

# IOLA Fund of the State of New York 2016-17 Grantee Activity Report

## Questions & Answers (FINAL as of April 21, 2017)

### Overview of Achievements

**Question 1:** Please clarify how grantees should answer the new question in Part I, Section A.2. (Benefits).

Grantees that are not a direct service provider cannot easily or accurately gauge the cost benefits to end users. Should we leave this question blank (NA) or provide an explanation of cost benefits in general?

Can grantees answer this question using economic benefits data reported elsewhere in the current GAR (or previous GARs)?

How should a grantee respond where it has not conducted a formal analysis of the economic benefits of its programs on NYS taxpayers? Would a general explanation of cost benefits to taxpayers and examples from other jurisdictions be appropriate?

Can IOLA provide an updated list of accepted calculations and sources?

**Answer:** Part I, Section A.2. (Benefits) is not a new question, but was simply moved from Part II, Section E. Due to variation in grantees' methodologies, the responses that the IOLA Fund received have not lent themselves to aggregation. For this reason, the question was moved to Part I. Grantees may continue to submit descriptions of how their program achievements produced taxpayer savings.

Grantees may answer the question by analyzing their own GAR data or may utilize the methodologies employed by the New York State Permanent Commission on Access to Justice (<http://www.nycourts.gov/accesstojusticecommission/annual.shtml>). Currently, the IOLA Fund is unable to suggest other relevant studies of how civil legal services programs benefit taxpayers.

This is an optional question. Grantees may elect not to answer if they do not provide direct services, have not conducted any studies of taxpayer benefits, do not have ready access to relevant studies, etc.

**Question 2:** Please clarify how grantees should answer Part I, Section A.3. (Obstacles). Does the term “obstacles” refer only to obstacles in meeting contract goals or does it encompass other types of obstacles (e.g., reaching a target population)?

**Answer:** In Part I, Section A.3. (Obstacles), grantees should address obstacles in meeting contract goals.

In addition, the IOLA Fund welcomes reporting about any other obstacles that prevented the grantee from reaching its own goals and would illuminate the local conditions that may impede legal services delivery.

Generic statements, however, about lacking sufficient funds to meet client demand should be omitted.

## Reporting Immigration Work

**Question 3:** In Part II, Section B. (Individuals-Case Details), how can a grantee report claims “filed” that remain pending? For example, Immigration Court backlogs have been growing and many immigration claims remain pending.

**Answer:** Grantees should report closed cases only. If the matter is not resolved – regardless of how long it remains pending – the case should not be reported. Grantees should not report pending cases.

**Question 4:** Due to the nature of our work (immigration) and increasing delays with the courts, our cases usually remain pending for more than a year. At what point should a grantee count a case as “closed” and report it on the GAR? In the year we complete our work and file an application?

**Answer:** A case should be considered closed and reported in the GAR when, in the grantee’s best professional judgment, the legal work on the matter has concluded.

Grantees should not report open or pending cases.

Once closed, if a subsequent, related legal issue arises (e.g., enforcement or modification), the grantee may treat this as a new “case” for GAR purposes.

**Question 5:** In Part II, Section B.10. (Individuals-Case Details, Immigration), the two parts of securing Special Immigrant Juvenile Status (one in Family Court and the other in Immigration Court) are both listed. Should grantees report on only the last benefit obtained or report on both benefits?

**Answer:** The two separate legal matters that must be pursued to obtain Special Immigrant Juvenile Status for a client should both be reported as cases. Grantees should report on each case in the fiscal year when it closes.

### **Reporting Staffing**

**Question 6:** In Part II, Section G (Staffing) and Section I (Diversity): How should grantees calculate FTEs for staff who left the organization during the contract period (e.g., should someone who worked full-time for six months be reported as 1 FTE or .5 FTE)?

**Answer:** In Part II. Section G.1. (Staffing), grantees should indicate the total number of actual staff who worked throughout the full fiscal year, a total staffing number that should correspond to the personal services expenditures reported on Section H.1.(Budget Expenses). For the example given, this would be .5 FTE.

In contrast, Part II. Section I (Diversity) seeks a staff census number as of a specific date. In this Section, grantees should report only on the staff employed in their civil legal aid programs as of March 31. For the example given, this would be 1 FTE or 0, depending on whether the employee was actually employed as of March 31.

**Question 7:** In Part II, Section G (Staffing), Section H.I. (Budget Expenses) and Section I (Diversity): How should grantees calculate FTEs for staff who have been on leave during part of the year? Does it matter if the staff member was on a paid leave versus an unpaid leave?

**Answer:** In Part II. Section G.1. (Staffing), Section H.I. (Budget Expenses) and Section I (Diversity), grantees should include staff members on **paid leave**, allocated in the same manner as other employees.

For example, if an employee worked full time for half of the year and then left for a **paid leave** for the remainder of the year, the grantee should report 1 FTE and the total actual expenses incurred on Schedules G.1. (Staffing) and H.1. (Budget Expenses) and report 1 FTE on Schedule I (Diversity).

In Section G.1. (Staffing) and Section H.1. (Budget Expenses), grantees should include staff members on **unpaid leaves** only to the extent that these employee were paid. In Section I (Diversity), employees on **unpaid leaves** as of March 31 should be omitted.

For example, if an employee worked full time for half of the year and then left for an **unpaid leave** and was not on payroll as of March 31, the grantee should report .5 FTE and the total actual expenses incurred on Schedules G.1. (Staffing) and H.1. (Budget Expenses) but report 0 FTE on Schedule I (Diversity).

**Question 8:** Which employees should be reported in the “Management and Administration” category on Part II, Section G (Staffing)? Would this include IT consultants?

**Answer:** In Part II. Section G.1. (Staffing), grantees should include all paid employees and allocate the employees to subsections a. - f. according to the employees’ functions and consistent with the grantee’s own internal accounting system. Employees performing civil legal aid program services should be allocated to subsections a. - d.; all other employees should be allocated

to subsections e. and f. Where appropriate, an employee (e.g., an Executive Director) may be allocated to more than one function.

Generally, IT *employees* would be allocated to e. Management and Administration, but there may be circumstances where an IT employee would be partially or even fully allocated to a program service function, such as b. Other Services.

*Consultants*, including IT consultants, should not be reported in Section G.1. The expense for such services should be included in Section H.1., subsection 2. Non Personal Services, a) Contractual Services.

**Question 9:** How should a grantee account for an employee where a third party pays the employee's salary and benefits in whole or in part (e.g., Americorps, Immigrant Justice Corps, Jesuit Volunteer Corps)?

**Answer:** Where a grantee has an employee whose salary and benefits are paid for by a third party, the employee should be reported in G.1. and all of that employee's expenses should be reported in Part II.H.1, *subsection 1. Personal Services*. The portion of the employee's costs provided by the third party should be reported as revenue in Part II.H.2. (and explained in Part II.H.3., if necessary).

If the staff member at issue is a consultant, the staff member should not be reported in Section G.1. The expense should be included in Section H.1., *subsection 2. Non Personal Services*, a) Contractual Services. The costs provided by the third party should be reported as revenue in Part II.H.2. (and explained in Part II.H.3., if necessary).

**Question 10:** How should a grantee complete Part II, Section I (Diversity) where, out of respect for individuals' privacy, it does not inquire about its employee's race, ethnicity, gender identity, or sexual orientation? How should a grantee list employees who are transgender men or transgender women? Should such individuals be listed twice, in the rows for both "Transgender" and "Male" or "Female"?

**Answer:** All reported statistics should be based on actual recorded data. Where actual data is not available, grantees should use best estimates based on available program records and your professional judgment. Absent an organizational policy to the contrary, we recommend reporting your employee demographics according to how your employees self-identify. Do not double count your employees.

In the ABA's 2006 Standards for the Provision of Civil Legal Aid, Standard 2.5 on Staff Diversity provides:

*"A provider should take affirmative measures to hire and retain a diverse staff that enhance its ability to respond effectively to the legal needs of low income communities."*

The IOLA Fund encourages grantees to identify and utilize methods of tracking employee demographic data in ways that honor employees' privacy and how they self identify so that collective data may be obtained that would facilitate the effort of the civil legal aid community as a whole to monitor and improve its diversity.

## **Reporting Expenses**

**Question 11:** On Part II, Section H., what is the time period for “YTD Actual?” If YTD Actual is defined as a 12 month period, virtually all of the entries in the variance column will exceed \$5,000.

**Answer:** On Part II, Section H., grantees should report in the “YTD Actual” columns the actual (or estimated) expenses for the one year period of the report (4/1/2016 to 3/31/2017).

The formula in the variance column erroneously omitted to divide the Approved 2 year budget in half. Grantees should only explain variances that exceed  $\frac{1}{2}$  of the Approved (or Modified) 2 Year Budget by \$5,000.