



**FORECLOSURE PREVENTION GRANT  
CONTRACT #:  
DISTRIBUTION AGREEMENT  
NYS OFFICE OF THE ATTORNEY GENERAL  
<http://www.ag.ny.gov>**

**ERIC T. SCHNEIDERMAN  
Attorney General**

**ARTICLE I - BACKGROUND**

Whereas the State of New York Office of the Attorney General (hereinafter, the "OAG") conducted an investigation into certain predatory lending practices of Ameriquest, one of the nation's largest subprime lenders, and thereafter entered into an agreement to resolve the investigation (hereinafter "the Ameriquest Agreement").

Whereas the OAG conducted an investigation into certain abuses in the foreclosure-related practices of the law firm Steven J. Baum P.C., formerly one of the largest foreclosure firms in New York, and the related entity Pillar Processing, LLC, and thereafter entered into an agreement to resolve the investigation (hereinafter "the Baum Agreement").

Whereas pursuant to the Ameriquest and Baum Agreements, monetary amounts were paid to the OAG that could be used, respectively, to fund "local consumer aid" and "programs that offer assistance to consumers facing foreclosure or victims of predatory lending practices."

Whereas the OAG has determined to make available \$3,000,000 from the payments made pursuant to the Ameriquest and Baum Agreements to assist foreclosure prevention efforts.

Whereas on January 12, 2012, the OAG issued a Request for Applications (hereinafter the "RFA") seeking applications from individual New York State not-for-profit legal services and legal aid programs for grants of up to \$100,000 to be used during a one year period to provide direct legal services to homeowners in foreclosure or at risk of foreclosure. Such services may include, but are not limited to: (1) counseling homeowners and/or advocating on their behalf to obtain loan modifications and other appropriate loss mitigation options; (2) counseling homeowners with respect to mandatory settlement conferences in court; (3) representing homeowners in foreclosure actions; and (4) bringing affirmative litigation to challenge predatory or other improper lending practices. Applications were evaluated based on, among other things, meeting the grant proposal's objectives, the approach and soundness of the proposed plan, organizational capacity and experience, and the anticipated geographic impact of the proposal.

Whereas on April 20, 2012, as a result of a competitive selection process, the OAG determined to authorize an award of \$            to           , (hereinafter referred to as Grantee) for funding the delivery of direct legal services to homeowners in foreclosure or at risk of foreclosure in           .

Now therefore, the OAG and the Grantee agree that:

**ARTICLE II - PARTIES TO AGREEMENT**

- A. This Agreement is between the OAG and the Grantee.
- B. The Grantee is a not-for-profit entity, tax exempt under 501(a) of the Internal Revenue Code, with an active New York State Charities registration number, or an approved exemption, and in good standing that currently provides free or low-cost civil legal services through a local bar association or Legal Services Corporation or Legal Aid Society program.

**ARTICLE III - CONDITIONS OF THE GRANT**

- A. The RFA 12-002, Attachment A, Appendix A (Standard Clauses for All New York State Contracts) and Grantee's application for the Foreclosure Prevention Grant, are hereby incorporated by

reference and made a part of this Distribution Agreement, all of which shall be binding upon Grantee.

- B. The use of Foreclosure Prevention Grant funds will be monitored by the OAG and its designees. All grantees will be required to document project expenditures using generally accepted accounting principals (GAAP). All grantees will also be required to document project results. Grantees will be required to submit quarterly interim and final progress reports.
- C. Grantee shall include in all brochures, booklets, flyers, resource materials, programs, posters, advertisements, multi-media presentations, online materials, videos or other printed or electronic materials prepared with funds from this grant: (1) a statement explicitly noting "Funds for this project were provided by the NYS Office of the Attorney General" from a settlement of claims brought by the NYS Office of the Attorney General, and (2) a disclosure that the views and statements expressed therein do not necessarily reflect the views and opinions of the Attorney General and that the Office of the Attorney General is not responsible for the accuracy of the content of the materials.

#### **ARTICLE IV - MANAGEMENT AND USE OF GRANT FUNDS**

- A. The OAG will make the full Foreclosure Prevention Grant available to Grantee upon the signing of this Agreement.
- B. Grantee shall deposit Foreclosure Prevention Grant checks (if any are received) in an interest-bearing segregated account. Any interest accrued shall be used for the same purposes and be subject to the same restrictions as the Foreclosure Prevention Grant. The OAG Grants Administrator shall be provided with a copy of the statement showing the funds deposit. If Grantee is unable to obtain an interest-bearing segregated account, it must obtain prior approval from the OAG for using appropriate alternative measures to monitor the funds (*e.g.*, spreadsheet for grant funds, pro-rating interest to be credited to the grant amount, and records for each withdrawal or other disbursement of the Foreclosure Prevention Grant).
- C. Grantee shall use the Foreclosure Prevention Grant for no purpose other than for those set forth in this Agreement, the RFA, and as described in Grantee's application for the Foreclosure Prevention Grant, unless the OAG gives written approval of any modification in advance of such use.
- D. Grantee shall, during the stated term, notify the OAG in writing in advance of any substantive changes to the agreement, its approved grant budget or organizational change that will impact on the administration of the Foreclosure Prevention Grant.
- E. Grantee shall not use the Foreclosure Prevention Grant for activities for which third party reimbursement, private grants or public funds already have been appropriated or authorized; legislative and lobbying expenses; fines and penalties; contributions and donations; partisan political activity; ongoing general operating expenses or existing deficits; endowment or capital costs, acquisition or construction of buildings; and any costs associated with any activities falling outside the scope of this project.
- F. Travel, when necessary, shall not exceed the current State Schedule of Allowable Reimbursable Travel Expenses.
- G. Grantee shall disburse all the funds provided to it as part of the Foreclosure Prevention Grant and any accrued interest (if any) not later than one (1) year from the date of its receipt. A narrative justification is required if a term extension becomes necessary to fully spend down the grant and/or complete the Grantee's mission under this Agreement.

#### **ARTICLE V - CERTIFICATIONS**

- A. Grantee certifies that it shall comply with all applicable federal and State laws, rules and regulations which are in effect or become effective during the term of this Agreement including, but not limited to, the New York State Governmental Accountability, Audit and Internal Control Act of 1987.
- B. Grantee shall comply with the requirements of Public Officers Law, 73 and 74, and other State codes, rules and regulations establishing ethical standards for the conduct of business with New York State.
- C. Grantee certifies that it has an established privacy policy for protecting the confidentiality of personally identifiable information or "private information" that, at a minimum: (1) restricts the use and/or disclosure of "private information" to the purpose for which it was obtained; (2) requires the

- person's consent for other uses or disclosures; (3) limits access to "private information" to those employees with a need to fulfill the purpose for which it was obtained; and (4) provides adequate precautions to ensure administrative and physical security of "private information."
- D. Grantee certifies that it shall: (1) comply with all applicable federal, state, and local laws relating to non-discrimination in employment; (2) not discriminate against any individual who receives or applies for services on the basis of actual or perceived age, race, creed, religion, color, national origin, gender, disability, marital status, sexual orientation, alien status, or citizenship; and (3) forward to the OAG a copy of any finding by a court or administrative agency that it has violated any federal, state, or local law relating to non-discrimination.
  - E. Grantee certifies that it shall: (1) comply with all applicable federal, state, and local labor and employment laws and regulations; and (2) forward to the OAG a copy of any finding by a court or administrative agency that it has violated any federal, state, or local law or regulation relating to labor or employment.
  - F. Grantee shall comply with the New York State Information Security Breach & Notification Act, the New York State Information Technology Policies and Standards, including IT Policy NYS-P08-005, and provisions of the Gramm-Leach-Bliley Act (P.L. 106-102).
  - G. Grantee certifies that any services provided pursuant to this Agreement shall be secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
  - H. If Grantee retains any contractor, subcontractor, consultant or other entity to provide services funded by the Foreclosure Prevention Grant (a "Service Provider"), Grantee shall incorporate as part of any agreement with a Service Provider the most current OAG approved version of Appendix A - Standard Clauses for New York State Contracts.

#### **ARTICLE VI - INDEMNIFICATION**

- A. If Grantee enters into any contract with a Service Provider to administer the project, Grantee shall take full responsibility for the acts and omissions of its Service Providers. Nothing in the contract shall impair the rights of the OAG or the State of New York under this Agreement. No contractual relationship shall be deemed to exist between the Service Provider and the OAG or the State of New York.
- B. Grantee shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by Grantee or its Service Providers pursuant to the Agreement. Grantee shall indemnify and hold harmless the OAG and State of New York and their officers and employees from any claims, suits, actions, damages, and costs of every nature arising out of the receipt and disbursement of the Foreclosure Prevention Grant or the provision of services pursuant to this Agreement by the Grantee or its Service Providers.

#### **ARTICLE VII - RECORDS AND REPORTING**

- A. Grantee shall submit to the OAG quarterly reports, prepared by Grantee's internal compliance department, addressing potential or actual conflicts of interest that arise in connection with implementation of the Foreclosure Prevention Grant.
- B. Grantee shall establish and maintain complete and accurate books, records, documents, accounts and other evidence pertinent to performance under this Agreement including such evidence pertinent to performance of any Service Provider (collectively the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter (the "Oversight Term"). The Attorney General and its agents, including but not limited to any audit or accounting firm, and any other person or entity authorized to conduct an examination or review ("Oversight Personnel"), shall have access to the Records during normal business hours at Grantee's office within the State of New York during the Oversight Term for the purposes of inspection, review, auditing and copying. The OAG shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (1) Grantee shall timely inform the OAG, in writing, that all or part of the Records should not be disclosed; (2) the Records shall be sufficiently identified; and (3) the OAG determines that designation of all or part of the Records as exempt under the Statute is reasonable and not otherwise inconsistent with law. Nothing contained herein shall diminish, or in

any way adversely affect, the OAG or the State of New York's right to discovery in any pending or future litigation.

- C. After receipt of the Foreclosure Prevention Grant, Grantee shall provide written reports to the OAG or its Oversight Personnel within thirty (30) days after the completion of every three (3) month period. Each report shall include in narrative format: (1) a description of the use of the Foreclosure Prevention Grant; (2) the status of the proposal funded by the Foreclosure Prevention Grant; (3) the activities and types of services provided through the use of the Foreclosure Prevention Grant; (4) how the Foreclosure Prevention Grant is being used to meet proposed objectives; (5) the number of persons served or benefited by the Foreclosure Prevention Grant; (6) a description of the steps Grantee has taken to ensure its compliance with the New York State Governmental Accountability, Audit and Internal Control Act of 1987; (7) any major accomplishments related to the Foreclosure Prevention Grant; (8) any significant obstacles to Grantee's meeting the proposed objectives and (9) any other specific information that the OAG or its designees deem reasonable in monitoring the Foreclosure Prevention Grant. Reports shall also include an attachment in spreadsheet format (file extension must be either .xls or .csv) that contains data points for each client served. Such data points shall include, but are not limited to, the information contained on Attachment A. The OAG may issue further guidance for the submission of data points and may, in consultation with the Grantee, modify the data points to be provided.
- D. Grantee shall provide a revised Cash Flow Plan to the OAG within thirty (30) days after every six months which project any unspent funds and collected interest accruals to date through the remainder or the grant term. Each six-month fiscal report shall be submitted with the following:
- 1) A summary of grant-related expenses by the appropriate "budget categories" (i.e., Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, Other, Indirect Costs) consistent with the Grantee's original project budget summary, as submitted and approved in semi-annual cash flow plans. The six-month financial report must show in chart form each prior period's expenditures by budget category, indicate which months and days are included in each period, and display a summary column with year-to-date expenditure amounts versus the approved grant amounts.
  - 2) Personnel/fringe charges verified with payroll records. Copies of payroll records from the date the Grantee is first claiming reimbursement from grant funds must identify the individual and position supported by the grant. Salaries that are compensated by grant funds; in whole or in part according to approved semi-annual cash flow plans (or approved substitutions by the OAG), must be consistent with personnel item titles that were requested for reimbursement in project budget summaries and semi-annual cash flow plans. No changes are permissible unless budget modifications were requested and approved in writing by the OAG prior to the date of the expenditure and not be for reimbursement of any expenses preceding the day the grant check was received.
  - 3) Supporting invoices for all non-salary expenditures must be clearly presented. All expenses charged to the Foreclosure Prevention Grant and recorded on a six-month expenditure report must be substantiated with attached purchase orders, copies of paid receipts or invoices, cancelled checks or other acceptable payment documentation. Such documentation must be organized separately by budget categories, with a calculator tape attached listing the individual charges to each grant category and showing totals per six month intervals.
  - 4) Bank statements, including the last one received by the Grantee, to cover all months and days included in the six-month expenditure report. If Grantee is unable to obtain an interest-bearing segregated account and obtains prior approval from the OAG for using appropriate alternative measures to monitor the funds, Grantee should submit automated monthly general ledger sheets clearly referencing Foreclosure Prevention Grant expenditures. All disbursements of the Foreclosure Prevention Grant should be made either directly from the Foreclosure Prevention Grant checking account to pay appropriate invoices as they become due; or where approved from a fund or general operation account, drawn down monthly or not later than quarterly as reimbursement.
- E. To ensure compliance with this Agreement and the RFA, the OAG or its designee shall have discretion to request additional reports or information at any time during the Oversight Term.

- F. Within ninety (90) days after Grantee has fully disbursed the Foreclosure Prevention Grant, Grantee shall provide a final report that describes all matters called for by the reports described in paragraph C of this Article, as well as an assessment of the effectiveness of the Foreclosure Prevention Grant, including but not limited to key performance indicators and the impact of the Foreclosure Prevention Grant on its intended population. The final report shall contain a financial report of expenses incurred during the entire grant period including a final bank statement and a Revised Final Cash Flow plan. The OAG or its designee may issue guidelines for the format and contents of the final report.
- G. Grantee shall fully cooperate with requests from the OAG or its designee regarding the Grantee's use of the Foreclosure Prevention Grant.
- H. Any notices, reports, or other communications referred to or made pursuant to this Agreement shall be sent to:
  - Lee Gottfried, Grants Administrator
  - NYS Office of the Attorney General
  - Budget & Fiscal Management Bureau
  - Empire State Plaza, Agency Bldg. #4
  - Albany, NY 12224

#### **ARTICLE VIII - TERMINATION**

- A. Grantee acknowledges the obligation of the OAG to ensure that the Foreclosure Prevention Grant is spent in a manner consistent with this Agreement and the RFA.
- B. If at any time the OAG believes Grantee is not in compliance with any provision of this Agreement, the Attorney General shall give Grantee ten (10) days written notice describing the claimed non-compliance with sufficient specificity to enable Grantee to cease and correct the claimed non-compliance; provided that no such notice shall be required where the Attorney General believes that the non-compliance consists, in whole or in part, of fraud, illegal conduct, or gross negligence.
- C. If Grantee shall: (1) fail to provide requested access, information or reports; (2) use any part of the Foreclosure Prevention Grant for a purpose not authorized by this Agreement; or (3) fail to meet any of its obligations under this Agreement, the OAG shall have the right to take any action it deems necessary to safeguard the Foreclosure Prevention Grant including, but not limited to, removing Grantee as an approved recipient of the Foreclosure Prevention Grant and demanding full reimbursement of the Foreclosure Prevention Grant.
- D. Nothing in this Agreement shall limit or impede the OAG's rights or remedies.



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<b>ERIC T. SCHNEIDERMAN</b> Attorney General
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**ACCEPTED AND AGREED TO BY:**

**ERIC T. SCHNEIDERMAN**  
Attorney General of the State of New York

**KARLA SANCHEZ**  
Executive Deputy Attorney General of  
ECONOMIC JUSTICE DIVISION

**JANE AZIA**  
Chief, Consumer Frauds Bureau  
120 Broadway, Suite 3A22  
New York, New York 10271  
(212) 416-8727

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**AND**

The undersigned certify that they are duly elected and authorized officers of the Grantee and that, as such, are authorized to accept this grant on behalf of the Grantee, to obligate the Grantee to observe all of the terms and conditions placed on this grant, and in connection with this grant to make, execute and deliver on behalf of the Grantee all grant agreements, representations, receipts, reports and other instruments of every kind. This Grant is not valid until signed and dated by the OAG or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the OAG is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Authorized Representative's Name (printed)

\_\_\_\_\_  
Authorized Representative's Title

\_\_\_\_\_  
Authorized Representative's Name (signature)

**Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 2012**

\_\_\_\_\_  
**Notary Public Seal or Signature**