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**Perfect storm hits legal aid**

**Struggling programs face grim forecast as the new year opens.**

Karen Sloan

The National Law Journal

January 03, 2011

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David G. Hall, executive director of Texas RioGrande Legal Aid
Image: Reba Graham



The Florida Bar Foundation's Jane Curran

The situation looked grim for Texas legal aid groups. In 2009, the take from Interest on Lawyer Trust Accounts had plummeted due to record-low interest rates. Public interest law groups faced massive budget cuts.

The Texas Legislature came to the rescue with a one-time $20 million emergency allocation to fill the shortfall in 2009 and 2010, but the state now is dealing with its own budget crisis and legal aid advocates aren't counting on another financial bailout for 2011 or an overnight recovery of the accounts, which go by the acronym IOLTA. "That funding is going to be very tough to come by in the next legislative session," said David Hall, executive director of Texas RioGrande Legal Aid, the largest provider in the state. "They're talking about making cuts across the board." The organization stopped filling open lawyer positions in 2010 to prepare for cuts and may close offices, institute layoffs and roll back its caseload in 2011, Hall said.

Hall is just one of the many legal aid administrators who nursed their programs through a difficult 2010 and are bracing for an even leaner 2011. Law firms may be benefiting from the slow economic recovery, but legal aid groups face the most dire circumstances in decades. The problem is a perfect storm of IOLTA funding declines, cuts in state and local funding, uncertain federal support and a tight private fundraising environment. The situation is exacerbated by steep increases in demand for free legal services as millions of low-income Americans face long-term unemployment, foreclosure and other serious problems.

For example, the Legal Aid Society  which serves New York City and is the largest nonprofit legal aid provider in the country with an annual caseload of 300,000  saw a 40% increase in people seeking assistance with health care problems, a 21% increase in those seeking help to prevent evictions and a 6% increase in those seeking domestic violence help, said attorney-in-chief Steven Banks. The organization's civil division can help only one of every nine people who ask for assistance.

**IOLTA DECLINES**

State and local funding cuts vary across the country, but sharp declines in IOLTA money during the past three years have hit every state, said Betty Balli Torres, director of the National Association of IOLTA Programs, an organization of state administrators. IOLTA was established by Congress in 1980 and allows state groups to allocate a portion of the interest derived from certain lawyer trust accounts to organizations that provide legal services to indigent people.

"Basically, what we've seen nationally is a 75% decrease in public interest funding through IOLTA," Torres said. "We're talking about a huge drop in a matter of three years. It's playing out that way state by state by state."

IOLTA generated $380 million nationally for legal aid groups in 2008, but that fell to $124 million in 2010, Torres said. Interest rates were at 5.25% in September 2007 and have since fallen to 0.25% or even lower, she said.

"First and foremost, interest rates are in a bad position. I can't think of a time when IOLTA revenue and interest rates were this low," said Lora Livingston, a district judge in Texas and the chairwoman of the American Bar Association's Commission on IOLTA. "Until interest rates go up, there's not a whole lot we can do right now."

And no one is predicting a quick rise in those rates. Interest rates are not expected to rise until the first quarter of 2012, meaning they will likely stay low throughout 2011, said Jane Curran, executive director of The Florida Bar Foundation, which allocates IOLTA money (know as IOTA in Florida). The foundation typically distributes grants to 31 legal aid organizations but has seen revenue fall from $44 million in 2007 to $5.4 million in 2010. The foundation has tapped into a reserve fund it established during the boom times. The reserve likely won't hold out as long as hoped, however, because interest rates are lower than envisioned in the worst-case scenario the foundation used for planning purposes.

"We're going to have to cut grants in 2012 and use less of our reserve in order to stretch it out," Curran said, noting that many states don't even have IOLTA reserve funds. "We'll have to do some emergency fundraising for 2012-13 and will work closely with our grantees on that."

Federal money is another key component for legal aid organizations, and one of the few bright spots in the financial picture. The Legal Services Corp. funnels federal money to 136 legal aid programs across the country and has seen its appropriation increase in recent years. It received $390 million from the federal government in 2009 and $420 million in 2010. However, that increase has not been enough to offset cuts in IOLTA money and state and local support, said John Constance, the corporation's director of government relations and public affairs.

"Demand is skyrocketing at a time when other funding sources  namely IOLTA  have cratered," Constance said. "We're learning that 2010 is really when the bottom dropped out. Our funding is increasing against a title wave of demand."

Figures for 2010 are not yet available, but corporation-funded programs closed 31,000 more cases in 2009 than the previous year  a 3.5% increase.

The corporation's 2011 appropriation remains a question mark, and legal aid groups are watching closely to see what the soon-to-be Republican-majority House of Representatives will do. The corporation has requested $516.5 million, while legislators have been discussing appropriations in the $430 million to $440 million range.

"I think right now we're hopeful that, when the 2011 process ends, we will see some kind of an increase," Constance said.

State and local support for legal aid in 2011 will likely be a harder sell in many areas due to pressing budget shortfalls.

The Legal Aid Society in New York saw financial support from the state cut by $3 million in the 2009-10 fiscal year, while support from New York City declined by $400,000. The organization received some emergency money from the state judiciary, but not enough to offset losses in IOLTA funding, Banks said. As a result, it eliminated 30 staff positions in its civil division.

**ROLLER COASTER RIDE**

Local support has been a roller coaster ride for the Access to Justice program in Washington in recent years. After being given $3.56 million for fiscal year 2010, the City Council cut $700,000 because of a budget shortfall. The program got $3.5 million for 2011, only to see about 10% of that money cut in early December as part of a larger plan to address a $188 million city budget shortfall. The program avoided much higher cuts proposed by outgoing Mayor Adrian Fenty, said Peter Edelman, a professor at Georgetown University Law Center and the chairman of the Access to Justice Commission. The commission recently launched a fundraising campaign called Raising the Bar in D.C., which asks local law firms to donate a small percentage of profits from their Washington offices.

Legal aid services providers in New Jersey are also feeling the pain. The Legal Services of New Jersey system, which is made up of six legal aid organizations across the state, saw a nearly $10 million decrease in state funding in the 2010-11 fiscal year coupled with a drop in IOLTA funding from more than $40 million in 2007 to $8 million in 2010. The cuts forced the system to eliminate about 200 of its 700 positions since 2007, and President Melville Miller Jr. anticipates cutting another 50 to 70 jobs in 2011 if more money can't be found.

"The makeup of our cases has changed," Miller said. "We've reduced full representation and are doing more advice and limited representation. What poor people really need is a lawyer standing up in court and representing them. I don't know if New Jersey is the poster child for budget cuts, but every single nook and cranny of funding is being exhausted."

New Mexico Legal Aid is also struggling, said Executive Director Bill Strouse. It has lost about $400,000 of its $6 million annual budget during the past 18 months primarily to state funding cuts. "We've already been told to expect another 10% cut in state funding this year," he said. "Key legislators are saying they don't expect things to get better very quickly."

The organization's employees agreed to a six-day furlough in 2010 to save money, but it may need to close one office and lay off four or five workers in 2012, Strouse said.

New Mexico Legal Aid derives a small portion of its budget from foundations  yet another area that has largely dried up. "On top of everything else, a number of small private foundations took a real hit during the recession and have rolled their funding back," Strouse said. "We're looking to the big, national foundations, but so are a lot of other people. There's not much to fall back on."

Private donations to the Legal Aid Foundation of Los Angeles have also dropped off. The foundation typically brings in between $1.5 million and $1.7 million in donations, but the group hoped to reach about $1.1 million by the end of 2010, said Executive Director Silvia Argueta. Private attorneys in Los Angeles have recognized the growing need for free legal assistance and are donating more pro bono hours to the group, but the loss of private money is being felt.

"Our private donors have been affected by the recession," Argueta said. "They're still giving, but not at the same levels they have in the past, and some have unfortunately had to stop giving completely."

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