

**PARTNERSHIP GRANTS:
CONSIDERATIONS AND ANALYTICAL APPROACHES
FOR REVIEW OF APPLICATIONS RAISING CERTAIN ISSUES**

The following considerations and analyses have been developed through the historical experience of the Partnership Grants Committee (Committee), which has found them useful as that Committee has reviewed Partnership Grant proposals raising certain issues.

It is intended, by memorializing and confirming these considerations and analytic approaches, to provide the Legal Services Trust Fund Commission (Commission) with more effective assistance and enhanced consistency in decision-making as it annually considers how best to allocate Partnership Grant resources. Additionally, they will also assist applicants in their preparation of proposals for funding that are consistent with the priorities and intentions of the Partnership Grant program.

Self-Representation and Attorney-Client Relationships (July 2017)

~~In 2017 we confirmed that s~~Self-represented litigants receiving services under a Partnership Grant are not prohibited from forming a confidential relationship with a lawyer, so long as they remain unrepresented when they appear in court. While we will ultimately defer to the court's own determination as to whether the litigant is self-represented, factors impacting this determination include where any attorney's participation takes place, and whether the attorney's name appears on pleadings or in the records of proceedings in court. So long as no appearance is made on the record and no representational activity occurs in court, formation of an attorney-client relationship in and of itself is not inconsistent with the "self-represented" status of a litigant.

Duration of Partnership Grant Funding (Revised November 2018)

~~Note: For comparison, refer to the document "Partnership Grant Five-Year Funding Policy" as adopted by the Commission in July 2017.~~

Historically, Partnership Grants have been awarded as "seed funding," with an initial expectation of funding reductions after the first three years and termination of funding after the fifth year. ~~It has come to the Commission's attention that t~~This model can sometimes lead to valuable, high functioning projects making major changes to their substantive focus or operational model ~~solely for the purpose of retaining just to retain~~ eligibility for Partnership Grant funding beyond the an initial five-year period.

While the Commission continues to prioritize innovative programs, it also seeks to support existing projects that provide valuable services to underserved communities. The following considerations are intended to assist applicants in setting reasonable expectations regarding the expected timeframe for the duration of Partnership Grant support.

~~The Office of Access & Inclusion's priorities regarding the duration of Partnership Grant funding:~~ Matters to be taken into consideration when determining whether to renew Partnership Grant funding include:

- ~~Confirm~~ That Partnership Grants will continue to be awarded with the principal intention of providing seed funding for new projects, which may be renewed annually over an initial five-year period.
- ~~Clarify~~ That Partnership Grant funding may or may not be reduced from year to year during that time, taking into account project strength, demonstrated success, and funding availability.
- ~~Reiterate~~ That the discretionary nature of Partnership Grants, under which the Commission's decisions on continued funding may be contingent upon projects meeting programmatic, administrative, and financial expectations. The Commission retains discretion not to renew funding within the initial five-year timeframe should projects be unable to meet basic expectations.
- ~~Recommend~~ That funding beyond a five-year cycle be considered on a case by case basis. Particular consideration should be given to projects supporting unmet rural needs, programs that have evolved to respond to a recent emergency or disaster, and high-functioning and heavily-utilized projects that have been unable to secure alternate funding despite documented efforts. The foregoing examples are illustrative, not exclusive.
 - Applicants seeking funding beyond a fifth year into a second cycle ~~(of 3 to 5 years)~~ must demonstrate the effectiveness of the project and provide additional justification such as documentation of their pursuit of alternate funding sources, narratives and quantitative data on local needs or circumstances, and/or additional project evaluation such as court feedback, case file review or other such evaluative processes.
 - Projects seeking funding beyond a fifth year will be reviewed with respect to the factors cited above, as well as in comparison to new and other renewing applicants in the areas of program strength, demonstrated success, and funding availability.

Overhead, Administration, and Audit (~~Proposed~~ August 2018)

Partnership Grant funds should pay for actual project expenses or directly related costs – to fund the project, but not the organization. Some programs have used individual line items to identify administrative costs. Others use an Allocated Cost Ratio, which can obscure the relationship between the cited cost and the project activities.

Staff should identify those administrative components of the proposed budget that are tied to project activities, and then should ensure that the Partnership Grant is not charged for any other administrative costs.

- Some non-personnel costs which may be appropriately tied to the project include malpractice insurance and attorney licensing fees.
- As Partnership Grant-funded services should typically be performed primarily at or near the courthouse, which reduces the need for program space and equipment, costs allocated to these lines should be clearly justified in the budget narrative.

- Programs relying on Indirect cost ratios must reduce these to itemized constituent line items that clearly relate to the funded activities, for purposes of Partnership grant budgeting.

Going forward, the Office of Access & Inclusion will revise the budget forms in the Partnership Grant application, to omit the option to charge organizational overhead expenses such as audit, litigation, or contract services for the organization, to these grants. Programs wishing to allocate funds to these kinds of costs will be required to include them as “Other non-personnel” costs, with an attached itemization explaining how each constituent part of this line item is demonstrably tied to project activities.

~~Policy Respecting the~~ Use of Partnership Funding as a Subgrant Covering Wages of Court Staff (~~Proposed~~ August 2018)

While the expectation is that an organization receiving a Partnership Grant will be the primary service provider under that grant, ~~the Commission might determine it is sometimes the case~~ it might be the case that greater efficiencies can be attained by subgranting some services and funding to a court partner that, in partnership with the local provider, can most effectively and efficiently provide new services consistent with the Partnership Grant guidelines and criteria. The following considerations have been identified as relevant in ~~considering~~ determining whether to approve discretionary funding for such a request:

- The contract governing the relationship between the grant recipient organization and the court must clearly specify that grant-funded court staff will only work on project activities, not on other duties that might be assigned by the court.
- The contracted staff must follow the Guidelines for the Operation of Self-Help Centers, with particular regard to ensuring the court’s neutrality as to the fact that services are being provided, the manner in which they are provided, and the persons to whom they are provided.
- The services funded would not otherwise be provided by the court, but for the Partnership Grant. The Partnership Grant shall not supplant existing funding or services.
- The project budget must include additional funding sufficient to assist litigants who do not qualify to be served with Partnership Grant funding.
- ~~The Committee may also consider any other factors it finds relevant.~~

In these and all cases, the court must participate in providing feedback and in developing evaluative data. In cases where funding is subgranted to support services provided by court staff, evaluative data will include information on the number of litigants using the service who do not meet the definition of “indigent” found at Business & Professions Code §6213(d).