
Selecting a Title III-B Legal Provider

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- I. **What are the different types of providers?**
 - A. Private law firms/solo-practitioners
 - B. Legal Services Corporation grantees
 - C. Legal Clinic at a law school
 - D. Attorney on staff at the Area Agency on Aging
 - E. Legal Hotline
 - F. Combination of any of the above

- II. **General requirements under the Older Americans Act (OAA)**
 - A. Area Agencies on Aging will enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; 307(a)(11)(A)(i)
 - B. The program must be designed to provide legal assistance to older individual's with social or economic need and has agreed to coordinate its services with existing Legal Services Corporation projects in the planning and service area. 307(a)(11)(B)

- C. The provider selected is the entity best able to provide the particular service. 307(a)(11)(B)**
- D. Legal assistance furnished will be in addition to any legal assistance for older individuals being furnished with funds from sources other than the Older Americans Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals. 307(a)(11)(D)**
- E. Priority will be given to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination. 307(a)(11)(E)**
- F. No provider of legal assistance is required to reveal any information that is protected by the attorney-client privilege. 307(f)**
- G. Voluntary contributions shall be allowed and may be solicited if the method of solicitation is noncoercive. Such contributions shall be encouraged for individuals whose self-declared income is at or above 185% of the poverty line, at contribution levels based on the actual cost of the service. 315(b)(1)**
- H. The Area Agency on Aging shall consult with the provider and older individuals in the planning and service area to determine the best method for accepting voluntary contributions. 315(b)(2)**
- I. The area agency on aging and providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute to the cost of the service. 315(b)(3)**

- J. Service providers, prior to requesting Title III-B funding, shall demonstrate efforts to seek funds from other federal, state, and local sources. IAC 6.16(4)**

III. What services are appropriate?

- A. Legal information – dissemination of legal resources, materials, or articles.**
- B. Counsel and advice— provision of guidance to the client to address a legal problem.**
- C. Brief service—action taken at or within a few days or weeks of intake on behalf of an eligible individual.**
- D. Legal representation—the client’s legal problem requires more than counsel and advice and the provider determines it is necessary to represent the client in order to achieve a solution to a legal problem. The case is not referred to another source but is handled by the legal assistance provider.**
- E. Legal community education—discussions or presentations by the legal assistance provider to inform and educate older individuals on the legal assistance program or on specific priority areas of law and issues.**
- F. Outreach and targeting – targeting is a commitment to serve those most in need—economically and socially in need –by focusing on the priority cases. Outreach is reaching out to the targeted older populations to discuss and offer legal assistance services. An outreach plan assesses where the targeted groups are generally located, analyzes how best to inform them of the legal service available, how it can help them and develops techniques which are**

most likely to encourage the targeted population to seek legal assistance.

IV. What should the Area Agency on Aging require of the legal provider in the agreement?

A. Outline specific objectives for how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, older individuals at risk for institutional placement, and older individuals residing in rural areas of the planning and service area.

306(a)(4)(A)(i)(I)(aa) & (bb) & (ii); 306(a)(4)(B)

B. Propose methods to achieve the specific objectives outlined in IV (A) above. 306(a)(4)(A)(i)(II)

C. Request assurances that services will be provided in accordance with the need for such services, to the maximum extent feasible.

306(a)(4)(A)(ii)(II)

D. Request outreach efforts to identify older individuals eligible for assistance under the act with special emphasis on

- 1. Individuals residing in rural areas**
- 2. Individuals with greatest economic need**
- 3. Individuals with greatest social need**
- 4. Individuals with severe disabilities**
- 5. Individuals with Alzheimer's disease and related disorders**
- 6. Individuals at risk of institutional placement**

306(a)(4)(B)

These outreach efforts shall also inform the older individuals listed above and their caretakers of the availability of legal assistance.

307(a)(4)(B)(ii)

- E. Request assurances that the legal provider is subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act and coordinate its services with the existing Legal Services Corporation projects. 307(a)(11)(A)(ii)**
- F. Outline what attempts will be made to involve the private bar in legal assistance activities, including pro bono and reduced fee basis. 307(a)(11)(A)(iii)**
- G. Provide each recipient with an opportunity to voluntarily contribute to the cost of the service. Establish appropriate procedures to safeguard and account for all contributions and protect the privacy of each recipient's contribution or lack of contribution. 315(b)(4)**
- H. Use all collected contributions to expand the service for which the contributions were given and to supplement (not supplant) funds received under the OAA. 315(b)(4)(E)**
- I. Clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary. 315(b)(4)(B)**
- J. Outline what efforts will be undertaken to obtain the views of older Iowans regarding the services provided. 315(c)(1) & IAC 6.16(3)**
- K. Incorporate into contract an assurance that funds be used in compliance with federal guidelines. IAC 6.16(5)**
- L. Outline a grievance procedure that eligible individuals can follow for complaints with the legal assistance program. IAC 2.9(1)**
- M. Outline any cash or in-kind match that will be attributed by the provider to the legal assistance program. IAC 5.9(4)**

- N. Provide statistical and other information in a timely fashion to meet planning, coordination, evaluation and reporting requirements. CFR 1321.65**
- O. Assure that all services are coordinated with other appropriate services in the community and that these services do not constitute an unnecessary duplication of services provided by other sources. CFR 1321.65**
- V. The Area Agency on Aging shall award funds to the legal assistance provider that most fully meets the following standards:
45 CFR 1321.71 & IAC 7.10**

 - A. Has staff with expertise in specific areas of law affecting older persons in economic or social need,**
 - B. Demonstrates the capacity to provide effective administrative and judicial representation in the areas of law affecting elders with economic or social needs,**
 - C. Demonstrates the capacity to provide support to other advocacy efforts, for example, the long term care ombudsman program and the elder abuse initiative program.**
 - D. Demonstrates the capacity to deliver legal assistance to institutionalized, isolated and homebound elders effectively.**
 - E. Demonstrates the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language.**

- F. Coordinates the provision of legal assistance with private bar attorneys and legal services corporation state grantees,**

- G. A provider shall not require an older individual to disclose information about income or resources as a condition for providing legal assistance. The provider may ask about an older individual's financial circumstances only as a part of the process of providing legal advice or counseling and representation or for the purpose of identifying additional resources and benefits for which the person may be eligible. IAC 7.10(2) & (3)**

- H. Complies with all federal and state laws, regulations and rules which govern ethical and professional conduct and the practice of law. IAC 7.10(5)**

- I. Engages in other legal activities to the extent that there is no conflict of interest or other interference with their professional responsibilities under the OAA. (CFR)**

- J. No provider shall use funds received under the OAA to provide legal assistance in a fee generating case unless other adequate representation is unavailable or there is an emergency requiring immediate legal action. All providers shall establish procedures for the referral of fee generating cases. (CFR)**

- K. While engaged in legal assistance activities supported under the OAA, no attorney shall engage in any political activity or lobbying. (CFR)**

- L. While carrying out legal assistance activities and while using resources provided under the OAA, no provider or employee(s) shall participate in any public demonstration, except as permitted by law in connection with the employee's own employment situation or engage or encourage others to engage in illegal activity. (CFR)**

VI. Legal Provider as the Best Entity to provide services

In determining that the prospective entity is the best able to meet the needs of older lowans, consider the following-- How do you know that the prospective provider has:

- A. The experience to do the job.**
- B. Adequate staff to serve the needs in the planning and service area.**
- C. Staff with the ability and sensitivity to work with older individuals.**
- D. The ability to balance the needs of older lowans under the Title III-B contract with the priorities of their primary business. Would the work needed under the Title III-B contract complement or conflict with their primary business.**
- E. A primary focus on legal issues that impact older individuals and can serve their priority needs.**
- F. The ability to bring to your network expertise that other prospective providers do not possess in the same degree.**
- G. Knowledge/awareness of the aging network.**