ADMINISTRATION FOR CHILDREN & FAMILIES
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Immigration-Related Legal Assistance Allowable Under ORR ASA Funding

Policy Letter 22-11 March 3, 2022

In the Afghanistan Supplemental Appropriations Act, 2022 and the Additional Afghanistan Supplemental Appropriations Act, 2022 (ASA), Congress authorized the Office of Refugee Resettlement's (ORR) parent agency, the Administration for Children and Families (ACF), to obligate ASA funding until September 30, 2023, for the provision of immigration-related legal assistance to eligible Afghan populations. ORR is issuing this Policy Letter (PL) to clarify the ability of states[1] and grantees to provide such assistance using ASA funding allocated through ORR grants, including but not limited to Refugee Support Services (RSS) and Preferred Communities (PC). Note, however, that ORR limits the use of ASA-funded Cash and Medical Assistance (CMA) for immigration-related legal assistance to Unaccompanied Refugee Minor (URM) programs only. All other programs must support any immigration-related legal assistance through non-CMA funding streams that ORR has explicitly authorized to use for this purpose.

I. Eligible Populations

ORR delineates eligible populations for ASA services, including immigration-related legal assistance, and the timeframe for those populations' ASA eligibility, in **ORR PL 22-10**.

II. Allowable Immigration-Related Legal Assistance Activities Under ASA-Funded Grants

ORR authorizes states and grantees to provide immigration-related legal assistance, as delineated herein.

A. General Description of Immigration-Related Legal Assistance

ORR authorizes the following types of immigration-related legal assistance:

1. Providing eligible populations with basic legal orientation on immigration statuses and immigration protections under the law
2. Conducting seminars, trainings, or workshops on relevant immigration-related legal assistance topics to eligible clients and/or eligible pro se applicants
3. Consulting with a client to determine immigration-related legal assistance needs

[1] Throughout this PL, "states" refer to states and replacement designees.

4. Interviewing the client to obtain relevant information
5. Assisting in the replacement of lost or damaged immigration documents and/or assisting with the correction of incorrect immigration documents
6. Providing interpretation services to engage the client's support in filling out relevant immigration forms
7. Translating relevant documents into client's preferred language to provide the client with greater understanding of the forms and the U.S. immigration system
8. Explaining relevant forms to the client
9. Physically filling out relevant forms
10. Retrieving supporting documentation for relevant forms
11. Providing guidance on fee waivers
12. Assisting in the logistics of securing fees for forms
13. Representing the client in an affirmative[2] asylum interview or other mandatory in-person immigration-related legal assistance appointment
14. Responding to immigration-related inquiries from the U.S. Department of State Bureau of Population, Refugees, and Migration
15. Responding to U.S. Citizenship and Immigration Services (USCIS) inquiries, including requests for evidence or notices of intent to deny

B. Immigration-Related Forms

In addition to the allowable activities defined in section II.A, ORR authorizes the use of ASA funds for the drafting and filing of the following immigration-related forms:

1. Form I-589, *Application for Asylum and for Withholding of Removal* for affirmative asylum applications
2. Form I-130, *Petition for Alien Relative* for a client whose marriage occurred on or before July 30, 2021
3. Form I-485, *Application to Register Permanent Residence or Adjust Status*
4. Form I-751, *Petition to Remove Conditions on Residence*
5. Special Immigrant Visa applications (e.g., Form I-360, *Petition for Amerasian, Widow(er), or Special Immigrant*)
6. Humanitarian Parole applications (e.g., Form I-131, *Application for Travel Document*) for immediate family members of ORR-eligible populations remaining in Afghanistan or other countries outside of the United States
7. Appeals with the USCIS Administrative Appeals Office (e.g., Form I-290B, *Notice of Appeal or Motion*)
8. Form G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative*
9. Form I-765, *Application for Employment Authorization*

[2] The affirmative asylum process is reserved for asylum seekers who are not in removal proceedings with the Executive Office of Immigration Review (EOIR). Asylum seekers who are in removal proceedings under EOIR may only seek asylum through the defensive asylum process.

C. URM-Specific Immigration-Related Legal Assistance

In addition to the allowable activities defined in sections II.A and II.B., ORR authorizes the drafting and filing of the following immigration-related documents for URM children and youth:

1. Special Immigrant Juvenile predicate orders
2. Form I-360, *Petition for Amerasian, Widow(er) or Special Immigrant*

III. Other Allowable Activities to Facilitate Client Access to Immigration-Related Legal Assistance Under ASA-Funded Grants

A. Transportation/Lodging

ORR authorizes states and grantees to provide transportation and/or lodging, in support of immigration-related legal assistance, when necessary to ensure that a client is able to attend their affirmative asylum interview or other mandatory appointment with USCIS. States and grantees should first see if a virtual appointment can be secured for the client. States and grantees must also consider the totality of the circumstances before spending ASA funding on transportation and/or lodging, ensuring that all other local, state, and federal financial resources are used, and that employment income from a client is considered.

B. Immigration Fees

ORR authorizes states and grantees to pay an eligible client's fees for any or all forms listed in II.B as applicable, if the state or grantee documents the following four items, which may be reviewed during ORR monitoring:

1. Within the case file, evidence that a fee waiver request was submitted to USCIS and subsequently denied,
2. Within the case file, justification of the expense on the basis of the client's demonstrated inability to pay,
3. A plan showing the manner the state or grantee equitably assesses client need for coverage of fees for the forms listed in II.B, *and*
4. An explanation of how the state or grantee's use of funding in this manner will further the approved goals of the program (e.g., ASA RSS, ASA PC, etc.).

C. Other Authorized Uses

If there are additional needs not included within section II or III of this PL, contact ORR's Refugee Policy Unit at RefugeePolicy@acf.hhs.gov.

IV. Unallowable Immigration-Related Legal Assistance Activities Under ASA-Funded ORR Grants

Examples of immigration-related legal assistance activities that states and grantees cannot use ASA-funded ORR grants to provide include, but are not limited to:

1. Duplicative immigration assistance that USCIS provides in a given state/locality
2. Duplicative immigration-related legal assistance provided to an individual by another federally funded program or any other entity

V. Coordination and Reporting

States should work with all ORR ASA-funded grantees and other immigration legal assistance providers in their state to coordinate immigration-related legal assistance and to ensure efforts are not being duplicated. States should identify a point of contact to help disseminate updates and information to legal assistance providers from ORR and other government agencies.

VI. Reporting

States and grantees should provide a list of ASA-funded legal assistance contractors to ORR, collect data from those contracts on the number of individuals provided legal assistance, and, to the extent possible, collect data on case outcomes. States and grantees will submit this information within the OMB-approved report form(s) for the program(s) that provide ASA funding for this purpose.

VII. Procurement

As part of Operation Allies Welcome (OAW), a significant number of Afghan arrivals are being resettled, including humanitarian parolees who need immediate immigration-related legal assistance. States and grantees should use ASA funds as a last resort when no other funding is available. To provide immigration-related legal assistance as quickly as possible, states should bypass standard procurement guidelines regarding competition, given the emergent nature of OAW and client need for immigration-related legal assistance (see also 45 CFR § 75.329(f)(2)).

If you have questions about the information contained in this PL, contact ORR's Refugee Policy Unit at **RefugeePolicy@acf.hhs.gov**.

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