

Office of Massachusetts Attorney General Andrea Joy Campbell



Request for Proposal (RFP)

FY2024-FY2027

Protecting Consumers from Unlawful Seizures by Creditors Grant

Release Date: February 14, 2024

Response Due Date: March 22, 2024

Project Start Date: April 29, 2024

Project End Date: August 31, 2027

Amended on March 1, 2024

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The Office of Massachusetts Attorney Andrea Joy Campbell (AGO) is pleased to announce the FY2024-FY2027 Protecting Consumers from Unlawful Seizures by Creditors Grant. The grant will fund legal services organizations to provide assistance to consumers in Massachusetts who are vulnerable to having their assets and income unlawfully seized by creditors and debt collectors in the courts. Successful applicants will provide lawyer-for-the-day programs and extended representation to protect consumers' exempt income and assets in post-judgment court proceedings. The grant program will be funded with up to \$800,000 from settlement funds resulting from an [AGO enforcement action](#) involving a company that engaged in a number of unlawful debt collection practices, including misleading financially distressed consumers about their obligations to use their meager sources of income to pay debts.

Background

Consumer debt collection cases make up a significant percentage of the Massachusetts court civil docket. While the number of debt collection cases vary by court department, it is not uncommon for at least 40% of small claims cases in a single department to be filed by four debt buyers alone.¹ In most debt collection cases, creditor plaintiffs are represented by attorneys while consumer defendants are not. These consumer debt cases therefore represent a persistent access to justice problem.

Legal services organizations play a vital role in ensuring that consumer debtors have access to counsel to help them protect their rights. One of the primary ways organizations connect with consumers is through lawyer-for-the-day (LFD) programs. These programs, with limited resources, generally concentrate their efforts on reaching consumers before judgment enters. When consumers arrive at court for their debt collection case, the LFD program explains the services they offer, which include advice, information, drafting documents, negotiation with a creditor's attorney, and if needed, representation at a hearing.

Due to the high rates of default in consumer debt cases,² most consumers do not get the opportunity to litigate their case on the merits. Therefore, consumers usually do not connect with a legal services program before a judgment enters. It is therefore imperative that LFD programs are provided with the resources to assist those persons who may only find out about an existing judgment against them when they are summoned to court for a post-judgment

¹ See MASSACHUSETTS TRIAL COURT DEPARTMENT OF RESEARCH AND PLANNING, SELECTED CIVIL CASE FILINGS AND ACTION TYPES, FY 2022, <https://public.tableau.com/app/profile/drap4687/viz/MassachusettsTrialCourtCivilCaseFilings> (last updated Aug 16, 2023). Publicly available data for Springfield District Court shows that in 2022, four debt buyers filed 2,005 (approximately 51%) of all small claims cases. In Lowell District Court, these four debt buyers filed 1,445 (approximately 45%) of all small claims cases. In Brockton District Court, the same four debt buyers filed 1,323 (approximately 44%) of all small claims cases.

² PEW CHARITABLE TRUSTS, HOW DEBT COLLECTORS ARE TRANSFORMING THE BUSINESS OF STATE COURTS, 16 (2020)

proceeding, when they notice a garnishment from their paycheck, or when a creditor seizes their property.

Among the priorities for the AGO's Consumer Protection Division (CPD) is to ensure that creditors comply with laws that exempt certain income and assets from seizure by creditors.³ Maximizing access to counsel, particularly through expanded LFD programs, will advance that goal. Therefore, the AGO requests that interested organizations respond to this RFP with proposals meeting the criteria identified below.

Eligibility

Eligibility is limited to nonprofit organizations providing free legal services, primarily to low-income populations at or below 200% of the Federal Poverty Level. The organization must have a demonstrated history of providing legal advocacy on behalf of low and moderate-income consumers. Applications are welcome from organizations that rely heavily on law students to provide legal assistance under the supervision of a licensed attorney.

Nonprofit organizations must be in full compliance with all annual reporting requirements of both the AGO and the Internal Revenue Service, as applicable, in order to be eligible for funding.⁴

Application Instructions and Program Criteria

Applicants must describe how their organization will use the funding from this grant to establish a new LFD program, or substantially supplement an existing LFD program, to represent low and moderate-income consumer debtors. Priority will be given to applicants who have a track record and ability to provide "Extended Service" or full representation to consumers.⁵ Applications should make note of any anticipated logistical challenges in establishing a new LFD program. Applicants should also describe the role that staff, law students, and attorney volunteers (if applicable) will play in carrying out the goals of this grant. Applicants may highlight any community partnerships which support their LFD program.

An LFD program focusing on representation in the following types of matters shall satisfy the criteria of the grant award:

- Payment Review hearings in Small Claims Court;

³ See *Commonwealth v. Encore Capital Group et al.*, No. 2284CV02158, Assurance of Discontinuance, at Docket 1 (Mass Super. Ct. Sept. 19, 2022); *Commonwealth v. Portfolio Recovery Assoc.*, No. 1984CV03487, Assurance of Discontinuance, at Docket 1 (Mass Super. Ct. Nov. 7, 2019).

⁴ Beginning in September 2023, the Non-Profit Organizations/Public Charities Division will require all charitable registration and annual filings to be made through the Charity Portal. Additional information can be found at: <https://www.mass.gov/info-details/online-charity-filing-portal>

⁵ For purposes of this RFP, definitions of terms such as "Advice," "Brief Service," "Limited Action," or "Extended Service," shall carry the same or substantially similar meanings as those terms are defined by 45 CFR § 1611.2 and by the Legal Services Corporation in the Case Service Reporting (CSR) Handbook, available at https://www.lsc.gov/i-am-grantee/grantee-guidance/lsc-reporting-requirements/case-service-reporting/csr-handbook-2017#_Toc469667738.

- Trustee Process actions (e.g., wage or bank account garnishments); or
- Supplementary Process actions.

In addition to establishing a new LFD program or supplementing an existing one, grant funds may also be used for:

- Advocacy, including affirmative litigation, on behalf of consumers who are the subject of unlawful property seizures;
- Representation in pre-judgment court actions where the consumer has an existing garnishment, payment order, or agreement with a creditor to make payments from exempt income for a different consumer debt;
- Motions to Vacate or Remove Default Judgment and subsequent representation of the consumer in the same matter;
- Providing assistance to consumers where the level of service is widely known as “Counsel and Advice,” “Brief Service,” or “Limited Action;”
- Community engagement, such as know-your-rights presentations;
- Trainings for staff or pro bono volunteers; or
- Other methods of advocacy, as described by the organization in its proposal and subject to AGO approval, to minimize the risk of a consumer paying a debt from exempt income.

Funding, Duration, and Anticipated Timeline

Grant awards will be issued in varying amounts up to \$200,000. Applicant budgets may or may not be funded in their entirety, or at all. All funding decisions will be at the discretion of the AGO. Applicants may propose indirect rates of 15% or less. Applicant shall not supplant currently funded activities with grant funds.

Grant funds will be awarded with an anticipated start date of April 29, 2024. The maximum grant period will not extend beyond August 31, 2027. The AGO will not allow program extensions except for good cause shown. The AGO may deny program extension requests at its sole discretion.

Cash Flow and Disbursement Grant Funds

Grant disbursement(s) will be sent to successful applicants by Electronic Funds Transfer, provided that all necessary contract and periodic reporting documents are received by the established deadline. Successful applicants will be required to provide data on the number and demographics of consumer debtors served as part of their reporting responsibilities. The full grant award will be disbursed soon after contract execution.

Submission Instructions

- Grant applications with accompanying proposals must be delivered electronically through the AGO’s online grant application website by 5:00 p.m. on March 22, 2024.
- Interested applicants may access the application here: [Grant Application Portal](#).

- New applicants will be asked to create a free online account. Any applicant that has applied for any AGO grant using the online grant application website may log into its existing account. All applicants should confirm their contact information is current on their applicant profiles.
- Confirmation of Receipt: Applicants typically receive an email confirmation within 48 business hours; if one is not received, please call the AGO Grants Team at 617-963-2150 for assistance.

Evaluations

Program proposals and application components will be evaluated on criteria that includes the following:

- Feasibility and quality of proposed plan to protect consumers' exempt income and assets;
- Program's experience representing low and moderate-income populations in consumer debt matters;
- Demographics and geographic location of the population(s) served by applicant;
- Applicant's plan and ability to measure grant-supported activity and outcomes; and
- Current funding sources.

Questions

Questions regarding this RFP may be submitted to AGOgrants@mass.gov, only until 5:00 p.m. on March 15, 2024. When submitting your question(s), please include "Protecting Consumers' Exempt Income and Assets Grant" in the email subject line. Questions received and answers provided regarding this RFP will be posted on the AGO's online grant application website: [Grant Application Portal](#).

Reasonable Accommodation

Applicants with disabilities may seek reasonable accommodation, including receipt of the RFP in an alternative format, by writing to AGOgrants@mass.gov no later than 5:00 p.m. on March 15, 2024.

Expectations and Requirements for Successful Applicants

- Award is contingent upon the applicant satisfactorily completing all necessary documents (see below) by the deadlines established by the AGO.
- Any changes to a grant program or budget, at any time during the grant period, must be requested in writing by the successful applicant and must be approved, in advance, by the AGO.
- All funds must be used in a manner consistent with the applicant's grant application and accompanying proposal which shall both become part of the Scope of Services Agreement.

Required Commonwealth Contract Documents

The following documents, completed without alteration, will be required as part of the *application submission*:

- Request for Taxpayer Identification Number and Certification (W-9)
- Electronic Funds Transfer (EFT) Form*⁶
- Nonprofits must submit one of the following unless they are exempt from filing with the AGO's Non-Profit Organizations/Public Charities Division (NPCD):
 - Their most recent filing package submitted to NPCD;⁷
 - A current Certificate of Solicitation issued by NPCD; or
 - A current Letter of Good Standing issued by NPCD.

The following documents will be required upon any notification of a grant award at a deadline established by the AGO and *should not be submitted with the grant application*:

- Standard Contract Form
- Scope and Services Agreement
- Contractor Authorized Signatory Listing

Links to blank W-9 and EFT forms will be provided in the online application form. No grant funds will be disbursed unless the necessary documents are submitted by the deadlines established by the AGO.

Public Records

All submitted responses and information are subject to the Massachusetts Public Records Law, M.G.L. c. 66, § 10, and M.G.L. c. 4, § 7, cl. 26. Applicants should not submit any personal, medical, or other sensitive information.

Updates to this RFP

Any changes/corrections to any part of this RFP will be posted on <https://www.mass.gov/grant-opportunities>. It is the applicant's responsibility to check this web page frequently for any updates.

⁶ It is the responsibility of the applicant/award recipient to ensure that an electronic transfer of funds may be received by the award recipient. No paper checks will be issued.

⁷ The package should include its Form PC, IRS Form 990/990-EZ/990-PF and, as applicable, a CPA's review report or an audited financial statement.