



Immigration Program  
Management in Uncertain Times:

Responding to the  
Trump Administration's  
Funding Challenges

Outline	Key Takeaways	pg.
Introduction		4
Proactive Budget Analysis	<ul style="list-style-type: none"> <li>• Conduct a budget analysis now, including an in-depth review of your funding to identify whether any of your program's funding derives from federal contracts or awards.</li> </ul>	5
Audit Readiness	<ul style="list-style-type: none"> <li>• Prepare for an audit of all funding that derives from federal contracts or awards.</li> </ul>	5
I. Review Grant Documents and Regulations	<ul style="list-style-type: none"> <li>• Review Requests for Proposals, final proposals, grant awards, grant agreements, and regulations related to the administration of your program's federal grants.</li> </ul>	5
II. What to Expect in an Audit	<ul style="list-style-type: none"> <li>• Most grants allow for unscheduled audits, including tours, a review of internal controls, and documentation to support funding requests.</li> </ul>	5
III. Demonstrating Deliverables	<ul style="list-style-type: none"> <li>• Prepare for an audit by ensuring your program is on track and has proof you have met deliverables.</li> <li>• Develop a plan to address ethical responsibilities when responding to audit requests.</li> </ul>	5
IV. Connecting Deliverables to Personnel	<ul style="list-style-type: none"> <li>• If your program's federal grants are based on a specific employee's work, maintain timekeeping records.</li> </ul>	6
V. Create an Audit Response Plan	<ul style="list-style-type: none"> <li>• Keep a centralized audit folder with relevant documents and inform staff of the audit process, including possible interviews</li> </ul>	7
Revenue Generation	<ul style="list-style-type: none"> <li>• If your program is not positioned to operate in a temporary deficit, it is critical to identify and secure replacement revenue.</li> </ul>	7
I. Fees for Services	<ul style="list-style-type: none"> <li>• Fee revenue may be least vulnerable to shifting political winds.</li> <li>• A fee-for-service program requires compliance with the Internal Revenue Code (IRC).</li> </ul>	7
a. Organization's Purpose	<ul style="list-style-type: none"> <li>• Ensure organizing documents include a purpose listed in the IRC.</li> </ul>	8

<b>b. Permissible Fee Generation</b>	<ul style="list-style-type: none"> <li>• Tax-exempt organizations are permitted to charge fees for activities “substantially related” to the organization’s purpose when they are “serving members of a charitable class”.</li> <li>• Discuss with your organization’s accountant or a tax lawyer whether the contemplated income-generating legal services activity is permitted.</li> </ul>	<b>8</b>
<b>i. Fees That Are “Substantially Related” to the Organization’s Purpose</b>	<ul style="list-style-type: none"> <li>• The IRS analyzes “substantial” using a case-by-case approach.</li> </ul>	<b>8</b>
<b>ii. Serving “Members of a Charitable Class”</b>	<ul style="list-style-type: none"> <li>• Programs must serve a charitable class in a manner that demonstrates a charitable purpose.</li> </ul>	<b>9</b>
<b>c. Considerations for Determining Fee Amounts</b>	<ul style="list-style-type: none"> <li>• Programs should comprehensively assess the cost of running their program, and fees should be at least 15 percent below cost of total operation.</li> </ul>	<b>9</b>
<b>d. Calculating Service Delivery Cost</b>	<ul style="list-style-type: none"> <li>• Knowing what it costs the program to provide a service can serve as a guide to determining how much to charge for a particular service.</li> <li>• Once a program determines costs, they need to check their IRC analysis.</li> </ul>	<b>10</b>
<b>II. Foundations</b>	<ul style="list-style-type: none"> <li>• Foundations may have access to emergency, discretionary funds to help with urgent funding needs.</li> <li>• Maintain contact with grant funders so your program is “in the know” if there are discussions about changes in their grant portfolios.</li> </ul>	<b>11</b>
<b>III. Fundraising</b>	<ul style="list-style-type: none"> <li>• Fundraising requires intentional, coordinated strategies to identify and engage donors to help address short-term budget deficiencies.</li> </ul>	<b>11</b>
<b>IV. State and Local Funding</b>	<ul style="list-style-type: none"> <li>• Program leaders should familiarize themselves with successful efforts in other states and localities and seek out state and local funding.</li> <li>• Keep in mind, state and local funding may also be susceptible to political winds.</li> </ul>	<b>12</b>
<b>V. Harnessing Data for Future Opportunities</b>	<ul style="list-style-type: none"> <li>• Tracking data positively influences efficiently applying for and securing future funding opportunities.</li> </ul>	<b>13</b>
<b>Conclusion</b>		<b>14</b>

# Introduction

Since the announcement of a federal funding “freeze,” threatened and actual cuts to federal funding for immigration legal services by the Trump administration have caused Immigration Legal Services (ILS) programs to scramble to navigate challenging and uncertain financial times.<sup>1</sup> Program leaders and organization leaders (where organizations that have ILS programs that are part of their larger organization) are having to make very difficult decisions about the programs’ futures and sustainability that may include reduction in services or staffing.<sup>2</sup> Given the importance of sustaining ILS programs in this political climate, as well as ongoing litigation regarding the legality of the administration’s attacks on federal contracts and grants, it is important for programs to plan and respond accordingly and avoid rushing to any decision that negatively impacts the ILS program or harms the clients.

To achieve this balance, this guide explains how programs should first engage in a thorough analysis of their current financial situation, including conducting a deep dive into the sources of program revenue and deciphering which sources of revenue are directly or indirectly funded by the federal government. This guide further explains the importance of understanding the terms and requirements of current funding sources and preparing to explain and justify expenditures in the event of a funder audit or questions. Because programs should actively seek alternative sources of revenue, this guide encourages program and organization leaders to become creative with revenue generation and offers tips and suggestions to explore all funding opportunities. Strategies discussed include establishing or increasing program fees as well as engaging with both traditional and non-traditional funders and partners that may be eager to support the mission and work of the organization during this time.

This guide provides information and action steps that an ILS program can take to successfully navigate both short- and long-term financial obstacles. For questions on specific program challenges or issues, Affiliates are encouraged to reach out to CLINIC via the [Affiliate Support Form](#). For programs that are unable to sustain current staffing levels and must consider downsizing or closing, please consult [Considerations Before Deciding to Downsize or Close an Immigration Legal Services Program](#).

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1 OMB Memorandum M-25-13 “Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs,” known as the “federal funding freeze” paused funding for programs that may not be aligned with the Administration’s priorities. Following the initiation of litigation, the administration rescinded the memo but confirmed it would still review and seek to pause or terminate awards that were inconsistent with its priorities.

2 [Immigration Program Management in Uncertain Times: Considerations Before Deciding to Downsize or Close an Immigration Legal Services Program](#).

## Proactive Budget Analysis

Faced with the unpleasant task of reviewing their finances in light of recent threats to federal funding sources for immigration legal services, many programs are discovering that their revenue portfolios are not well diversified and that some funds that they thought were coming from states, localities, or foundations are actually funded entirely or in part by the federal government. Conducting an in-depth review of each funding source, including tracing the flow of the funding, can help program and organization leadership assess the risk of loss if federal funding is terminated or is unlikely to be renewed for a grant that funds part or all of the program.

In conducting this revenue analysis, leaders should first identify sources of funding awarded directly from the federal government. The Trump administration has terminated or attempted to terminate funding for citizenship services, services to refugees and resettlement-eligible populations, and legal access programs. The administration will likely continue to try to eliminate federal funding for immigration legal services. Funding awarded under Executive Office for Immigration Review (EOIR)'s Office of Legal Access contracts, funding stemming from the Department of Health and Human Services, and funding from the Office of Refugee Resettlement for refugee resettlement and legal services are acutely vulnerable to interruptions or cuts even after funding has continued or resumed after an initial pause. As such, leaders should plan for these sources of funding to be cancelled abruptly or consider the likelihood that they will not be renewed upon expiration.

Leaders should take note that many state and local sources of funding may also derive from federal contract awards or grants. It may be possible to quickly identify the flow of money supporting state or local contracts or grants by reviewing the original Request for Proposals or funding announcement, but leaders may also need to conduct deeper research. This may include reviewing the state or locality's budget line item for the funding.

## Audit Readiness

With uncertainty of federal funding and executive orders containing buzz words centering around "auditing" of programs to ensure they align with the administration's priorities, it is likely that programs receiving federal funding could be audited. For example, the "[Protecting the American People Against Invasion](#)" executive order, one of the Trump administration's first executive actions, called for the audit and elimination of federal funding to organizations that provide direct or indirect support or services to removable or undocumented individuals.<sup>3</sup>

Programs can prepare for an audit by making sure they have the documentation ready to demonstrate that the reported work was done and that the people whose work was charged to applicable grants performed it.

### I. Review Grant Documents and Regulations

First, program leaders should review the original request for proposals, the final proposal, the award and agreement, and any regulations that control the administration of the grant or contract to compile a comprehensive picture of the deliverables, the terms and conditions of the agreement, allowable expenses, and any audit requirements.

### II. What to Expect in an Audit

Traditionally, audits have been scheduled in advance, and the funder will send you a list of what they are expecting to review during the audit. However, it is important to note that most government grants and contracts include language that allows for unscheduled audits, which is why it is best to be prepared now for that possibility. Auditors will usually ask for a tour of the program's location, a discussion regarding internal controls and financial policies, and a request to look at documentation that supports any reports or invoices that have been submitted.

### III. Demonstrating Deliverables

Once program leaders have a big picture idea of what the program promised, they should take steps to ensure that the program is not only on track for meeting its deliverables, but that it can also provide proof of deliverables it already reported. For example, if the program working on a U.S. Citizenship and Immigration Services (USCIS) grant reported that it completed X naturalization applications at a naturalization workshop, the government (or the flow through funder) can ask you to prove it.

In this example, the funder may demand proof that X number of naturalization applications were filed as a result of X number of people attending a naturalization workshop. To document this reporting, the funder may request proof of filing or other client data. During an audit, program leaders should be cognizant of the fine line between complying with the audit requests and maintaining

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3 [Protecting the American People Against Invasion](#) Exec. Order No.14159, 90 Fed. Reg. 9443 (Jan. 29, 2025)

client confidentiality under the state's applicable rules of professional responsibility.<sup>4</sup>

Under ABA Model Rule 1.6, Confidentiality of Information, for example, “[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).” Paragraph (b) allows disclosure of confidential information to comply with other law or court order.<sup>5</sup>

In some cases, the federal regulations that control grants and contracts specify that awardees are required to demonstrate that the person qualified for the services and that the services provided were allowable as outlined in the policy memos governing the use of these funds.<sup>6</sup> This is true, for example, regarding a contract grant from the Office of Refugee Resettlement to provide legal services to Afghan populations through Afghan Supplemental Appropriations funding.

However, even if the disclosure of otherwise confidential information is allowed under the rules, the comments to Model Rule 1.6 specify that the lawyer should still discuss disclosure of their personal information with the client, and best practices would be to obtain informed consent.<sup>7</sup>

In addition to informed consent, the program should limit disclosure to information that is necessary to demonstrate contract compliance. For example, when demonstrating that a naturalization application was prepared and filed, program auditors would not need access to an entire file that includes privileged or ancillary information outside the scope of the naturalization application.

In preparation for a potential audit, program leaders should be aware that auditors are not always aware of these rules; program leaders may need to politely push back on requests for information that are outside of the scope of the requirements or that violate the professional responsibility obligations of the program's practitioners. If auditors are looking for something that is arguably in violation of the rules of confidentiality, leaders should ask to reschedule while both parties research the issue and, if necessary, allow time to obtain clients' informed consent. Whenever possible, program leaders should work with the funder to find a solution that would satisfy the auditors' goal of verifying the information while limiting release of private client information.

#### IV. Connecting Deliverables to Personnel

Federal government grants are often reimbursement contracts based on a staff member's work on the grant. This means that staff members who work on that grant must keep track of their time, including, in some cases, how long particular tasks take. However, a best practice is that staff performing work under any grants should always keep track of their time, because there may be circumstances when a funder needs more granular proof of personnel expenses than just a person's time sheet records. While tedious, timekeeping is a worthwhile endeavor for program staff, because even if the data is never required in an audit, there is a lot of information program leaders can learn about the average time a task requires. This may inform fees, allocation of a staff's overall caseload, and a better overall understanding of how much work goes into a case.

In anticipation of potential audits, program leaders should make sure to compile the data to support what is required for the grant, identify any weaknesses in internal controls, and update policies and procedures for collecting this data. For example, does the program need to show that team members were working on the grant for an auxiliary service or was it required to include only time working on a specific application? Then, leaders should think through what documents are needed to back up the invoice. While some documentation may be required at time of submission, additional information may be requested during an audit, including a request to speak with staff who worked on the grant and/or staff involved in timekeeping and invoicing. Grants management or advancement personnel may not understand all the particulars of an award's deliverables or requirements. It is important, therefore, that even if they were not involved in invoicing, they must understand the process and are able to respond to any questions.

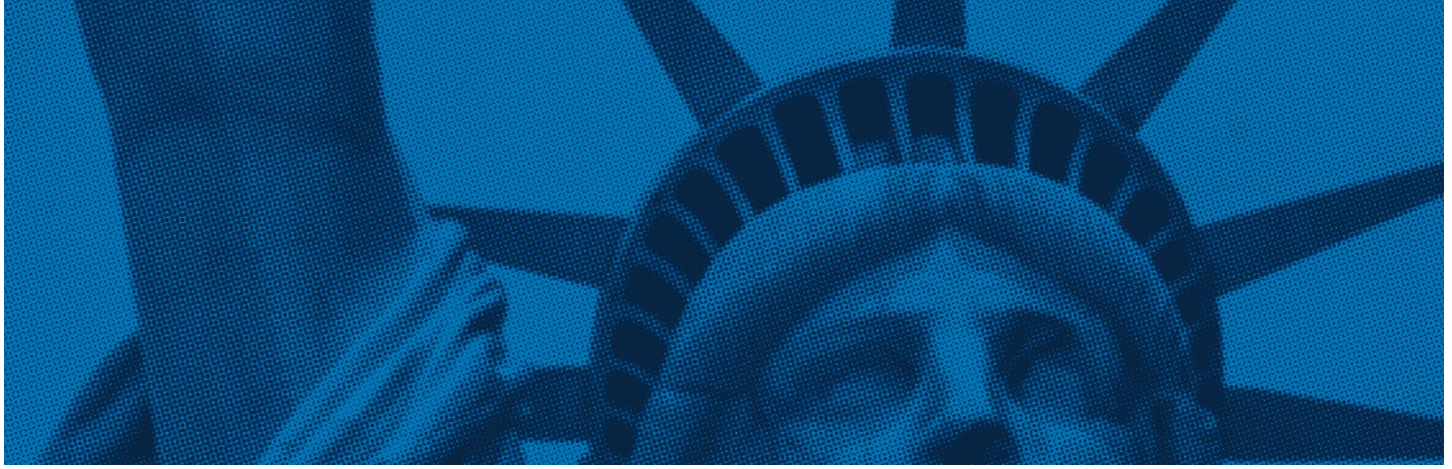
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4 CLINIC's ethical guidance is limited to explanation of the ABA Model Rules (Model Rules) of Professional Conduct and the federal regulations governing the professional conduct for immigration practitioners. CLINIC cannot provide advice on any specific state's ethics rules, and we strongly encourage research and analysis into any applicable state rules of professional conduct, as these rules sometimes vary from the Model Rules. This publication addresses professional responsibility considerations solely based on reference to the Model Rules.

5 Model Rules of Prof'l Conduct R. 1.6(b)(6) (ABA 2012).<sup>6</sup>See 2 C.F.R. § 200; 2 C.F.R. § 3002.10

6 See 2 C.F.R. § 200; 2 C.F.R. § 3002.10

7 See Model Rules of Prof'l Conduct R.1.6, cmt. 12 (ABA 2012); Model Rules of Prof'l Conduct R. 1.0(e) (ABA 2023); Model Rules of Prof'l Conduct R.1.4 (ABA 2023).



## V. Create an Audit Response Plan

To prepare for a potential audit, program leaders should consider the following steps:

**Create a centralized audit folder:** Gather all relevant documents either in a physical or digital file for easy access. This will ensure that the program is able to quickly access the information they need in the case of a scheduled or unscheduled audit.

**Prepare for interviews and clarifications:** As mentioned above, auditors may request to interview staff members such as operations or program managers. Make sure that the relevant staff is prepared to explain how the grant has been managed and how funds have been spent.

**Train and inform staff:** Team members who work on the grant, as well as administrative staff, should be aware of the audit process, their roles during a potential audit, their obligations under the grant, and how they can assist in the process by providing documentation and/or explanations.

Being proactive now will not only facilitate an efficient audit but will also put the program in a better position to pivot and harness other opportunities for funding. For more information on proactive data collection, [see section V below](#).

## Revenue Generation

In response to unexpected funding cuts or threats to a source of revenue, programs that are not positioned to operate in a temporary deficit will need to rapidly plan to identify and secure sources of replacement revenue. Absent an agile strategy to recuperate lost or threatened funding, programs may risk both professional responsibility and legal liability stemming from rapid closure.

Additionally, some programs may be less vulnerable to immediate funding cuts but may be aptly considering revenue diversification strategies to insulate the program from having to take drastic measures in the event of losing one funding source. A healthy nonprofit revenue portfolio should include diverse sources of funding from foundations, fundraising, governments, and fees.

### I. Fees for Services

Some organizations choose to charge fees for immigration legal services. During these unprecedented times, programs that do not currently charge fees for immigration legal services may want to consider charging fees for the first time. Programs that already charge fees for services may want to consider reviewing the fee schedule to determine whether to increase some of the fees it charges. Indeed, fee revenue may be least vulnerable to fluctuation based on shifting political winds. A fee-for-service program also alleviates many of the frustrations associated with managing other sources of funding, such as tedious deliverable tracking, audits, and abiding by specific administrative requirements for reimbursement. Fee-based revenue generation allows the program to deliver services in the way it deems most equitable and mission-driven, while still offering valuable services at substantially lower rates than private attorneys. Anecdotally, programs that charge fees also report increased client cooperation during representation, leading to increased efficiency in service delivery.

The IRS revenue rulings and guidance regarding allowable fee generation for tax-exempt organizations contain some degree of ambiguity and require individualized analysis. Organizations need to balance a fee program's strong potential for revenue generation with these legal requirements. The income generated by fees for service will be well worth the initial effort needed to work through this dense and complicated analysis. Additionally, consulting with a tax expert will assist in ensuring that the fees developed do not compromise the organization's 501(c)(3) status. First, when developing and/or reviewing fee schedules, all organizations must comply with the Internal Revenue Code or "IRC."

## a. Organization's Purpose

To comply with the IRC, organization leaders must ensure that its organizing documents list the organization's purpose if using fees as an income-generating activity. That must be a purpose listed in the IRC. These include the following:

- Religious.
- Charitable.
- Scientific.
- Testing for public safety.
- Literary.
- Educational.
- Fostering of national or international amateur sports.
- Prevention of cruelty to animals and children.

"Charitable" may appear to be odd here, because all 501(c)(3) organizations are considered charitable. So why is there a specified purpose category with the same name? Generally, the answer is that it serves as a "catch-all" to capture all the qualifying 501(c)(3) purposes that do not neatly fit into one of the other categories above.

Tax-exempt organizations are permitted to charge fees for services provided that the fee is for an activity that is "substantially related" to the organization's purpose. In other words, the activity must contribute importantly toward achieving the mission of the organization. As such, the organization must ensure their articles of incorporation contain a broadly written purposes clause that permits an income-generating activity.

## b. Permissible Fee Generation

### i. Fees That Are "Substantially Related" to the Organization's Purpose

The IRS has not crafted a mathematical formula to define what is "substantial." Instead, courts have adopted a case-by-case approach, and over time, courts and the IRS have developed frameworks for different types of activities that generate income, including legal services. Generally, though, the more an activity fits within the realm of activities that have traditionally been recognized as charitable, the more likely the activity is to generate exempt income. Furthermore, the less the activity looks and feels like a traditional charitable endeavor, the more scrutiny the IRS will apply. As an example, "it is relatively easy for hospitals and schools, activities which have traditionally been exempt, to qualify for exemption as long as they do not improperly benefit insiders, do not discriminate, and provide an appropriate level of service to those who cannot afford to pay."<sup>8</sup>

Of course, the provision of legal services is not a traditionally charitable endeavor. Rather, IRS guidance provides it is "ordinarily a commercial activity."<sup>9</sup> Importantly, though, the IRS has recognized special circumstances in which legal services do qualify as charitable. For example, the provision of free legal services to persons otherwise financially incapable of obtaining such services is considered "charitable relief of the poor and distressed."<sup>10</sup> And there is an IRS ruling where the IRS approved charging fees for legal services. In that ruling, however, fees were based on an "indigent's" ability to pay rather than the type of service rendered."<sup>11</sup> And "[c]haritable classification of these organizations rests solely on the basis that they provide essential services to the poor who are otherwise unable to obtain them and they provide such services in a charitable manner."<sup>12</sup> Often, ILS agencies charge flat fees for services and provide guidelines for fee waivers based on ability to pay, which is allowable. Other times, organizations may incorporate a sliding scale or a fee structure that bases the amount charged for program services on a particular participant's ability to pay. Absent any restrictions in an organization's funding contracts (e.g., grant award letters that prohibit charging fees), using a sliding scale is permissible, as long as the organization incorporates policies that ensure accountability and fairness and proves a participant meets the standards outlined in the policy.

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8 Robert Wexler, Revenue-Generating Activities of Charitable Organizations: Legal Issues, Adler & Colvin., Apr. 2015, <https://www.adlercolvin.com/revenue-generating-activities-of-charitable-organizations-legal-issues/>.

9 Litigation By IRC 501(c)(3) Organizations, I.R.S. CPE 1984, <https://www.irs.gov/pub/irs-tege/eotopicd84.pdf>

10 Id.

11 Rev. Rul. 78-428, 1978-2 C.B. 177

12 Id.

## ii. Serving “Members of a Charitable Class”

Organizations may also charge fees when they are “serving members of a charitable class,” such as providing legal assistance to victims of “prejudice and discrimination,” and providing legal assistance “defend human and civil rights secured by law.”<sup>13</sup> However, the program must serve the charitable class in a manner that demonstrates a charitable purpose. For example, the organization may demonstrate charity by charging legal fees at a rate that is not ordinarily accepted by private attorneys in the area. Importantly, courts look to the following criteria to investigate an organization’s entitlement to exemption based on their serving members of a charitable class:

The relationship of the service provider to the recipient;

- Whether the fee charged is substantially below the charity’s cost of providing the service; in other words, whether the charity looks to charitable contributions to support the activity or whether it is self-supporting;
- The nature of the services provided; in other words, asking “how commercial seeming are the services?”; and
- Who are the recipients of the services – other nonprofits and/or others?<sup>14</sup>

This is “not simply a checklist.” Rather, the analysis requires weighing the “circumstances and nuances of each case.” Thus, the organization should discuss with their accountant or business tax lawyer whether the contemplated income-generating, legal services activity falls within the range of activities permitted under 501(c)(3).

## c. Considerations for Determining Fee Amounts

In determining what to charge as fees, it will be important for the program to evaluate the cost of staff time as well as the costs to keep the doors open, including things like ongoing education and training, tools, supervision, and benefits. Of course, some of these costs may be covered by another source of revenue where charging less than cost can still be “profitable” and reduce reliance wholly on grant funding. While the IRS will permit a certain amount of “at-cost” services to members of a charitable class, it generally regards the provision of legal services as an inherently commercial activity. And, to the IRS, a program that primarily engages in at-cost services may appear to be operating a private law practice, potentially jeopardizing its exempt status. Although the above factors reference “substantially below” cost, without defining them, IRS revenue rulings suggest that 75 percent of cost or even 85 percent of cost may be sufficient. As is already the case with nearly all ILS providers, a key factor in showing that services are being offered substantially below cost is that the service provider raises funds from other independent charities or other donors to subsidize the services.

In summary, the IRS may refuse recognition of, or even revoke, an organization’s tax-exempt status if the organization’s entire budget is based on fee income. Such consequences can occur regardless of whether an organization’s revenue derives from activities “substantially related” to the organization’s exempt purpose. For compliance with the IRC, it will be important to provide services to those who cannot afford to pay and to develop a fee schedule and budget that account for an appropriate level of fee-exempt services.<sup>15</sup> Ideally, programs’ fees should be at least 15 percent below cost of total operation.<sup>16</sup> While fee generation may be important to a program’s revenue portfolio, it is incumbent upon organizations to engage in fundraising strategies that diversify the organization’s funding sources so that the legal service program is not wholly relying on income-generating fees for services.

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13 Treas. Reg. 1.501(c)(3)-1(d)(2); Treas. Reg. 1.501(c)(3)-1(d)(3).

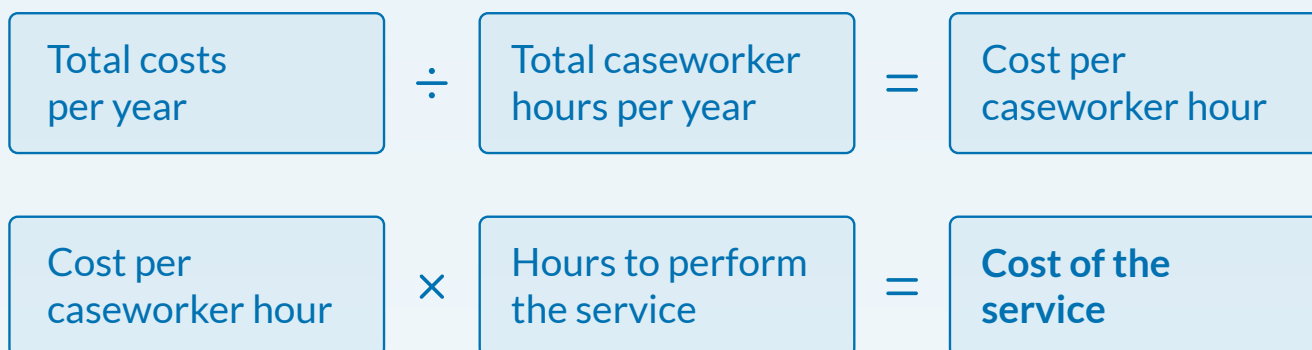
14 Wexler, *supra*.

15 Provision and accessibility of services primarily to “low-income and indigent” individuals is also required to obtain and maintain Department of Justice Recognition. The regulations do not define “low-income” or “indigent,” but the Office of Legal Access Programs (OLAP) will examine a fee schedule and fee-waiver policy in adjudicating recognition applications to ensure that fees are not prohibitive to the indigent. See 8 CFR § 1292.11(a)(1), 80 FR at 59519.

16 Keep in mind that this analysis depends on the unique circumstances of the organization. Organizations may feel comfortable charging fees that make up a higher percentage of the overall budget after analysis and consultation with tax professionals.

#### d. Calculating Service Delivery Cost

While CLINIC cannot provide advice on a fee level, and organizations should avoid comparing fees with other organizations to avoid exposure to price-fixing,<sup>17</sup> programs can use the following formula to determine what it costs the agency to deliver a particular service:



1. Determine the cost to run the program per year: caseworker salaries, plus benefits, plus agency overhead. Divide that by the number of hours per year your caseworkers work on immigration services. This number is the cost per caseworker hour of providing immigration legal services.
2. Multiply the cost per caseworker hour by the amount of time it typically takes a caseworker to deliver a particular service. This number represents the cost to the organization of providing the service.

When determining how long it takes a typical caseworker to deliver a particular service, the calculation should factor in the scope of the service. If the service will include representation at a naturalization interview, for instance, the time to complete the service will be a lot greater than if the practitioner were merely helping the client fill out the application. The calculation should also add in an appropriate amount of caseworker time for managing the case. In general, this includes notifying the client about the adjudication of the benefit and monitoring the case until such time. Many program managers are surprised when they add up all the time that goes into this on one case and realize that it is multiplied by hundreds of cases their agency is handling.

Also, calculations should account for the fact that, in a certain percentage of cases, there will be Requests for Evidence, denials, and USCIS errors that will require additional time. If case management software can track the frequency of such events, the calculation can factor a percentage of this number into the cost of every service. Some programs, however, would treat such events as new cases and would charge clients a new fee. When calculating the cost to the organization of providing services, make sure to take account of how the program will handle such additional work. Having ready access to data from the immigration program is essential to carrying out such calculations. Good case management software, used well, can quickly provide this information.

Knowing what it costs the organization to provide a particular service can serve as a guide for what fees to charge for that service. The fee for a naturalization application, for instance, should be higher than the fee for applying to replace a green card, since the naturalization application takes more time and thus costs the organization more to process.

Once an organization determines the cost to provide the service, fee-based services can be incorporated into the revenue line of a projected budget. To do so, organizations must return to the analysis above regarding the IRC. Importantly, based on this analysis, if an organization charges for income-generating immigration legal services and wants to qualify for exemption because they are “serving members of a charitable class,” it is ideal to keep income-generating revenue based on these services below approximately 85 percent of the organization’s budget. And, the budget’s revenue column should include additional, diversified funding sources, such as a combination of individual donors, grants, in-kind donations, etc., that contribute to covering the cost of running the immigration legal services program.

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<sup>17</sup> Anti-trust laws prohibiting price-fixing apply to nonprofits engaging in activities that are ordinarily commercial, such as provision of legal services. An in-depth discussion of price-fixing is outside the scope of this advisory. Organization leaders are encouraged to consult with tax counsel for more information.

## II. Foundations

Grant support from foundations makes up an important part of many programs' revenue portfolios, and foundation partners may be able to assist programs in responding to imminent funding needs in some cases.

While foundations typically issue grants on set, predetermined cycles, many also have access to emergency or discretionary funding that can be distributed outside of the typical cycles. In some cases, programs may be able to call upon foundation partners to communicate challenges the program is experiencing, and the foundation may have the capacity to help bridge gaps in funding. For example, many foundations give their executives and program officers the leeway to issue smaller grants without board approval. During a point of crisis or an anticipated crisis, it is prudent for program leaders to reach out to foundations with which they have relationships to inquire about emergency or discretionary assistance. Most foundations with this type of flexibility do not advertise their ability to quickly issue discretionary grants in emergency situations, so communicating with foundations' program officers may be fruitful. Even if the foundation partner is not able to immediately assist, a candid conversation with the program officer can also set the program up for future conversations about funding opportunities.

If foundations are unable to assist in a rapid response capacity, grant funding from foundations is a key component to many healthy programs' budgets. Programs without existing grant funding should consider engaging with foundations, and those who already have grant funding should reevaluate the landscape for potential grant partners in light of the changed political and philanthropic landscape.

To do so, program leaders should first understand that not all "foundations" are the same. There are two different types of funders that are commonly referred to as "foundations:" public charities and private foundations. A public charity is a grantmaking organization that receives funds from a variety of sources, including individuals, corporations, foundations, and public entities. They may engage in fundraising and seek broad public financial support.<sup>18</sup> While their names often include the word "foundation," their official IRS designation is called "public charity." They may also be referred to as "public foundations," "community foundations," or "public charities."

Private foundations are typically controlled by a small group of individuals or a family and receive most of their support from a small number of sources and investment income. They are usually established to grant money to charitable causes. The popular Bill and Melinda Gates Foundation is an example of a private foundation.

Nonprofit immigration legal services programs tend to have the most success securing funding from more localized public charities than from private foundations. Private foundation funding is not impossible to obtain, but it is more common for programs to be able to make a connection with and form a relationship with program managers from a local public charity.

It is worth investing in staff time to seek grant funding, but this can be difficult in times of financial uncertainty. CLINIC periodically offers trainings on grant funding that relates specifically to immigration programs, and programs are encouraged to keep an eye on [CLINIC's training calendar](#) for opportunities. In the interim, program managers can access valuable resources like:

- [Candid.org](#): A combination of the former entities The Foundation Center and GuideStar, Candid offers a valuable Foundation Directory that allows users to search for opportunities in your field.
- [Philanthropy News Digest](#): A subscription to this free publication will help program managers and grant writers stay in the know about philanthropy trends.
- [The Grantsmanship Center](#): A repository of many free and paid resources, including beginner trainings.
- [Nonprofit ready](#): A resource for free grant writing courses and resources

## III. Fundraising

Individual donor giving and fundraising efforts have the potential to address short-term budget deficiencies and, for some programs, represent a perennial source of a program's revenue portfolio.

Short term efforts like fundraising events, partnerships with restaurants or retailers, and social media campaigns can generate considerable revenue with minimal effort from program leaders. Depending on the scale of lost revenue, these types of short-term efforts have proven capable of temporarily replacing funding or bridging gaps while the program strategizes for a more concrete

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18 EO operational requirements: Private foundations and public charities, I.R.S., <https://www.irs.gov/charities-non-profits/eo-operational-requirements-private-foundations-and-public-charities>

long-term solution.<sup>19</sup> Many organizations affected by federal funding cuts are making urgent appeals to prospective donors. In response to cuts to foreign aid programs, for example, the International Rescue Committee ran a national news ad pleading for donor support.<sup>20</sup> Leaders of immigration nonprofits may consider crafting similar appeals marketing the importance and impact of their services to receptive audiences.

As programs consider diversifying a revenue portfolio to rely less heavily on federal sources of funding, more coordinated fundraising strategies may be a viable long-term replacement. In fact, in recent years, individual and corporate giving have made up approximately 70 percent of contributions, as compared to roughly 20 percent from foundation giving.<sup>21</sup>

Achieving revenue goals through fundraising, however, requires a coordinated strategy, well-defined objectives, and a plan to identify and engage donors. Organization leaders interested in integrating fundraising as a key component of its revenue portfolio will need to invest time, develop skills, and learn important legal requirements for effective and compliant fundraising. Successful fundraisers also have strong interpersonal skills that allow them to build rapport, relationships, and trust with potential donors. The National University Fundraising Academy has ample free resources, including on-demand webinar trainings, to equip fundraising professionals with the fundamental skills needed to engage in fundraising.

Leaders considering developing a fundraising strategy should begin by educating themselves on legal requirements for fundraising compliance.<sup>22</sup> Some key considerations include:

- Ensuring that the fundraising activities will be aligned with the organization's charitable purpose (as explained above in the fee-for-service section).
- Understanding of the tax implications of fundraising activities.
  - For example, some fundraisers may risk generating taxable "unrelated business income." Fundraisers often recruit corporate sponsors to support fundraising events or efforts. Depending on the characterization of the corporate sponsorship and the fundraiser's promotion of the business, the fundraiser may generate "unrelated business income" that is taxed at a substantial rate.<sup>23</sup>
- Ensuring that fundraising communications are honest and transparent to avoid any perception of impropriety or possible action for fraud in charitable contribution solicitations under both state and federal laws.
- Safeguarding against penalties for improper or unlawful consumer solicitations under the [Federal Trade Commission's telemarketing rules](#).

Fundraising activities are also heavily regulated at the state level. It is important for fundraisers to be familiar with state specific registration requirements, rules for solicitation, and recordkeeping and reporting rules.

#### IV. State and Local Funding

State and local funding opportunities for immigration legal services have also been increasing in recent years. In today's climate, program leaders should take advantage of these opportunities for support while keeping in mind that state and local government funding may eventually be susceptible to cuts due to political pressure or due to decreased federal funding flowing into local

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19 Even when engaging in short-term fundraising efforts, be sure to check carefully into state and federal regulations. Fundraising partnerships with commercial entities like restaurants or retailers, for example, are subject to limitations under the law. The National Council for Nonprofit notes, "The law surrounding charitable sales promotions/cause related marketing and "commercial co-ventures" is evolving." The Council offers advice and best practices in engaging in this type of fundraising as well as additional resources and tips for compliance when engaging in these types of fundraising relationships.

20 Reuters, NGO's newspaper ad asks Americans for donations after Trump's drastic aid cuts, Mar. 2, 2025, <https://www.reuters.com/world/us/ngos-newspaper-ad-asks-americans-donations-after-trumps-drastic-aid-cuts-2025-03-02>.

21 Joshua Meyer, 5 Takeaways and Next Steps from the Giving USA 2024 Report, Giving USA, Jul. 2, 2024, <https://givingusa.org/5-takeaways-and-next-steps-from-the-giving-usa-2024-report>.

22 This is not intended to be a comprehensive or exhaustive list of compliance requirements. Fundraisers should consult with qualified tax counsel and certified accountants to ensure compliance with all state and federal laws and regulations.

23 Tax on Unrelated Business Income of Exempt Organizations, I.R.S. Pub. No. 598, Cat. No. 46598X (Mar. 22, 2021), <https://www.irs.gov/pub/irs-pdf/p598.pdf>. See also Greg McRay, Nonprofit Unrelated Business Income Explained, Foundation group, Oct. 14, 2024, <https://www.501c3.org/nonprofit-unrelated-business-income/>.

government's budget. To the extent that programs currently rely heavily on state and local funding, leaders should take caution by strategizing for alternate streams of revenue in the event of a cut and should engage in advocacy for the continued support of legal services with government leaders. A recent [survey](#) conducted by the Center for Effective Philanthropy revealed that 60 percent of 585 nonprofit leaders surveyed expected future state and local funding levels to decrease in response to the political climate and the Trump administration's federal funding cuts. This highlights the importance of local advocacy and demonstrating the positive impacts of immigrant integration and of immigration legal services.

Even where state and local governments are supportive of newcomers, states or municipal governments may not have established applicable funding streams and may need help in establishing the best ways to offer funding. Also, keep in mind that if a state does not specifically provide grants for immigration legal services, a program may still be able to qualify for existing state or local funded grant opportunities by framing requests in terms of the outcomes or externalities, as discussed above. For example, local funding that addresses violence interruption or intervention programs may be a good fit for newcomer youth if your agency can offer holistic wraparound services. Also, if a state isn't offering funding for immigration legal services or funding that supports the positive outcomes or externalities of representation, program leaders should engage and advocate with amenable local leaders at every opportunity.

Familiarity with successful efforts to fund immigration services in other states and localities can help leaders effectively advocate with their own governments. Organizations' leaders are encouraged to examine examples of the types of immigration services funded by local and state governments. Below are several examples:<sup>24</sup>

- Funding to **mobilize pro bono talent** in order to provide immigrant justice legal services.<sup>25</sup>
- Funding that has been **expanded from naturalization services** to cover more immigration legal services, including removal defense.<sup>26</sup>
- Funding established through **public and private partnerships**.<sup>27</sup>
- Funding to provide **legal services for detained individuals** to help with their immigration court proceedings.<sup>28</sup>
- Funding to a **statewide network of nonprofits**, to provide free services to immigrants under three broad categories: (1) legal services, (2) education and outreach, and (3) legal training and technical assistance.<sup>29</sup>
- Funding for immigration legal services through **Interest on Lawyer Trust Accounts (IOLTA)**. States often require lawyers to deposit certain funds in a pooled IOLTA account. The income generated from the pooled funds is used for civil legal aid and other programs that support access to justice for low-income people. Each state has a funder that distributes funding earned from the interest gained on IOLTA accounts.<sup>30</sup>

## V. Harnessing Data for Future Opportunities

Even in the absence of an immediately identifiable funding opportunity, it is worth collecting data and gaining the ability to readily demonstrate outcomes and externalities. This can significantly mitigate against the long-term effects to the program spurred by the potential loss of sources of funding for immigration legal services. Positioning the program with ample data and information to pitch to potential funders and donors is important in times of uncertainty.

As an example, many programs have relied on Citizenship Instruction and Naturalization Application Services (CINAS) funding. In the grant opportunity, USCIS includes a rationale for why naturalization services are important. "Naturalization is a key milestone in the civic integration of immigrants. Naturalization requirements, such as knowledge of English, U.S. history, and government, encourage civic learning and build a strong foundation upon which immigrants can fully integrate into

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24 Examples of funding from local and state governments included in this advisory are meant for illustrative purposes only.

25 Washington DC: [Immigration Justice Legal Services \(IJLS\) Grant](#)

26 Seattle, WA [Legal Aid for Immigrants](#) and [New York State Office for New Americans](#).

27 Ramsey County partnered with the City of St. Paul and the [Vera Institute for Justice](#) to create an immigration legal defense fund. Minneapolis St. Paul [Immigration Legal Defense and Wrap Around Services](#)

28 Colorado [Office of New Americans](#)

29 California [Immigration Legal Services](#)

30 [Ohio Access to Justice Foundation](#), [New York IOLA Fund](#), [California Bar Access to Justice](#)

American society. Through preparing for naturalization, immigrants gain tools to become successful citizens and meet their responsibilities as United States citizens.”<sup>31</sup>

Additionally, they incorporate language for how the organization has and continues to support those efforts. CINAS funding provides “support to organizations that offer citizenship preparation services to LPRs. Additional activities that support this goal include identifying, implementing, and sharing best practices in citizenship preparation; increasing the use of and access to technology in citizenship preparation programs; working with local libraries and museums which serve as vital resources for immigrant communities; and incorporating strategies to foster welcoming communities as part of the citizenship and civic integration process.”<sup>32</sup>

Programs that have complied with gathering all the data to prepare for a potential audit and take inventory of all cases and outcomes can also use that framework and data to prepare a pitch for new funding.

Since naturalization services are limited, another way to harness the data that the program already collects is to consider how the work can be pitched in a way that allows the program to be flexible in responding to the needs of the community. It may be possible, for example, to communicate the effect of the program’s efforts in terms of impacts on the externalities of workforce development, economic security, or family unity. Workforce development and economic security are common ways to pitch work to obtain funding. This is attractive even in less immigrant friendly areas because it moves people towards self-sufficiency and increases economic participation. If a funder agrees to support work that results in workforce development, the program may achieve additional flexibility to include any work that obtains or maintains employment authorization for clients. Instead of a deliverable that promises X number of naturalization applications, the program may be able to support representation in TPS, DACA, Adjustment of Status, and much more, so long as the representation obtains or maintains work authorization. This type of pitch appeals to the idea of work force development but also does not limit the program in terms of the avenues to achieving work authorization under such a grant.

Promoting family stability and assisting children may be another example that multiple immigration legal services can achieve. Funders may be more motivated by the potential benefits to the family or the child than they would be about a pitch that is framed in terms of a more abstract number of immigration benefits or people served.

Immigration legal work can be promoted in terms of due process, family unity, judicial efficiency, protection of civil liberties, and many additional externalities. Capturing data regarding the outcomes of the representation the program is already engaging in is essential to being able to communicate and promote these outcomes.

## Conclusion

Given the enormity of the task of figuring out a financial solution for an ILS program affected by funding cuts, no one should bear the mantle on their own. Nor is it in the best interest for one individual to figure out the future of the ILS program. Continuous communication and collaboration between all key stakeholders of the ILS program is important. Program leadership should engage organizational leadership and vice versa. Through collaboration and engagement, hopefully, effective solutions will be found that are grounded in ethical practices and are in the best interest of the ILS program and its clients.

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31 [CINAS Grant Opportunity 2024](#)

32 *Id.*