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Executive Council of Iowa

CAPITOL BUILDING
DES MOINES, IOWA 50319
PHONE: 515 281-5368
FAX: 515 281-7562

November 6, 2023

Mr. Nick Smithberg
Iowa Legal Aid

RE: Civil Reparations Fund

Dear Mr. Smithberg:

The Executive Council, in meeting held this date approved the following amounts for distribution from the above-mentioned fund, upon approval of the contract at the next Executive Council meeting:

1. Iowa Legal Aid - \$989,424 to be paid in three equal annual installments.

EXECUTIVE COUNCIL OF IOWA

Victoria Newton

Victoria Newton
Executive Secretary

cc: Leif Olson – Chief Deputy Attorney General, Attorney General’s Office
Justin Ray – Director of Development, Iowa Legal Aid

BRENNA BIRD
ATTORNEY GENERAL

LEIF A. OLSON
CHIEF DEPUTY ATTORNEY GENERAL



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IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

November 2, 2023

Victoria Newton, Executive Secretary
Executive Council
State Capitol
LOCAL

Re: Recommendation to approve application of Iowa Legal Aid for Civil
Reparations Trust Fund monies

Dear Ms. Newton:

The Attorney General's Office recommends that the Executive Council approve Iowa Legal Aid's request for \$989,424 from the Civil Reparations Trust Fund.

A. Background on the Trust and disbursement of its funds

The Civil Reparations Trust is funded by payments of certain punitive- or exemplary-damages judgments. It is under the Executive Council's control and can be used only to support indigent civil-litigation programs or insurance-assistance programs. Iowa Code § 668A.1(2)(b).

The Council has adopted rules to govern the disbursement of those funds. Those rules set forth the criteria the Council uses to consider whether to disburse funds to an applicant and the procedure an applicant must follow to qualify to receive the funds. Iowa Admin. Code r. 361-12.2–12.4. Under those rules, the Council must publish a notice of the amount and availability of funds in the Iowa Administrative Bulletin at least twice per year, and applications must be received no more than 30 days after the notice is published. *Id.* 361-12.2, 12.3. The Council may accept late applications for good cause upon a written motion. *Id.* 361-12.3(3).

B. Iowa Legal Aid's application

Iowa Legal Aid submitted its application to the Council on October 30, 2023. This is more than 30 days after the Council published its most recent Civil Reparations Trust notice, which stated that the Trust currently holds

roughly \$1.015 million. *See* 46 Iowa Admin. Bull. 876 (Sep. 6, 2023). However, Iowa Legal Aid has also timely submitted a written motion for the Council to accept its late application.

The application requests \$989,424 from the Trust, to be paid in three equal annual installments. It plans to use the money to fund the salaries and expenses of three lawyers, one of whom will be dedicated to civil legal aid for veterans and two of whom will be dedicated to civil legal aid for rural Iowans. Its application cites statistics regarding the need for additional civil legal services for these populations and its inability to meet those needs with current funding. It also identifies particular successes it has had in expanding its ability to provide those services with past grant funding. And it identifies plans to use this temporary funding from the Trust to create a verifiable track record it can use to justify future fundraising efforts to make the temporarily funded positions permanent. Finally, it anticipates being able to serve 1,000 Iowans with the funding.

C. Attorney General's recommendation

The Attorney General recommends that the Council approve Iowa Legal Aid's application.

First, Iowa Legal Aid's written motion sets forth good cause for the Council to consider its application despite its being filed more than 30 days after the notice in the Administrative Bulletin.

Second, the application satisfies each of the factors the Council considers when determining whether to award Trust funds. *See* Iowa Admin. Code r. 361-12.4.

- *The purpose for which the money will be used:* Iowa Legal Aid will use the money to furnish indigent civil-legal services, particularly to indigent veterans and to indigent rural Iowans who otherwise lack access to legal services.
- *The number of people who will be served:* The money will be used to serve 1,000 Iowans. With the amount of money Iowa Legal Aid requests, this means addressing the legal problems of 1,000 indigent Iowans at a cost of less than \$1,000 per client, which is well below the market rate for lawyers of Iowa Legal Aid's caliber.

Ms. Victoria Newton

Rec. to approve Iowa Legal Aid application for Civil Reparations Trust funds

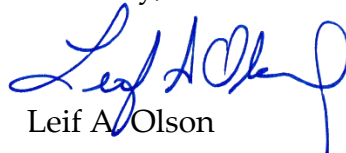
November 2, 2023

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- *The availability of alternative sources of money:* As Iowa Legal Aid's application describes, it is currently funded by a mix of public and private grants and has been unable to obtain funding for these positions from those sources.
- *The degree to which the applicant complied with legal restrictions on the use of money under prior applications:* The last record our office has of Civil Reparations Trust funds being awarded is in 2016, and that award was not to Iowa Legal Aid. However, Iowa Legal Aid is a recipient of grant funds from both the State and the federal government, including grants administered by our office, and it has complied with the restrictions on the use of those monies.

In sum, Iowa Legal Aid's application is for a proper purpose, will be put to use to serve a large number of Iowans who would not otherwise receive legal services, and will do so efficiently and effectively. The Attorney General's Office recommends that the Executive Council approve Iowa Legal Aid's application.

Sincerely,



Leif A. Olson

Chief Deputy Attorney General



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Iowa legal Aid, Applicant, hereby moves the Executive Council to accept the late filing of their application for disbursement of money from the Civil Reparations Trust Fund.

In support of this Motion, Applicant states as follows:

1. Undersigned counsel is an attorney with Iowa Legal Aid in Des Moines, Iowa which serves indigent persons in the Des Moines area and throughout Iowa.
2. Iowa Legal Aid first requested an application for disbursement of money from the Civil Reparations Trust Fund on September 25, 2023.
3. Iowa Legal Aid received the application materials on October 3, 2023.
4. Iowa Legal Aid was not able to complete the application materials by the deadline set in IAC 361—12.3(3) due to the delay in the receiving the application materials.

For all the foregoing reasons, Applicant respectfully requests that the Executive Council grant this motion to accept their late filing.

Name

Executive Director
Title

November 2, 2023
Date

Executive Council of Iowa

Capitol Building
Des Moines, Iowa 50319
Phone: 515 281-5368
FAX: 515 281-7562

REQUEST FOR CIVIL REPARATIONS FUNDS

Date	<u>10/30/2023</u>	Amount Requested	\$989,424
Organization	<u>Iowa Legal Aid</u>		
Contact	<u>Nick Smithberg</u>		
Address	<u>666 Walnut St, Floor 25</u>		
City, State, Zip	<u>Des Moines, IA 50309</u>		
Phone	<u>515-400-3647</u>	Fax	<u></u>
Email	<u>nsmithberg@iowalaw.org</u>		

Briefly describe how the funds will be used:

Iowa Legal Aid provides free civil legal services that stabilize the income, housing, and safety of low-income Iowans in all 99 counties. While providing these services, we have noticed significant unmet need among veterans and rural Iowans. A challenging post-pandemic fundraising environment with many flat or declining funding sources, a surge in housing cases throughout the state, and continued low number of legal aid attorneys relative to number of low-income Iowans make it very difficult for us to increase targeted services to these veterans and rural Iowans without dedicated funding.

We respectfully request a one-time distribution of \$989,424 (\$329,808 per year for 3 years) from the Civil Reparations Trust Fund to supplement existing state funding through the Iowa Department of Justice and expand our capacity to provide critical legal services to low-income veterans and rural Iowans.

Veterans

Last year, Iowa Legal Aid provided civil legal services to 542 low-income veterans on numerous issues including housing, family law, and VA benefits. The challenges facing our veteran clients are significant. Nearly 60% of our veteran clients are homeless, staying with friends or family, or living in a shelter. Seventy percent live at or below 100% of the federal poverty level.

The need for legal services is significant with the Legal Services Corporation's (LSC) *Justice Gap Report* showing 76% of low-income veterans had at least one civil legal issue last year but only 16% received enough help with their legal issues. Unfortunately, Iowa Legal Aid does not have dedicated staff to expand our work

with veterans. In the rare instance when we had dedicated staff for veterans in the past, two Veterans Legal Corps fellows in 2019, we were able to serve 43% more veterans.

Rural Iowans

Last year, 29% of Iowa Legal Aid's cases were from rural Iowa, impacting 8,538 people including 3,731 children. However, there are a number of factors that make it more challenging for Iowa Legal Aid to serve Iowans living in rural areas:

- Lack of dedicated staff for rural casework and service delivery strategy
- Lack of physical offices for walk-ins in rural areas
- Due to travel time to court, similar cases take significantly more staff time in rural areas compared to urban areas.
- As is the case with the private bar, it is becoming increasingly difficult to hire, place, and incentivize attorneys to work outside of Des Moines, Cedar Rapids/Iowa City, and Council Bluffs/Omaha.
- Fewer private attorneys in rural areas makes it difficult to find attorneys willing to take on pro bono work through our Volunteer Lawyers Project.
- Overall limited staff capacity that is insufficient to meet need

According to the Legal Services Corporation's (LSC) Justice Gap Report, 75% of rural households experience at least one civil legal problem each year—including 23% that experience six or more problems. However, only 22% of rural households contact legal aid providers for assistance, while 86% receive no or inadequate help for their legal issues. LSC formed a Rural Justice Task Force to explore the challenges of providing legal services in rural areas and will soon issue a report highlighting best practices for rural service delivery and recruiting attorneys to serve rural areas. Iowa Legal Aid recently purchased a Justice Bus/mobile legal office that will allow us to offer legal clinics and office hours in rural areas.

Request

Iowa Legal Aid respectfully requests a one-time distribution of \$989,424 (\$329,808 per year for 3 years) from the Civil Reparations Trust Fund to supplement existing state funding through the Iowa Department of Justice and expand our capacity to provide legal services to low-income veterans and rural Iowans. The distribution will put the Civil Reparations Trust Fund to work by supporting:

- One senior attorney and outreach expenses to increase the number of cases we close for veterans, develop our legal program for veterans, and implement strategies to improve service delivery to veterans. Three years of support from the Civil Reparations Trust Fund will give us the time and demonstrated results needed to fundraise and make this position a permanent part of the organization.
- Two attorneys and outreach expenses to increase the number of cases we close for rural Iowans, develop our legal program for rural Iowans, implement strategies to improve rural service delivery statewide, and utilize our new Justice Bus/mobile legal office to offer legal clinics and office hours in

rural communities throughout the state. Three years of support from the Civil Reparations Trust Fund will give us the time and demonstrated results needed to fundraise and make these positions a permanent part of the organization.

How many people will be served with this money?

Civil Reparations Trust Fund support will directly serve 1,000 veterans (333 per year for 3 years) and 4,500 rural Iowans (1,500 per year for 3 years). It will also allow Iowa Legal Aid to develop and implement legal programs and service delivery strategies that will position us to increase our total number of veterans and rural Iowans served now and in the future. We will track and report on the number of veterans and rural Iowans served, case types, case outcomes, and the demographics of those served.

What other sources of funds are available to your organization?

A lack of dedicated funding is limiting the services Iowa Legal Aid can provide to veterans and rural Iowans and is the main reason we are applying for Civil Reparations Trust Fund support. Our current work with veterans is partially funded by a one-year \$150,000 grant from the U.S. Department of Veterans Affairs and supplemented by operating funds from the Legal Services Corporation, Iowa Department of Justice, and Interest on Lawyers' Trust Accounts (IOLTA). Our current work with rural Iowans is partially funded by a three-year \$397,184 grant from the U.S. Department of Health & Human Services to expand services for older rural Iowans and is primarily funded with operating funds from the Legal Services Corporation, Iowa Department of Justice, and Interest on Lawyers' Trust Accounts (IOLTA).

Have you received funds previously? Yes No

If yes, what is the amount remaining at this time? \$0

Were the funds used in the manner described in the previous application? Yes No

If no, how were they used? _____

<i>Requested by:</i> _____ <i>Date:</i> _____
