



Industry Action Fund

Guidelines and Procedures

BIA of LANCASTER COUNTY

BUILDING INDUSTRY ASSOCIATION OF LANCASTER COUNTY
INDUSTRY ACTION FUND GUIDELINES

The Building Industry Association of Lancaster County (BIA) has established an Industry Action Fund (IAF) for the purpose of making money available to BIA members, and to the BIA as the voice of our local industry, upon request and approval of the BIA's Board of Directors. Funds can be used for assistance with legal cases that would benefit the industry as a whole, for issue education, technical assistance, studies, or polls. The fund will receive monies from an optional assessment that is placed on each member company at their renewal time, as well as from monies given as contributions to the IAF.

A formal application process has been adopted and is outlined in these guidelines. Questions on the application process and availability of funds should be directed to:

BIA of Lancaster County
Executive Officer Karen Watkins
204 Butler Avenue, Suite 200
Lancaster, PA 17601

Phone: 717-569-2674
Fax: 717-569-5187
www.lancasterbuilders.org
karen@lancasterbuilders.org

How to Apply

Please read this entire section, including the special requirements and restrictions, before proceeding:

- I. A *BIA member* may apply for funds. The application for funds must be submitted by the member. *BIA* may apply for funds. If *BIA* is requesting assistance, *BIA* must have approval from the Board of Directors before submitting the request.
- II. The request must be made in writing using the BIA Industry Action Fund application and submitted to the BIA Board of Directors. Please fill out all sections and provide as many details as possible. Include the following additional information with the application:
 - **For a legal case:** Where appropriate, a letter from the BIA member's legal counsel. The letter must include a thorough description of the factual background of the case and the legal issues involved. It should also discuss the **potential** local and/or statewide importance of the case.
 - Copies of any relevant local ordinance provisions.
 - Copies of relevant state or federal statutes.
 - Copies of any opinions that are considered important to the issues in the case.
 - Any opinions already issued in the case, including opinions of the municipal governing body or zoning hearing board, and the lower court.
 - Timing aspects and implications of the application and the underlying matter.
- III. **For Other Projects** – A complete application is submitted to the Industry Action Fund Subcommittee.

Special Requirements/Restrictions

1. Funds allocated from the Industry Action Fund must be matched by the member requesting such, unless otherwise exempted for cause shown. Consideration will be given to waiving this requirement only where it can be demonstrated that the BIA member lacks the necessary financial resources and the case or project is deemed to be of potential industry-wide significance. Requests for exceptions to this requirement must be in writing and accompanied by a financial statement. The BIA Board of Directors (BIA Board) will make a recommendation on each application regarding the percentage of financial participation to be provided. The recommendation may also be reviewed by the BIA Governmental Affairs Committee if the BIA Board deems it prudent for the purpose of additional insight.
2. As a condition of its approval of a request for funding, the BIA reserves the right to determine the extent to which BIA's counsel, or the member's counsel will retain control over legal suits. BIA reserves the option to appoint co-counsel if BIA's counsel is not chosen for the lead. If it is determined that the member's counsel will control the legal suit, the member will be required to keep BIA's counsel fully informed by providing him/her with copies of all pleadings and relevant correspondence. All pleadings and other legal filings shall be reviewed by BIA counsel in advance of filing if at all possible.
3. All approvals of requests for funds for court cases shall be conditioned on the applicant's agreement the case be pursued to a final judicial resolution. In the event the case is settled prior to a final judicial resolution, all allocated funds shall be paid back to the Industry Action Fund by the association or individual which requested the funding, unless the BIA Board determines the settlement resolution substantially advances the industry's interests.
4. Any recipient of funding shall submit written quarterly reports to the BIA Board. The report shall include the status of the case or project and an accounting of the money used. Reports shall be submitted until the action for which funding was granted is complete. Any unreleased portions of approved funding will not be released until delinquent reports are received, reviewed and approved.
5. BIA counsel is requested to evaluate and comment on all Industry Action Fund applications submitted. If a BIA member desires to retain the services of BIA counsel to pursue their case, and the Industry Action Fund application is approved by the BIA Board of Directors, a written letter of consent must be signed by both the BIA member and BIA. The BIA Board of Directors will then ask that all further items pertaining to the case be reviewed by alternate legal counsel, which the Board will select.

6. Because each funding request is unique, applications will be discussed by the Board on a case-by-case basis. Once the review is completed, the BIA Board will inform the Governmental Affairs Committee and advise the BIA member of the decision.
7. If any expenditures have been made prior to an application being received and approved, BIA may elect not to match those expended funds and may elect to approve matching funding only from the date the application was received and approved by the BIA Board.
8. The BIA Board will, on a yearly basis, review each approved case or project and will determine:
 - If the action has been completed (if a special project);
 - If the case has been decided, is there desire/need to move forward to an appeal;
 - Have the issues which are being challenged been resolved in an alternate manner (regulatory/legislative relief).
9. The BIA Board has the right to call for additional reports from a recipient of funding at any time.
10. Except as herein provided, funds provided by IAF for assistance in funding litigation of cases of local or statewide importance to the building industry shall be used solely for direct payment of direct litigation expenses incurred after the date of the grant and for no other purposes. At the close of litigation of the issues for which the grant is made, any unexpended balance after payment of proper outstanding obligations which arose after the date of the grant shall be returned to the BIA Industry Action Fund.

The grantee of the grant shall reimburse the Fund for grant money expended in the following situations:

- The matter is settled between the litigating parties on terms which provide no precedent with respect to the issues for which the grant is made.¹
- The Grantee discontinues the action without the consent of the BIA Board or fails to diligently pursue the matter the determination of which is in the sole discretion of the IAF.
- The Grantee recovers monetary damages in excess of the total legal costs expended by the Grantee including the amount of the grant. If the damages are based upon issues not covered by the grant, but the litigation is terminated by settlement so that the issues funded are not decided, the full fund shall be returned to BIA IAF regardless of the amount of the

¹ For example, if the issue for which the grant is made is the propriety of off-site exactions and the grantee settles with the municipality for additional density or grant of other waivers to off-set the excessive exactions, the moneys paid to the Grantee from the Fund shall be reimbursed.

damages awarded. If the damages awarded with respect to the issue funded are less than the total legal costs ² incurred including both the amount of the grant and funds provided by the Grantee and/or others, the amount refundable to the IAF the amount refunded shall be computed by dividing the amount of the grant by the total legal costs and multiplying that fraction by the amount of the damages awarded related to the issues funded.³

- The Grantee fails to file the quarterly or additional reports as requested or otherwise fails to comply with the Guidelines and Procedures and such failure is not remedied within seven (7) days of written notice to Grantee.

11. Grant limitations are as follows:

To the extent that the issue relates solely to the township borough or city, limit is \$10,000.

To the extent that the issue relates to Lancaster County, limit is \$15,000.

To the extent that the issue relates to the state of Pennsylvania, limit is \$25,000.

12. Applicants and their counsel may be asked to present and review its application in person or by phone. The decision on whether to approve the application, and to what extent, shall be at the sole discretion of the BIA Board.

² As used herein, the term "legal costs" shall include attorney's fees, court costs, discovery costs, expert witness fees and other direct costs of litigation, but shall not include the value of litigant's time dedicated to the pursuit of the matter or public relations or customer relations matters or work done pursuant to warranty.

³ Thus, if the amount of the grant were \$10,000.00 and the total legal costs were \$100,000.00 and the damages awarded related to the issues funded were \$50,000.00, the Grantee would be obligated to refund \$5,000.00.

Application for Funding

**BUILDING INDUSTRY ASSOCIATION
INDUSTRY ACTION FUND**

Please complete all sections. You must include support and documenting evidence as requested. This application must be received 14 days before any regularly scheduled BIA Board of Directors meeting. Only BIA members and the BIA may submit this application.

Name: _____

Company Name: _____

Address: _____

Phone: _____

Email Address: _____

BIA Member Since: _____

Application date (today's date): _____

- I. On an attached sheet, please describe, in detail, the facts and issues involved in the case/project for which you are requesting funding. Please include, if appropriate, a letter from legal counsel or consultant which contains the legal and factual aspects of the case or project. Please attach copies of any relevant local ordinance provision, copies of state or federal statutes and cases. If appropriate, include a copy of lower court's decision. If this is not a legal issue request, attach support material.

- II. On an attached sheet, please describe, in detail, the impact (or potential impact) of this issue on the housing industry and why the issue is of local or statewide significance.
- III. The amount of money requested is: _____

For the following four questions, please describe in detail on an attached sheet

- A. How will these funds be used?
- B. Estimate of total cost and time to complete the action for which funding is requested.
- C. Financial commitment of the applicant, both past and future.
- D. Please indicate if there has been prior BIA assistance.

If so, Explain: _____

- IV. Legal Counsel/
Consultant Name: _____
- Firm: _____
- Address: _____

- Phone: _____
- Contact Email: _____

Is this _____ BIA's legal counsel?
_____ Member's personal counsel?

VI. Please indicate person who will be responsible for submitting quarterly progress reports.

Name: _____

Address _____

Phone _____ Email: _____

Applicant Signature

Date

VII. Please return this application and all supporting materials to:

**BIA of Lancaster County
Attn: Executive Officer Karen Watkins
204 Butler Avenue, Suite 200
Lancaster, PA 17601**

