

**2018 Income & Asset Requirements for Persons to be Eligible
for Assistance with Foundation Grants**

Please distribute to all staff involved in screening for eligibility and/or providing TAJF funded legal aid.

Each year, the Texas Access to Justice Foundation (TAJF) adopts criteria relating to income, assets, and liabilities defining the indigent persons eligible to benefit from TAJF grants. Household income-eligibility guidelines are based on the Department of Health and Human Services' (DHHS) most recent federal poverty guidelines. DHHS issues these guidelines each year in the [Federal Register](#).

These guidelines establish maximum household income levels for individuals and families eligible for assistance from TAJF-funded legal aid programs whether funded by Interest on Lawyers Trust Accounts (IOLTA), Basic Civil Legal Services (BCLS), Crime Victim Civil Legal Services (CVCLS), Veterans, or other TAJF grant funds. The purpose of the criteria for income, asset, and liabilities is to determine whether an individual seeking legal assistance, funded in part or whole with TAJF funds, has insufficient income and assets to make private legal assistance unavailable and therefore is eligible under one of TAJF's grant programs.

Organizations receiving any TAJF grants must use such funds to provide free civil legal services to individual indigent persons or low-income client groups, associations, and nonprofit organizations eligible under these guidelines and the enacting [rules of the source of funds](#) (see www.teajf.org/grants/applications). Grantees must adopt and utilize this criteria relating to income, assets, and liabilities defining the indigent persons eligible to benefit from TAJF grants.

See **2018 Financial Income Guidelines** for client eligibility under specific grants.

Grantees must have written asset & liabilities criteria in place for defining indigent persons eligible for TAJF-funded free civil legal services. See section on [Assets Limitations](#) below.

DEFINITIONS

1. Family: Includes only those persons related by blood or by law as relatives to the applicants for whom the applicant has a legal responsibility to support.
2. Income: Includes wages & earnings, unemployment compensation, workers' compensation, Social Security, Supplemental Security Income, public assistance, veterans' payments, survivor benefits, pension or retirement income, interest, dividends, rents, royalties, income from estates, trusts, educational assistance, alimony, child support, assistance from outside the household, and other miscellaneous sources.
 - Noncash benefits (such as food stamps and housing subsidies) do not count towards income.
 - Income considered before taxes

- Income excludes capital gains or losses.
 - If a person lives with a family, add income of all family members. (Non-relatives, such as housemates, do not count unless they contribute regularly to help financially support the household.)
3. Liquid Assets: Assets that can readily and promptly convert to cash by the individual seeking assistance, prior to the time that the assistance is required. Only net liquid assets, after subtracting all expenses of conversion and taxes, are considered.
 4. Non-Liquid Assets: All assets other than liquid assets.
 5. Available Assets: Assets to which the individual seeking assistance has legal and actual access without having to obtain the consent or cooperation of another person over whom the individual does not have control and who does not, in fact, consent or cooperate

No Exceptions to Income Guidelines

Unlike Legal Services Corporation funds, there are **no** provisions to allow household incomes to exceed the TAJF grants' maximum household income caps, using certain deductions or expenses that could reduce the household income to meet TAJF grant income guidelines.

Manner of determining financial eligibility.

In making financial eligibility determinations regarding individual applicants, a grantee shall make reasonable inquiry regarding sources of the applicant's income, income prospects and assets. The grantee shall record income and asset information

In making financial eligibility determinations regarding groups seeking TAJF -supported legal assistance, a grantee shall follow the requirements set forth by the individual TAJF grant.

A grantee shall adopt simple intake forms and procedures to obtain information from applicants and groups to determine financial eligibility in a manner that promotes the development of trust between attorney and client. The forms shall be preserved by the grantee.

If there is substantial reason to doubt the accuracy of the financial eligibility information provided by an applicant or group, a grantee shall make appropriate inquiry to verify the information, in a manner consistent with the attorney-client relationship.

When one grantee has determined that a client is financially eligible for service in a particular case or matter, that grantee may request another grantee to extend legal assistance or undertake representation on behalf of that client in the same case or matter in reliance upon the initial financial eligibility determination. In such cases, the receiving grantee is not required to review or re-determine the client's financial eligibility unless there is a change in financial eligibility status as described in below or there is substantial reason to doubt the validity of the original determination, provided that the referring grantee provides and the receiving grantee retains a copy of the intake form documenting the financial eligibility of the client.

Grantees' screening and intake procedures must be able to reasonably demonstrate that staff practice and follow procedures uniformly and consistently.

A total amount of the applicant's household income must be recorded even if it is zero. Records of TAJF client eligibility must be retained and be available for inspection in a manner consistent with attorney client confidentiality.

To determine monthly income, divide annual income by 12. For weekly income, divide annual income by 52, or divide monthly income by 4.2. Your approach must be in writing and used consistently. Income received twice a month should be multiplied by 2 to establish monthly income. If the applicant is a seasonal employee, consideration can be based on previous year. Applicants shall be informed of their duty to report changes in their income should you accept their case.

If an applicant's total household income is derived solely from a government program for low-income individuals or families on a needs-based test, then the grantee may determine that the applicant is financially eligible based on those benefits however the grantee must record household size, household income, and the specific identity of the government program.

Group Representation

Group eligibility legal assistance must be limited to groups who have no resources for legal assistance and the assistance is to benefit the low-income individual or low-income community in which they reside. In representing a client group, association, or nonprofit organization, the grantee must comply with all of the other provisions of these rules and is subject to all of the prohibitions contained herein. A client group, association, or nonprofit organization is eligible if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel and either:

- i. The group, or for a non-membership group the organizing or operating body of the group, is primarily composed of individuals who would be financially eligible for this TAJF-funded legal assistance
- ii. The group has as a principal activity the delivery of services, assistance or advocacy to those persons in the community who would be financially eligible for this TAJF-funded legal assistance and the legal assistance sought relates to such activity
- iii. The group has as a principal activity the delivery of services, assistance or advocacy to those persons in the community who would be financially eligible for this TAJF-funded legal assistance and the legal assistance sought relates to such activity

Change in financial eligibility status.

If, after making a determination of financial eligibility and accepting a client for service, the grantee becomes aware that a client has become financially ineligible through a change in circumstances, a grantee shall discontinue representation supported with TAJF funds if the

change in circumstances is sufficient, and is likely to continue, to enable the client to afford private legal assistance, and discontinuation is not inconsistent with applicable rules of professional responsibility.

If, after making a determination of financial eligibility and accepting a client for service, the grantee later determines that the client is financially ineligible on the basis of later discovered or disclosed information, a grantee shall discontinue representation supported with TAJF funds if the discontinuation is not inconsistent with applicable rules of professional responsibility.

Asset Limitations

Grantees must have an assets & liabilities policy that caps the amount of assets for eligibility determinations regarding TAJF-funded cases and clients. Grantees may select one of the below options or develop an alternative asset policy that is consistent with the intent to provide free civil legal services to indigent individuals. Staff and volunteers must adhere to the policy in determining eligibility for free civil legal services. The policy must be approved by the Board of Directors/Board of Trustees or governing body of the organization. If the legal program is a component of a larger non-legal aid institution, such as a religious organization, the chief executive officer may approve the policy. In the case of law school clinical program or bar association pro bono grantees, another designated authorized body or individual beyond the manger/director of the legal aid program must approve policy. The asset policy regarding TAJF eligibility must be in writing and available upon request.

SAMPLE OPTION 1

In general, an individual client may have up to \$10,000 in liquid assets (plus \$5,000 for each additional family member) and \$15,000 in non-liquid assets (plus \$5,000 for each additional family member). Exempted from the asset limit are the client's principal residence, first car, personal and household goods, tools, or equipment essential to employment, trusts restricted to educational or medical purposes, interest in IRA or Keogh plans, assets not counted by public assistance programs, and burial plots or trusts.

Where a client owns property, each asset must be identified (e.g., *savings account* or *vacation villa*), and its value must be entered into the client's financial eligibility field in their case-management system or paper application. The client's home, household goods, one car, or checking and/or savings account whose combined value is less than \$2,000 need not be listed. If the client has no countable assets, the grantee will report "*None*" in the appropriate area of the financial eligibility field.

SAMPLE OPTION 2

- 1) An individual seeking assistance may not have total family assets disregarding exclusions, if in excess of the following:
 - a) Liquid assets of \$2,500 or non-liquid assets of \$20,000.
 - b) \$5,000 in liquid assets or \$40,000 in non-liquid assets if a member of the applicant's family is elderly, handicapped, or institutionalized.

- 2) An individual seeking assistance may not have total family assets, disregarding exclusions, in excess of the following:
 - a) Liquid assets in excess of double, or non-liquid assets in excess of four times the estimated cost of obtaining private legal assistance for the matter on which assistance is sought.
 - b) Liquid assets in excess of three times the estimated cost of obtaining private legal assistance for the matter on which assistance is sought, if a member of the applicant's family is elderly, handicapped, or institutionalized, in which case non-liquid assets may be disregarded.
- 3) Exclusion: The following items are to be excluded from consideration in determining whether an individual seeking assistance has assets in excess of those permitted:
 - a) The principal residence of an individual seeking assistance, or of any member of the applicant's family.
 - b) The reasonable equity value in work-related equipment which is essential to the employment or self-employment of an applicant or members of an applicant's family.
 - c) Any assets which are exempted from execution by Texas or Federal Law.