

Texas Equal Access to Justice Foundation

CRIME VICTIMS CIVIL LEGAL SERVICES PROGRAM

GENERAL GRANT PROVISIONS

DECEMBER 2004

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refer to : <http://www.governor.state.tx.us/divisions/stategrants/guidelines/files/UGMS062004.doc>

ARTICLE I

GENERAL

1.01 INTRODUCTION

On January 11, 2002, the Office of the Attorney General of Texas (OAG) entered into an Interagency Cooperation Contract (IAC) with the Supreme Court of Texas to administer Crime Victims Compensation Funds for the provision of Civil Legal Services to victims, immediate family members, or claimants as defined by Article 56.32 of the Code of Criminal Procedure and as defined in the document entitled *Intake Screening for Victim Related Civil Legal Services* (Appendix B). In so doing, the Court appointed the Texas Equal Access to Justice Foundation (“Foundation”) to administer the Crime Victims Civil Legal Services Program (“CVCLS”) on behalf of the Court. The duties of the Foundation include, but are not limited to, the following:

- A. administering the application process,
- B. recommending grant recipients and awards to the Court,
- C. distributing funds by vouchers approved by the Court,
- D. monitoring grant recipients for compliance with grant requirements, and
- E. recommending sanctions to the Court.

In order to clarify the requirements of the program for Grantees, the Foundation has developed these General Grant Provisions. Unless otherwise indicated, all Grantees will be required to comply with these provisions.

1.02 DEFINITIONS

The capitalized terms used in these General Grant Provisions are defined as follows:

"Annual Financial Statements" or "Financial Statements" - Grantee’s audited annual financial statements prepared in conformity with FASB Statement No. 117 which accounts for and reports the IOLTA grant as a temporarily restricted fund.

"Approved Budget" - means the Proposed Budget and Budget Narrative submitted by a Grantee for the expenditure of the Grant after it has been approved by the Foundation.

"Budget Narrative" - means the budget explanation submitted to the Foundation by a Grantee along with the Proposed Budget.

"Carryover" - means the use of Grant funds in a Grant Period subsequent to the Grant Period for which they were awarded.

"Court" – means the Supreme Court of Texas.

"Crime Victims Civil Legal Services Funds" or "CVCLS Funds"- means funds from the Victims of Crime Fund that were appropriated by the Legislature to the Office of the Attorney General (OAG) for the creation of a program that would provide civil legal services to victims of crime, immediate family members of victims, or authorized claimants in civil legal matters that are directly related to the criminal victimization.

"Crime Victims Civil Legal Services Program" or "CVCLS Program" – means the Program created by the Office of the Attorney General (OAG) through an Interagency Cooperative Contract (IAC) with the Texas Supreme Court (Court) to provide civil legal services to victims of crime, immediate family members of victims, or authorized claimants in civil legal matters that are directly related to the criminal victimization.

"Default" - see Rule 10 of the Rules.

"Executive Director" - means the Executive Director of the Texas Equal Access to Justice Foundation.

"Foundation" - means the Texas Equal Access to Justice Foundation, the non-profit corporation appointed by the Court to administer the CVCLS Program on behalf of the Court.

"General Grant Provisions" or "Provisions" - means these CVCLS General Grant Provisions as amended by the Foundation from time to time.

"Grant" - means the award of CVCLS funds to a Grantee for a Grant Period pursuant to the Grant Agreement.

"Grantee" - means a qualified non-profit organization as defined in Rule 3 and named in the Grant Agreement as the recipient of the Grant.

"Grant Agreement" - means the contract between a particular Grantee and the Foundation pursuant to which a grant award is made and to which these provisions are attached.

"Grant Closeout" - means the process by which the Foundation determines that all applicable administrative actions and all required work of the Grant have been completed by the Grantee and the Foundation.

"Grant Period" - means the period of time specified in the Grant Agreement during which expenditures for items set forth in the Approved Budget may be applied against the Grant.

"Installments" - means portions of the Grant as disbursed by the Court from time to time.

"Project" - means identified activity or program approved by the Foundation.

"Proposed Budget" - means the itemized budget submitted by the Grantee.

"Rules" - means the *Order of the Court Approving Rules and Procedures Governing the Administration of the Crime Victims Civil Legal Services Program, including the Distribution of and Sanctions with respect to the Funds* as approved adopted and promulgated by the Supreme Court of Texas (Appendix C).

"Termination" - means cessation of payment of Grant Installments and withdrawal of the Grantee's right to receive and authority to obligate previously awarded Grant funds before that right and authority would otherwise expire. It also means the voluntary relinquishment of that right and

authority by the Grantee. "Termination" does not include the refusal of the Foundation to consent to a Carryover or the determination by the Foundation that a Grantee will not be awarded funds for a subsequent Grant Period.

ARTICLE II

GRANT PAYMENT PROVISIONS

2.01 TIMING OF PAYMENTS

Upon a Grantee's satisfaction of each of the conditions contained in Section 2.04 hereof, the Foundation shall notify the Court and the Court shall release one-third (four-twelfths) of the Grant to the Grantee. Following receipt and approval of the quarterly reports submitted pursuant to General Grant Provision 5.01 and subject to Section 2.02, and receipt of a signed Quarterly Certification, the remainder of the Grant will be released in periodic Installments on or about the first business day of the month following the due date of the quarterly report. Notwithstanding the foregoing, the Foundation reserves the right in its sole discretion to alter the disbursement schedule of the Grant for any or all Grantees from time to time. Grantees should submit requests for different disbursement schedules at the time of submission of the Proposed Budget and include a detailed explanation in the Budget Narrative or as a request for budget alteration if the reason for a change occurs after the beginning of the Grant Period. In the event of a Default, the Foundation may impose reasonable conditions that must be satisfied before all or any portion of the Grant is released.

2.02 FUNDING ADJUSTMENTS

The Foundation, as an agent of the Court, reserves the right to make adjustments in the amounts, permitted uses or other conditions of Grants, as it may deem appropriate from time to time.

Adjustments may be made by the Foundation to the Grant in total or to any one or more Installments. The Foundation will condition disbursement of any CVCLS Funds which may be awarded in addition to the Grant on the Court's approval of a supplement to the Approved Budget in such form as the Foundation may direct, specifying the use of such additional funds by the Grantee. Grantees will expend such additional funds only in accordance with the approved supplement to the Approved Budget.

2.03 UNEXPENDED FUNDS

At the conclusion of a Grant Period, the Grantee will account to the Foundation for the disposition of the Grant as a part of the quarterly reports and Financial Statements required by the Rules. Any unused portion of the Grant will be returned to the Foundation at the time for such accounting. Unused funds which are returned to the Foundation shall be returned to the CVCLS account of the Office of the Attorney General. These funds are not included in CVCLS funds to be awarded in the future.

2.04 CONDITIONS PRECEDENT TO THE RELEASE OF FUNDS

Prior to the release of any Installment of the Grant, Grantees will have satisfied each of the following conditions:

- A. The Grantee has submitted a Proposed Budget and Budget Narrative as set out in section 3.01 below.
- B. The Grantee has executed the Grant Agreement.
- C. The Grantee shall have made the assurances set forth in Article XVI and the factual statements made therein shall remain unchanged.
- D. All of the statements and representations contained in the application for funding shall be accurate and remain unchanged materially.

No further Installments shall be released to the Grantee if the Grantee has not continued to satisfy the conditions set forth in paragraphs C and D above.

ARTICLE III

APPROVED BUDGET AND USE OF FUNDS

3.01 APPROVED BUDGET

Upon receipt of notification of a proposed Grant, a Grantee shall submit within two weeks, or other time period specified by the Foundation, a Proposed Budget and Budget Narrative for the proposed expenditure of the Grant. The Foundation will provide instructions and guidelines for the submission of the Proposed Budget and Budget Narrative. All Proposed Budgets and Budget Narratives will be reviewed by the Foundation for compliance with the Rules. Upon approval of the Proposed Budget and the Budget Narrative by the Foundation said Proposed Budget and Budget Narrative shall be deemed an "Approved Budget," and the Grant will be disbursed to the Grantee in accordance with Article II of these Provisions, subject to the Rules, these General Grant Provisions and the Approved Budget.

3.02 USE OF FUNDS

The Grant shall be expended by the Grantee to provide civil legal services without charge to indigent persons as defined in the Rules and for the specified purposes and in the amounts as set forth in the Approved Budget as amended from time to time in accordance with the procedure provided herein.

3.03 COMPLIANCE WITH LAWS

Grantees must at all times comply with the assurances contained in Article XVI. In addition, Grantees will comply with all relevant statutes, rules, regulations or decisions of the State of Texas or any applicable subdivision thereof.

ARTICLE IV

STANDARDS FOR GRANTEE

FINANCIAL MANAGEMENT SYSTEMS AND AUDITS

4.01 FINANCIAL MANAGEMENT STANDARDS

Grantees will comply with financial management standards and requirements of the Rules. The Foundation may impose additional requirements from time to time to reasonably enable it to monitor and evaluate the Grantee's Project and use of the Grant funds. To assist in such evaluation, the Approved Budget and quarterly financial reports will allocate Project expenses paid with Grant funds between program costs and administrative costs.

A. Program Costs

General. "Program" or "Direct Costs" are those that can be identified specifically with a particular final cost objective.

Application. Typical "Program" or "Direct Costs" chargeable to the award include:

1. Compensation of employees for time devoted and identified specifically to the performance of the award.
2. Cost of materials acquired, consumed or expended specifically for the purposes of the award.
3. Equipment and other approved capital expenditures.
4. All other items of expense incurred specifically to carry out the award.

Minor Items. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives

B. Administrative Costs

“Administrative” or "Indirect Costs" are those incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved. Administrative Costs are typically indirect costs. Charges for Administrative Costs normally will include items such as occupancy, utilities, telephone, office supplies or administrative salaries incurred for the benefit of the Project as a whole, as well as other activities of the Grantee.

4.02 ALLOCATION

The Approved Budget will allocate expenditures of the Grant between Program and Administrative Costs. Each item of cost must be treated consistently in like circumstances as either a Program Cost or an Administrative Cost. The Budget Narrative will detail Administrative Costs as a proportion of the total Grant. All such allocations will be based on the reasonable estimate of Grantees.

4.03 ALLOWABLE COSTS

Grantees will abide by the allowable costs provisions as stated in Attachment B of the Texas Uniform Grant Management Standards which are incorporated hereto by reference (See Appendix D).

4.03 SOURCE DOCUMENTATION

Accounting records shall be supported by source documentation such as canceled checks, paid bills, timecards, payrolls, etc. The Foundation may disallow unsupported expenditures and may require that funds expended for unsupported expenditures be returned.

4.04 AUDIT RESOLUTION

The Foundation may require Grantees to follow a systematic method to assure timely and appropriate resolution of annual audit findings and recommendations and to report progress in such manner and at such times as the Foundation shall deem appropriate.

4.05 FINANCIAL STATEMENT

Grantees shall submit a Financial Statement in compliance with Rule 9.4(iii) of the Rules, unless a waiver is obtained pursuant to that same rule.

ARTICLE V

REPORTING AND MONITORING OF PROGRAM PERFORMANCE

5.01 REPORTING BY GRANTEES

Grantees shall comply with all reporting requirements required by the Rules. The Foundation may impose additional, reasonable reporting requirements from time to time.

5.02 SIGNIFICANT DEVELOPMENTS BETWEEN SCHEDULED REPORTING DATES

Between the scheduled reporting dates, events may occur which have significant impact upon the Grant. The Grantee shall inform the Foundation as soon as the following types of conditions become known:

- A. Problems, delays or adverse conditions which will materially impair the Grantee's ability to comply with the Approved Budget or General Grant Provisions. A statement of the action taken or contemplated shall accompany this disclosure, and any assistance needed to resolve the situation.
- B. Any facts or events that would make the Grantee ineligible for funding if it were making application for funding at that time.

5.03 PROGRAM VISITS

Pursuant to Rule 9.5, visits to one or more of a grantee's places of business may be made as necessary by Foundation representatives to inspect and review a project's physical facilities, financial and program records, operational policies and procedures, including but not limited to, observation of grantee's delivery of basic civil legal services, and such other aspects of a grantee's program as may be reasonably necessary to ensure compliance with the Rules, the Grant Agreement and these grant provisions.

ARTICLE VI

BUDGET REVISIONS AND PROGRAM CHANGES

6.01 BUDGET REVISIONS

Grantees shall not materially deviate from the Approved Budget without first obtaining the prior written consent of the Executive Director. A material deviation will be deemed to have occurred in the event of any of the following: (1) anticipated or actual expenditures of Grant funds which are materially greater or less than as set forth in the Approved Budget, whether in total or by individual line item; (2) anticipated or actual expenditures of Grant funds which materially alter the ratio of Program to Administrative Costs; (3) anticipated or actual expenditures of Grant funds which involve a disposition of property acquired with Grant funds; or (4) anticipated or actual expenditures of Grant funds for which no budget line item has been approved by the Foundation. Budget amount increases or decreases will be deemed material when they meet either of the following tests:

- A. The individual deviation is in excess of \$1,000 and exceeds the lesser of \$10,000 or 10% of the Grant for that Grant period; or
- B. The accumulated total of all budget deviations since the beginning of the Grant Period exceeds the lesser of \$10,000 or 10% of the Grant for that Grant Period.

In the event of a material budget deviation, the Grantee shall request a revision of its Approved Budget. Such request shall be in writing submitted to the Executive Director fully delineating the request, the reasons for it, why it is necessary and its effect on the Grantee. The Executive Director may request such additional information as he or she may deem necessary. If the Executive Director determines that use of funds is consistent with the goals of the CVCLS Program, he or she will approve the request and the Approved Budget will be deemed amended accordingly.

6.02 PROGRAM CHANGES

In the event of any of the following program changes, the affected Grantee will notify the Foundation in writing within seven (7) business days:

- A. The occurrence of any event which makes or with the passage of time will make the Grantee ineligible to receive a Grant if it applied at that time;
- B. Any material change in the Grantee's program or other funding, if any, which would make the Budget Narrative inaccurate; or
- C. Any change in the name, address or telephone number of the Grantee or any change of the individual who is responsible for the Grantee's expenditure of the Grant.

ARTICLE VII

RETENTION AND ACCESS REQUIREMENTS FOR RECORDS

7.01 LENGTH OF RETENTION PERIOD

- A. Except as provided in paragraphs (B) and (C) of this section, records shall be retained for five years from the starting date of the submission of the final expenditures report or ending date of Grant Period, whichever is later.
- B. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the five-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period, whichever is later.
- C. In order to avoid duplicate record keeping, the Foundation may make special arrangements with Grantees to retain any records that are continuously needed for joint use. The Foundation will request transfer of records to its custody when it determines that the records possess long-term value. When the records are transferred to or maintained by the Foundation, the five-year retention requirement is not applicable to the Grantee.

7.02 SUBSTITUTION OF ORIGINAL RECORDS

Copies made by microfilming, photocopying or similar methods may be substituted for the original records.

7.03 ACCESS TO RECORDS

- A. Records of Grantees: The Foundation, or any of its authorized representatives, shall have the right of access to any books, documents, papers or other of the Grantee's records which are pertinent to the Grant, in order to make audits, examinations, excerpts and transcripts.
- B. Expiration of Right of Access: The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are retained.

ARTICLE VIII

MANAGEMENT OF PROPERTY

8.01 GOVERNED BY TEXAS UNIFORM GRANT MANAGEMENT STANDARDS

Grantee will abide by the provisions regarding management of property as found in Section III, Subpart C, of the Texas Uniform Grant Management Standards which are incorporated hereto by reference (See Appendix D).

ARTICLE IX

DEFAULT AND SANCTIONS

9.01 DEFAULT DEFINED

Grantee shall be deemed in default of the grant conditions upon the occurrence of any of the following:

- (i) Any material violation by the Grantee of the Act, these Rules, grant provisions, the policies of the Foundation, or the grant agreement;

- (ii) Any use of grant funds not in substantial compliance with the approved budget and grant agreement including approved budget revisions for that grant period;
- (iii) The occurrence of any event which would make the Grantee ineligible to receive a grant if applying for one at that time;
- (iv) The submission of any materially false or misleading information to the Foundation as a part of the grant application, approved budget, financial report, financial statements, or otherwise; or
- (v) Any failure to return unused grant funds at the end of a grant period.

9.02 REMEDIES UPON DEFAULT

In the event of default by a Grantee, the Foundation shall have the right to recommend to the Court sanctioning a Grantee as detailed in Rule 11. Following are the procedures to be followed by the Foundation in deciding to recommend sanctions.

- A. Before recommending sanctions, the Foundation shall provide reasonable notice to the Grantee if a condition of default is determined to exist.
- B. Before recommending sanctions, the Foundation will allow the Grantee an opportunity to correct any deficiency (if reasonably possible to do so).
- C. The Executive Committee of the Foundation may, at its sole discretion, provide for a hearing before it or the Board of Directors of the Foundation.

ARTICLE X

GRANT CLOSEOUT

10.01 CLOSEOUT

- A. Except as otherwise provided herein, each Grant shall be closed out as promptly as is feasible after expiration or termination.
- B. In closing out Grants, the following shall be observed:

1. The Grantee shall return all unused Grant funds immediately.
2. Within thirty (30) days of any termination, the Grantee shall submit a final accounting of all Grant funds for the current Grant Period.
3. Grantee shall submit an annual financial statement pursuant to and as set forth in Rule 9.4 (iii) unless a waiver is sought and granted according to the procedures set forth in said Rule.

10.02 RIGHTS NOT AFFECTED

- A. The closeout of a Grant does not effect the retention period for, or Foundation rights of access to, records as provided herein.
- B. If a Grant is closed out without audit, the Foundation retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit that may be conducted later.
- C. The closeout of a Grant does not affect the Grantee's responsibilities with respect to property under Article VIII hereof, or unexpended Grant funds as provided herein.
- D. The closeout of a grant does not affect the legal or ethical responsibilities of a lawyer to a client under the State Bar Act, the Texas Disciplinary Rules of Professional Conduct or any other statutes, rules, regulation or provisions applicable to lawyers.

10.03 AMOUNTS PAYABLE TO FOUNDATION

For each Grant, the following sums shall constitute a debt or debts owed by the Grantee to the Foundation, as an agent of the Court, and shall, if not paid upon demand, be recovered from the Grantee or its successor or assignees by setoff or other action as provided by law:

- A. Any CVCLS Funds paid to the Grantee in excess of the amount to which the Grantee is finally determined to be entitled;
- B. Any amounts due the Foundation under these Provisions; and
- C. Any other amounts finally determined to be due the Foundation.

The Foundation will remit the amounts collected to the Court to be credited to the CVCLS account.

10.04 TERMINATION BY CONSENT

In addition to termination upon a Default, Grants may be terminated in whole or in part as follows:

- A. By the Foundation with the Court's approval and consent of the Grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion of the Grant to be terminated; or
- B. By the Grantee, upon written notification to the Foundation, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the Foundation determines that the remaining portion of the Grant will not accomplish the purposes for which the Grant was made, the Foundation may recommend and the Court may decide to terminate the Grant in its entirety.

ARTICLE XI

SUBGRANTS

11.01 SUBGRANT DEFINED

A subgrant is a grant of funds from a Grantee to a separate nonprofit organization to accomplish the purposes of the original CVCLS Grant. A subgrant is distinct from a contract for services in the following ways:

- ◆ A subgrant may be made only to an eligible 501(c)(3) nonprofit corporation.
- ◆ A contract for services may be with a for-profit entity or individual, as well as with a nonprofit organization.
- ◆ In the case of a contract for services, the Grantee agrees to pay a specific rate of compensation for a specific service that advances the mission of the Grantee.
- ◆ In the case of a subgrant, the Grantee grants funds to the subgrantee for use at its discretion with regard to any restrictions imposed to advance the subgrantee's mission.
- ◆ A contract for services is typically for a specific service on behalf of the Grantee.

- ◆ A subgrant is typically for general purposes in furtherance of the original Grant purposes.
- ◆ A subgrant may involve costs in addition to a specified rate of compensation.

11.02 RESTRICTIONS ON SUBGRANTS

No Grantee shall subgrant any CVCLS Grant funds to any other organization unless it is approved by the Foundation. The organization receiving a subgrant must read, understand, comply with, and agree in writing to be subject to and bound by the Act, Rules, these CVCLS General Grant Provisions, and other policies of the Foundation. The Grantee organization providing the subgrant shall be responsible for monitoring the recipient organization to determine compliance. The organization receiving a subgrant also may be monitored by the Foundation.

Any subgrant must be part of a Grantee's approved budget. Proposed subgrants must be identified in the Grantee's Proposed Budget and Budget Narrative submitted with its Grant Application.

While a Grantee may contract with another entity to provide services to or on behalf of the Grantee, it may not give CVCLS funds unconditionally to another organization for the other organization's purposes.

ARTICLE XII

ATTORNEY'S FEES

Funds may not be used for any case or matter that, if undertaken on behalf of an indigent person

by an attorney in private practice, might reasonably be expected to result in payment of a fee for legal services from an award to a client from public funds, or from the opposing party. (Rule 5) However, the conditions of Rule 5 shall not apply in any case where the Grantee determines in good faith that the indigent person seeking legal assistance has made reasonable efforts to obtain the services of an attorney in private practice for the particular matter (including contacting attorneys in private practice in the county of residence of the indigent person who normally accept cases of a similar nature), and has been unable to obtain such services because the potential fee is inadequate, is likely to be uncollectible, would substantially consume any recovery by the client, or because of any other reason which the organization, acting in good faith, believes prevents the client from obtaining the services of a private attorney.

ARTICLE XIII

APPEALS

CVCLS Grants are not entitlements. Recommendations for CVCLS Grant awards are discretionary decisions made collectively by majority vote of the Board members, each of which applies his or her best judgment to each decision. There may be as many different reasons for each grant decision as there are Board members comprising each voting majority. The Court has absolute discretion in accepting or rejecting recommendations for Grant awards. By the nature of this process each grant decision is a final decision from which there is no right of appeal or reconsideration, as indicated in Rule 17 of the Rules. Applicants are free to seek information about the Board's determinations either from the Chair of the Board or the Executive Director and will find that the Board has an open information policy, although no such information can be relied upon as absolutely predictive of a discretionary, collective decision-making process.

ARTICLE XIV

EMERGENCY GRANTS

The Foundation may recommend and the Court may approve funding requests outside of its annual grant cycle in emergency situations. However, the Foundation will only consider such emergency requests when the following criteria are satisfied:

- A. The request must come from a current recipient of CVCLS funding;
- B. An emergency grant must meet the Foundation's regular grant criteria; and
- C. The applicant must show the following:
 - 1. The need to be filled by the grant is highly meritorious;
 - 2. The organization submitting the proposal had no reasonable expectation the emergency would occur that would have allowed it to address the need in the application for the last previous grant cycle;
 - 3. The nature of the emergency requires a decision on funding before the Foundation's next grant cycle;
 - 4. Other funding is not obtainable that will meet the emergency need; and
 - 5. If the emergency is caused by loss of anticipated funding, the lost funding was committed to the organization and it was not foreseeable that it would be lost.

ARTICLE XV

ASSURANCES FOR GRANTEES

The Grantee assures compliance with the following:

- A. Funds allocated by the Court will be used only for the purposes set forth in the *Rules And Procedures Governing The Administration Of The Crime Victims Civil Legal Services Program, Including The Distribution Of And Sanctions With Respect To The Funds*.
- B. The Grantee will:

1. at all times honor the attorney-client privilege and will uphold the integrity of the adversary process;
 2. not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representations to indigent clients with funds provided in whole or in part by the Court;
 3. not discriminate on the basis of race, color, national origin, religion, sex, handicap or age.
- C. All funds allocated by the Court will be expended exclusively to support the provision of legal services without charge to low income persons.
- D. Attorney fees received by the Grantee that are generated through court awards in cases funded CVCLS Funds will be used to provide legal services without charge to low-income persons.
- E. All funds allocated by the Court will be expended exclusively to support services in the county or counties for which the monies were allocated.
- F. The Grantee will comply with quality control review procedures adopted by the Foundation.
- G. The Grantee will comply with fiscal management and control procedures (Standards for Financial Management Systems and Audits as stated in Article IV of these Provisions) adopted by the Foundation.
- H. The Grantee will permit site visits and present additional information when deemed reasonably necessary to determine compliance with the Rules.

APPENDIX A

CRIME VICTIMS CIVIL LEGAL SERVICES PROGRAM

COMPLIANCE SUPPLEMENT

SECTION I: ORIGIN OF THE FUNDS, MINIMUM QUALIFICATIONS FOR A GRANT, FOR WHAT THE FUNDS MAY AND MAY NOT BE USED, AND AUDITOR'S REQUIREMENT

Effective September 1, 2001, the Texas Legislature enacted the General Appropriations Act, S.B. 1, Article I, Strategy C.1.3, Victims Assistance, 77th Leg. Reg. Sess. 2001 (hereafter "GGA") to provide victim-related civil legal services to the indigent victims, indigent immediate family members of indigent victims or indigent claimants ("Crime Victims Civil Legal Services Program"). By Order of the Supreme Court of Texas, rules and procedures governing the administration of the Crime Victims Civil Legal Services Program, including the distribution of and sanctions with respect to the Funds ("Rules") have been adopted. The Texas Equal Access to Justice Foundation ("Foundation") administers the Crime Victims Civil Legal Services Program on behalf of the Court. (Rule 1)

Pursuant to GAA and the Interagency Cooperation Contract between the Office of the Attorney General (OAG) and the Texas Supreme Court (Court), the OAG will transfer funding for the CVCLS Program from the Victims of Crime Fund to the Court. Funds received by the Court are credited to the Basic Civil Legal Services Account of the Judicial Fund and administered by the Court (Account) for use in programs recommended by the Foundation and approved by the Court that provide victim-related civil legal services to indigent victims, indigent immediate family members of indigent victims or indigent claimants. (Rule 2)

To qualify for a grant, at a minimum, an organization must

1. be a nonprofit organization exempt from taxation under section 501(c)(3) of the IRC (Rule 3),
2. use the Funds to provide victim-related civil legal services to indigent victims, indigent immediate family members of indigent victims or indigent claimants who earn not more than 187½ % of the federal poverty guidelines published by the United States Department of Health and Human Services (Rule 4), and
3. be current in all filings required to be made by it with any governmental authority, maintain open records and conduct open meetings, and be an equal employment opportunity employer (Rule 3).

Funds from the Account must be used to provide victim-related civil legal services to indigent victims, indigent immediate family members of indigent victims or indigent claimants and may be

used to support a lawsuit brought by an individual, solely on behalf of the individual or the individual's dependent or ward, to compel a governmental entity to provide benefits that the individual or the individual's dependent or ward is expressly eligible to receive, by statute or regulation, including Social Security benefits, Aid to Families with Dependent Children, financial assistance under Chapter 31, Human Resources Code, Food Stamps, special education for persons with disabilities, Medicare, Medicaid, subsidized or public housing, and other economic, shelter or medical benefits provided by a government directly to an indigent individual, but not to support a claim for actual or punitive damages. (Rule 7)

Funds may not be used for the following activities unless an exception is stated:

1. Funds may not be used for any case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, might reasonably be expected to result in payment of a fee for legal services from an award to a client from public funds, or from the opposing party. (Rule 5) However, the conditions of Rule 5 shall not apply in any case where the Grantee determines in good faith that the indigent person seeking legal assistance has made reasonable efforts to obtain the services of an attorney in private practice for the particular matter (including contacting attorneys in private practice in the county of residence of the indigent person who normally accept cases of a similar nature), and has been unable to obtain such services because the potential fee is inadequate, is likely to be uncollectible, would substantially consume any recovery by the client, or because of any other reason which the organization, acting in good faith, believes prevents the client from obtaining the services of a private attorney. (Rule 6)
2. No Funds shall be granted by the Foundation to directly fund class action suits, lawsuits against governmental entities, or lobbying for or against any candidate or issue (Rule 7)
3. Funds from the Account may be used to support a lawsuit brought by an individual, solely on behalf of the individual or the individual's dependent or ward, to compel a governmental entity to provide benefits that the individual or the individual's dependent or ward is expressly eligible to receive, by statute or regulation, including Social Security benefits, Aid to Families with Dependent Children, financial assistance under Chapter 31, Human Resources Code, Food Stamps, special education for persons with disabilities, Medicare, Medicaid, subsidized or public housing, and other economic, shelter or medical benefits provided by a government directly to an indigent individual, but not to support a claim for actual or punitive damages. (Rule 7)

SECTION II: SUGGESTED AUDITING PROCEDURES

The auditor must read, understand and apply the GAA, IAC, Rules, General Grant Provisions, including the allowable costs provisions as stated in Attachment B of the Uniform Grant Management Standards, Grant Agreement, and any other policies of the Foundation in determining compliance ("Governing Documents").

In addition to all other generally accepted auditing standards, the auditor should do the following:

1. Review Grantee's board minutes to determine changes in existing policies or the adoption of new policies that contradict the requirements of the Governing Documents.
2. Perform tests of the expenses to determine that no funds were used for prohibited activities as defined in the Governing Documents.
3. Determine that the Grantee's 501(c) (3) tax-exempt status is current. (Rule 3)
4. Determine that the Grantee is current in all filings required to be made by it with any governmental authority, maintains open records and conducts open meetings, and is an equal employment opportunity employer. (Rule 3)
5. Determine that Grantee did not subgrant funds to any organization not specifically approved by the Foundation. Determine that the Grantee has a written agreement with subgrantee that acknowledges the subgrantee's responsibilities in accordance with Rule 3.
6. Determine that the Grantee uses the Funds to provide victim-related civil legal services to indigent victims, indigent immediate family members of victims or indigent claimants who earn not more than 187½% of the federal poverty guidelines published by the United States Department of Health and Human Services without charge. (Rule 4)
7. Review case acceptance policies or practices in place to ensure that if fee-generating cases are accepted, it is done in accordance with Rules 5 and 6.
8. Determine that the Grantee obtains and maintains engagement letters or retainer agreements for all clients with appropriate provisions for the withdrawal of representation, except for matters involving limited advice and brief services. (Rule 8.1(iii))
9. Determine that Grantee keeps its financial records in accordance with generally accepted accounting principles or other comprehensive basis of accounting approved by the Foundation. (Rule 9)
10. Determine that the charges against the Grant were accounted for as restricted funds. (Rule 9.3 (i))
11. Determine that the charges made against the Grant were in accordance with the Approved Budget, including amendments, if any, and supported by appropriate source documentation. (Rule 9)

12. With respect to personnel costs: Review timesheets or time records to determine that employees paid with these funds did not engage in prohibited activity as defined in the Governing Documents.
13. Determine if policies regarding prohibiting activities as set forth in the Governing Documents are communicated to staff. Interview staff about their knowledge concerning possible participation in prohibited activity by any Grantee employees in the course of job performance with the Grantee.
14. Prepare a Supplemental Schedule for CVCLS funds showing revenues and expenses by natural classification correlating to the Approved Final Amended Budget. (Rule 9.4 (iii))

APPENDIX B
INTAKE SCREENING FOR VICTIM RELATED CIVIL LEGAL SERVICES

For all crime victim related legal services provided, the following information must be provided and retained by the service provider for audit purposes. A completed checklist showing that the recipient of legal services is a victim, claimant or immediate family member of a victim. Services provided must be to persons eligible under Article I, Section 31 of the Texas Constitution, and Texas Code of Criminal Procedure, Chapter 56, Subchapter B.

CHECKLIST

I. In order to be eligible as a **victim** under article 56.32 of the Texas Code of Criminal Procedure, an individual must qualify under one of the three situations listed below an individual must:

- A. be a resident of this state, another state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a possession or territory of the United States; and
 suffer personal injury or death as a result of criminally injurious conduct, or as a result of actions taken by the individual as an intervener, if the conduct or actions occurred in this state.
- B. be a resident of this state; and
 suffer personal injury or death as a result of criminally injurious conduct or as a result of actions taken by the individual as an intervener, if the conduct or actions occurred in a state or country that does not have a crime victims' compensation program that meets the requirements of Section 1403(b), Crime Victims Compensation Act of 1984 (42 U.S.C. Section 10602(b)); and
 would be entitled to compensation under this subchapter if the criminally injurious conduct or actions had occurred in this state.
- C. be a resident of this state; and
 suffers personal injury or death as a result of criminally injurious conduct caused by an act of international terrorism as defined by 18 U.S.C. Section 2331 committed outside of the United States.

II. In order to be eligible as a **claimant** under article 56.32, an individual must be;

- an authorized individual acting on behalf of a victim, or
- an individual who legally assumes the obligation or who voluntarily pays medical or burial expenses of a victim incurred as a result of the criminally injurious conduct of another; or
- a dependent of a victim who died as a result of criminally injurious conduct; or
- an immediate family member or household member of a victim who requires psychiatric care or counseling as a result of the criminally injurious conduct; or
- an authorized individual acting on behalf of an individual who is a child and who is also either a dependent of a victim who died as a result of criminally injurious conduct or

an immediate family member or household member of a victim who requires psychiatric care or counseling as a result of the criminally injurious conduct.

III. In order to be eligible as an **immediate family member of a victim** under article 56.32, an individual must be related to a victim (as defined above) within the second degree by affinity or consanguinity.

INTAKE SCREENING FOR VICTIM RELATED CIVIL LEGAL SERVICES

III. In order to be eligible for legal services, there must be a relationship between the type of criminal activity involved, the specific injury suffered by the victim, and the legal service to be rendered.

Please complete the following and attach any documentation which verifies that the injury was the result of criminally injurious conduct.

Criminally Injurious Conduct: _____

Injury: _____

Connection of legal services to the criminal injury:

APPENDIX D

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 02-_____

**ORDER OF THE COURT APPROVING RULES AND PROCEDURES
GOVERNING THE ADMINISTRATION OF THE CRIME VICTIMS
CIVIL LEGAL SERVICES PROGRAM, INCLUDING THE DISTRIBUTION
OF AND SANCTIONS WITH RESPECT TO THE FUNDS**

On January 11, 2002, the Office of the Attorney General of Texas (OAG) entered into an Interagency Cooperation Contract (IAC) with the Supreme Court of Texas to administer Crime Victims Compensation Funds for the provision of civil legal services to victims, immediate family members, or claimants as defined by Article 56.32 of the Code of Criminal Procedure. In so doing, the Court appoints the Texas Equal Access to Justice Foundation (“Foundation”) to administer the Crime Victims Civil Legal Services Program (“CVCLS”) on behalf of the Court consistent with the following rules.

1. Appointment of the Texas Equal Access to Justice Foundation

The Supreme Court of Texas (Court) delegates to the Texas Equal Access to Justice Foundation (“Foundation”) the administration of the Crime Victims Civil Legal Services Program, including but not limited to, the application process, grant award decisions, the distribution of funds by vouchers approved by the Court (“Funds”), the monitoring of grant recipients, the recommendation to the Court of sanctions, and the recommendation to the Court of appropriate reports.

2. Funds to be Maintained in the Basic Civil Legal Services Account

Funds received by the Court shall be credited to the Basic Civil Legal Services Program account (“Account”) for use in programs approved by the Foundation to provide victim-related civil legal services directly to indigent victims, indigent immediate family members of indigent victims, or indigent claimants. The Comptroller may pay money from the Account only on vouchers recommended by the Foundation and approved by the Court. Funds from the Account may be supplemented by local or federal funds and private or public grants.

3. Organizations Eligible and Criteria for Grants

The Foundation shall recommend and the Court shall approve grants to organizations, not individuals. To qualify for a grant, an organization must be a Texas nonprofit organization exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code, as amended, or corresponding provisions of any subsequent United States Internal Revenue law or laws, and must provide victim-related civil legal services to victims, immediate family members of victims, or claimants meeting the income eligibility requirements as set out in Rule 4, and

must be current in all filings required to be made by it with any governmental authority, maintain open records and conduct open meetings (subject to reasonable limitations for an organization of its type), be an equal employment opportunity employer, and be able to demonstrate that it can utilize any funds granted to it in a manner consistent with these Rules and policies adopted by the Court and the Foundation. No grantee shall subgrant any Funds to any other organization unless it is approved by the Foundation. The organization receiving a subgrant must read, comply with, and agree in writing to be subject to and bound by the Act, Rules, grant provisions, and other policies of the Foundation. The organization providing the subgrant shall be responsible for monitoring the recipient organization to determine compliance. The organization receiving a subgrant also may be monitored by the Foundation.

4. Persons Eligible to Benefit from Grants

Organizations receiving Funds granted under the Crime Victims Civil Legal Services Program shall use the Funds to provide victim-related civil legal services directly to indigent victims, indigent immediate family members of indigent victims, or indigent claimants. “Indigent” means an individual who earns not more than 187 ½% of the federal poverty guidelines published by the United States Department of Health and Human Services. Victims, immediate family members of victims and claimants are defined in Article 56.32 of the Code of Criminal Procedure.

5. Use of Funds Limited to Cases Which Cannot Generate Fees

Funds granted under the Crime Victims Civil Legal Services Program to organizations to provide legal services to the victims of crime, immediate family members or claimants in civil matters may not be used for any case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, might reasonably be expected to result in payment of a fee for legal services from an award to a client from public funds, or from the opposing party.

6. Exception to Rule 5

The provisions of Rule 5 shall not be applicable in any case where the organization receiving funds granted by the Foundation determines in good faith that the indigent person seeking legal assistance has made reasonable efforts to obtain the services of an attorney in private practice for the particular matter (including contacting attorneys in private practice in the county of residence of the indigent person who normally accept cases of a similar nature), and has been unable to obtain such services because the potential fee is inadequate, is likely to be uncollectible, would substantially consume any recovery by the client, or because of any other reason which the organization, acting in good faith, believes prevents the client from obtaining the services of a private attorney.

7. Funding of Certain Suits and Activities Not Permitted

No funds shall be granted by the Foundation to directly fund class action suits, lawsuits against

governmental entities, or lobbying for or against any candidate or issue.

Funds from the Account may be used to support a lawsuit brought by an individual, solely on behalf of the individual or the individual's dependent or ward, to compel a governmental entity to provide benefits that the individual or the individual's dependent or ward is expressly eligible to receive, by statute or regulation, including social security benefits, temporary assistance to needy families, financial assistance under Chapter 31, Human Resources Code, food stamps, special education for persons with disabilities, Medicare, Medicaid, subsidized or public housing, and other economic, shelter or medical benefits provided by a government directly to an indigent individual, but not to support a claim for actual or punitive damages.

8. Certain Activities of Grantees

8.1 In addition to all other requirements and not by way of limitation, to be eligible to receive funds:

(i) Grantees will cooperate and collaborate in their service areas with (a) all other organizations providing civil legal services to the indigent, (b) the local organized bar, (c) relevant social and human service organizations, (d) relevant governmental agencies, and (e) other organizations that specifically provide victim related services.

(ii) In accepting and pursuing matters for clients, grantees shall adhere to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure and any other code or rules of professional responsibility adopted by this state for attorneys and should exercise reasonable prudent judgment and consider all relevant factors, including the legal merits and the economic and practical value of the matter.

(iii) Except for matters involving limited advice and brief services (e.g. clinics, hotlines, and similar services), each grantee shall execute a written retainer agreement, or letter of engagement, containing appropriate provisions for withdrawal of representation, with each client who receives legal services from the grantee. For cases that are referred by grantees to private attorneys, the grantee shall make available to the accepting attorney a standard form retainer agreement which may be modified based on agreement between the attorney and client.

8.2 In addition to all other matters monitored by the Foundation and not by way of limitation, the Foundation shall monitor the foregoing activities of Grantees.

9. Records and Reports of Grantees

The Foundation shall require, as a condition to the granting of funds to any organization or program, that adequate provision be made for reports to the Foundation as to the actual use of the funds so granted and for audit of such reports. Each such organization or program receiving funds from the Foundation shall keep its financial records in accordance with generally accepted accounting principles for organizations of its type and shall furnish reports to the Foundation in

such form and containing such information as shall be reasonably requested pursuant to policies adopted by the Board of Directors of the Foundation.

9.1 As a condition to the award of a grant to any organization or program, the Foundation requires the grantee to acquire and maintain certain financial, program and other information and to submit periodic and special reports to assist the Foundation in monitoring compliance with the Act, these Rules, grant provisions, grant agreement, and other policies of the Foundation.

9.2 The required information is intended, among other matters, to provide the basis for the required reports; to facilitate review of the actual use of the funds granted; to evaluate programs, the level of legal services provided by the grantee, and the remaining level of unmet need. All such information shall be as required by these Rules and as reasonably required by the Foundation pursuant to its policies, grant application, grant provisions, and grant agreement.

9.3 Each grantee shall keep its financial records in accordance with generally accepted accounting principles or other comprehensive basis of accounting approved by the Foundation for grantees of its type.

(i) Grantees must account for Funds as restricted funds, which specifically requires that any donor-imposed restrictions be met before Funds are expended.

(ii) Accounting records shall be supported by source documentation such as cancelled checks, paid invoices, time cards, time sheets, payrolls or similar data. The Foundation may disallow unsupported expenditures and may require that funds expended for unsupported expenditures be returned.

9.4 Grantees shall submit financial, program activity and other reports to the Foundation at least quarterly during the grant period and at such other times as shall be directed by the Foundation. These reports will be in the form and contain the information specified in these Rules and by the Foundation.

(i) The reports shall be in formats determined by the Foundation and designed to provide reasonable assurance that the restricted funds were spent in compliance with the purposes for which the grant was awarded, the Act and these Rules. Grantees will disclose any facts or events which would make the grantee ineligible for funding if applying for a grant as of the date of the report.

(ii) The financial report will detail the expenditure of the grant to date and compare those expenditures against the approved budget.

(iii) Grantees shall submit an annual financial statement within 120 days of the close of their fiscal year. The financial statement shall be prepared in conformity with FASB Statement No. 117, Financial Statements of Not-for-Profit Organizations. The financial statement shall include a supplemental schedule showing revenue and expenses from the grant by natural classification. This schedule will report actual expenses and compare them to the final amended approved budget, noting all differences. On receipt of justified request from the Grantee, the Foundation shall have the discretion to waive the requirement for individual Grantees to include this supplemental schedule within their financial statement. The financial statement shall be audited by an independent certified public accountant. The audit must be conducted in compliance with the Crime Victims Civil Program Compliance Supplement dealing exclusively with restrictions imposed on the Funds. All grantees must be audited regardless of size of the grant award unless the Foundation recommends and the Court approves an exception to this requirement. On receipt of a justified request from the Grantee, the Foundation may recommend and the Court may approve (1) a waiver of the requirement for an audited financial statement, (2) a grant audit in lieu of an audited financial statement, or (3) any other procedure or action as the Foundation may recommend to the Court or the Court may deem appropriate. Each request will be evaluated on a case-by-case basis.

9.5 Visits to one or more of a grantee's places of business by Foundation representatives may be made as determined by the Foundation to inspect the physical facilities, and to review financial and program records, operational policies and procedures, including but not limited to, observation of grantee's delivery of basic civil legal services, and such other aspects of a grantee's program as may be reasonably necessary to ensure compliance with the Act, these Rules, grant provisions, grant agreement, and other policies of the Foundation. Such monitoring visits will be conducted in reliance upon the practices and principles articulated by the American Bar Association in its Standards for the Monitoring and Evaluation of Providers of Legal Services to the Poor, adopted in 1991, and Standards for Providers of Civil Legal Services to the Poor, adopted in 1966 and revised in 1970.

9.6 The Foundation may not require that confidential information be divulged in breach of the attorney/client relationship.

10. Default

A grantee shall be deemed in default of the grant conditions upon the occurrence of any of the following:

- (vi) Any material violation by the grantee of the Act, these Rules, grant provisions, the policies of the Foundation, or the grant agreement;

- (vii) Any use of grant funds not in substantial compliance with the approved budget and grant agreement including approved budget revisions for that grant period;
- (viii) The occurrence of any event which would make the grantee ineligible to receive a grant if applying for one at that time;
- (ix) The submission of any materially false or misleading information to the Foundation as a part of the grant application, approved budget, financial report, financial statements, or otherwise; or
- (x) Any failure to return unused grant funds at the end of a grant period.

11. Sanctions

The Board of Directors of the Foundation shall adopt appropriate procedures to be followed by the Foundation in deciding to impose sanctions, including reasonable notice to the organization involved, an opportunity to correct any deficiency (if reasonably possible to do so) and, if deemed appropriate by the Executive Committee of the Foundation, a hearing before the Executive Committee or the Board of Directors. In the event of a default, as defined above in Rule 10, by a grantee, the Foundation shall have the right, among others, but not by way of limitation, to implement any of the following sanctions: reduce the grant; terminate the grant; withhold payment of an installment; demand repayment of a portion or all of the grant funds; institute legal action to recover funds; adopt a monthly grant disbursement schedule (including demanding a return of grant funds already disbursed in excess of the pro rata current month's installment); condition payment of subsequent installments on the grantee's cure of the default; or other remedies as the Foundation may deem appropriate.

12. Administrative Costs to the Foundation

Beginning September 1, 2001, the Foundation may expend funds for administrative costs of the Crime Victims Civil Legal Services Program and shall be reimbursed periodically upon application to the Court from the Crime Victims Civil Legal Services Program fund in the amount of 3.5% of the funds deposited to the Account.

13. Records of the Foundation

The records of the Foundation with respect to the Crime Victims Civil Legal Services Program, including applications for Funds, whether or not granted, shall be open for public inspection at reasonable times and subject to reasonable restrictions dictated by the operational needs of the Foundation. The Foundation shall maintain its books of account in accordance with generally accepted accounting principles for organizations of its type and shall maintain written minutes of

meetings of its Board of Directors and committees. It shall also maintain such other records as are within reasonable policies established by its Board of Directors.

14. Reports of the Foundation

The Foundation shall file a report with the Court and the OAG at the end of each fiscal year showing disbursements from the Account and the purpose for each disbursement and the sanctions imposed, if any, and shall recommend an appropriate report for filing with the Legislative Budget Board.

15. Audits of Funds Received by Grantees

Funds received by grantees from the Crime Victims Civil Legal Services Fund are subject to audit by the OAG, Court, the comptroller, and the state auditor. The Foundation will recommend the appropriate procedures for an audit on behalf of the Court.

16. Appeals

Grant awards and denials are not subject to appeals by applicants to the Foundation or the Court.

Signed the _____ day of _____, 2002.

Thomas R. Phillips, Chief Justice

Nathan L. Hecht, Justice

Craig T. Enoch, Justice

Priscilla R. Owen, Justice

James A. Baker, Justice

Deborah G. Hankinson, Justice

Harriet O'Neill, Justice

Wallace Jefferson, Justice

Xavier Rodriguez, Justice