



The State Bar *of California*

DATE: July 22, 2020

TO: Members, Eligibility and Budget Review Committee, Legal Services Trust Fund Commission

FROM: Doan Nguyen, Acting Program Manager
Erica Carroll, Senior Program Analyst

SUBJECT: IOLTA/EAF Eligibility and Review Issues for Grant Year 2021: Pro Bono Allocation, In-Kind Donations, and Update on Eligibility Review Conferences

EXECUTIVE SUMMARY

Interest on Lawyers' Trust Accounts (IOLTA) and Equal Access Fund (EAF) grants are awarded to approximately 100 qualified legal services projects (LSP) or support centers (SC) each year to support the provision of free civil legal aid in California to indigent persons, or in the case of SCs, the provision of legal training, technical assistance and advocacy support to LSPs. These grants must comply with criteria set forth in Business & Professions Code sections 6210-6228 (referred to as the "IOLTA statute"), State Bar Rules, and Eligibility Guidelines for Legal Services Projects and Support Centers.

The purpose of this memo is to describe the issues and provide the relevant governing authorities to aid the Committee in its deliberations and recommendations. Specifically, we would like the Committee to determine (1) which programs qualify for a pro bono allocation; and (2) whether in-kind donated services must be counted as part of an organization's total expenditures with regard to the requirement for submitting a financial review versus an audit.

Staff will also provide an update on two Eligibility Review Conferences (ERCs), for East Bay Family Defenders and Uncommon Law. The ERCs will have been conducted by the date of this Committee meeting and staff will ask the Committee to vote to recommend these organizations as eligible or ineligible for 2021 IOLTA/EAF funding.

Finally, we will update the Committee on three organizations who had previously been granted an extension until August 1, 2020, to provide an audited financial statement but have advised us they will likely not be in a position to meet this extended deadline. We will discuss the circumstances of these organizations and ask the Committee's guidance as to whether further extensions are appropriate.

Recommendations made by the Committee must be approved by the Legal Services Trust Fund Commission. Any determinations will be subject to the Legal Services Trust Fund Commission Rules Committee's future review process.

BACKGROUND

IOLTA and EAF grants are awarded to approximately 100 LSPs and SCs each year. These organizations provide free civil legal aid in California to indigent persons,¹ or legal training, legal technical assistance, and advocacy support to the organizations that directly serve indigent persons. Although IOLTA and EAF grants are separate sources of funding, there is one combined application for both IOLTA and EAF grants.

IOLTA funds are mainly generated from interest accrued on lawyers' trust accounts while EAF funds are included in the State's annual budget act, as part of the judicial branch budget. IOLTA and EAF grants are both governed by the IOLTA statute, State Bar Rules, and Eligibility Guidelines for LSPs and SCs. An organization may apply for IOLTA and EAF funding as either an LSP or an SC.

The IOLTA statute is the primary governing authority that defines how IOLTA funds are generated and distributed, utilizing a formula to calculate individual award amounts. The vast majority of EAF funds are also distributed using the IOLTA formula.

The formula includes an additional allocation for programs that recruit "substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects" as their principal means of delivering legal services. (Business and Professions Code sections 6214(b)(3)(A) and 6216(b)(1)(B).) This is commonly referred to as the "pro bono allocation," where ten percent of the funds in each county are designated for these programs. The pro bono allocation also allows organizations that qualify for it to use higher thresholds of income eligibility for services. (Business and Professions Code section 6213(d); see Attachment A for excerpts of relevant governing authorities.)

The Legal Services Trust Fund Program Eligibility Guidelines for Legal Services Projects (Guidelines) summarize the requirements for applicants to demonstrate their eligibility for the pro bono allocation. Applicants must meet one of three tests in each county where they are requesting the allocation. The applicant can:

(A) confirm that the number of service hours provided by volunteer attorneys exceeded the number of service hours worked by staff attorneys in the previous calendar year;

¹ Per the IOLTA statute, an "indigent person" is an individual 1) whose income is not higher than 125 percent of the federal poverty threshold, or 2) eligible for Supplemental Security Income or free services under the Older Americans Act (seniors 60+) or Developmentally Disabled Assistance Act (Business & Professions Code section 6213(d)).

(B) establish through a formula involving volunteer attorney and paralegal hours compared with staff attorney and paralegal hours that they meet the requirements. The applicant must show:

- (1) that the attorneys recruited actually provided substantial free civil legal services;
- (2) that the combined number of hours of service by volunteers, both attorneys and paralegals, exceeds the combined number of hours of service by staff attorneys and paralegals; and
- (3) that the number of hours of service by volunteer attorneys is more than half as many as the combined number of hours of service by staff attorneys and paralegals;

(C) provide a narrative explanation for its method of calculating the delivery of services through volunteer attorneys. (Eligibility Guidelines for Legal Services Projects, Guideline 2.9.)

DISCUSSION

Pro Bono Allocations

As indicated above, an additional pro bono allocation is available to grantees whose “principal means” for the delivery of legal services is through pro bono attorneys who provide free legal representation to indigent persons or to qualified legal services projects in California (Business and Professions Code section 6216(b)(1)(B)). There are 21 applicants for the pro bono allocation for grant year 2021, some in multiple counties.

At this time, there are eight programs that do not require Committee discussion as they meet the threshold requirement and qualify for the pro bono allocation under either Test A or Test B. Further, Community Lawyers, Inc. is a first-time applicant and its eligibility should be determined before reaching the question of whether they qualify for a pro bono allocation. (See Attachment B for a full list of Pro Bono Allocation Applicants and the counties for which they are requesting an allocation.)

A. Threshold Eligibility for Pro Bono for Allocation Applications

The Guidelines sets forth the criteria for LSPs to qualify for pro bono allocations. The Commentary in Guidelines 2.6.3.1 requires that applicants meet a threshold test to qualify for the pro bono allocation. The threshold requires the applicant to have “recruited at least 30 attorneys who provided services in the previous calendar year,” or the applicant to have “recruited at least 5 percent of the licensed attorneys in the county in the previous calendar year,” or that the attorneys recruited “donated at least 1,000 hours of legal services for clients in the previous calendar year.”

This year, all applicants met this threshold test.

B. Test C for Pro Bono Allocation Applications and Staff Recommendations

If an applicant answers affirmatively to the initial pro bono threshold question, the commentary in Guidelines 2.9.2 sets forth the additional requirement that the applicant utilizes private attorneys as their principal means to provide legal services. Applicants that meet Tests A or B as described in the Background section do not require Committee review; it is longstanding office practice that only applicants requesting an allocation under Test C are elevated to the Committee.

Twelve applicants have applied for the pro bono allocation under Test C.² The narratives they submitted in their applications and staff recommendations are in Attachment C. Staff recommends that ten of these twelve organizations be deemed eligible for a pro bono allocation, one deemed not eligible, and that one other organization's eligibility be discussed at the meeting.

Audit Requirement and In-Kind/Donated Services

As mentioned at the past two Committee meetings, State Bar Rule 3.680(E)(1) and the related Schedule of Charges and Deadlines states that the "[t]hreshold amount of gross corporate expenditures requiring submission of an audited financial statement" is \$500,000. Organizations with gross corporate expenditures of less than \$500,000 submit a reviewed financial statement. On the application, in-kind/donated services are specifically deducted from qualified expenditures. State Bar Rule 3.680(E)(1) and related authorities are silent on whether total corporate expenditures should include in-kind/donated services for purposes of the audit requirement.

One organization, San Luis Obispo Legal Aid Foundation (SLOLAF), is over the \$500,000 threshold because of in-kind/donated services and has submitted a financial review in lieu of a financial audit. SLOLAF's gross corporate expenditures for 2019 total \$676,188 including in-kind/donated services equivalent to \$292,152 based on a fair value as noted in its financial review.

A. Staff Recommendation on In-Kind/Donated Services

Absent a policy on in-kind/donated services, staff recommends that the Committee accept the reviewed financial statements from SLOLAF for grant year 2021.

On March 6, 2020, the Rules Committee approved recommendations to amend State Bar Rule 3.680 for additional clarification around the audit and financial review requirement. Specifically, the Rules Committee approved the recommendation to exclude in-kind donated services in the calculation of an organization's gross corporate expenditures for the purpose of determining whether an organization can submit a financial review in lieu of a financial audit. The Rules

² The nine remaining organizations meet either Test A or B and are therefore deemed eligible for the allocation, pending any other general IOLTA/EAF grant eligibility issues. We are not elevating these nine organizations or committee consideration.

Committee's recommendation will need to be approved by the Commission and then sent out for formal public comments before the Board of Trustees makes an ultimate determination.

Update on Audit/Financial Review Extensions

At its meetings on June 26 and July 10, the Committee granted audit or financial review extensions to a total of 17 IOLTA/EAF applicants. These organizations were instructed to submit their final audits or financial reviews no later than August 1. To date, staff has received updates from three applicants that they may not be able to meet the August 1 deadline. Staff has strongly encouraged these organizations to do their best to meet this deadline and has further informed them that staff lacks the authority to grant another extension; the Committee would need to make that decision.

According to the State Bar's Schedule of Charges and Deadlines referenced in State Bar Rule 3.680(E)(1), no extension may be granted "beyond the date upon which grant allocations are determined." Currently, the Commission is scheduled to vote on August 14 regarding which organizations are eligible for 2021 IOLTA/EAF funding, and staff plans to release tentative allocations and budget forms on August 21. Staff would like to discuss whether the Committee is amenable to any further extensions given this timeline.

Update on Eligibility Review Conferences

Staff is in the process of scheduling and conducting six Eligibility Review Conferences (ERCs) for new applicants, with the participation of members of the Eligibility and Budget Review Committee. Two ERCs will take place prior to the July 28 meeting: UnCommon Law on July 24 and East Bay Family Defenders on July 27.

Four other organizations will participate in ERCs before the Committee's August 6 meeting: Community Lawyers, Inc., Housing Rights Center, Kids in Need of Defense (KIND) and Social Justice Collaborative.

At the July 28 meeting, staff will provide an oral update on the outcome of the first two ERCs, and will discuss planning and logistics for the remaining four applicants.

ATTACHMENTS

- A.** Excerpts from Governing Authorities: Business and Professions Code; Rules of the State Bar of California; Schedule of Charges and Deadlines; Eligibility Guidelines for Legal Services Projects
- B.** Pro Bono Allocation Applicants
- C.** Pro Bono Test C Narratives and Staff Recommendations

**Excerpts from Governing Authorities: Business and Professions
Code sections 6213, 6214, and 6216; State Bar Rule 3.680; Schedule of Charges
and Deadlines (regarding Rule 3.680(E)(1)); Eligibility Guidelines for Legal
Services Projects, Guidelines 2.6.3. and 2.9.**

California Business and Professions Code section 6213

As used in this article:

(a) “Qualified legal services project” means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) “Qualified support center” means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) “Recipient” means a qualified legal services project or support center receiving financial assistance under this article.

(d) “Indigent person” means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project that provides free services of attorneys in private practice without compensation, “indigent person” also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this

subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) “Fee generating case” means a case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) “Older Americans Act” means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

- (1) An interest-bearing checking account.
- (2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money market fund.
- (3) An investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).

(k) "Eligible institution" means either of the following:

- (1) A bank, savings and loan, or other financial institution regulated by a federal or state agency that pays interest or dividends in the IOLTA account and carries deposit insurance from an agency of the federal government.
- (2) Any other type of financial institution authorized by the California Supreme Court.

California Business and Professions Code section 6214

(a) Projects meeting the requirements of subdivision (a) of Section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older American Act funds shall be presumed qualified legal services projects for the purpose of this article.

(b) Projects meeting the requirements of subdivision (a) of Section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:

(1) They receive cash funds from other sources in the amount of at least twenty thousand dollars (\$20,000) per year to support free legal representation to indigent persons.

(2) They have demonstrated community support for the operation of a viable ongoing program.

(3) They provide one or both of the following special services:

(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.

(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups.

California Business and Professions Code section 6216

The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefor.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.

State Bar Rule 3.680: Application for Trust Fund Program grants

To be considered for a Trust Fund Program grant, a qualified legal services project or qualified support center seeking a Trust Fund Program grant must submit a timely and complete

application for funding in the manner prescribed by the Commission. The applicant must agree to use any grant in accordance with grant terms and legal requirements.

- (A) A qualified legal services project must meet statutory criteria.
- (B) A qualified support center must agree to offer support services in two or more of the following ways: consultation, representation, information services, and training. The board of directors of the support center must establish priorities for providing such services after consulting with legal services attorneys and other relevant stakeholders.
- (C) A support center not in existence prior to December 31, 1980 must demonstrate that it is deemed to be of special need by a majority of qualified legal services projects in accordance with Trust Fund Program procedures. Upon request, the Commission must make available to the applicant a list of all the names and addresses of qualified legal services projects.
- (D) A nonprofit corporation that believes it meets the criteria for a qualified legal services project and qualified support center may submit two applications, one as a project and one as a support center, indicating in each application whether it is to be considered the primary or secondary application. The Commission will consider the secondary application only if the primary application is not approved. No applicant may receive a grant as a qualified legal services project and as a qualified support center.
- (E) An application must include
 - (1) an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. A financial review in lieu of an audited financial statement may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines; 10 Business & Professions Code § 6223. 5
 - (2) information about the maintenance of quality service and professional standards and how the applicant maintains standards, such as internal quality control and review procedures; experience and educational requirements of attorneys and paralegals; supervisory structure, procedures, and responsibilities; job descriptions and current salaries for all filled and unfilled professional and management positions; and fiscal controls and procedures.
 - (3) a budget and budget narrative, which must be submitted within thirty days of receipt of a notice of tentative allocation, explaining how funds will be used to provide civil legal services to indigent persons, especially underserved client

groups such as, the elderly, the disabled, juveniles, and non-English-speaking persons within the applicant’s service area; and

- (4) information about program activities, such as substantive practice areas, extent and complexity of services, a summary of litigation, and populations served.

RULES OF THE STATE BAR OF CALIFORNIA

APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2020

| <i>Rule</i> | <i>Description</i> | <i>Amount</i> | <i>Deadline</i> |
|-------------|---|---------------|---|
| 3.680(E)(1) | <p>Threshold amount of gross corporate expenditures requiring submission of an audited financial statement.</p> <p>Deadline for applicant to submit an audited or reviewed financial statement for the fiscal year that concluded during the prior calendar year.</p> | \$500,000 | <p>Not applicable</p> <p>Promptly when available, and no later than May 1. Upon written request, an extension up to the application deadline may be granted by the State Bar staff. Upon a showing of extraordinary circumstances, the Commission may grant an extension beyond the application deadline. Under no circumstances shall such extension be granted beyond the date upon which grant allocations are determined.</p> |

Eligibility Guidelines for Legal Services Projects, Guideline 2.6.3.

2.6.3. The applicant must provide at least one of the following special services:

- 2.6.3.1. Recruiting substantial numbers of attorneys in private practice who serve without compensation providing the legal services referred to in Guideline 2.3 above, or**

Commentary:

In deciding whether you are eligible to apply as a project that recruits substantial numbers of attorneys, the Legal Services Trust Fund Commission will consider several factors. At a minimum you must meet at least one of the following tests:

- a. you recruited at least 30 attorneys who provided services in the previous calendar year; or
- b. you recruited at least five percent of the licensed attorneys in the county you serve who provided services in the previous calendar year; or
- c. the attorneys you recruited donated at least 1,000 hours of legal services for your clients in the previous calendar year.

Provided you meet one of these minimum tests, you may demonstrate your project's recruitment of substantial numbers of attorneys in one or more of the following ways:

- a. the number of attorneys recruited;
- b. the percentage of attorneys in your local service area that donated services through your project;
- c. the verified value of donated civil legal services in comparison to your expenditures and budget;
- d. the number of hours donated by each attorney;
- e. the number of attorneys in your area who have special expertise needed to provide the services your project offers; or
- f. other considerations that may affect the availability of volunteer attorneys in your service area.

Any attorney who is not an employee of the applicant can be considered in private practice, and attorneys may be considered in private practice even though they work for government agencies, corporations, or in non-legal occupations.

Attorneys can be considered to serve without compensation even when they are reimbursed for out-of-pocket expenses, whether by the client, the applicant, or other sources. [B&P Code §6214(b)(3)(A); Guideline 2.3.2 and supporting Commentary]

[Guideline 2.6.3.2. omitted]

Eligibility Guidelines for Legal Services Projects, Guideline 2.9

2.9. An applicant wishing to qualify for the additional allocation reserved for organizations that demonstrate the volunteer services of private lawyers as their principal means of delivering legal services must meet each of the following requirements:

2.9.1 the requirements of Guideline 2.6.3.1 above; and

2.9.2 the applicant's principal means of delivering legal services is the recruitment of attorneys in private practice.

Commentary:

See Commentary concerning Guideline 2.6.3.1. One method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence that the attorneys recruited actually provided substantial free civil legal services and that the number of hours of services so provided in the previous calendar year by attorneys recruited exceeded the number of hours of services provided by lawyer staff employed by the applicant.

An alternative method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence (1) that the attorneys recruited actually provided substantial free civil legal services; (2) that the combined number of hours of service by volunteers, both attorneys and paralegals, exceeds the combined number of hours of service by staff attorneys and paralegals; and (3) that the number of hours of service by volunteer attorneys is more than half as many as the combined number of hours of service by staff attorneys and paralegals.

If you do not use either of these methods to demonstrate your principal delivery means, you should describe and explain in your application the method used. [B&P Code §6216(b)(1)(B)]

2021 IOLTA/EAF Pro Bono Allocation Applicants by Organization and County

| | Program Name | County | Test |
|----|--|----------------|-----------------------|
| 1 | Alliance for Children's Rights | Los Angeles | A and B |
| 2 | Bet Tzedek Legal Services | Los Angeles | C |
| 3 | Casa Cornelia Law Center | San Diego | C |
| 4 | Community Lawyers Inc. | Los Angeles | A and B (pending ERC) |
| 5 | Community Legal Services in East Palo Alto | San Mateo | A and B |
| 6 | Disability Rights Legal Center | Los Angeles | C |
| 7 | Harriett Buhai Center for Family Law | Los Angeles | C |
| 8 | Inland Empire Latino Lawyers Association, Inc. | Riverside | C |
| 9 | Inland Empire Latino Lawyers Association, Inc. | San Bernardino | C |
| 10 | Justice & Diversity Center of the Bar Association of San Francisco | San Francisco | B |
| 11 | LACBA Counsel for Justice | Los Angeles | C |
| 12 | Lawyers' Committee for Civil Rights | Alameda | A and B |
| 13 | Lawyers' Committee for Civil Rights | Contra Costa | A and B |
| 14 | Lawyers' Committee for Civil Rights | Kern | A and B |
| 15 | Lawyers' Committee for Civil Rights | Marin | A and B |
| 16 | Lawyers' Committee for Civil Rights | San Francisco | A and B |
| 17 | Lawyers' Committee for Civil Rights | Santa Clara | A and B |
| 18 | Lawyers' Committee for Civil Rights | Yuba | A and B |
| 19 | Lawyers' Committee for Civil Rights | San Mateo | C |
| 20 | Legal Access Alameda | Alameda | A and B |
| 21 | Legal Aid of Marin | Marin | C |
| 22 | Legal Aid of Sonoma County | Sonoma | C |
| 23 | Legal Aid Society of San Bernardino | San Bernardino | C |
| 24 | Public Counsel | Los Angeles | A and B |
| 25 | Public Law Center | Orange | C |
| 26 | Riverside Legal Aid | Riverside | A |
| 27 | San Diego Volunteer Lawyer Program | San Diego | B |
| 28 | Veterans Legal Institute | Los Angeles | C |
| 29 | Veterans Legal Institute | Orange | C |
| 30 | Voluntary Legal Services Program of Northern California | Sacramento | A and B |

Pro Bono Test C Narratives and Staff Recommendations**1. Bet Tzedek Legal Services**

County: Los Angeles

Staff Recommendation: Eligible

Test C Narrative:

Bet Tzedek was conceived as a volunteer-led response to a housing crisis in the early 1970s. Since that time, we have maintained an unwavering commitment to engaging large numbers of volunteers and pro bono attorneys. Our commitment to pro bono service is reflected throughout the agency. No Bet Tzedek program functions without engaging volunteers as a core and essential resource. One of the six core performance metrics of our annual performance evaluations includes an assessment of each staff member's involvement in pro bono/volunteer engagement.

Our three-person Pro Bono Department is dedicated to ensuring that pro bono services are our principal means of providing legal aid to the community. Each member of our Pro Bono department brings a specific focus to developing programs that engage others in meeting client and community needs.

Our current Director of Pro Bono Programs joined the agency at the end of 2018 to oversee all volunteer-related programming. In addition to developing and overseeing agency-wide pro bono policy, she provides a deep, primary focus on recruiting pro bono volunteers from the private bar. Bet Tzedek currently partners with nearly every major national law firm having an L.A.-based office, a full and growing spectrum of other firm types, from midsize to boutique to solo practitioners, and an ever-increasing number of corporate law departments and in-house attorneys. By building an extensive network of well-maintained professional relationships, we are increasingly able to strategically place cases with subject-area experts – which is critically important as we move to serve “niche” and historically underserved communities, including transgendered individuals, minority-owned businesses developing high-tech services, and abused seniors with estate planning concerns.

In addition, thanks to the tireless efforts of our Director of Pro Bono Programs, Bet Tzedek now has programs where services are almost completely delivered by pro bono attorneys. This success is particularly notable in our Small Business Development (SBD) program where pro bono attorneys are exclusively responsible for providing one-on-one legal services to our clients. Additional information about our unique pro bono SBD program will follow below.

The second member of our pro bono department is our Pro Bono Clinics and Community Outreach Coordinator. This individual focuses on recruiting, training, and supervising volunteers

Pro Bono Test C Narratives and Staff Recommendations

for each of our eight (8) clinic programs, which include: 1. Advance Planning, 2. Elder Abuse Restraining Orders, 3. Self-Help Conservatorship filings, 4. Small Business Legal Academy, 5. Small Claims guidance, 6. Legal Name & Gender Marker Change, 7. Workers' Rights, and 8. Housing Rights. These clinics annually bring hundreds of volunteers through our doors (real, remote, and virtual) to serve thousands of clients.

Each of our eight clinics relies extensively on pro bono volunteers to handle intake and on-site services for literally thousands of clients who seeks services in this way. Fully 90% of the workers' rights clients served by us last year first came to us through intake clinics which are typically "staffed" on a 10:1 volunteer-to-staff ratio. Similarly, our monthly transgender legal name and gender marker change clinic is able to serve 20-25 individuals each month only because law firms or corporate legal departments "adopt" each clinic session to deliver 1:1 service to clinic participants under the supervision of our solitary staff member. Our Self-Help Conservatorship Clinic which is "run" by just two Bet Tzedek staff members managed to provide services at four LA County courthouses (sometimes simultaneously), thanks to dozens of volunteers who assisted more than 2,900 individuals in filing or concluding conservatorship applications last year. Our Elder Abuse Restraining Order clinic benefits from the assistance of at least one volunteer each day and our monthly Small Claims clinic typically welcomes 10-15 volunteers to support our sole on-site staff member. In short, none of our high-volume clinic work could be done without pro bono support. Although clinic work does not require a monumental number of hours, it does require monumental dedication and service by pro bono volunteers, and absolutely yields transformative outcomes in individual clients' lives.

The third member of our pro bono department is our In-House/Pro Bono and Volunteer Coordinator. This individual works with our staff to help manage volunteer opportunities for law students, retired attorneys and judges, and other community volunteers who wish to help at our office (or in closely supervised virtual capacities during the COVID-19 paradigm). This individual is also responsible for managing our "Summer of Justice" program, which routinely serves to more than double our full-time legal staff for a period of 10-12 weeks each summer (with many participants being inspired to continue volunteering with us on a part-time basis once they return to law school). Without this massive influx of volunteers, Bet Tzedek would not be able to serve an average of more than 50,000 individuals over each of the past five years.

Indeed, even outside of the exceptionally productive Summer of Justice season, on any given day we will have at least a dozen volunteers and pro bono attorneys working with us "in house" to serve clients. Every single one of Bet Tzedek's programs benefits from (and relies upon) pro bono attorneys, paralegals, and law students to make our work happen. More recently, our retired volunteer population has increased and become a critical part of our in-house volunteer

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program, sometimes yielding unexpected growth opportunities. As an example, in late 2018 a “retired” attorney joined our real estate fraud team, volunteering multiple days a week to help meet client needs in that arena. In so doing, she also identified a way to expand our reach in helping clients access IHSS services. We ultimately found funding that enabled us to create our first-ever full-time, fully-funded IHSS Attorney position, which she recently accepted. In addition, our more seasoned retired volunteers have grown into their roles at Bet Tzedek and now serve as volunteer “squad leaders” for several of our clinic programs.

Finally, our Call Center is able to handle more than 10,000 incoming calls each year with only one full-time staff member because of our incredibly dedicated core of volunteers.

Although Bet Tzedek has historically qualified for the State Bar’s pro bono allocation via the formulaic tests, our 2019 numbers tell a different, and possibly more compelling, story of how we rely on pro bono partners as a primary source of power to help meet community needs, which evolve over time and are subject to unique constraints and circumstances.

By way of background, and as mentioned in last year’s IOLTA application, we previously filed the single largest class action lawsuit impacting seniors in the state of California against the County of Los Angeles, alleging financial elder abuses stemming from the County’s implementation of the Property Assessed Clean Energy (PACE) program. We secured pro bono co-counsel from a major private law firm (along with co-counsel from a second nonprofit legal service agency) and our work proceeded in parallel with theirs. The significant pro bono hours provided by the private law firm were “split” equally among both legal service organizations.

In mid-2018, our private law firm pro bono co-counsel withdrew from the PACE litigation and shortly thereafter the lead attorney at our sister agency had to substitute out as a result of being appointed to the bench. Meanwhile, the litigation continued, leaving Bet Tzedek to shoulder the burden alone – meaning that not only did we “lose” hundreds of pro bono hours following the law firm withdrawal, we also “gained” hours on the Bet Tzedek side as we took over the work previously done by 5-6 individuals. This “lopsided” effort to meet community needs was not a product of design and we worked arduously to secure new pro bono co-counsel. We did not secure a successor pro bono law firm until mid-2019 due to a complex web of involved parties which resulted in many firms being conflicted out.

Since that time, however, and as a result of Bet Tzedek’s unrelenting efforts, we recently (i.e., early May 2020) learned that our efforts paid off: the County of Los Angeles agreed to cancel the PACE program, thereby effectively halting a flood of foreclosures and stemming the growing tide of senior homelessness. This policy victory does not end the litigation, however, and now that we are back on track with pro bono support (and hours), we look forward to bringing about a positive resolution in that arena as well.

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Perhaps even more critical than this unexpected “lopsided” pro bono lapse are two factors that have significantly altered the pro bono landscape, generally,--even as we have massively increased the number of pro bono matters we’ve placed. From 2016-2018, we placed an average of 190 pro bono matters each year. In 2019, we connected more clients with pro bono representation than we ever have in our history, successfully placing 276 matters—a greater than 50% increase over our 2018 pro bono case placement rate. As of June 10, 2020, we have already placed 140 matters with an additional 40+ currently out for conflicts review at law firms.

The 183 pro bono matters that we placed in 2018 yielded approximately 26,000 pro bono hours from attorneys. This past year, although we matched 276 matters with pro bono attorneys, that effort generated just shy of 19,000 pro bono hours.

How does a 51% increase in pro bono matter placement equate to a 40% decrease in pro bono hours reported by attorneys? The answer lies in examining client needs (which take place within the boundaries of external systems) as well as pro bono provider capacities.

Rapidly changing and destabilizing federal policies, particularly in the areas of immigration, census planning, voting rights, and other civil rights areas, have driven many of our traditional “Big Law” pro bono partner firms to devote more time to federal-level impact litigation (which we do not handle). As a result, these firms have a reduced capacity to provide direct representation to our individual clients. They still very much support us and our clients, but they are constrained to take on smaller, one-off matters, rather than more complex, time intensive work such as real estate fraud cases, which previously were a mainstay of our pro bono program. Although we continue to try to place the more time-intensive individual litigation matters (and have had some success with engaging smaller, boutique firms), our core pro bono partners (i.e., BigLaw) were consistent and persistent in expressing limited capacity.

Fortuitously, our Rapid Response program had previously identified emerging client needs in the immigration and small business arenas, which would fill both sides of the BigLaw pro bono equation.

Indeed, by far the largest number of cases placed in 2019 involved Special Immigrant Juvenile Status (SIJS) cases (71) and Small Business clients (48). Much like the successes seen in our Self-Help Conservatorship Clinic, these matters typically required less than 20 hours each to resolve. The pro bono “hours equivalency” metric does not come close to capturing the profound, and irreplaceable, impact that pro bono service has on the lives of each of these clients, however, nor does it accurately measure the sense of relief it brings to our staff, nor the solidarity of partnership it engenders between Bet Tzedek and the private bar community. In addition these more “easily digestible” matters get new pro bono attorneys, including members of corporate

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law departments in the door and whet their appetite for more for future matters. Increasing small-hours/high-volume pro bono placements enables Bet Tzedek to engage an increasingly broad spectrum of the private bar in pro bono work that truly changes lives.

Bet Tzedek exists to help private bar attorneys use (and expand) their existing capacities to meet community need through pro bono service. We do so proficiently and with acute sensitivity towards matching resources with need.

Finally, to continue to successfully adapt to shifts we see in client need and in the pro bono marketplace, we have made a concerted effort to invest in ourselves and prepare to meet upcoming shifts in need. During 2019, Bet Tzedek staff increased by approximately 20 percent, with most of our new hires coming straight from law school. As a result, we have asked veteran staff attorneys and supervisors to spend more time training and supervising these less experienced attorneys. As a result, our “seasoned” experts have less time available to supervise pro bono volunteers as we work to build a well-rounded and fully grounded staff which will, soon, have sufficient expertise to supervise additional pro bono attorneys on their own.

Accordingly, our rapid growth has meant a notable, though temporary, decrease in our capacity to supervise more complex pro bono matters that fall outside of existing private bar expertise. This is especially true in our Preventing and Ending Homelessness program, where we work in partnership with other legal service agencies who have expressed similar “growing pains” in their efforts to develop staffing robust enough to support pro bono partnerships. Providing trauma-informed legal services to individuals experiencing housing insecurity requires a special skill set, which will be sorely needed once the expected post-COVID-19 “eviction tsunami” begins later this summer.

We have—perhaps unwillingly--prepared for precisely such an event by devoting significant resources to developing in-house expertise during 2019 which can now be made available to private bar pro bono practitioners. Indeed, we have already begun to engage many smaller law firms who have been newly recruited to our pro bono ranks. Although we did not predict the need for massive, rapid deployment of pro bono resources around housing issues, we feel ready to meet this 2020 challenge when it comes.

Pro Bono Test C Narratives and Staff Recommendations**2. Casa Cornelia Law Center****County:** San Diego**Staff Recommendation:** Eligible**Test C Narrative:**

Casa Cornelia's principal means of delivering services depends on the coordination of recruitment of Volunteer Attorneys in private practice and the recruitment of community volunteers with foreign language skills. In conjunction, these two groups of volunteers are an integral part of the organization's ability to deliver services to the indigent immigrant and asylum seeking population of San Diego and Imperial counties. When evaluating Casa Cornelia's Pro Bono Program, the contribution of the VITs should also be considered, as legal services cannot be delivered to this population without the interpreting and translating services of VITs.

In 2019, 322 Volunteer Attorneys provided assistance in 430 cases and helped Casa Cornelia conduct five legal clinics, which totaled 13,619 hours of service. Additionally, attorneys from a local law firm assist in weekly in-office clinics to screen detained unaccompanied children. Legal clinics are an invaluable service to the immigrant community because they offer the community access to advice and counsel, representation and general information on other services. The majority of undocumented immigrants have limited to no information on their rights and available forms of relief under the law. With the help of Volunteer Attorneys, Casa Cornelia is able to maximize its efforts and offer not only critical immigration information and services, but also guidance on dealing with other challenges.

As previously mentioned, the services of Volunteer Attorneys would be rendered ineffective without the assistance of the volunteer interpreters and translators managed by the Volunteer Interpreters and Translators (VIT) Program. The VIT Program recruits, trains, and mentors members of the community with foreign language skills to serve as interpreters and translators for Casa Cornelia's diverse client base. The majority of Casa Cornelia's clients do not speak English; aggregatedly they speak more than 40 different languages. 144 VITs donated 5,510 hours in 2019 allowing the organization to seldom turn away clients due to lack of language services.

In sum, the Pro Bono Program recruited, trained and mentored 522 volunteers who donated 23,973 hours valued at \$728,865. These figures illustrate Casa Cornelia's reliance on the service of volunteers, especially of volunteer attorneys from the private bar and volunteer interpreters and translators from the community.

Pro Bono Test C Narratives and Staff Recommendations**3. Disability Rights Legal Center**

County: Los Angeles

Staff Recommendation: Eligible

Test C Narrative:

As noted in our application, DRLC has hired a new Director of Litigation to lead our civil rights litigation work. One of the added focuses of this new Director, beyond increasing the number of indigent clients that we serve, is to bring additional support from the legal community to support people with disabilities. The short-term goal has been to staff all of our cases with pro bono support with the long-term intention of being able to significantly expand the number of people we serve. Using our legal expertise, the Litigation program will be able to leverage these resources to take on additional cases. In particular, these efforts have led to our Litigation Team being able to take on additional special education cases (we had stopped taking new cases due to lack of staff capacity in November of 2018 but resumed in December of 2019), and expand services to children in need.

Additionally, the support of pro bono support allows DRLC to take on cases that are higher impact but would require the resources of a much larger team, that we have had to refer to other organizations over the past 2 years due to the inability to staff these cases. There are several open investigations that DRLC believes has the potential to be high impact cases for indigent Californians that we would not be able to investigate without expected future pro bono support.

Pro Bono Test C Narratives and Staff Recommendations**4. Harriett Buhai Center for Family Law**

County: Los Angeles

Staff Recommendation: Eligible

Test C Narrative:

The Center's qualification for the additional allocation for volunteer services is based on the following:

1. Temporary Staff for 2019: During calendar year 2019 the Center hosted two individuals who were not part of its core legal program budget. The first individual was an Equal Justice Works Fellow (EJW) Nathan Goncalves who passed the California Bar in May 2019 and led the Center's new effort to direct assistance to veterans with custody and visitation problems, an unmet need in Los Angeles. Despite the fact that his salary was paid by EJW, the Center was directed to include him as "staff" because the Center contributed to his fringe benefits, Additionally, as part of the one-time Bank Grant received by the Center, a part time intern Ricca Prasad, was hired for 15 hours a week of paid employment during the school year and was also counted as "staff". This individual was considered a temporary employee and received only those benefits mandated by state and federal laws. If the combined hours of work provided by these two special project individuals had been subtracted from the staff hours for core program attorneys and paralegals, the Center would have qualified under the alternative method calculation pursuant to Guideline 2.9.2.
2. Resources Devoted to Volunteer Program: As evidenced by the personnel and financial resources the Center devotes to its volunteer programs the Center is fully committed to delivery of pro bono services as a principal method of assistance. Personnel resources include the following positions indicated as either full or part time:
 - a. Direct Job Responsibilities (Involving some or all of the following duties: planning, supervising, scheduling, recruiting, training, mentoring, data collection and reporting) : Volunteer Coordinator (FT)-Taryn May; Pro Bono Manager (PT)- Carrie Holmes; Management- Executive Director, Deputy Director, Director of Legal Services (PT)- Betty Nordwind, Heidi Slater and Elizabeth Erickson; Staff Attorneys (PT)- Cheryl Segal, Pablo Schlueter-Corey, Holly Leonard, Lisa Szekely, Rebecca Fischer; Program Assistant (PT)- Esther Castillo; Client Assistant (PT)- Jenny Velasco. These individuals represent 12 out of 21 core program staff or put differently, 57% of the Center's personnel have job responsibilities in whole or part, devoted to developing, supporting and sustaining its volunteer programs.

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- b. Budgeted Resources : An analysis of the Center’s budget for personnel and non-personnel costs will show again that a substantial allocation of its funds are devoted to its volunteer programs and can be provided upon request.
- c. Primary Volunteer Family Law Program in Los Angeles: The Center has the largest volunteer program devoted to family law in Los Angeles County. The other programs who receive pro bono allocations do not offer as compared to the Center, any significant family law assistance. If offered it is generally limited to one –time assistance for domestic violence restraining orders or SIJS petitions, and not for ongoing help as provided by the Center’s volunteers. It is impressive that the Center reports 249 non-duplicated individuals (lawyers, paralegals and law students) who were recruited, managed, trained, guided and provided over 12,000 hours of donated family law including domestic violence assistance (the equivalent of 6 FT legal staff) in 2019. There is no other program which comes close to this record in LA County attesting to the difficulty of this task and the success of the Center’s efforts.
- d. Program Development: The design of the Center’s volunteer programs is in a continuing state of development in response to volunteer needs. In 2019 in conjunction with Southwestern Law School, the Center offered its second Family Law Clinic. This is the only for credit program of its kind in Los Angeles combining academics taught by a Center attorney and practical case experience for the students supervised by several other staff attorneys. During this same period the Center fully implemented its “Family Law Intensive Program” (FLIP) which is an in house incubator offering to volunteers who want to learn a lot about family law practice in a short period of time. Similarly, in October 2019 the Center revamped its New Volunteer Training (NVT) program entirely to include the following elements: 1) Online learning and 2) Frequent Offerings. These changes make it easier for individuals to enroll and be trained showed signs of success by the end of the calendar year.

Pro Bono Test C Narratives and Staff Recommendations**5. Inland Empire Latino Lawyers Association, Inc.**

Counties: Riverside and San Bernardino

Staff Recommendation: Eligible

Test C Narrative:

IELLA's mission is premised on providing free counsel and advice to low-income self-represented clientele through our pro bono attorney panel.

Recruitment, training, and retaining pro bono attorneys for our panel is a critical part of our legal aid clinics.

(Copied from "Uploaded Documents":) The Riverside County section requests consideration under Test C.

On behalf of IELLA and myself, we regret that we did not meet the pro-bono requirement for 2019. Unfortunately, we did experience some internal issues with our prior Staff Attorney. It only became apparent that the focus on recruiting pro-bono attorneys was lacking after it was too late. Overall, it was difficult for him to meet the staff attorney's wide-ranging demands with a non-profit legal aid service, especially when dealing with the high number of poverty-stricken clients we assist in our community.

In San Bernardino County, retention and recruitment have been challenges for IELLA. This difficulty is partly because the same pro-bono lawyers provide pro-bono assistance in two counties; it becomes even more complicated when the Staff Attorney does not make recruitment a priority.

Going into 2020, we were able to hire a new Staff Attorney, who is aware of her priorities and the goals of meeting our volunteer attorney requirements to satisfy our pro bono status.

I am excited and optimistically moving forward with our new Staff Attorney. Her administrative experience working with the police department and her strong desire to serve the community has made her an organizer with heart and soul. She knows that pro-bono volunteers are a valuable community resource for the full range of clients that we help. She understands that volunteers expand the types of services and areas of expertise we can offer to the community.

Additionally, utilizing volunteer attorneys allows us to assist a higher number of our non-English speaking population, which historically comprises a high number of IELLA's clientele.

We have already seen a significant shift in our pro-bono program - effectively prioritizing recruitment while still addressing the legal needs stemming from the present pandemic. We are

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connecting our clients with our pro-bono attorneys through online video conferencing and telephone counsel and advice sessions. IELLA has never done this before, and I believe it will allow us to grow to a level previously unobtainable by in-person clinics alone.

Also, soon after speaking with Daniel Passamaneck, she began to develop further a specific plan for recruiting volunteers and ensuring we meet the pro-bono requirements for both Riverside and San Bernardino Counties.

Our service model is focused 100% around pro-bono engagement. Our goal is for our Staff Attorney to determine what if any legal issue our office can assist with and then, after determining if a client is eligible for our services to get the client in contact with a pro-bono volunteer.

In 2019, our service model also revolved around in-person clinics. While this has its benefits - allowing face-to-face consultations between our clients and pro-bono attorneys, it also sometimes limited the number of attorneys who were available to volunteer - as we host clinics at specific times on specific days. Moving forward, in part due to the pandemic, we are now much more flexible with the schedules of both our clients and our pro-bono attorneys. We no longer require attorneys and clients to drive to specific locales, nor are we restricted to a limited time frame.

In 2019, our rise in staff hours can be attributed partially to the increased services we now offer. In 2019, we added guardianships to our services and offered extended services relating to responding to and drafting interrogatories. Both of these services require substantially more time for document preparation. Additionally, our clinics were operating on specific days during specific hours. This limitation, of course, placed a sort of "cap" on the number of hours in which our pro-bono attorneys could provide counsel and advice sessions with our clients.

Moving forward, we are implementing a pro-bono program which is MUCH more flexible than we have ever operated in the past. This will allow attorneys to complete pro-bono hours on their schedules. Every week, our Staff Attorney is communicating with pro-bono attorneys to find out what THEIR availability is and then coordinating with clients to determine which cases to pass along to which attorneys. Our goal remains to ensure that every client possible is able to receive the assistance and guidance they need by speaking with one of our pro-bono attorneys.

Addressing the data reported for San Bernardino County to meet the Threshold Test in the future: In moving forward, because IELLA services only residents of San Bernardino and Riverside Counties, we will be attributing the pro-bono hours of each attorney on any specific case to the County of residence for the client. This will ensure that we are not misallocating hours completed on matters filed outside of these two counties. We feel this is the most

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reasonable method of tracking our pro-bono hours and will allow for consistency in ensuring that we meet the first prong of The Threshold test - and have 30 pro-bono attorneys handling cases in each of the two counties we service.

Pro Bono Test C Narratives and Staff Recommendations**6. LACBA Counsel for Justice**

County: Los Angeles

Staff Recommendation: Eligible

Test C Narrative:

Immigration Legal Service Project.

The Immigration Project utilizes law student interns, paralegals, and law school graduates to assist low income clients prepare immigration applications and petitions for USCIS. Non-attorney volunteers also check various documents necessary to file the application, provide translations, and provide some legal research on complex areas of immigration law.

Preparation of immigration applications include, but are not limited to, military parole in place, U.S. citizenship, family petitions for parents, spouses and children, work permits, travel permits and lost or expired lawful permanent residency cards.

EAF

The IC Panel uses law school graduates and non-licensed attorneys to assist volunteer attorney with intakes and change of address forms for those in removal proceedings. These non-legal professionals are always supervised by a licensed attorney volunteer.

Veterans Legal Service Project.

Under the supervision of the Directing Attorney, paralegals, law school graduates, and students assist in the intake process, drafting court documents, research, and telephonic outreach, where appropriate. Non-attorney volunteers have also been utilized during legal clinics in an administrative function, assisting with participant and attorney check-in, printing, and duplicating clinic documents where needed.

Domestic Violence Legal Service Project.

Under the supervision of the Project Attorney, paralegals, law school students, and undergrad students assist in the intake process, drafting court documents, research, and telephonic outreach, where appropriate. The DVP partners with a local school of interpretation to recruit volunteers to serve as interpreters for non-English speaking clients. These volunteers work one on one with attorneys to assist monolingual Spanish speaking clients in the preparation of their forms for a Temporary Restraining Order.

Pro Bono Test C Narratives and Staff Recommendations**7. Lawyers' Committee for Civil Rights****County:** San Mateo**Staff Recommendation:** Eligible**Test C Narrative:**

LCCRSF recruits pro bonos heavily from San Mateo county where many of attorneys from our Peninsula-based firms reside (including attorneys from Fenwick, Wilson Sonsini, DLA Piper, Morrison & Foerster, Cooley and others). These attorneys provide special expertise in immigration and transactional/business law. We typically secure well above 1,000 hours in pro bono hours, and we believe the present anomaly is due to a one-time disruption in our ability to recruit during the transition of our outgoing Director of Pro Bono in June 2019 and subsequent recruitment and hiring for the role. We successfully filled the role in August 2019, and we believe our hours and volunteer numbers will again be back to our normal, well above 1,000 hours in 2020 and going forward.

Pro Bono Test C Narratives and Staff Recommendations**8. Legal Aid of Marin****County:** Marin**Staff Recommendation:** Ineligible**Test C Narrative:**

Legal Aid of Marin dedicates approximately 1.2 FTE staff toward volunteer engagement, including recruiting volunteer attorneys to staff legal clinics, including approximately 10 Community Court sessions, 24 Mandatory Settlement Conference clinics, and 40 senior legal clinics. Through these legal clinics, 357 closed cases were served (not including those served at Mandatory Settlement Conference clinics) - fully 43% of 2019 closed cases. Moreover, volunteer legal assistants help with housing intakes on a regular and consistent basis - not reflected in these case numbers. Volunteers are core to how our small program delivers legal services, including recruiting over 100 attorneys in private practice to provide free representation. Correspondingly, in 2019, pro bono volunteers donated \$553,807 in legal services, or 43% of the \$1.3 million expended in program services.

In addition to pro bono placement and clinics, Legal Aid of Marin uses a wide range of traditional legal service delivery modes, including community outreach and education, advice, brief service, and representation. Among all the modes of delivering legal services, pro bono services predominate. Indeed, pro bono engagement is embedded into nearly all aspects of legal service delivery. When staff efforts supporting the pro bono program are taken into account, an additional approximately 2448 staff hours are dedicated to the coordination of the recruitment of substantial numbers of attorneys in private practice. Their efforts comprise approximately \$110,930 additional expenditure. When combined with \$553,807 in donated pro bono services, this amounts to \$644,737 or 51% of program expenditures.

Pro Bono Test C Narratives and Staff Recommendations**9. Legal Aid of Sonoma County****County:** Sonoma**Staff Recommendation:** Eligible**Test C Narrative:**

In 2019 our organization recruited 24 volunteer attorneys who provided over 1,000 hours of donated legal services. LASC's model is still heavily dependent on volunteers to deliver all of our core services. For example, volunteers perform most of our initial client triage. Half of our housing clients receive at least some assistance from volunteer attorneys and law students. This program represents nearly one third of our total client population. Nearly 100% of our guardianship clients are helped ONLY by a volunteer. In response to the October 2019 wildfires, volunteers provided over 180 hours to assist our disaster relief team with local assistance centers and legal clinics.

Urban Bias: The ratios the Bar developed are more suited to a program in an urban area. In urban centers there are far more attorneys, and there are many more large law firms. In rural areas, most attorneys are in very small firms or solo practice. This makes it very difficult for them to do pro bono work. In large firms, pro bono is often supported by the firm, even financially. We saw this dichotomy play out yet again when the fires hit our area. Even working directly with a special disaster subcommittee of our local bar association, we found it very difficult to recruit the sustained pro bono assistance we needed to run our disaster clinics. Most of our clinic volunteers came from the urban SF Bay Area and from very large firms. We believe the ratios favor urban centers and that the Bar should consider adjusting them depending upon the size and composition of the bars in rural areas. A scaled ratio would be more equitable.

Include all program volunteers: The type of hours that count towards the pro bono ratio are overly restrictive. LASC only has one very small law school to draw upon, and no large law firms to draw upon, so we use other types of students and community members broadly in our program. Bilingual, bicultural undergraduates, exploring a career in law, are a staple of our intake system; many have gone on to become attorneys because of their experience. Again, the Bar's measurement tool seems to favor urban centers where there are multiple law schools and many firms.

Increasing diversity in the profession: This is one of the Bar's central goals, especially today. If recruitment and development of a more diverse bar is the goal, we need to start working with students before they get to law school. We would have more impact, by focusing on bilingual bicultural undergraduates who need support, and encouragement, to finish school and pursue

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legal careers. One key strategy is recruiting them to volunteer or intern as undergraduates. LASC has seen multiple first generation students intern with us, and as a result, go on to law school (several are now working with their communities as lawyers). This is possible because we use these bilingual students as part of our volunteer model. If the Bar allowed rural programs like ours to include bilingual undergraduates in the ratio, we would support diversity in the profession, as well as honoring the important role these students play in helping clients in programs like ours.

Pro Bono Test C Narratives and Staff Recommendations**10. Legal Aid Society of San Bernardino**

County: San Bernardino

Staff Recommendation: Eligible, pending receipt of final audit and confirmation of volunteer hours

Test C Narrative:

Our volunteer attorneys provide consultation, advice, instructions for our staff, and legal services to our clients. We could not possibly serve nearly 3,000 new clients per year, and continue with ongoing services for our returning clients, without the help of these volunteers. Although we have 2 staff attorneys, we have used the volunteer services of 62 attorneys who provided a total of 1,019.67 volunteer hours in 2019. A few of our volunteer attorneys have taken on full representation of our clients in instances where the sympathetic volunteer felt the client have very little hope of prevailing in their case without representation.

In the fall of 2019, LASSB received a complaint alleging that the volunteer attorney hours were not accurately recorded. LASSB had experienced repeated failings with the database (the database a major funder mandated we use), supported by reports that ultimately proved data had been dropped from the system. Thus, upon receiving the complaint of false volunteer hours, LASSB conducted its own audit of that data. By cross-referencing all records containing input on volunteer hours, LASSB made corrections and eliminated any non-verified volunteer hours to conclude a total of 62 attorneys provided 1,019.67 volunteer hours to our 2019 casework. Our staff could not accomplish this work without the help of our volunteer attorneys.

Pro Bono Test C Narratives and Staff Recommendations**11. Public Law Center**

County: Orange

Staff Recommendation: Eligible

Test C Narrative:

PLC meets the standard required under Business & Professions Code Section 6216 (b)(1)(B) and as set forth as Test C under the Commission's Eligibility Guideline 2.9.2 and its Application Instructions for the following reasons.

1. Since our founding in 1981 as the Orange County Volunteer Attorneys Program, dba Amicus Publico, pro bono has been at our core. For our first decade, we did virtually nothing but place cases with volunteer attorneys. As we began to grow our small staff in the 1990s, first as the Poverty Law Center and then later as the Public Law Center, pro bono placement continued to be the central method of our service delivery. With even greater growth in the past two decades, including expansion into subject matters never handled before (such as immigration, eviction defense, veterans' benefits and nonprofit and micro-entrepreneur assistance), we continue to place a central emphasis on recruitment, training, case placement and support of volunteer attorneys, law students and others. Indeed, every expansion into a new area of practice includes an analysis as to whether we will be successful in engaging pro bono volunteers into the area of work.

2. PLC staff members regularly receive reinforcement of the notion that pro bono engagement is at our core. On day one of their onboarding, all new staff members meet with the Executive Director Ken Babcock who stresses the central nature of pro bono to PLC. Staff members are told pro bono isn't a "maybe" or that we "do it when we can." Rather they're told that pro bono is "baked into our organizational DNA" and that on every new case that comes in the door we ask the question "will we be able to place this with a volunteer." Early in their onboarding all new staff members also meet with our Director of Litigation & Pro Bono Leigh Ferrin to get an overview of how pro bono is incorporated specifically into their unit and into all the other services PLC provides. We remind staff of the central nature of pro bono to PLC regularly through weekly case review meetings, monthly staff meetings and annual performance evaluations.

3. Our public persona as "the" place for pro bono in the Orange County legal community is well established. We market ourselves to the Orange County legal community as a pro bono centric legal services organization. Our mission statement states: "[t]he Public Law Center, Orange County's non-profit pro bono law firm, is committed to providing access to justice for low income residents. Through volunteers and staff, the Public Law Center provides free civil

Pro Bono Test C Narratives and Staff Recommendations

legal services, including counseling, individual representation, community education, and strategic litigation and advocacy to challenge societal injustices.” In our main marketing overview, we state PLC: “[f]or most lawyers and law students in Orange County, PLC is the place to turn when they think of volunteering to provide legal services.” Since 2006, our principal gala fundraiser has been known as the “Volunteers for Justice Dinner” further emphasizing the importance of pro bono to PLC. The event, at which we honor a law firm and attorney of the year, has grown to become the largest event of the year in the Orange County legal community with over 800 in attendance.

4. We regularly provide case opportunities to volunteer attorneys. Every two weeks our Director of Litigation & Pro Bono Leigh Ferrin publishes a case list with new case opportunities for volunteers. Her list is a well-known publication throughout the Orange County legal community sent by e-blast to thousands and always available on our website at www.publiclawcenter.org/volunteer/. When firms have a case that comes to them on their own and they’re looking for pro bono support, they often reach out to PLC for that support, knowing our expertise and experience with case placement. Leigh regularly conducts presentations at local law firms on how to be involved. She participates on local, regional and statewide committees and collaboratives to promote our pro bono work and network. We also have established relationships with firm pro bono coordinators, mostly in Orange County, but around the region and the state in some cases, for whom we identify cases for special placement.

5. Although we are reporting more staff legal services hours than volunteer hours in 2019, we are still primarily focused on providing services through volunteers. The total amount of volunteers – 1,070 – and volunteer hours – 26,413 – we are significant achievements. Our staff numbers are temporarily higher due to the addition of several new staff members in 2018 and 2019. New staff typically focus more on case handling than case placement in large part so they develop the expertise to be better trainers and mentors for volunteers. Moreover, the overall nature of the work performed by volunteers tends to be more complex. Volunteers tend to handle more full representation, advanced service cases than do staff. We have had strong success in engaging volunteers in clinic opportunities, where the work is more brief service oriented, but because staff are involved in every clinic interaction we generate higher staff legal services hours as we add more clinic opportunities.

6. We co-counsel with a pro bono law firm or firms on every significant impact litigation case in which we are involved. Those impact matters typically generate large volunteer hours. In 2019, we found ourselves in between several significant impact matters so fewer volunteer hours from impact litigation matters were reported. We expect this situation to be temporary

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as cities throughout Orange County (and the state) begin to finalize their Housing Elements, which typically generates more significant impact litigation in which we're involved.

Pro Bono Test C Narratives and Staff Recommendations**12. Veterans Legal Institute**

Counties: Orange and Los Angeles

Staff Recommendation: No recommendation; defer to Committee

Test C Narrative:

- **Orange County**

Given the challenges with the novel coronavirus during the application period and the vast number of volunteers VLI supports, at times it can be challenging to track all of the volunteer hours it receives making us unable to provide specific percentages. That said, VLI is confident it would meet test B requirements given the number of volunteer-led clinics which are dedicated to specialized outreach to indigent Veterans. For that reason, VLI's volunteer hours are always under-reported or conservatively reported, and VLI is making progress to track more specific hours each year. This progress includes increasing digital records for attorneys attending in-office and mobile clinics, and expanding processes to increase follow up with pro bono attorneys that accept cases in order to track case status, to capture hours on completed cases, and to track outcomes that are achieved that are recorded in Clio, a cloud based and password protected case management system.

VLI recruits substantial numbers of attorneys in the following ways:

1. No less than 80 pro bono attorneys were recruited and no less than 40 were directly attributable to serving indigent clients in Orange County. These 80 pro bono attorneys provided no less than 3,442 hours, of which 57% (1962) hours were for indigent clients in Orange County.
2. The pro bono attorneys brought over \$686,700 in value to indigent clients (1962 hours x \$350 per hour in private bar rates).
3. The attorneys recruited have special expertise to provide services and are passionate veteran advocates. As a result, they understand the impact of military service on re-establishing themselves in civilian life. Many are at the top of their professions in litigation and mediation in the desperately needed fields of family law, veterans benefits, consumer law, estate planning, immigration, and housing. In addition, these pro bono attorneys have provided free legal services by accepting indigent clients from case listings that go out monthly.
4. These attorneys are available to travel to and attend over 40 clinic dates per year. These innovative and strategic outreach clinics are held from the Veterans Administration Hospital in Long Beach and other locations in Orange County as described in this application. For example,

Pro Bono Test C Narratives and Staff Recommendations

pro bono attorneys based in Orange County travel over 30 miles one way in order to attend and care for indigent Veterans seen at the monthly VA Hospital Long Beach clinic.

5. These pro bono attorneys provide legal representation, training, and technical assistance on matters to our indigent Veterans who are elderly and disabled. VLI has an ever increasing elderly Veteran population who have become victims of unscrupulous business practices or are seeking to have estate plans to protect their families because of failing health or need assistance in accessing benefits and healthcare. VLI also specializes in discharge upgrades so that those Veterans who are disabled can access healthcare and other benefits in order to stabilize their wellbeing and lift them out of poverty.

Note: In 2019 VLI had a total of 9 attorneys; however this number is high because the count includes 3 paid staff who left and the three who on-boarded to replace them. During the course of the year, VLI averaged 6 paid staff attorneys. In 2019, VLI also conservatively estimates an additional 650 hours from legal assistants and 275 hours from office assistants working directly on indigent cases in Orange County.

- **Los Angeles County**

Given the challenges with the novel coronavirus during the application period and the vast number of volunteers VLI supports, at times it can be challenging to track all of the volunteer hours it receives, making us unable to provide specific percentages. That said, VLI is confident it would meet test B requirements given the number of volunteer-led clinics which are dedicated to specialized outreach to indigent Veterans. For that reason, VLI's volunteer hours are always under-reported or conservatively reported, and VLI is making progress to track more specific hours each year. This progress includes increasing digital records for attorneys attending in-office and mobile clinics, and expanding processes to increase follow up with pro bono attorneys that accept cases in order to track case status, to capture hours on completed cases, and to track outcomes that are achieved that are recorded in Clio, a cloud based and password protected case management system.

VLI recruits substantial numbers of attorneys in the following ways:

1. No less than 80 pro bono attorney were recruited and no less than 31 were directly attributable to serving indigent clients in Los Angeles County. These 80 pro bono attorneys provided no less than 3,442 hours, of which 30% (1,033) hours were for indigent clients in Los Angeles County.
2. The pro bono attorneys brought over \$361,500 in value to indigent clients (1033 hours x \$350 per hour in private bar rates).

Pro Bono Test C Narratives and Staff Recommendations

3. The attorneys recruited have special expertise to provide services and are passionate veteran advocates. As a result, they understand the impact of military service on re-establishing themselves in civilian life. Many are at the top of their professions in litigation and mediation in the desperately needed fields of family law, veterans benefits, consumer law, estate planning, immigration, and housing. In addition, these pro bono attorneys have provided free legal services by accepting indigent clients from case listings that go out monthly.

4. These attorneys are available to travel to and attend over 40 clinic dates per year. These innovative and strategic outreach clinics are held from the Veterans Administration Hospital in Long Beach and other locations in Orange County as described in this application. For example, pro bono attorneys based in Orange County travel over 30 miles one way in order to attend and care for indigent Veterans seen at the monthly VA Hospital Long Beach clinic.

5. These pro bono attorneys provide legal representation, training, and technical assistance on matters to our indigent Veterans who are elderly and disabled. VLI has an ever increasing elderly Veteran population who have become victims of unscrupulous business practices or are seeking to have estate plans to protect their families because of failing health or need assistance in accessing benefits and healthcare. VLI also specializes in discharge upgrades so that those Veterans who are disabled can access healthcare and other benefits in order to stabilize their wellbeing and lift them out of poverty.

Note: In 2019 VLI had a total of 9 attorneys; however this number is high because the count includes 3 paid staff who left and the three who on-boarded to replace them. During the course of the year, VLI averaged 6 paid staff attorneys. In 2019, VLI also conservatively estimates an additional 300 hours from legal assistants and 140 hours from office assistants working directly on indigent cases in Los Angeles County.