



Australian Government
Attorney-General's Department

**Indigenous Law and
Justice Division**

PROGRAM GUIDELINES 2009–10

Legal Aid for Indigenous Australians

Purpose of Funding

For a wide range of reasons, including long-standing disadvantage and ongoing discrimination, Indigenous Australians experience much higher rates of adverse contact with the justice system than other Australians.

The objective of this program is to provide high quality, culturally sensitive, equitable and accessible legal aid and legal aid related services for Indigenous Australians.

Funding Guidelines

(1) LEGAL AID

The Government is committed to providing high quality and effective legal aid services to Indigenous Australians. The objective is to better prioritise and target available resources to ensure that services are responsive to established policy priorities and community needs, and to provide the best possible quality of service to individual clients.

The legal aid service providers in all States and Territories are contracted to provide legal aid services to Indigenous Australians under the *Contract in relation to Indigenous Legal Aid Services* (Contract).

Funding for Indigenous legal aid services is not available through the 2009-10 Common Funding Process.

The Department's *Policy Directions for the Delivery of Legal Aid Services to Indigenous Australians* (Policy Directions) describe the requirements of service providers engaged to provide legal aid for Indigenous Australians. The Department may revise the Policy Directions from time to time.

The Contract and Policy Directions describe the services to be provided, comprising:

- a) **Advice Matters** – legal advice or information that is not provided as part of Casework Matter or Duty Matter services. This includes the provision of a free-call telephone advice service, referrals, preliminary assistance, the writing of short letters and the completing of forms
- b) **Duty Matters** – attendance at court and receipt of initial instructions by a lawyer. This includes all mentions, guilty pleas, applications including for bail, or adjournments performed on a duty lawyer basis, or where the matter is completed on the same day, and

- c) **Casework Matters** – ongoing legal services in relation to a particular legal problem, such as conducting a defended hearing. It is not necessary that the matter involve litigation; a Casework Matter may also be the provision of detailed legal advice or the negotiation of a claim for or against the client.

Performance Measures

Service providers must meet various performance and accountability requirements set out in their Contract and the Policy Directions. These requirements include providing a range of reports on progress against service targets, data collection, service standards audits, performance monitoring, client satisfaction surveys, financial reports and program evaluation and review.

The Department will use the information submitted by service providers to monitor their performance for efficiency, effectiveness and accountability. The Department may conduct regular client satisfaction surveys—in addition to those undertaken by service providers—to obtain an independent measure of the level of client satisfaction with the services provided. Additionally, the Department may conduct evaluations and other external performance monitoring activities to assess service providers' compliance with their contractual obligations.

(2) INDIGENOUS TEST CASES

The Department may provide funding for casework to:

- a) promote the review of laws and administrative practices that have the effect of discriminating against Indigenous Australians
- b) promote the recognition of Indigenous Australians' social, cultural, economic, legal and political rights through the conduct of litigation, and
- c) promote the resolution of inconsistencies and ambiguities in the application of existing laws to Indigenous Australians, or to an identifiable group of Indigenous Australians, through the conduct of litigation.

The Department's *Indigenous Test Case Guidelines* set out the criteria for obtaining funding, the procedure for applying for funding and the conditions upon which funding is granted.

Written submissions for test case funding addressing the *Indigenous Test Case Guidelines* should be directed to:

Assistant Secretary
Indigenous and Community Legal Services Branch
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600.

Performance Measures

The Department will measure performance of activities under this sub-program by assessing:

- how the outcomes of the test case have benefited an identifiable sector of Indigenous Australians, rather than a single individual or small subsection or interest group
- the contribution it makes to the review of laws and administrative practices that have the effect of discriminating against Indigenous Australians
- the contribution it makes to the recognition of Indigenous Australians' social, cultural, economic, legal and political rights through the conduct of litigation, and
- the contribution it makes to the resolution of inconsistencies and ambiguities in the application of existing laws to Indigenous Australians, or to an identifiable group of Indigenous Australians, through the conduct of litigation.

Other measures may also be negotiated for individual activities.

(3) EXPENSIVE INDIGENOUS CASES

Expensive court cases may place a significant burden on the budgets of Providers, which can adversely affect the provision of other services.

The Department may provide funding to enable Providers to supply legal casework, in accordance with the Policy Directions, to clients whose cases require funding of an amount that would severely impact upon the Providers' ability to fund their daily operations if it were pursued.

Funding under this component is only available to the Providers contracted by the Department to deliver legal aid services to Aboriginal and Torres Strait Islander Peoples.

The Department's *Expensive Indigenous Cases Guidelines* set out the criteria for obtaining funding, the procedure for applying for funding and the conditions upon which funding is granted.

Written submissions for test case funding addressing the *Expensive Indigenous Cases Guidelines* should be directed to:

Assistant Secretary
Indigenous and Community Legal Services Branch
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600.

Performance Measures

Performance indicators are:

- A report detailing the outcomes of the litigation.

(4) PROGRAM SUPPORT AND DEVELOPMENT

The Department may provide funding, in accord with the overall objectives of the program guidelines, to support the ongoing development of the program and/or the services providers. Projects considered for funding under this component include training, reviews, evaluations, publications, conferences, meetings, websites, strategic planning and advisory services.

The Department may consider funding under this component for Aboriginal and Torres Strait Islander law and justice peak advisory bodies.

Performance Measures

Performance measures will be matched to individual activities.