



# SSVF Legal Services Frequently Asked Questions

August 2022

---

Table of Contents

Purpose ..... 3

Identifying Legal Services Provider ..... 3

    If we have a contract in place with a legal provider, but they can't provide all services required, can we have two contractors? ..... 3

    Does the legal provider have to be the same provider through the different counties where we provide SSVF services?..... 3

    If we contract out to VHA for legal, does that mean only VHA eligible Veterans will be eligible for this assistance? ..... 3

    Does the legal services provider have to be accredited/certified in order to provide VA benefits claim assistance or representation for Veterans or beneficiaries? ..... 3

Model of Implementation..... 4

    Would legal services with a contract be considered a subcontractor? ..... 4

    Will a contract agreement be provided? ..... 4

    Can grantees pay an Attorney chosen by the Veteran? ..... 4

    Are we able to use SSVF funds to retain an Attorney? Like a retainer fee? ..... 4

    Do we need to put out legal services for quote in regard to cost effectiveness or can we contract with our current provider?..... 4

    Can we subcontract with someone but also hire a specialist on SSVF staff to coordinate Legal Services? ..... 4

    Can grantees refer to a legal aid provider? ..... 4

    Can we do a contract flat fee with our subcontractor, with a fee-for-service if the volume is more than expected? ..... 5

    Can the legal team be from the VA?..... 5

    Is it permissible to have the Veteran be responsible for some of the legal fees? ..... 5

    Legal fees are an allowable expense under GHSA. So, the Veteran could cost share with SSVF. Please note that if the Veteran does cost shareing, the grantee is responsible for ensuring documentation is provided on the cost share and that it matches up with the Grantee General Ledger as an SSVF Legal Cost Category.5

Assessment ..... 5

    Are we going to be required to do the full legal assessment with every vet we work with? During our intake we do a needs assessment and if a Veteran declines assistance with legal do we still need to complete a legal assessment? ..... 5

Referral and Collaboration..... 5

    Are there issues with the attorney client privilege when coordinating between case managers and contract providers? ..... 5

    If one grantee has an enrolled client and refers that client to another grantee for legal services, does the second grantee needs to enroll the Veteran in SSVF? The Veteran would be enrolled in two grants at once? ..... 5

Service Provision ..... 6

What happens if there's an on-going legal case with our legal partner, but the Veteran becomes ineligible for SSVF during the process? ..... 6

Are SSVF Legal Services limited to housing? ..... 6

Are court-imposed fees eligible? Are fines? ..... 6

HUD-VASH participants are brought in through a packet, will they now be able to utilize legal services? ..... 6

Is it an allowable cost to pay for legal services for another household member, or it's limited to only the Veteran? ..... 6

Will Veterans who are in shallow subsidy qualify for legal services funding? Should that come out of the shallow subsidy budget or regular SSVF? ..... 6

Have the allowable Legal Services been revised or are they the same that's listed in the most recent Program Guide? ..... 6

Finance ..... 7

Do we need to create a separate account for payment like we did for Shallow Subsidy? ..... 7

What is the maximum allowable expense for legal services? ..... 7

We need to contract with more than one legal services provider. Can we lump the total costs in one line item for the budget and have 4 separate agreements or do we need to split the potential costs out by subcontract and reflect 4 different line items? ..... 7

Will we have three separate but concurrent funding streams for FY22 (FY22, HCN/Legal, Shallow Subsidy)? ..... 7

Can the ARP amount allocated for legal services for FY22 be moved to another line item if the service is implemented, but that full amount is not needed? ..... 7

What if we need more than the ARP funding amount for Legal Services? ..... 7

Are Legal Services coming out of TFA? ..... 7

What is paid out of General Housing Stability Assistance (GHSA)? ..... 7

Since ARP funds are being used to implement the requirement of direct legal services, will this be sustainable in future grant cycles? ..... 8

Reporting ..... 8

What if the HMIS system does not give you legal as an option under services? ..... 8

What is the threshold that constitutes a legal service for entry as a service in HMIS? Assessment? Brief Advice? Full representation? ..... 8

Do you enter legal services in HMIS if you refer the Veteran, but they choose not to follow through? ..... 8

HMIS Data entry: direct or indirect ..... 8

## Purpose

The demand for legal services has been a persistent theme in the *Community Homelessness Assessment, Local Education and Networking Groups (CHALENG)* participant survey over several years. The 2021 CHALENG survey found, seven of the top ten unmet needs reported by homeless Veterans are legal issues. These top ten cited legal needs disproportionately impact Women, and Black, Brown, Indigenous, Asian, Native Americans, Pacific Islanders, Latinx populations.

Furthermore, In October 2020, the SSVF Program Office implemented an internal Legal Services Survey of Grantees. The survey revealed only 26% (65) Grantees reported providing direct legal services via contract or in-house counsel. The report also indicated that a major reason for not providing direct legal services was lack of SSVF grant funds.

The SSVF expansion of legal services with the ARPA funding contributes to a solution. This is an opportunity to bridge the justice gap and directly improve housing stability for SSVF participants.

## Identifying Legal Services Provider

If we have a contract in place with a legal provider, but they can't provide all services required, can we have two contractors?

Grantees may contract with more than one legal services provider to ensure all Veterans have access to direct legal services if needed.

Does the legal provider have to be the same provider through the different counties where we provide SSVF services?

It is not required that the legal services provider be the same across a grantee's coverage area. Grantees may contract with more than one legal services provider when that is determined to be the best option to meet Veterans' legal needs across the grantee's coverage area.

If we contract out to VHA for legal, does that mean only VHA eligible Veterans will be eligible for this assistance?

The VA health care system is not a legal services provider. If a grantee contracts with a legal service provider that also operates a legal clinic in a VHA facility, that legal service provider would not be required to serve only VHA-eligible Veterans under its contract with the SSVF grantee.

Does the legal services provider have to be accredited/certified in order to provide VA benefits claim assistance or representation for Veterans or beneficiaries?

Yes, any legal services that include VA benefits assistance or representation must have a VA accredited representative. The Attorney would need to be accredited in their individual capacity, not through a law firm/organization. Please reference the SSVF website for

<https://www.va.gov/OGC/docs/Accred/HowtoApplyforAccreditation.pdf> information on how to apply for VA accreditation as an Attorney and FAQ.

## Model of Implementation

### Would legal services with a contract be considered a subcontractor?

If you choose to partner with a legal services provider, that partnership will need to be supported by an MOU and would be considered a subcontractor. Grantees have the opportunity to hire directly for Legal Services too.

### Will a contract agreement be provided?

Yes, the Program Office will provide a sample template of a MOU contract. You can find it here: [https://www.va.gov/HOMELESS/ssvf/docs/Optional\\_Sample\\_Legal\\_Services\\_Contract\\_FlatFee.docx](https://www.va.gov/HOMELESS/ssvf/docs/Optional_Sample_Legal_Services_Contract_FlatFee.docx)

### Can grantees pay an Attorney chosen by the Veteran?

No, that is not allowable. Grantees need to use a model of implementation through either contract/MOU with a subcontracted legal services provider or in-house counsel. Contract or in-house develops an ongoing relationship and agreement to provide services for multiple Veterans as needed. We are not developing multiple singular relationships for a Veteran and a private attorney. You could choose to contract with a single Attorney if that's what you want but would not "shop around" every time a Veteran has a legal need. There is value in building the working relationship to ensure all referrals are addressed efficiently and Veteran's legal needs are met. In addition, training for SSVF staff and case coordination are important components. The MOU defines the agreement and expectations.

### Are we able to use SSVF funds to retain an Attorney? Like a retainer fee?

Paying an attorney, a small, generalized ongoing amount over a given period of time (i.e., have a lawyer on retainer) is not allowable. Grantees need to use a model of implementation through either contract/MOU with a subcontracted legal services provider or in-house counsel. Grantees need to demonstrate that the legal services are associated with a specific Veteran for an allowable cost. Grantees will not "shop around" for a lawyer every time a Veteran has legal issues and cannot pay multiple retainer fees. Retainer fee implies a singular relationship for a Veteran and a private attorney. Contracted Attorney or in-house means an ongoing relationship and agreement to provide services for multiple Veterans. The goal of the expansion is to build a defined working relationship with their legal services provider(s) for efficient referrals to an Attorney/organization employed or under contract with a fee schedule in place, staff training, case coordination.

### Do we need to put out legal services for quote in regard to cost effectiveness or can we contract with our current provider?

Grantees can contract with their current provider.

### Can we subcontract with someone but also hire a specialist on SSVF staff to coordinate Legal Services?

Yes, that would be allowable. You could hire a position to coordinate or a paralegal for assessments, which is allowable with the ARP funds, but you would still need to have in-house counsel or contract for direct access to an Attorney. Regardless of how legal services are provided, the provision of legal services should be reflected in the SSVF Grantee's approved budget.

### Can grantees refer to a legal aid provider?

Grantees that have been making indirect referrals to a legal aid provider for pro bono services, will need to enhance their services to direct. Instead of free, you will pay for allowable legal services for SSVF participants as defined in a MOU. Building on the already established working relationship with legal aid and implementing contract model is an option.

Can we do a contract flat fee with our subcontractor, with a fee-for-service if the volume is more than expected?

Yes, that is an acceptable model, as long as the parameters are spelled out in the MOU between you and the legal services contractor.

Can the legal team be from the VA?

Grantees will choose their legal services provider. One option is a VA Medical Legal Partnership (MLP) which is a legal clinic housed at a VAMC. You could partner with an MLP as a subcontractor to provide direct legal services for SSVF participants.

Is it permissible to have the Veteran be responsible for some of the legal fees?

Legal fees are an allowable expense under GHSA. So, the Veteran could cost share with SSVF. Please note that if the Veteran does cost sharing, the grantee is responsible for ensuring documentation is provided on the cost share and that it matches up with the Grantee General Ledger as an SSVF Legal Cost Category.

## Assessment

Are we going to be required to do the full legal assessment with every vet we work with? During our intake we do a needs assessment and if a Veteran declines assistance with legal do we still need to complete a legal assessment?

As part of this expansion, all grantees must screen Veteran households for legal needs.. You can develop a process for this (how you will screen such as within intake, when, who will complete it...). It is a best practice to develop this assessment collaboratively with your legal services provide and re-assess throughout service provision.

## Referral and Collaboration

Are there issues with the attorney client privilege when coordinating between case managers and contract providers?

We recommend you work with your legal services provider to address lawyer client privilege. Releases of Information for a legal services provider working with a Veteran would be up to the legal provider. However, the MOU/contract must highlight requirements to include sufficient information regarding the services provided for review by grantee to ensure services provided are allowable (**allowable cost category**) and reasonable. Sufficient evidence must be retained to support periodic management review and oversight ensuring compliance requirements have been met.

If one grantee has an enrolled client and refers that client to another grantee for legal services, does the second grantee needs to enroll the Veteran in SSVF? The Veteran would be enrolled in two grants at once?

The SSVF Program Office has provided all grantees with additional funding for Legal Services. As all grantees will implement legal service provisions, there should be no need to refer to a different grantee for this service.

## Service Provision

What happens if there's an on-going legal case with our legal partner, but the Veteran becomes ineligible for SSVF during the process?

The terms should be outlined in the MOU between SSVF and legal services provider and account for Veterans separated from SSVF and those in need of long-term legal services. Close coordination between SSVF and legal services provider is needed, especially regarding discharge from the SSVF program. All Veterans receiving legal services must be enrolled in SSVF; their enrollment is dependent on eligibility and on-going need for SSVF services. In some cases, where the Veteran has a critical need for legal services, their enrollment for the purposes of continuing legal support may continue after their housing needs have been met and they are no longer receiving housing services. Veterans appropriate for Shallow Subsidy services could be certified for the two-year period and continue to receive legal services over that two-year enrollment period.

Are SSVF Legal Services limited to housing?

Legal Services paid for by SSVF must fall under an allowable cost category and have a documented link to housing stability. The legal need should be documented in the legal needs assessment and corresponding Housing Stability Plan. If the legal service is unallowable with SSVF, the grantee can make an indirect referral to a legal services provider.

Are court-imposed fees eligible? Are fines?

Generally speaking, court imposed "fees" are allowable (i.e., driver's license reinstatement, etc.). "Fines" are not allowable and likely defined in court documents.

HUD-VASH participants are brought in through a packet, will they now be able to utilize legal services?

When a HUD-VASH participant is referred to SSVF for assistance, the household needs should be identified and communicated to the grantee. If legal services are needed in addition to traditional TFA expenditures, the grantee must complete a full intake and enrollment.

Is it an allowable cost to pay for legal services for another household member, or it's limited to only the Veteran?

Yes, SSVF can serve an entire household; as long as the legal issue is tied to housing stability for the household and the family member is an identified member of the household.

Will Veterans who are in shallow subsidy qualify for legal services funding? Should that come out of the shallow subsidy budget or regular SSVF?

Shallow Subsidy (SS) and Legal Services are services available to participants in the SSVF program (either HP or RRH enrollment). Although most SS participants will typically need light case management support, if a legal need is identified, they could receive legal services under your traditional budget (i.e., Legal Services line item).

Have the allowable Legal Services been revised or are they the same that's listed in the most recent Program Guide?

Allowable costs and legal services are the same as the Program Guide. Please reach out to your RC for nuanced questions.

## Finance

### Do we need to create a separate account for payment like we did for Shallow Subsidy?

There will be a separate account created in PMS when the Legal/HCN ARP funds are activated (for tracking purposes). Until that time, CARES/FY21 funds can be used to cover costs. We would recommend a new accounting string or other interim documentation standards clearly identifying which cost are related to legal services be used to identify costs associated with these services if your organization does not already have them established.

### What is the maximum allowable expense for legal services?

There is no max, however costs should be consummate with market costs and the service provided as needed.

### We need to contract with more than one legal services provider. Can we lump the total costs in one line item for the budget and have 4 separate agreements or do we need to split the potential costs out by subcontract and reflect 4 different line items?

You will need to create four-line items with the amount per subcontractor, having them add up to the whole total. This creates separate accounting strings and helps you better manage the budget.

### Will we have three separate but concurrent funding streams for FY22 (FY22, HCN/Legal, Shallow Subsidy)?

Correct, three accounts in Payment Management System. With that said, FY22 and Legal Services/HCN will be combined in one budget. SS will continue to have its own budget.

### Can the ARP amount allocated for legal services for FY22 be moved to another line item if the service is implemented, but that full amount is not needed?

No, the expectation is that the costs associated with legal services should encompass the funds provided, so grantees should expand the services to at least how much we provided through ARP. If the funds ultimately are not needed, they should not be reallocated to other SSVF line items, and we can explore a national strategy for return and redistribution where needed. Have to track ARP obligation for its specific purpose.

### What if we need more than the ARP funding amount for Legal Services?

You should budget to meet the anticipated need, which may or may not be more than the additional funds for Legal Services through ARP. You may move funds from other parts of the budget to increase Legal Services if needed.

### Are Legal Services coming out of TFA?

No, legal services are not TFA. They are a service. Organizations are not making direct financial payments to 3rd parties in lieu of the Veteran. The contracts/MOUs with a legal service provider (or hiring of direct staff) are essentially expansions of the services your organization provides. Invoiced amounts as defined in contract and in-house personnel expenses will come out of the Legal Services line item. Contract is "non-personnel" category and in-house hire is "Personnel".

### What is paid out of General Housing Stability Assistance (GHSA)?

Legal fees (i.e., court filing fee, driver's license reinstatement, etc.) are paid out of GHSA. Again, as previously stated, Legal Services (contract or in-house) are a service not TFA.



Since ARP funds are being used to implement the requirement of direct legal services, will this be sustainable in future grant cycles?

SSVF grant funds can be used to address participants' legal needs. This will remain true after the conclusion of ARP funding in FY 2023. We are not able to comment on future funding levels. If funds are not available at a future date, we will evaluate requirements and provide guidance at that time. In addition, VA will also offer other funding opportunities for legal services in the future.

## Reporting

What if the HMIS system does not give you legal as an option under services?

Grantees would need to connect with their HMIS Vendor to have the appropriate/required fields updated in the system. Services for legal are currently listed in the options for V2 Services Provided. This can be found in the VA Data Guide located at [HMIS & Data Reporting \(va.gov\)](#).

What is the threshold that constitutes a legal service for entry as a service in HMIS? Assessment? Brief Advice? Full representation?

HMIS indicates assistance obtained/coordinated with public benefit or directly provided. If a referral is made or an actual service is going to be rendered, legal services must be entered in HMIS. If only an assessment is completed without needed services, entry would not be needed in HMIS.

Do you enter legal services in HMIS if you refer the Veteran, but they choose not to follow through?

There should be a one-time V2 entry related to the legal service being referred but not ongoing entries.

HMIS Data entry: direct or indirect

Grantees will utilize V2 code 4 "Assistance obtaining/coordinating other public benefits" when referring to a subcontractor for service provision. Alternately, grantees will utilize V2 code 5 "Direct provision of other public benefits" if they have an in-house lawyer providing the services.