



# The State Bar of California

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Date: August 5, 2019

To: Executive Committee - Legal Services Trust Fund Commission

From: Office of Access & Inclusion Staff

Subject: EAF Homelessness Prevention (HP) Fund – \$15m Formula Allocation Tranche

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## BACKGROUND

Recognizing the need for stable housing for renters, Governor Gavin Newsom included \$20 million in his May Revision to the 2019 Budget Act for grants to legal services organizations to provide legal assistance to renters with landlord-tenant disputes, including counseling, renter education programs and preventing evictions. The Legislature approved this funding request, and included language in the 2019-2020 budget bill (AB 74) to effectuate the purposes of the funding and further define the types of services eligible for this new funding. The budget was ultimately signed by the Governor on June 27, 2019.

Approximately \$14,850,000 million (75% of the \$20 million appropriated for these purposes, less \$150,000 in administrative costs) will be distributed to qualified legal services providers and support centers that meet the eligibility requirements and the remaining 25% (approximately \$5 million) will be disbursed through a competitive grant process. The current timeline plans for the \$14.85 million to be distributed in early September 2019, with the requirement that the grant be fully spent down by June 30, 2021.

The relevant portion of the budget bill language has been included below for reference:

6. Of the amount appropriated in Schedule (5), \$20,000,000 shall be distributed by the Judicial Council through the State Bar of California pursuant to Provision 1 to qualified legal services projects and support centers to provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, including pre-eviction and eviction legal services, counseling, advice and consultation,

mediation, training, renter education, and representation, and legal services to improve habitability, increasing affordable housing, ensuring receipt of eligible income or benefits to improve housing stability, and homelessness prevention. Of this amount, \$150,000 shall be available, upon order of the Department of Finance, for administrative costs of the Judicial Council and the State Bar. The remaining funds shall be allocated as follows:

- a) 75 percent shall be distributed to qualified legal services projects and support centers that currently provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, as set forth in Provision 6. To expedite the distribution of this percentage of the \$20,000,000, eligible programs shall be limited to those found eligible for 2019 IOLTA funding. Each eligible program shall receive a percentage equal to that legal services project's 2019 IOLTA allocation divided by the total 2019 IOLTA allocation for all legal services projects eligible for this funding, except that to ensure that meaningful funding is provided, a minimum amount of \$50,000 shall be allocated to each eligible program unless the program requests a lesser amount, in which case the additional funds shall be distributed proportionally to the other qualified legal services projects. These funds shall be distributed as soon as practicable after the effective date of this act and shall not supplant existing resources.

On June 21, 2019, staff distributed a brief three-question survey to all 2019 IOLTA grantees to gauge preliminary interest in potentially receiving funding from the \$15 million formula allocation tranche of the EAF HP Funds. In response, 86 programs (of the 98 IOLTA funded programs in 2019) expressed interest and/or believed that they were potentially eligible for funding.

On July 9, 2019, the EAF HP Formula Allocation Fund application was distributed via SmartSimple to these 86 Programs and they were given a firm deadline of 5:00pm, July 26, 2019 to submit an application. As shown in the attached formula allocation spreadsheet, 64 programs submitted an application by the deadline. The following 22 programs which initially expressed interest and/or did not respond to the initial survey ultimately did not submit an application:

1. Alameda County Homeless Action Center
2. Asian Pacific Islander Legal Outreach
3. California Indian Legal Services
4. California Rural Legal Assistance Foundation
5. Center for Human Rights and Constitutional Law
6. Centro Legal de la Raza
7. Chapman University Family Protection Clinic
8. Community Legal
9. Disability Rights Legal Center

10. Housing and Economic Rights Advocates
11. Law Foundation of Silicon Valley
12. Los Angeles Center for Law and Justice
13. Legal Services for Prisoners with Children
14. Legal Services for Seniors
15. McGeorge Community Legal Services
16. National Health Law Program
17. Prison Law Office
18. UC Davis School of Law Legal Clinics
19. Voluntary Legal Services Program of N. CA
20. Wage Justice Center
21. Watsonville Law Center
22. Worksafe, Inc.

## **DISCUSSION**

Following the receipt of all applications, staff began a thorough review of each application and developed preliminary funding recommendations detailed in the attached formula allocation spreadsheet. In addition, staff highlighted the following items for review and discussion with the Executive Committee:

## **FUNDING ELIGIBILITY**

Although the eligible programs for the EAF HP formula allocations were defined by being 2019 IOLTA funded organizations, there are programs that applied for funding which have been the subject of eligibility conferences for 2020 and could be found to be ineligible for 2020's IOLTA/EAF distribution.

After consultation with the State Bar's Office of General Counsel, we have concluded that the language of the budget bill would permit the Legal Services Trust Fund Commission (and the designated entity, the LSTFC Executive Committee) to find such programs – if they are found to be ineligible for 2020 funding – ineligible for this EAF HP funding. Most notably, the budget bill language provides that “eligible programs shall be limited to those found eligible for 2019 IOLTA funding,” not that all programs that received 2019 IOLTA funding shall be eligible to receive this funding. In fact, to be eligible for the EAF HP funding, a program must currently be a qualified legal services project or support center. If the eligibility review were to find that they are not now qualified, the program would not be eligible for the EAF HP funding. Pending the Executive Committee's final decision and allowing for the possibility of appeals, staff has kept all organizations in the EAF HP formula allocation spreadsheet.

## ELIGIBILITY DETERMINATION BY SERVICES PROVIDED

Of the 64 applications received, 62 of the programs provided sufficient information in their applications to demonstrate that they meet the eligibility requirements set forth in the budget bill language. The budget bill language is fairly broad, and legislative staff<sup>1</sup> have confirmed that the types of assistance listed are intended to be representative, and not exclusive. As a result, staff reviewed the applications through this broad-based lens and applied a fairly broad interpretation of programs' description of their eligibility of current services and proposed services/programs.

Staff believe, however, that two of the narratives warrant additional review and the applications from those programs are being escalated to the Executive Committee for further consideration:

- **LACBA Counsel for Justice** (page 38 of Attachment 2) – LACBA's Immigration Legal Assistance Project (Immigration Project) provides legal assistance and counseling to low income immigrants in the Los Angeles area to help establish or prove lawful immigration status. LACBA states that proof of lawful immigration status is a necessary and important step to assist its clients in securing and/or maintaining benefits and/or housing. While LACBA proposes to use EAF HP funding to identify individuals with housing problems related to their immigration status and provide them the appropriate services, the Executive Committee may once again want to consider whether there's a sufficient linkage between immigration status and homelessness prevention.
- **Legal Aid at Work** (page 42 of Attachment 2) – While this program plans to "...use the funds to 'ensure receipt of eligible income or benefits to improve housing stability' for a group particularly likely fall [sic] into housing insecurity and homelessness: formerly incarcerated persons", this program's primary focus appears to be on working to remove the barriers to and increasing employment vis-à-vis enforcement of the Fair Chance Act and other means.

While there is some correlation between homelessness, incarceration, and unemployment, the Executive Committee may want to consider whether there's a sufficient nexus between employment/employability issues and homelessness prevention.

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<sup>1</sup> However, the legislative staff did specify that legislative advocacy did not fall within permissible activities.

## **PROPOSED FORMULA ALLOCATION**

In generating the attached draft of the formula allocation spreadsheet, staff took into account two programs that requested less than their formula distribution (California Women's Law Center requested \$88,000 versus their formula distribution amount of \$125,694.52 and LACBA Counsel for Justice requested \$50,000 versus their formula distribution amount of \$66,072.41). This additional \$53,766.93 was allocated proportionally to the remaining programs. The proposed distributions are represented in the green column titled "Total Allocation" in the attached formula allocation spreadsheet.

## **RECOMMENDATION**

It is recommended that the Legal Services Trust Fund Commission Executive Committee:

1. Vote and determine if organizations not qualified to receive 2020 EAF/IOLTA funds are eligible to receive formula distribution of the \$15M EAF Homelessness Prevention funds.
2. Determine if Legal Aid at Work and LACBA's Counsel for Justice program are eligible for funding based on whether their proposals to use the funding fit within the definition set forth in the 2019 Budget Act.
3. Approve staff's recommendations for the EAF HP Fund formula allocation as presented in Attachment 1 as adjusted based on the Committee's decision on recommendations 1 and 2, above.
4. Direct staff to work with the approved programs to secure detailed budgets for how funds will be allocated and spent down.
5. Direct staff to work with the Judicial Council to secure the approved funds as soon as practicable and distribute the monies to the programs as soon as practicable.

## **ATTACHMENTS**

1. EAF HP Fund Formula Allocation Spreadsheet (Draft)
2. Application narrative responses to Questions 1 and 2

