

## **General Grant Administrative and Financial Provisions**

The Grant provisions of this part apply to Recipients (and/or their sub-recipients) of the Pennsylvania Interest on Lawyers Trust Account Board (PA IOLTA Board) and are attached to the Grant Agreement. Sections and sub-sections of the Grant Provisions that apply uniquely to the grant with the Pennsylvania Legal Aid Network, Inc. (PLAN Inc.) and its sub-recipients are specifically identified as applicable to PLAN Inc. Questions on the applicability of the provisions should be directed to the PA IOLTA Board.

### **Sections**

5000.1 Definitions.

5000.2 Payment Procedures and Reports.

5000.3 Evaluation and Monitoring of Grantees.

5000.4 Grantee Financial Standards.

5000.5 Suspension/Termination of Grant Financial Assistance.

Appendix A Law School Client Satisfaction Survey

Appendix B Cost and Case/Activity Allocation Principles (For PLAN Inc.)

### **5000.1 Definitions**

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|----------------|---|
| (a) Act        | Access to Justice 42 Pa. C.S.A. 3733, 4901-4907.  |
| (b) Board      | The Pennsylvania Interest on Lawyers Trust Account Board.   |
| (c) Grantor    | The Pennsylvania Interest on Lawyers Trust Account Board.   |
| (d) IOLTA      | Interest on Lawyers' Trust Accounts.  |
| (e) Recipient  | Any grantee or sub-grantee receiving grant funds awarded by the Pennsylvania Interest on Lawyers Trust Account Board. |
| (f) Rule       | Pennsylvania Rules of Professional Conduct Rule 1.15, Safekeeping Property.   |
| (g) PLAN, Inc. | Pennsylvania Legal Aid Network, Inc.  |

### **5000.2 Payment Procedures and Reports**

#### **(a) Payment Procedures**

1. Subject to the availability of funds and other terms and conditions of the Grant Agreement, the Grantor shall make payments to the Recipient according to the schedule identified in the Grant Agreement. Notwithstanding the foregoing, the Grantor reserves the right, in its sole discretion, to alter the disbursement schedule of the grant for any or all Recipients from time to time.

2. Prior to the release of any funds applicable to the grant, the Recipient shall have;
  - i. submitted a grant budget and service plan, and such budget and plan must be approved by the Grantor, and
  - ii. executed and returned the Grant Agreement to the Grantor.
3. The Recipient shall use grant funds for the specific purposes and in the amounts set forth in the approved budget and service plan and shall not materially deviate from such budget and service plan.
4. Deviations from the budget amounts shall be deemed material when such deviations are:
  - i. in excess of 20% of the budgeted amount for all items with a budget of \$1,000 or more, or
  - ii. in excess of \$500 for items budgeted less than \$1,000.
  - iii. PLAN, Inc. must seek authorization from the Board in writing of any change to the approved allocations to programs, even if the deviation is less than 20%. The authorization request must provide a detailed explanation for the change sought.
5. The Recipient may request a revision of its approved budget. The request shall be in writing, fully delineating the request and reasons for the revision, to the Executive Director of the Grantor. The Executive Director may request such additional information he or she may deem necessary to approve the revision request. Requests for budget revisions must be made prior to incurring expenses that would cause a material deviation, and be sent to the Grantor for consideration no later than May 31<sup>st</sup> of the grant year.

**(b) Reports and Financial Statements**

1. The Recipient shall report its funded grant service plan activities and financial activities according to the time schedule specified in the Grant Agreement. Delays in the submission of the report(s) to the Grantor will cause delays in the disbursement of funds to the Recipient.
2. Recipients shall use the reporting tool designated by the Board.
3. Between scheduled reporting dates, events may occur which have a significant impact on the grant. The Recipient shall inform the Grantor as soon as the following types of conditions become known:
  - i. problems, delays or adverse conditions which will materially impair the Recipient's ability to perform in accordance with the approved service plan and/or budget. The disclosure shall be accompanied by a statement of the action taken or contemplated and any assistance needed to resolve the situation;
  - ii. any facts or events which would render the Recipient ineligible for a grant if the Recipient were making application for a grant at that time.

4. Recipient shall submit financial statements that have been subject to an audit or review by an independent certified public accountant. The financial statements are due on October 15<sup>th</sup> and must be for the Recipient's most recently completed fiscal year. Recipients whose fiscal year ends in the months of July, August, or September may submit financial statements for the immediately preceding fiscal year. Any Recipient whose total gross expenditures exceed \$500,000, regardless of the source(s) funding those expenditures, shall submit audited financial statements.
5. The fiscal audits for PLAN Inc. and its sub-recipients must be completed in accordance with the most current Generally Accepted Government Auditing Standards (GAGAS) and include a supplemental schedule of IOLTA and/or AJA grant income, revenues, expenditures, and net assets in a format satisfactory to the PA IOLTA Board. If a sub-recipient's audit report will display AJA, IOLTA and Bank of America Donation income in an amount that is different from the grant amount allocated to the sub-recipient in this agreement, the sub-recipient must provide written notice to PLAN Inc.'s Controller by July 31 following the grant year.
6. Law Schools are required to provide a certified accounting statement from the school's accounting or grant office with each financial report.
7. By October 31 following the completion of the grant year, PLAN, Inc. must provide a reconciliation of proposed and actual case goals for each program. An explanation must be provided for any program that has not met their case goals for the grant year.

### **5000.3 Evaluation and Monitoring of Grantees**

The Grantor relies on the submission of interim reports of grant activities and financial activities to evaluate and monitor grantee performance. Additionally, the Grantor relies on the submission of the Recipient's annual independently audited or reviewed financial statements and other program monitoring and evaluation reports and information to assess the Recipient's program operations, compliance with the grant provisions and Board guidelines.

However, to assure grant funds are used for the delivery of quality legal services and to gain firsthand knowledge of the Recipient's operations other evaluation and monitoring activities may be required or performed.

#### **(a) Internal Performance Evaluation**

Recipients that receive general support grants, except law schools, are required to establish, maintain and demonstrate sufficient internal and/or peer review performance evaluation procedures as are necessary to assure the delivery of high quality legal services. Recipients are encouraged to consider the "Standards for Providers of Civil Legal Services to the Poor" as adopted by the American Bar Association as guidance in their performance evaluations. *PLAN Inc. Monitoring Process Protocols* are used by PLAN Inc. to evaluate its sub-recipients' ongoing compliance with the Grant Agreement and Grant Provisions, and other applicable authority. Important requirements of the agreed-upon protocols are an onsite evaluation by PLAN Inc. monitors for each sub-

recipient at least once every three years, timely reporting of the results of the monitoring visits to the Board, and follow up with the sub-recipients to assure all required corrective actions are timely implemented.

**(b) Site Visits**

Visits to one or more of a Recipient's places of operation or that of a subcontractor of a Recipient may be made as necessary as determined by the Grantor to inspect and review a Recipient's physical facilities, financial records, operational policies and procedures, including but not limited to firsthand observation of a Recipient's or sub-recipient's delivery of civil legal services, and such other aspects of a Recipient's program as may be reasonably necessary to ensure compliance with the grant provisions of the Board, and the Grant Agreement.

**(c) Interviews with Recipient**

The Grantor may either by telephone, personal contact or otherwise, interview appropriate staff of the Recipient as reasonably may be necessary to ensure compliance with the grant provisions of the Board, and the Grant Agreement.

**(d) Monitoring and Evaluation Reports**

The Recipient shall timely furnish to Grantor, reports, results of investigations or such other information resulting from any investigation, review, monitoring and/or evaluation by any entity, including a law enforcement agency or another funding source, of its program and/or operations.

**(e) Client Surveys**

Law School Recipients shall survey their clients as to their satisfaction regarding the representation provided through clinical programs within sixty days after completion of the representation of the client. A sample survey format, which may be modified by the law school providing a copy of the modified survey is provided to the Board, is attached at Appendix A.

**5000.4 Grantee Financial Standards**

**(a) Purpose**

This sub-section is intended to provide uniform standards for allowability of costs chargeable to grants.

**(b) Burden of Proof**

1. The Recipient shall at all times have the burden of proof under this sub-section.
2. If a Recipient defends a non-allowable cost on the basis that the funds used were not subject to grant prohibitions and restrictions, the Recipient has the burden of proving that the funds actually expended were in fact not subject to the prohibitions and restrictions.

**(c) Standards Governing Allowability of Costs under Grants or Contracts**

1. General Criteria

Expenditures by a Recipient are allowable under the Recipient's grant or contract only if the Recipient can demonstrate that the cost was:

- i. Actually incurred during the effective term of the grant or contract (or is allowed by this sub-section) and the Recipient was liable for payment;
- ii. Reasonable and necessary for the provision of legal services for clients or for the accomplishment of another function specified in the grant or contract agreement as approved by the Grantor;
- iii. Allocable to such function(s);
- iv. In compliance with the grant provisions of the Board, and the terms and conditions of the grant or contract;
- v. Consistent with policies and procedures that apply uniformly to both grant financed and other activities of the Recipient;
- vi. Accorded consistent treatment;
- vii. Determined in accordance with generally accepted accounting principles.

2. Reasonable Costs

A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. If a cost is determined as unallowable solely on the ground that it is excessive, only the amount that is larger than reasonable shall be unallowed.

3. Allocable Costs

- i. A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a grant or contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:
  - (1) Is incurred specifically for the grant or contract;
  - (2) Benefits both the grant or contract and other work and can be distributed in reasonable proportion to the benefits received; or
  - (3) Is necessary to the overall operation of the Recipient, although a direct relationship to any particular cost objective cannot be shown.
- ii. Any cost allocable to another particular grant or contract or other cost objective under these principles may not be shifted to this grant or contract unless specifically authorized by the Grantor's Executive Director.

- iii. Law schools may only use IOLTA funding to support the direct costs of clinics and/or internships/externships/fellowships. Such costs include faculty wages and fringe benefits, costs associated with support staff and adjunct professors for the clinic, supplies, travel expenses of the direct faculty and students, conference expenses, insurance, postage, telephone, printing and copying, subscriptions, technical support, and similar costs. Non-direct costs, such as an allocation of administrative or general law school cost pools (such as costs associated with the dean's office, the accounting office, maintenance, or a cost associated with a law school owned facility), may not be supported with IOLTA funding.

4. Applicable Credits

- i. A Recipient must deduct all applicable credits, as defined in paragraph (ii) below, from the costs it charges to a grant or contract from the Grantor;
- ii. The term "applicable credits" refers to those receipts or reductions of expenditures, which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayment or erroneous charges. To the extent that such credits accruing to or received by the Recipient relate to allowable costs, they shall be credited to the grant or contract as a cost reduction or as cash refund as appropriate.

5. Guidance

The Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 shall provide guidance for all allowable cost questions arising under this sub-section when relevant policies or criteria therein are not inconsistent with the grant provisions of the Board, or the grant agreement.

**(d) Unexpended Grants**

Grants are anticipated to be used by the Recipient during the term of the Grant Agreement. However, circumstances may occur such that not all of the grant funds may be expended during the grant term.

Additionally, the grant term may differ from the Recipient's fiscal year end and some grants may be one-time or special purpose, or in the nature of ongoing support to a Recipient.

1. One-time or Special Purpose Grants

Grants to organizations other than PLAN, Inc. are considered special purpose grants. All one-time or special purpose grants awarded by the Grantor shall have an effective date and termination date. No funds provided under a one-time or special purpose grant may be expended subsequent to the termination date of the grant without the prior written approval of the Grantor. All unexpended funds

under such grants shall be returned to the Grantor by November 1 following the grant year. Requests to extend the grant period for the purpose of expending the grant funds must be received by May 31<sup>st</sup> of the grant year.

## 2. General Purposes Support

Grants awarded to PLAN, Inc. for funding of the statewide legal aid system of legal services programs shall be subject to this policy. Unexpended general purpose support grants must be accumulated in a separately identified account (i.e. either a "net asset", "deferred revenue" or an "unearned support" account, hereinafter unexpended grant account).

- i. "Grant Support" for the reporting period for purposes of this sub-section shall be defined as the sum of: (1) the annualized grant award(s) (i.e., the annual sum of the monthly pro-rata portion of the grants applicable to the fiscal year); (2) any additional income derived from a grant (interest, rents, etc.); and, (3) that proportion of any proceeds from the sale of assets, or other compensation or income attributable to any grant provided by the Grantor.
- ii. The unexpended grant account amount shall be determined solely by reference to the Recipient's annual audit. (The unexpended grant account amount reported in the Recipient's annual audit is subject to review and approval by the Grantor).
- iii. The "unexpended grant account balance percentage" shall be determined by expressing the unexpended grant account balance amount as a percentage of the Recipient's general purpose Grant Support from the Grantor for the reporting period.
- iv. The Recipient and sub-Recipients may carryover an unexpended grant account balance between the Recipient's fiscal years up to 10% of Grant Support from the Grantor.
- v. Any Recipient's unexpended grant account balance in excess of 10% of Grantor's support shall be repaid to the Grantor in a lump sum by November 1 following the grant year. Such repayments shall be subject to the Board's Allocation Standards. However, the Board's Executive Director may issue a waiver of the 10% ceiling at his/her discretion, up to 25% of Grant support. Waivers above 25% must be granted by the Board. Requests for waivers above 25% must be received by May 1<sup>st</sup> of the grant year. Requests for waivers that are between the 10% and 25% ceilings must be received by May 31<sup>st</sup> of the grant year.
- vi. The Recipient and sub-recipients shall establish at least one separate interest bearing bank account for the purpose of maintaining the accumulated IOLTA and AJA net assets as well as current IOLTA and AJA funding. The IOLTA and AJA cash in the separate interest bearing account(s) shall be reduced only upon actual payment of expenditures for IOLTA and AJA grant activities. If the Recipient does not have accumulated IOLTA and AJA net assets and does not intend to

accumulate IOLTA and AJA net assets, it shall use a methodology approved by the Board of attributing interest to the IOLTA and AJA funding sources.

3. Law School Grants

Law schools are permitted to submit a written request to the Board within sixty (60) days after the expiration of the grant to seek permission to reprogram unexpended grant funds in the next grant year. If such a request is not made, unexpended funds must be returned to the Board. The request must include a description of the proposed use of funds as well as a proposed budget.

**(e) Record Maintenance and Retention**

1. The Recipient shall maintain records sufficient to justify expenditures incurred and services performed and preserve such books, documents and records until four years after expiration of the grant or until all questioned items asserted by the Grantor are resolved or no longer required by law. The Recipient shall give full and free access to the Grantor or its authorized representatives to such records.
2. Timekeeping Requirement for PLAN Inc. and its sub-recipient organizations; and Recipients and sub-recipients of Bank of America Surplus Distribution funds through the Community Redevelopment Legal Assistance (“CRLA”) grant.
  - i. PLAN Inc. organizations and Recipients and sub-recipients of Bank of America Surplus Distribution funds through the CRLA grant shall maintain contemporaneous timekeeping records to demonstrate accountability for the use of IOLTA, AJA and CRLA funds of a Recipient by:
    - (1) Assuring that allocations of expenditures of IOLTA, AJA and CRLA funds are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which funds have been expended;
    - (2) Enhancing the ability of the Recipient to determine the cost of specific functions; and
    - (3) Increasing the information available to the Board for assuring Recipient compliance with applicable statutes, rules, regulations and grant agreement requirements.
  - ii. Definitions relating to “cases, matters and supporting activities” in this section are the same as those found at LSC Timekeeping Regulations CFR 45 §1635.2, as they are updated from time to time.
  - iii. Timekeeping Requirement
    - (1) All expenditures of funds for Recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all



expenditures must be carried out in accordance with these Grant Provisions and Appendix B.

- (2) Time spent by attorneys and paralegals must be documented by contemporaneous time records which record the amount of time spent on each case, matter, or supporting activity.
- (3) Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the Recipient.
- (4) Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.
- (5) The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type.
- (6) PLAN Inc. or a sub-recipient organization may request a modification to specific requirements of 5000.4(e)2.iii(2) through (5) if it can demonstrate to the satisfaction of the PA IOLTA Board that the modification meets the objectives of the requirements of §5000.4(e)2.i and 5000.4(e)2.iii(1). A written request for a modification under this section must be submitted to the PA IOLTA Board by July 31 of the grant year. The request must contain a detailed description of the modification and a demonstration how such modification meets the requirements of §5000.4(e)2.i, and 5000.4(e)2.iii(1).

## **5000.5 Procedures Governing Suspension and Termination of Grants**

### **(a) Purpose**

By providing procedures for prompt review that will insure informed deliberation by the Grantor when there is reason to believe that financial assistance to a Recipient should be suspended or terminated this clause seeks to avoid unnecessary disruption in the delivery of legal assistance to clients.

### **(b) Definitions**

1. "Suspension" means any action temporarily suspending or curtailing financial assistance to a Recipient in whole or in part prior to the expiration of the Recipient's current grant from or contract with the Grantor.
2. "Termination" means a decision that financial assistance to a Recipient will be permanently terminated in whole or in part prior to expiration of the Recipient's current grant or contract.

**(c) Default Conditions**

1. The Recipient shall be in default of its Grant Agreement when there has been substantial failure by a Recipient to comply with a provision of law, the grant provisions of the Pennsylvania Interest on Lawyers Trust Account Board, or a term or condition of the Recipient's current grant agreement with the Grantor; or
2. There has been substantial failure by a Recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards; or
3. There has been an occurrence of any event which would make the Recipient ineligible to receive a grant if the Recipient were applying for one at that time, or
4. There has been the submission of any materially false or intentionally misleading information to the Grantor or its Executive Director as a part of the Approved Budget, Budget Narrative, Financial Report, Financial Statements, or otherwise; or
5. There has been the failure to return unused Grant funds at the end of a Grant Period unless a carryover has been approved by the Grantor or is permissible under the Board's grant provisions.

**(d) Remedies upon Default**

In the absence of unusual circumstances, suspension or termination of a grant shall not take place unless the Grantor has given the Recipient notice of its failure and an opportunity to take effective corrective action.

In the event of a default by a Recipient, the Grantor shall have the right to do the following:

1. Adopt a monthly grant disbursement schedule (including recoupment of grant funds already disbursed in excess of the pro-rata current month's installment) or suspend grant disbursements and condition payment of subsequent installments or grant disbursements on the Recipient's cure of the default.
2. Terminate the Grant. Notwithstanding a termination of the grant, the Recipient shall be entitled to continue to receive grant funds on a monthly disbursement schedule pending final disposition of any appeal to the Grantor brought by the Recipient or sixty days after notice of termination whichever is sooner.
3. Demand repayment and/or recoup by deduction grant funds improperly expended by a Recipient and/or institute legal action if necessary to recover such improperly expended funds.

## APPENDIX A

### Grant Funded Law School Clinical Programs

#### Client Satisfaction Survey

1. Your name (optional)
  
2. What type of case did you have?
  
3. Were you treated courteously by the clinic personnel?  
\_\_\_\_\_ Yes    \_\_\_\_\_ No    \_\_\_\_\_ Sometimes  
Any comments:
  
4. Were the legal personnel who assisted you helpful in trying to solve your problems?  
\_\_\_\_\_ Yes    \_\_\_\_\_ No    \_\_\_\_\_ Partly
  
5. Were you satisfied with the services you received?  
\_\_\_\_\_ Yes    \_\_\_\_\_ No    \_\_\_\_\_ Partly  
Any comments:
  
6. Please provide any other comments or suggestions you have.

## **APPENDIX B**

### **Cost and Case/Activity Allocation Principles (For PLAN Inc.)**

The cost and case/activity allocation systems used by the PLAN Inc. and its subcontractors for activities and legal representation must assure:

1. The system balances the benefits and expenses necessary to accomplish an acceptable conformance with cost, case and activity allocation requirements, with a goal of offering maximum efficiencies operating the system.
2. Requirements for the allocations systems are governed by provisions of contracts, regulations, rules, grant agreements and proposals, and applicable OMB Circulars.
3. The cases and activities assigned to each funding source align with grant agreements, the legal representation and/or activity goals, and, for IOLTA funding, the grantee proposal, all as modified from time to time. That is, the allocation systems must demonstrate that sources are funding activities and representation that are intended to be funded, such as a broad range of substantive areas, or agreed to specialty areas, and an appropriate mix of representation intensity (e.g., brief, extended, and extensive representation) and activities.
4. The cases and activities assigned to funding sources are not prohibited or restricted (e.g., impermissible lobbying, political activity, etc.) by the grant agreement and underlying authorizing statutes, rules, regulations and/or grant agreement).
5. No costs are attributable to the IOLTA sources indirectly if such costs are impermissible directly. For example, if over-income clients are represented, or impermissible lobbying is carried out, no direct or indirect costs of the impermissible representation are charged to the IOLTA Board sources.
6. If program income is generated as a result of IOLTA Board funding sources being charged for some of the costs for the activity or representation, directly or indirectly, that generated the income, such income must be apportioned to the IOLTA sources in proportion to the IOLTA sources funding of the activity that generated the income, according to a reasonable and manageable methodology. For example, if a legal services program has a funding source that pays for a program activity or representation based on a per activity/case basis, the legal services program must demonstrate that all of the costs associated with the activity (direct and indirect) are charged to the funding source to avoid an apportionment of program income to the IOLTA sources (if the costs exceed the amount of the fee, such costs can be among those allocated to the IOLTA sources providing the activities/representation are permitted as indicated in item 1 above). To further illustrate, if a program receives an attorney fee award, its case/cost allocation methodology must demonstrate that the funding source to which the attorney fee case had been assigned, had sufficient funding during the term of the attorney fee case representation to fully pay for all of the activities and case representations that had been assigned to that funding source, otherwise the legal services program must apportion an appropriate share of the attorney fee award to the IOLTA sources.
7. All costs are reasonable and necessary to the representation and/or activity assigned, and other guidance of Office of Management and Budget Circulars, such as, the costs were: actually incurred during the period, in accordance with accounting policies and procedures, and consistently applied among the various funding sources and over time.
8. Timely (i.e., at least quarterly, for funding sources that require this) and accurate grant reports are produced by the methodology.