



## **Elder Law Grant Program Program Description**

### **A. Grant Purpose**

The mission of FFLA's Elder Law Grants Program is to provide legal assistance to needy older adults in critical areas which affect their safety, wellbeing, and ability to remain independent. This mission is promoted through an annual competitive grant program centering on, but not limited to, legal assistance for older adults with respect to issues they commonly face, described below, but generally including access to health care, consumer protection, protection against domestic violence, abuse and exploitation, income maintenance, probate and estate matters and housing. In addition to funds from Florida's Interest on Trust Accounts program, this grant program is supported by annual contributions from Florida lawyers and other contributions to FFLA. Such contributions add significantly to the IOTA resources committed to this grant program.

The Elder Law Initiative provides grants to legal services programs throughout Florida, both statewide and local. Through this grant program FFLA also seeks to engage private volunteer attorneys in the provision of legal assistance to needy older adults by funding pro bono programs. The funding criteria established by FFLA for these grants are designed to encourage local matching funds and collaboration with other agencies providing services to older adults and among grantees that provide elder law services and assistance.

### **B. Applicant Eligibility Requirements**

#### General Eligibility Requirements:

FFLA makes grants to organizations, not individuals. Qualified grant applicants must:

- Be non-profit entities, tax-exempt and qualified to receive charitable donations within the meaning of the Internal Revenue Code;
- Operate within the State of Florida;

- Have an audit mechanism that provides accountability of all funds received from FFLA and others;
- Agree to satisfy all of FFLA’s reporting requirements, including the submission of audited financial statements as well as a Use of IOTA funds report regarding the use of IOTA funds for all FFLA grants and awards funded with IOTA collections;
- Have a primary mission to provide, or facilitate the provision of, qualified legal services<sup>1</sup> by qualified legal services providers<sup>2</sup> for low-income Floridians;
  - Ongoing legal services programs within larger, multipurpose public or private non-profit institutions where the parent organization is ineligible for funding may apply on their own, provided that they meet the following requirements:
    - provide year-round legal services for low-income clients;
    - have a distinct, itemized budget within that of the parent institution; and
    - be able to separately fulfill the eligibility requirements.
- Be able to demonstrate at least three full years of experience in providing qualified legal services;
- Be able to show upon request:
  - Satisfactory proof of financial stability and independence apart from FFLA funding;
  - Satisfactory proof of proper governance and internal controls; and
  - Satisfactory proof of subject matter expertise and competency required for a particular grant, award, or project;
- Be current in all filings required to be made by it with any governmental authority;
- Maintain open records;
- Be an equal opportunity employer; and
- Be able to demonstrate that it can use any funds granted to it in a manner consistent with rules and policies adopted by the Board of Directors of FFLA.

FFLA does not permit employees of grantees to be candidates for partisan elective public office nor hold a partisan elective public office without FFLA’s express written permission. Accordingly, applicants must advise FFLA in the grant application if any employee of the applicant is a candidate for partisan elective public office, holds partisan elective office, or to the knowledge of the applicant intends to be a candidate for partisan elective public

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<sup>1</sup> “Qualified legal services” are free legal services provided directly to low-income clients for their civil legal needs in Florida, and includes post-conviction representation, programs that assist low-income clients in navigating legal processes, and the publication of legal forms or other legal resources for use by pro se litigants.

<sup>2</sup> A “qualified legal services provider” is a member of The Florida Bar or other individual authorized by the Rules Regulating The Florida Bar or other law to provide qualified legal services.

office.

Additional Eligibility Requirements:

- Be staffed by, at least, one full-time attorney or have access to one attorney on a full-time basis or equivalent, licensed to practice in the State of Florida; and
- Use FFLA grant funds for the provision of free legal assistance<sup>3</sup> to financially eligible clients<sup>4</sup>.

**C. Specific Funding Criteria for Applications**

In addition to evaluating all of the information provided by the grant application, the following specific funding criteria and policies will be applied and considered in evaluating applications and making funding decisions:

- Priority areas for funding include, but are not limited to, the following elder law topics especially relevant to older adults:
  1. Access to health and mental health care, including long-term care
    - a. Home and community-based services
    - b. Medicare, Medicaid, Supplemental Security Income (SSI)

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<sup>3</sup> “legal assistance” is defined as: ‘the provision of limited service or extended service on behalf of a client or clients...[which] is specific to the client’s unique circumstances and involves a legal analysis that is tailored to the client’s factual situation.’ Legal assistance involves applying legal judgment in interpreting the particular facts and in applying relevant law to the facts presented. The provision of legal assistance creates an attorney-client relationship.” Florida Bar Foundation, Case Service Report Guide, § 2.2, Revised (2018).

<sup>4</sup> Financially eligible clients are defined as any of the following:

- A client whose income is no higher than (a) 125% of the poverty level issued by the U.S. Department of Health and Human Services; or (b) 200% of the poverty level issued by the U.S. Department of Health and Human Services, provided the applicant for legal assistance has other extenuating circumstances (such as significant unreimbursed medical expenses or childcare expense in connection with employment) which clearly render such applicant unable to hire private counsel.
- A client whose available assets do not exceed reasonable asset guidelines as established by the applicant’s Governing Board, which asset guidelines shall consider the readily convertibility to cash and current actual availability of assets and the economy of service area to ensure the availability of legal assistance to those in the greatest economic and legal need.
- A client group, corporation, or association (a) which is primarily composed of persons financially eligible under the guidelines above; or (b) who has as a principal activity the delivery of services to those persons in the community who would be financially eligible under the guidelines above and legal assistance sought relates to such activity. Under either (a) or (b) of this paragraph, the applicant for legal assistance must provide information showing that it lacks and has no practical means of obtaining funds to enable it to obtain private counsel in the matter for which legal assistance is sought.

c. Public benefits and appeals

2. Consumer protection (fraud, unfair practices, debt issues)

3. Domestic violence, abuse, neglect, and exploitation (legal remedies and protection)

4. Financial literacy and income maintenance (benefit preservation, budgeting, income support)

5. Probate and estate matters

a. Planning and protection

i. Advance directives

ii. Guardianships

b. Deeds and titles

i. Heirs' property

ii. Enhanced life estate deeds

6. Housing-related matters affecting older adults

a. Safe housing

b. Landlord/tenant disputes and eviction defense

c. Assisted living facility issues

d. Long-term and memory care facility issues

- Funds must be used exclusively to provide or facilitate free civil legal aid services that assist low-income older adults and underserved communities in non-political legal matters.
- The proposed project should be distinct from existing projects funded by FFLA (unless the application seeks to extend an existing Elder Law grant project).
- If this grant is funded with IOTA funds, grantee must spend funds awarded in accordance with, and in full compliance of Rule 5-1.1(g), Rules Regulating The Florida Bar (The IOTA rule). The funds awarded must be used to provide or facilitate free direct legal services and assistance to low-income clients and shall be used to increase access to the justice system to protect and preserve individual rights relating to civil legal issues.

FFLA strongly encourages the use of multidisciplinary strategies by potential applicants but will not directly provide funds to non-legal assistance providers.

FFLA seeks to ensure that legal assistance providers recognize the need for active and full representation of clients and that legal assistance providers achieve appropriate balance in the nature of services they provide clients (i.e., counsel and advice, referral, negotiation, court and administrative agency representation, etc.).

While FFLA seeks applications involving a wide variety of elder law issues, applicants are encouraged to focus efforts on one or two priority areas where they can demonstrate expertise and measurable impact.

FFLA strongly encourages potential applicants to incorporate in their applications the development and use of pro bono resources to strategically expand the impact of contemplated services where feasible and appropriate.

FFLA seeks the matching of other funds with its funds to expand the representation of older adults and strongly encourages potential applicants to seek matching grants from other sources. Absent special circumstance, priority will be given to requests from applicants having multiple funding sources.

The submission of applications from collaborative agencies is strongly encouraged, provided the proposed collaboration involves qualified grantee organizations, is motivated by programmatic goals and is programmatically desirable.

Potential applicants should indicate their ability and willingness to participate actively in a contemplated information-sharing and communication system among programs engaged in elder advocacy in Florida.

Grant and award funds containing IOTA collections must not be used for:

- Political speech involving matters of substantial public concern.
- Election Law matters.
- Lobbying.
- Education or training activities for anything other than the provision of civil legal services, enforcement of established legal rights, programs that assist low-income clients in navigating legal processes, and the publication of legal forms or other legal resources for use by pro se litigants.
- Systematic advocacy for policy reform, legal reform, or civil rights initiatives unrelated to the representation of a specific low-income client.
- Representing persons residing in the United States without legal status or persons under a deportation order.

- Any lawsuit or litigation that names a political candidate or elected official in an individual capacity, for anything done by that individual in their political or official capacity.
- Class actions where the government is a party.
- Amicus briefs in cases where the government is a party.
- Suits against state agencies and local government, other than matters seeking remedies for individual clients in eligible legal areas listed herein.
- Facial challenges to existing laws or statutes; however, as-applied challenges for individuals in subject matters not otherwise prohibited are allowed.

Grantees may represent clients to protect that person's legal status but may not accept matters to establish a person's legal status or rights not otherwise recognized.

FFLA will not fund or permit the use of unprofessional, uncivil, or derogatory language in any matter funded by FFLA.

#### **D. The Board of Directors and Awarding of Grants**

A major function of FFLA in its grant making capacity is to award grants to appropriately qualified non-profit providers of legal services in a competitive process that will result in the most effective and efficient delivery of legal services.

Applications are submitted on FFLA's online application portal. When applying for funding, each applicant must include:

- A detailed description of the proposed legal services and the client population served.
- Metrics for evaluating performance, deliverables, effectiveness, value and benefits provided, efficiencies, etc. (e.g., number of cases handled, outcomes achieved).
- A clear plan for ensuring compliance with the IOTA rule and FFLA's Objective Standards.

In accordance with FFLA's Grantmaking Policy, FFLA staff will receive and review all applications. Staff may include outside peer reviewers in the application review process. Staff establishes the eligibility of each applicant; determines compliance with reporting requirements; ascertains completeness of the application; reviews budget and financial information; reviews grantee self-assessment and other reports; and evaluates the application based on criteria and factors described below.

A list of applicants is provided to the Board along with FFLA's Conflict of Interest Policy. Committee and Board members disclose affiliations with organizations and recuse themselves from voting on grants involving organizations with whom they have an affiliation. FFLA staff submits funding recommendations and other information to the Grants Committee for review and discussion. The committee relies on staff to share any pertinent knowledge of the applicants that might affect its funding decisions. The committee makes funding recommendations to the Board of Directors, which makes final decisions on grant awards.

**The Board reserves the right to award an amount different (either lower or higher) from that requested by an applicant and to impose any special conditions on the award that the Board, in its discretion, determines will improve services or performance by the grantee over the period of the grant.**

#### **E. Grant Specific Review Factors**

FFLA will only accept one application from each organization applying. An organization may be a collaborator (subgrantee) on more than one application but can only be the lead organization on one application. FFLA will not accept multiple applications for the same project.

#### **F. Data Collection and Reporting**

Grantee is required to submit to FFLA an interim report and a final report regarding grant activities. All reports, including narrative, financial and statistical components, must be submitted through FFLA's online grant portal. Reports must detail activities funded using FFLA funds; list types of cases addressed; list outcomes of legal assistance provided; and confirm no FFLA funding was used for prohibited matters, with a focus on compliance with standards.

Grantees must obtain reports from outside auditors to confirm whether FFLA funding received was used in compliance with Rule 5-1.1(g), Rules Regulating The Florida Bar and FFLA's Objective Standards. Grantees shall provide FFLA copies of their Use of IOTA Funds Audits on or before June 30 of each year for all FFLA funding containing IOTA collections spent in the preceding calendar year. Grantees must also furnish copies of grantee's independent audited financial statements and all required communications, including any independent auditor's report/management letter(s), from the auditor within one hundred and twenty (120) days after the end of grantee's fiscal year.

Should any recipient of FFLA funding have questions or concerns relating to their proposed use of FFLA funding, that recipient should - before using any FFLA funding in question - reach out to FFLA and request review of its proposed funding. This request

should specifically identify and detail the proposed funding plan and explain any concerns or questions regarding the use of such funding.

Any grantee or recipient of FFLA funds who fails to comply with Rule 5-1.1 (g), Rules Regulating The Florida Bar or FFLA's Objective Standards may be deemed ineligible to receive FFLA funding and no longer considered as a qualified legal services provider.

**G. Grant Timeline**

Grant Applications Open	July 1
Grant Applications Close	July 31
Notification of Funding	October
Grant Funding Period	January 1 – December 31
Interim Reports Due	July 30
Final Reports Due	March 1
Audited Financial Statements Due	Within 120 days of grantee's fiscal year end
Use of IOTA Funds reports	June 30

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