com/2021/04/housing.pdf>
3. Homeless Emergency Assistance and Rapid Transition to Housing Act, U.S. Department of Housing and Urban Development. Retrieved from: <https://www.hudexchange.info/homelessness-assistance/hearth-act/>
4. See Addressing Unintended Administrative Barriers to ESG-funded Homeless Prevention Legal Assistance, available [here](#).
5. This specific contractor model is based on two jurisdictions in New York State, identified through key informant interviews and conversations in 2022 by Kofman & Associates, LLC.