



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

132 March 2019

PROGRAMS COMMITTEE III.C

DATE: March 14, 2019

TO: Members, Programs Committee
Members, Board of Trustees

FROM: Hellen Hong, Director, Office of Access & Inclusion
Doan Nguyen, Program Supervisor, Office of Access & Inclusion

SUBJECT: Approval of Distribution of Bank Grant Funds for 2020-2022 Grant Cycle

EXECUTIVE SUMMARY

In 2015 and 2016, the State Bar of California received \$50.9 million from Bank of America and Citi following the settlement of lawsuits brought by the U.S. Department of Justice (DOJ). These national settlements provided funds to states for “foreclosure prevention legal assistance and community redevelopment legal assistance.” The funds were provided to the entity in each state responsible for distribution of Interest on Lawyers’ Trust Accounts (IOLTA). To date, the State Bar, through the Legal Services Trust Fund Commission (LSTFC), has allocated \$40.8 million to fund 128 community redevelopment and foreclosure prevention projects.

The LSTFC recommends distribution of \$6.5 million of the remaining \$10.5 million¹ Bank Community Stabilization and Reinvestment Grant (BCSR) funds for statewide and regional foreclosure prevention and community redevelopment collaborations to existing IOLTA-funded providers through a competitive Request for Proposal (RFP) process. If approved, approximately \$4 million will remain for future distributions.

BACKGROUND

A. First and Second Distributions of Bank Grant Awards

¹ The amount already allocated (\$40.8 million) plus the amount remaining (\$10.5 million) does not equal the total amount awarded (\$50.9 million) as a result of investment income earned on the principal and the authorized use of funds for administrative expenses.

In 2015, as a result of settlements between the U.S. DOJ and Bank of America and Citi, the State Bar received \$6.1 million for administration of grants to legal services organizations to provide “foreclosure prevention legal assistance and community redevelopment legal assistance.” The LSTFC assumed responsibility for the administration of these funds, including setting all parameters regarding grant eligibility, the amounts available for distribution, funding criteria and priorities, and grant periods. In carrying out this responsibility, the LSTFC defined the types of work that would be encompassed within the meaning of foreclosure prevention legal assistance and community redevelopment legal assistance. California, like many other states, defined community redevelopment legal assistance broadly, requiring projects to support and promote economic development by providing legal services that revitalize or stabilize low-income communities. To qualify as community redevelopment work, the services must be tied to broader systemic work that benefits the community as a whole. The bank settlement agreements did not require funds to be distributed to only IOLTA-funded organizations but the LSTFC believed that it was necessary to limit eligibility to existing IOLTA programs to ensure adequate oversight of grant funds and reduce administrative costs.

In the first round of grant distributions, 16 community development and nine foreclosure prevention projects, totaling close to \$6 million, were funded through an RFP process. Two- and three-year projects launched on January 1, 2016. The projects were innovative, geographically diverse, and served a variety of disadvantaged populations, such as day laborers, low-income children, and mobile-home owners in rural communities. Programs could propose projects requiring funding of up to \$175,000 per year.

In February 2016, the State Bar received an additional \$44.8 million from the Bank of America settlement to further support foreclosure prevention and community redevelopment efforts. The LSTFC again assumed responsibility for administering these funds, and issued a second round of grant awards based on proposals previously submitted in connection with the original \$6.1 million settlements, awarding \$2.8 million to seven additional community redevelopment and six additional foreclosure prevention projects that were not funded in the first round.

Programs were required to submit evaluations to capture the outcomes and economic benefits achieved. In 2016, these projects protected the housing of over 5,000 low-income households and engaged in impact litigation and advocacy work to develop over 10,000 new units of affordable housing. In addition, organizations participated in efforts to secure over \$500 million in additional funding for the development of affordable housing and rental assistance programs throughout California.

B. Third Distribution of Bank Grant Awards

On April 15, 2016, the LSTFC voted to approve another \$3 million of bank settlement funds for distribution through an RFP process, with projects beginning in January 2017. In 2017 alone, bank grant projects supported an additional \$200 million toward homelessness prevention. The grants were used to prevent an additional 413 foreclosures and protect the housing of over

42,000 low-income mobile-home residents, including seniors and families with children in rural communities.

Recognizing the value the remaining \$38 million could have on low-income Californians, the LSTFC carved out funds for a one-year planning period from July 2016 through June 2017. The planning period was intended to enable programs to thoughtfully work to identify the best and most impactful uses for the remaining \$38 million BSCR funds. The purpose of this planning period was (1) to enable programs of all sizes to participate in exploring use of funds and (2) to brainstorm and develop potential statewide or regional priorities and strategies. Seventy-four organizations opted into the one-year planning process, with each receiving a \$10,000 planning grant. Programs were required to use the planning grant towards developing individual, regional, and/or statewide project proposals and collaborations. At the end of the planning period, several substantive priority areas were identified by programs, including housing and homelessness prevention, capacity building for nonprofits and small businesses, and equitable development.

C. Fourth Distribution of Bank Grant Awards

On March 17, 2017, towards the end of the one-year planning period, the LSTFC voted to distribute approximately \$28.5 million in three-year grants, with projects commencing January 2018. The bank settlement agreements did not require distribution pursuant to the IOLTA formula, but the LSTFC determined that grants should be awarded using a modified version of the IOLTA formula and a competitive RFP process. Programs could receive a formula grant or a RFP grant, but not both. For the formula grant, each program that proposed qualifying community redevelopment or foreclosure prevention work received an amount calculated at 50% of the program's 2017 IOLTA formula allocation subject to a \$25,000 minimum and a \$150,000 maximum for each year of the three-year grant period. Programs that sought a larger award could apply for a RFP grant, which combined its regular formula grant amount with additional funds up to \$175,000 each year for a total maximum amount between the two sources up to \$325,000 per year. If a project was not funded through the competitive RFP process, the program that submitted the project was still eligible to receive its formula grant for funding of qualifying work. The LSTFC funded 71 projects through this process, leaving approximately \$10.5 million in remaining BCSR funds.

As part of the Appendix I review, the Board confirmed that going forward, the Board would approve LSTFC recommendations regarding how such discretionary funds will be distributed.

DISCUSSION

A. Rationale for Recommended 2020-2022 Distribution Plan

As described above, the one-year planning process from 2016 to 2017 enabled the LSTFC to strategize about how to distribute the remaining bank settlement funds to achieve the greatest impact for low-income communities throughout California. Given the likely one-time and non-recurrent nature of these funds, as well as their significant size, the LSTFC sought community

feedback through a series of surveys, webinars, and in-person statewide planning meetings. Existing IOLTA-funded programs had multiple opportunities to suggest how funds should be allocated. Through letters, surveys, in-person convenings, and public comments at LSTFC meetings, many programs advocated for the funds to be distributed through either the IOLTA formula or a hybrid structure where the funds would be awarded by a modified version of the IOLTA formula and competitive RFP processes. As a result of this planning process, the LSTFC determined to set aside \$6.5 million for special larger scale collaborative projects in addition to distributing \$28.5 million through formula and RFP grants as outlined above.

B. General Terms of Distribution Plan

At its November 16, 2018 meeting, the LSTFC approved recommending to the Board the distribution of \$6.5 million of the remaining bank grant funds for statewide and regional foreclosure prevention and community redevelopment collaborations. Under this proposal, the State Bar will award up to \$2.17 million annually for three years using a competitive RFP process.

Programs would apply for three-year grants, with funding to commence in January 2020. Eligibility would again be restricted to California IOLTA-funded programs. Such IOLTA-funded programs would be permitted to subgrant to non-IOLTA-funded 501(c)(3) programs or to other IOLTA-funded programs. The restriction to IOLTA programs is intended to reduce administrative costs and improve oversight.

The proposed distribution is intended to fund large, high-impact projects. The LSTFC recommends that funded projects consist of a collaboration between at least two programs, and services must be provided statewide or regionally. Statewide is defined as providing services in five of the following seven districts: Northern California, Sacramento Area, Bay Area, Central Coast, Central Valley, Eastern California, and Southwestern California. Regional is defined as: (1) five or more counties; or (2) two or more districts; or (3) at least two counties that have a total of least 400,000 people living below the 125% federal poverty threshold. The size of grant available for each collaboration is dependent upon the number of programs partnering in the project, with projects consisting of two partners eligible for up to \$175,000 per year, and projects consisting of five partners eligible for up to \$400,000 per year.

Grant awards will be based on a variety of factors, including, but not limited to, the demonstrated need of the targeted population,² impact of services, deliverables achievable within the grant period, extensiveness of partnerships and collaboration, sustainability, and organizational excellence. Preference will be given to projects serving rural or isolated areas. The criteria used are similar to previously issued RFPs. Although the RFP does not describe a scoring rubric, a guide based on the criteria was developed in previous review cycles and a similar guide will help with this review process. In addition, funded projects will be required to submit annual fiscal expenditures and program evaluations, including achievements of identified deliverables and outcomes.

² RFP does not include income eligibility requirements for clients served.

If the Board approves this concept for distribution of the funds, the RFP will be released the week of March 18, 2019, with a due date of April 12, 2019.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to justice for all California residents and improvements to the state's justice system.

Objective: a. Support increased funding and enhanced outcome measures for Legal Services.

RECOMMENDATIONS

It is recommended that the Programs Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve distribution of \$6.5 million of the remaining BCSR funds for statewide and regional foreclosure prevention and community redevelopment collaborations; and it is

FURTHER RESOLVED, that the State Bar award up to \$2.17 million annually for three years using a competitive RFP process as outlined in this agenda item, with projects commencing January 2020 and concluding December 31, 2022.

ATTACHMENT LIST

- A. 2020-2022 Bank Community Stabilization and Reinvestment Grants - Draft Request for Proposals

2020 – 2022 BANK COMMUNITY STABILIZATION AND REINVESTMENT GRANTS REQUEST FOR PROPOSALS

In 2015 and 2016, the State Bar of California received over \$50 million from Bank of America and Citi in accordance with bank settlements with the U.S. Department of Justice. These national settlements provided funds to IOLTA organizations in every state, for “foreclosure prevention legal assistance and community redevelopment legal assistance.” To date, the State Bar, through the Legal Services Trust Fund Commission, has allocated approximately \$41 million to fund 128 community redevelopment and foreclosure prevention projects.

On <insert date>, the State Bar’s Board of Trustees¹ approved the distribution of \$6.5 million of the remaining Bank Community Stabilization and Reinvestment Grant (BCSR) funds for statewide and regional foreclosure prevention and community redevelopment collaborations as described below.

I. Award Information

The Bar will distribute up to \$2.17 million annually for three years using a competitive RFP process. Programs may apply for three year grants, with funding to commence in January 2020. Eligibility is restricted to California IOLTA-funded programs; however, IOLTA-funded programs may subgrant to non-IOLTA-funded 501(c)(3) programs or to other IOLTA-funded programs. Organizations that previously received bank grant awards may apply for funding, and previous awards will not be applied to funding caps in this application cycle, even if prior awards are for the 2020 grant year.

A. Funding Caps

Each project must consist of one IOLTA-funded program serving as the lead Grant applicant and at least one other program, who may be an IOLTA or a non-IOLTA funded program. Funding caps are determined by the number of programs in a collaborative project:

- Two or more programs (including Grant applicant) may apply for up to \$175,000 per year for a total of \$525,000 for three years
- Three or more programs (including Grant applicant) may apply for up to \$250,000 per year for a total of \$750,000 for three years
- Four or more programs (including Grant applicant) may apply for up to \$325,000 per year for a total of \$975,000 for three years
- Five or more programs (including Grant applicant) may apply for up to \$400,000 per year for a total of \$1,200,000 for three years

The exact dollar amount of grants awarded will vary depending on the number and quality of applications received, as well as an assessment of needs for funding of the particular projects.

B. Subgrants

Subgrants may be made to non-IOLTA-funded 501(c)(3) organizations or to other IOLTA-funded programs. Funding caps for lead Grant applicants will include subgrantee amounts. If an IOLTA-funded program is both a lead Grant applicant and a subgrantee in another project, the subgrant award will not count towards the funding caps in the IOLTA-funded program’s lead Grant application. However, the total amount requested per organization (as Grant applicant and subgrantee) may be taken into consideration when determining grant awards. IOLTA-funded organizations that are both subgrantees of other organizations and are also applying as a grantee must demonstrate that these separate sources of funding will not fund the same activities.

¹ In this RFP, references to the State Bar mean the Board of Trustees, the Legal Services Trust Fund Commission, or staff in the Office of Access & Inclusion as appropriate.

C. How To Apply

Grant applications must be submitted via SmartSimple by 5:00 p.m. on Friday, April 12, 2019.

The State Bar has full discretion to award or hold funding for any reason, including an assessment of the ability of the applicants to meet the articulated requirements below. Any funds that are not committed in 2020 will be added to the distribution pool for future years.

Grantees will be required to complete annual evaluative reports and reports on milestones reached, including service and outcome data. The State Bar retains discretion with respect to funding for second and third year grants.

II. Guidelines for Statewide and Regional Collaborations

A project must include a collaboration between at least two programs, and services must be provided statewide or regionally.

A. Statewide

Grant applicants must establish that their services are available, and will be actually provided, on a “statewide” basis. Statewide is defined as providing services in five of the following seven districts: Northern California, Sacramento Area, Bay Area, Central Coast, Central Valley, Eastern California, and Southwestern California.²

B. Regional

Alternatively, grant applicants can provide services within a specific region. Region is defined as:

- 1) Five or more counties; or
- 2) Two or more districts; or
- 3) At least two counties that have a total of at least 400,000 people living below the 125% federal poverty threshold, which is approximately 5% of the total poverty population in California.³

III. Guidelines for Foreclosure Prevention and Community Redevelopment Legal Assistance

Grants may be awarded in either of two substantive areas:

A. Foreclosure Prevention Legal Assistance

Proposals should describe how grant funds would be used to prevent foreclosure in the context of the specific circumstances currently faced by the communities served. Recognizing that the foreclosure crisis has slowed, an applicant should discuss specifically which foreclosure trends, and ongoing borrower needs, the project seeks to address, and how the proposed services will meet those needs. Strategies may be across a broad range of options including but not limited to advice and counsel, representation, mediation programs, or policy and impact work, but should reflect an understanding of the current needs and challenges within the communities to be

² This definition of statewide is adopted from Support Center requirements for statewide support services and the seven districts are included in the 2017 Regional Map for Support Centers. A copy of the 2017 Map is included at the end of the RFP.

³ A copy of the county population living in poverty based on the California 2016 ACS Data is included at the end of the RFP.

served, knowledge of successful models, flexibility and creativity, and necessary collaborations to achieve stated goals.

Examples of legal assistance for foreclosure prevention include:

- Outreach and education on the foreclosure process and legal options
- Review of loan documents and counseling regarding the viability of loan modifications, and triage for state or federal violations, including Homeowner Bill of Rights violations
- Loan modification assistance, including forbearance agreements and repayment plans for debt forgiveness or reduction, interest rate reduction, or extending time for payment; also transitional options, including short sale, deed in lieu of foreclosure, and cash for keys
- Negotiation, mediation, and litigation to address service violations
- Loan modification denial appeals
- Reverse mortgage advice to older adults
- Pursuing affirmative actions to restore title in other contexts, such as consumer fraud, predatory lending, or financial abuse
- Legislative or administrative advocacy, Policy advocacy and support services to increase capacity and foster collaboration with local, state, and national groups on any of the issues above

By the terms of the settlement agreement, grants in this category must “prevent foreclosure.” Therefore, protecting the rights of a tenant generally will not be considered for funding under this category. However, if the applicant can make the appropriate case that particular activities identified are foreclosure prevention, they should do so. If, in proposing a project, the applicant can justify why the project falls within US DOJ settlement parameters, it should do so with documented evidence.

If a program submits a proposal that includes work that is clearly not qualifying – such as eviction defense for individual tenants in already foreclosed properties – the State Bar will not likely be able to fund that proposal. Applications will be reviewed based on the information provided and it is the applicant’s responsibility to establish, in the original application, the connection to qualified purposes.

B. Community Redevelopment Legal Assistance

Proposals should describe how grant funds would be used for community redevelopment legal services.⁴ Proposed projects should support and promote economic development by providing legal services that revitalize or stabilize low-income communities. Strategies may cross a broad range of options from counseling advocacy groups, transactional law, representation, or policy and impact work, but should reflect an understanding of the current needs and challenges within the communities to be served, and the knowledge of successful models for meeting those needs. The organization should have established partnerships that are necessary to achieve the stated goals.

Applicants should present projects that will have far-ranging and lasting impact on communities. Applicants have flexibility in defining community redevelopment. **However, the Bar generally will not fund for these purposes legal services that benefit individuals. While improving the situation of individuals suggests those individuals will bring resources back to their communities, for individual services to qualify as community redevelopment work the services must be tied to broader systemic work that benefits the community as a whole.**

⁴The term “community redevelopment” is from the bank settlement agreements. For purposes of this RFP, we will not be relying on California’s Community Redevelopment Law as it existed prior to the adoption of the Dissolution Act, or as it exists as modified by the Dissolution Act to define “community redevelopment.”

Examples of community redevelopment legal assistance include:

- Transactional support: 1) to develop capacity of nonprofit organizations that serve low-income communities; 2) to support projects typically considered community development, such as development and preservation of affordable housing, childcare, senior centers, job training centers, day labor centers, etc.; or 3) for micro-businesses and low-income entrepreneurs, or other local and community-owned services (childcare and credit unions)
- Developing the capacity of low-income community members to advocate on behalf of their community with respect to proposed laws or legislative action, whether by representing a nonprofit organization or a community group
- Representation of low-income communities with respect to community conditions, e.g., with respect to environmental justice, equity in transit-oriented development, prevention and elimination of homelessness, inclusion of affordable housing, and other matters that protect the healthy development of communities
- Legal assistance that is transformative to a community, promotes systemic change, promotes economic security, and/or has broad impact
- Redevelopment assistance to cities and counties, e.g., ensuring that localities and developers meet their obligations to provide adequate relocation assistance and replacement housing for families displaced by redevelopment
- Devising program, policy, and legislative solutions to the loss of affordable housing, other affordable housing advocacy to combat displacement and enforce redevelopment law
- Developing anti-displacement and gentrification-prevention strategies
- Strategies to eliminate and prevent conditions of blight
- Legislative or administrative advocacy

If a program submits a proposal that includes work that is clearly not community redevelopment – such as direct legal immigration help or direct public benefits legal assistance – that proposal will not likely be funded. Applications will be reviewed based on the information provided and it is the applicant's responsibility to establish, in the original application, the connection to qualified purposes.

IV. Criteria for RFP Funding

Demonstrated Need of the Targeted Population: While there are no income-eligibility requirements for this funding, the Bar will consider the articulated needs of a defined target population, with consideration to indigency, and to other special needs, such as those of minority populations, or persons with limited-language capacity. Income eligibility might be, for example, service to persons at 400 percent of the federal poverty threshold, or 80 percent of the Home Affordable Modification Program level for the county, particularly if the target population has other special needs.

Impact of Services: The Bar will consider the anticipated outcomes of the services, including the number of people that will be served, and the nature of the impact on the lives of targeted populations.

Deliverables within Grant Period: Grant deliverables must be achievable within the period of the proposed grant. While funding a portion of a project (e.g., impact litigation) coupled with other funding as a bigger project, or over a longer term, will be considered, the proposal should articulate the specific deliverables that will be achieved with this grant funding during the grant period.

Partnerships and Collaboration: The Bar will consider the extent to which an applicant already has developed necessary partnerships, or has demonstrated the ability to collaborate with community organizations, local government, or other stakeholders to accomplish their goals.

Leverage and Sustainability: Because this funding is of limited duration, the Bar is particularly interested in understanding how the proposed project fits within current organizational programming. If it is an existing project, how will funds be leveraged to increase services? If the project is new, how will the

organization sustain the project? Is it replicable or scalable? How will information about the project be shared with other legal aid organizations?

Organizational Excellence: The Bar will also consider the experience of the grantee in successfully executing similar projects, and the stability of the organization infrastructure as it affects the ability, as necessary, to hire, retrain, and supervise attorneys, and to administer the grant successfully, including the timely and accurate submission of grant budgets, reports, and evaluations.

Diversity of Projects: The Bar would like to fund a variety of different types of projects, and will take into consideration various factors such as geographic region, program size, and project type.

Services to Rural Areas: Preference will be given for projects that serve rural communities. According to the California Commission on Access to Justice's 2010 report entitled, "Improving Civil Justice in Rural California," the most helpful approach for defining "rural" is the approach used by the medical community, which uses sub-county areas.⁵ For the purposes of this RFP, "rural" is defined as areas that meet the definition of "rural" or "frontier" that the medical community uses to analyze the availability of medical services. This classification scheme is known as Medical Service Study Areas (MSSAs). Rural MSSAs have 50,000 or fewer residents and population densities below 250 people per square mile, while "frontier" MSSAs are defined by population densities of fewer than 11 people per square mile. A map of MSSAs in California is included at the end of the RFP. Rural areas will be evaluated on where specifically services are provided, and not on specific counties.

V. Evaluation Plans and Data Collection

A. Evaluation Plans

The application should include a clear statement of the goals of the project, objectives to be used to achieve those goals, and the evaluation methods to be used to make any mid-course adjustments to the delivery model, and to evaluate the success of the project at its conclusion.

B. Data Collection and Status Reports

Grantees will be required to report on the status of the grants, including on its achievement of identified service deliverables, and outcomes. In addition to client stories and corresponding main benefit data that grantees will be collecting in conjunction with IOLTA funding, grantees will also be required to report:

Foreclosure Prevention Legal Assistance

- How many individuals were served (separately, how many elderly, children and veterans)?
- How many foreclosures were prevented?
- How many foreclosure clients benefitted in other ways?

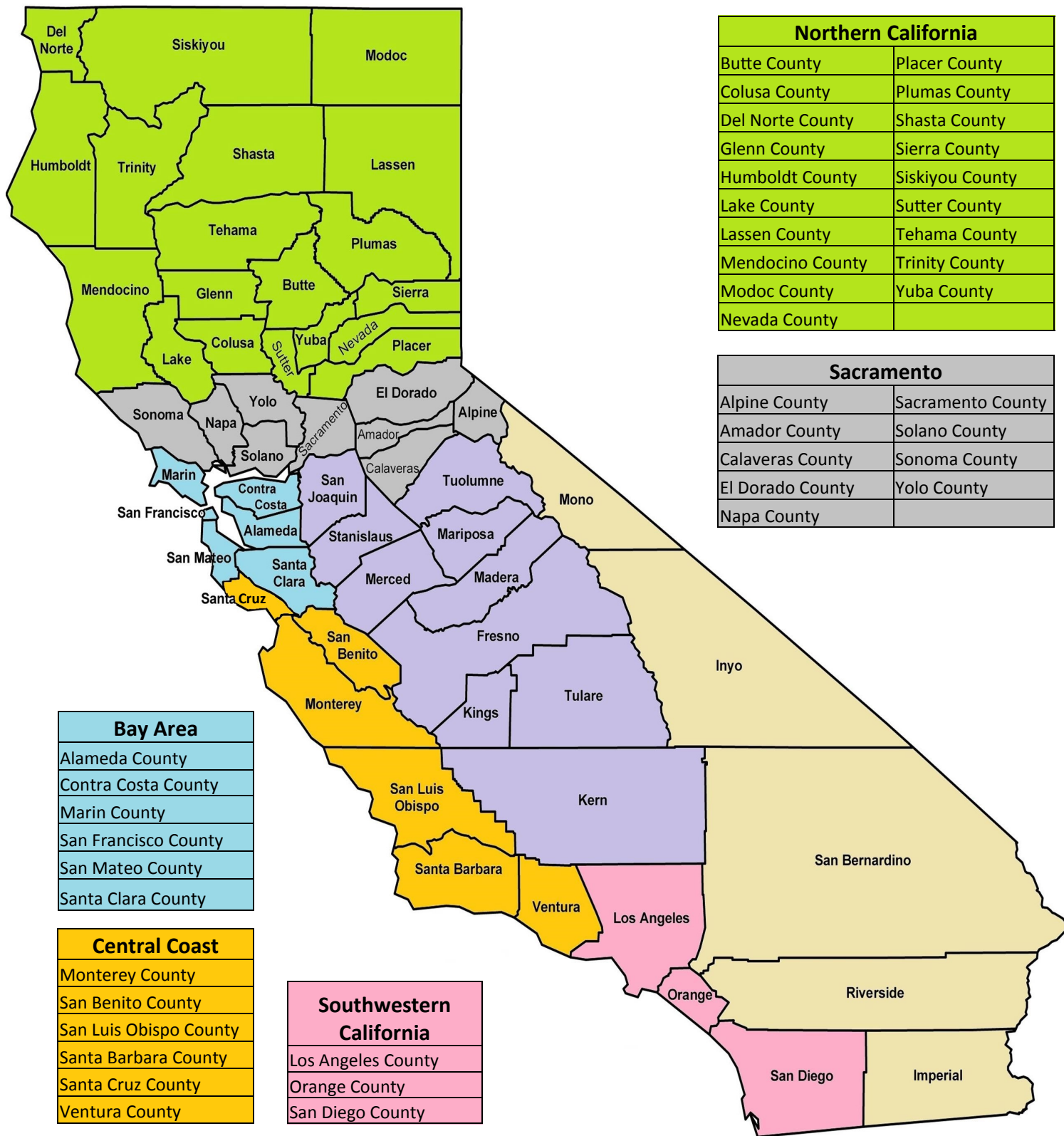
Community Redevelopment Legal Assistance

- How many individuals benefitted (separately, how many elderly, children and veterans)?
- How many non-profits benefitted, if any?
- How many small business clients benefitted, if any?

⁵ The California Commission on Justice to Justice (2010). [Improving Civil Justice in Rural California](#), 19.

As a grant condition, grantees must agree to cooperate in providing any additional reporting information required by Bank of America, their settlement monitors, regulators or other concerned national organizations.

DRAFT



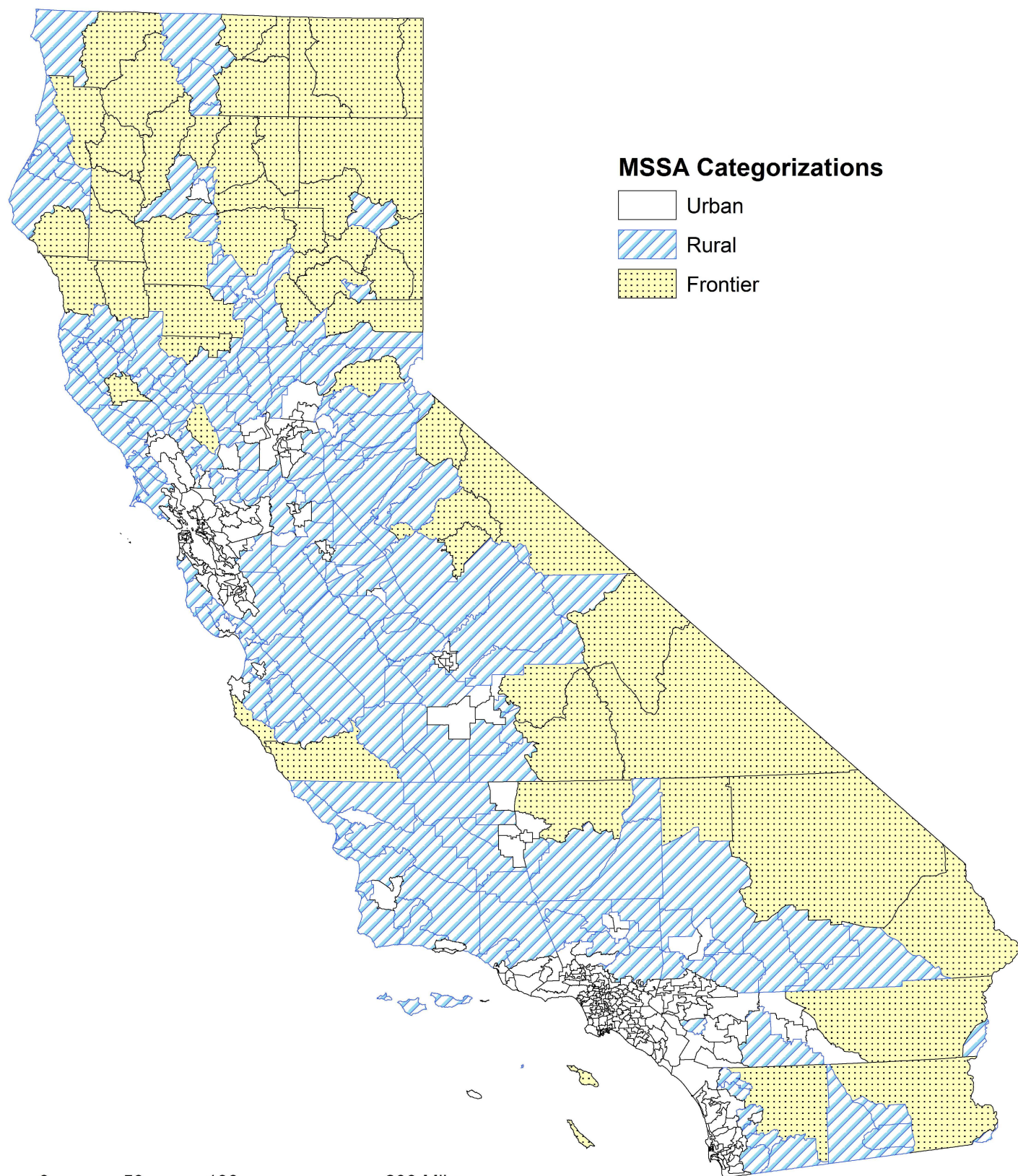
**Legal Services Trust
Fund Program**

Support Center — 2017 Regional Map

2016 ACS Poverty Data

County	Total Population	Total <125%
Alpine County, California	1170	250
Sierra County, California	2902	468
Mono County, California	13936	1,684
Modoc County, California	8761	1,950
Inyo County, California	17706	2,633
Mariposa County, California	17457	3,398
Plumas County, California	18363	3,535
Trinity County, California	12947	3,560
Colusa County, California	21150	4,287
Lassen County, California	21974	4,482
Amador County, California	32969	4,891
Del Norte County, California	24011	6,703
Glenn County, California	27541	6,990
Calaveras County, California	44280	7,212
San Benito County, California	57696	9,038
Tuolumne County, California	50446	9,813
Siskiyou County, California	43259	12,210
Nevada County, California	97760	15,794
Tehama County, California	62205	17,772
Napa County, California	137140	18,797
Lake County, California	63263	19,622
Yuba County, California	72585	19,711
Mendocino County, California	86001	22,705
Sutter County, California	94349	22,823
El Dorado County, California	181369	23,846
Marin County, California	253100	25,803
Humboldt County, California	131865	36,184
Kings County, California	132716	39,119
Shasta County, California	176464	40,571
Placer County, California	367202	41,482
Madera County, California	145251	43,363
San Luis Obispo County, California	262763	48,128
Yolo County, California	201542	48,489
Santa Cruz County, California	259991	50,984
Imperial County, California	168279	52,279
Butte County, California	218439	60,238
Solano County, California	418688	70,357
Sonoma County, California	491031	76,293
San Mateo County, California	748756	78,557
Merced County, California	258684	83,311
Santa Barbara County, California	420739	90,011
Monterey County, California	411820	93,532
Ventura County, California	831731	122,923
Stanislaus County, California	524616	129,497

Medical Service Study Areas (MSSAs) California



Map by:
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