

AGENDA ITEM

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DATE: February 16, 2012

TO: Members, Planning, Program Development
and Budget Committee
Members, Board of Trustees

FROM: Stephanie Choy, Managing Director
Legal Services Trust Fund Program

SUBJECT: Legal Services Trust Fund Program: Addition of Deadlines for
Submission of Audited or Reviewed Financial Statements to
Schedule of Charges and Deadlines

EXECUTIVE SUMMARY

As a part of the State Bar's rules revision project, the Board of Governors adopted at its March 2009 meeting, Title 3, Rules 3.660 – 3.692 of the revised Rules of the State Bar governing the Legal Services Trust Fund Program (LSTFP). In order to conform to the protocols established by the State Bar Rules Revision Project, drafters removed references to specific deadlines and details that might be subject to change, and intended for such information to be placed in the Schedule of Charges and Deadlines rather than in the body of the rule.

The Legal Services Trust Fund Commission requests two deadlines be set forth in Appendix A--Schedule of Charges and Deadlines of the State Bar Rules to facilitate grants administration and compliance.

- New Rule 3.680 removed the deadline by which an **applicant** for grant funding (qualified legal services projects and qualified support centers) must submit an audited or reviewed financial statement. This deadline needs to be restored by placing it in Appendix A.
- Rule 3.681 describes duties of grantees. The deadline by which **grant recipients** submit their audited or reviewed financial statements as part of their duties currently is set forth in general grant provisions, but not in the State Bar Rules. This deadline should be set forth in the Schedule of Charges and Deadlines.

Board members with questions about the proposal may contact Stephanie Choy at (415) 538-2249 or stephanie.choy@calbar.ca.gov.

BACKGROUND

At its March 2009 meeting, the Board of Governors adopted new rules 3.660-3.692 for the Legal Services Trust Fund Program (LSTFP) in Title 3 of the Rules of the State Bar. Rule 3.680 governs the process by which qualified legal services programs and qualified support centers apply for grants funded by Interest on Lawyers' Trust Accounts, the Equal Access Fund, and other sources. Rule 3.681 includes the duties of grant recipients.

In order to conform to the structure outlined in the State Bar rules revision process, drafters of the new rules removed references to specific deadlines and details, with the intention of placing that information in the Schedule of Charges and Deadlines.

New Rule 3.680(E) describes information and documents that must be included in an application for funding. One of those requirements is submission of a financial audit or review prepared by an independent certified public accountant for an applicant's most-recently completed fiscal year. This new rule does not state a deadline for submission, which had been included in superseded Rule 4.2 as follows:

Applications shall contain a financial statement for the calendar or fiscal year ended most recently before the application deadline... If the audited or reviewed statement for the most recent period is not available at the time of the application deadline, the applicant ... shall file the audited or reviewed statement promptly when available, and in no event more than sixty (60) days after the application deadline, and prior to receipt of any allocation.

To restore this deadline, the Board now is requested to approve inclusion of the 60-day deadline for an applicant program to submit its audited or reviewed financial statement in the Schedule of Charges and Deadlines.

Additionally, Rule 3.681 describes the duties of Legal Services Trust Fund Program grant recipients. To facilitate compliance and grants management, it is also recommended the 90-day deadline by which recipients of grant funds must submit audited or reviewed financial statements be included in the Schedule of Charges and Deadlines. Reference to this deadline is currently stated in Article 4.05 of the Trust Fund Program's General Grant Provisions:

Recipients shall submit a financial statement for the fiscal year ended most recently within 90 days of the close of their fiscal year.

ISSUE

Inclusion of deadlines for receipt of audited or reviewed financial statements in the Schedule of Charges and Deadlines reinstates the deadlines by which the Commission can ensure compliance with the State Bar rules governing the Legal Services Trust Fund Program. The audited or reviewed financial statement provides the outside

accounting information necessary to ensure the appropriate allocation of grant funds. Inclusion of deadlines for receipt of these documents is not a rule revision, but captures the timeframe set forth in earlier rules and grant provisions. Without statement of those deadlines, the Trust Fund Program cannot enforce its authority to require timely submission of those documents.

FISCAL / PERSONNEL IMPACT:

No fiscal or personnel impact is anticipated.

RULE AMENDMENTS:

None.

BOARD BOOK IMPACT:

This item has no impact on the Board Book/Administrative Manual.

RECOMMENDATION

The Legal Services Trust Fund Program proposes that the deadlines for submission of the audited or reviewed financial statements by applicants for, and recipients of, funding be approved by the Board for addition to the Schedule of Charges and Deadlines.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Planning, Program Development and Budget Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Planning, Program Development and Budget Committee recommends that the Board of Trustees requires that an applicant for funding file its audited or reviewed financial statement promptly when available, and in no event more than sixty (60) days after the application deadline, and prior to receipt of any allocation, and this deadline be added to the Schedule of Charges and Deadlines, effective March 2, 2012; and it is

FURTHER RESOLVED, that the Board Committee on Planning, Program Development and Budget hereby recommends that the Board of Trustees require recipients of funding to submit within 90 days of the close of their fiscal year an audited or reviewed financial statement, and this deadline be added to the Schedule of Charges and Deadlines, effective March 2, 2012.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with the Planning, Program Development and Budget Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Planning, Program Development and Budget Committee, the Board of Trustees hereby requires that an applicant for funding file its audited or reviewed financial statement promptly when available, and in no event more than sixty (60) days after the application deadline, and prior to receipt of any allocation, and this deadline be added to the Schedule of Charges and Deadlines, effective March 2, 2012; and it is

FURTHER RESOLVED, that the Board Committee on Planning, Program Development and Budget hereby recommends that the Board of Trustees require recipients of funding to submit within 90 days of the close of their fiscal year an audited or reviewed financial statement, and this deadline be added to the Schedule of Charges and Deadlines, effective March 2, 2012.

Attachment 1 – Appendix A: Schedule of Charges and Deadlines for 2012