

LSTFC Eligibility and Budget Review Committee Meeting

Friday, August 23, 2019

10:00 a.m. – 12:00 p.m.

Held via conference call and in person at:

State Bar of California, 180 Howard Street, San Francisco, CA

State Bar of California, 845 South Figueroa Street, Los Angeles, CA

NOTES AND ACTION SUMMARY

The meeting was called to order at 10:04 a.m.

OPEN SESSION

I. ROLL CALL

Committee Members

Banafsheh Akhlaghi (by phone, participating as member of the public)
Pamela Bennett (LA)
Erica Connolly (LA)
Herman L. DeBose (LA)
J. Eric Isken (LA)
Parissh Knox (by phone)
Bob Planthold (SF)
Melanie Snider (SF)

Liaisons

Salena Copeland (Legal Aid Association of California, SF)
Bonnie Hough (Judicial Council, by phone)
Debbie Manning (Board of Trustees, LA)

Staff

Rocío Avalos (SF)
Christal Bundang (SF)
Erica Carroll (LA)
Brady Dewar (LA)
Elizabeth Hom (LA)
Hellen Hong (LA)

Public

Aileen Harper (Center for Health Care Rights, LA)
Guillermo Mayer (Public Advocates, by phone)
John Affeldt (Public Advocates, by phone)
Preeti Mishra (Dependency Advocacy Center, by phone)

KellyAnn Romanych (Veterans Legal Services, by phone)
Creighton Mendivil (Senior Citizens Legal Services, by phone)

Roll call was taken, and a quorum was established.

II. CALL FOR PUBLIC COMMENT

Committee member Isken led the meeting and indicated that public comment would be requested throughout the meeting as appropriate regarding each item on the agenda.

III. CONSENT

A. Approval of Notes and Action Summary from 7/19/19 Meeting

The Committee approved by roll call vote the Action Summary from the July 19, 2019 meeting (Bennett moved, Planthold seconded, Knox abstained).

IV. MONITORING VISITS

A. Update on 2019 Monitoring Visits

Program Supervisor Elizabeth Hom provided an update on monitoring visits, stating that 23 have been conducted with 12 remaining to complete. She thanked the committee members for their participation on these visits and stated that they were invited to join remaining visits as well. Members could sign up for additional monitoring visits through SmartSimple or by responding to a future email regarding scheduling.

B. Planning for 2020 Monitoring Visits

Program Supervisor Elizabeth Hom reported that as part of the State Bar's contract with the Judicial Council for the distribution of Equal Access Funds, the Office of Access & Inclusion schedules monitoring visits with one third of grantees each year. In addition, newly approved grant recipients will have a monitoring visit in 2020, as well as those two organizations identified for follow-up: LACBA Counsel for Justice and Prison Law Office.

V. IMPACT LITIGATION & ADVOCACY WORK (ILAW)

A. Reconsider Advocacy Activities Previously Determined Not Qualified – Request of Public Advocates Inc.

John Affeldt, managing attorney for Public Advocates Inc. (PA), requested time for public comment regarding two of PA's projects previously recommended as not qualified: (1) Higher Education – Low-Income Student Advocacy and (2) Equal Access to Fully-Prepared and Effective Teachers. He reported that PA would withdraw for consideration of the Higher Education project for 2020 and plan to resubmit next year.

Regarding the Equal Access to Fully-Prepared and Effective Teachers project, Mr. Affeldt stated reasons that the project qualified as provision of legal services: a significant portion of the advocacy work entails enforcing, maintaining and expanding standards for teacher qualifications; it requires an intimate knowledge of credentialing laws; and, the goal of the project is to work on behalf of indigent students to ensure those standards are met everywhere. He also expressed that PA was not given enough time to provide fuller explanation of these details, having only been given two days to respond after their Eligibility Review Conference.

There was discussion about whether these activities were sufficiently legal in nature as defined by statute and whether they primarily benefit an indigent population. In the past, PA has used—and the Commission has approved—the free or reduced lunch program as proxy for the IOLTA and EAF indigency requirement, and this issue will be considered by the Rules Committee.

The Committee voted to reject staff recommendation and to approve the Equal Access to Fully-Prepared and Effective Teachers project as a qualifying activity for the 2020 grant year application by roll call vote (Knox moved, Snider seconded, Isken and Planthold voted no, Bennett abstained).

VI. DISCUSS AND APPROVE IOLTA AND EAF ELIGIBILITY FOR GRANT YEAR 2020

A. Review and Discuss Outstanding Eligibility Issues

i. Overview of 2020 Applications

Elizabeth Hom reported that 104 applications were submitted for IOLTA/EAF funds for 2020. Of the 104 applications, 98 were renewals, six were new; 82 were legal service providers and 22 were support centers. Two new applicants withdrew during the application review process. At the July 19, 2019 Committee meeting, the Committee elevated several issues from the application review process to Eligibility Review Conferences. The Committee discussed the following remaining eligibility issues in turn.

ii. Center for Health Care Rights (CHCR)

Aileen Harper, Executive Director of CHCR requested time for public comment and provided information regarding the program's history as a grant recipient as well as updates on the program's plans to provide attorney supervision for legal services.

The committee discussed the fact that CHCR's application indicates that legal services account for 12% of its qualified expenditures. The Committee unanimously recommended that CHCR be found ineligible for grant year 2020 (Bennett moved, Planthold seconded).

iii. Veterans Legal Institute (VLI)

VLI's Director of Development, KellyAnn Romanych, requested time for public comment. She requested reconsideration of the staff recommendation that the program be found ineligible for 2020, explaining that a one-time expense reduced the organization's qualified expenditures to 44%. Salena Copeland, liaison from the Legal Aid Association of California (LAAC) also spoke in support of recommending that VLI remain eligible.

Staff reported that an Eligibility Review Conference with VLI was held in July to discuss issues of internal controls and primary purpose. Commissioners Herman DeBose and Bob Planthold also participated in the Review Conference. The Committee discussed concerns about VLI's internal controls, specifically, whether the organization's transfer of \$140,000 to create a related organization was an approved use of the funds, and whether the audit submitted was performed by an independent certified public accountant. Senior Program Analyst Rocío Avalos reported that VLI submitted a revised audit during the application review process, and that the staff's recommendation was based on the original audit due to the short turnaround time in which the revised audit was provided and the lack of any statement from the auditor regarding the revisions.

A motion was made to recommend that VLI be found ineligible for grant year 2020 (Bennett moved, Isken seconded). The motion was approved by roll call vote (Knox and Snider voted no).

iv. Senior Citizens Legal Services (SCLS)

Creighton Mendivil, Executive Director and Directing Attorney of SCLS, requested time for comment regarding the staff recommendation to find the program ineligible for funding. He reported that the recommendation was due to a late submission of the application, not any problems with the organization's provision of services. Salena Copeland echoed Mr. Mendivil's sentiments and stated that SCLS provides services in the community that are not available elsewhere.

Staff reported that the SCLS submitted the application and fiscal audit almost seven weeks after the deadline and after the Eligibility and Budget Review Committee meeting on July 19, 2019. Staff reported that a review of SCLS's audit revealed issues with internal controls and fiscal oversight. The committee discussed whether this situation rose to the level of "extraordinary circumstances."

A motion was made to accept the staff recommendation and to recommend that SCLS be found ineligible for grant year 2020; the motion was approved by roll call vote (Isken moved, Bennett seconded, Knox and Snider voted no).

v. Community Lawyers Inc. (CLI)

Elizabeth Hom reported that CLI was a first-time applicant. She explained that concerns arose during the application review process regarding the organization's primary purpose and function, because its board was revising the Articles of Incorporation to include the provision of free legal services to indigent persons at the time of the application. In addition, CLI failed to provide the required audited or reviewed financial statement. The Committee previously approved a motion on July 19, 2019 to recommend Community Lawyers Inc. as not eligible for 2020 funding.

The Committee unanimously approved by roll call vote a motion to affirm this recommendation (Planthold moved, Snider seconded.)

vi. Community Legal

Elizabeth Hom reported that Community Legal failed to provide an audited financial statement as part of its application and that no extraordinary circumstances were presented. The Committee had previously voted on July 19, 2019 to recommend that Community Legal be found not eligible for 2020. Salena Copeland reported that Community Legal understands the need for the audited statement and will likely return to apply with the necessary documentation next year.

The Committee unanimously approved a motion to recommend Community Legal as ineligible for 2020 funding (Planthold moved, Connolly seconded).

B. Approval of Recommendations of Eligible and Ineligible Applicants for IOLTA and EAF Funding for Grant Year 2020

Staff provided the Committee with a list of all applicant organizations and staff's recommendations regarding eligibility for grant year 2020 ("Recommendations for IOLTA and EAF Grant Eligibility for Grant Year 2020" memo and attachment). The Committee approved by unanimous roll call vote to recommend that the remainder of the applicants (other than those above) be found eligible for grant year 2020 (Planthold moved, Snider seconded).

VII. 2020 GRANTS

A. Discuss Anticipated Budget Application Issues

Director of the Office of Access & Inclusion, Hellen Hong, reported that \$55 million in IOLTA grants would be available in 2020, doubling the amount from the prior year. She shared that she has informed grantees to expect this increase to be a one-time increase in funding due to multiple factors including decreasing interest rates, and she encouraged organizations to make investments (e.g. technology, strategic planning) in support of providing free legal services. With this increase in funding, questions regarding the use of grant funds for capital investments (such as paying down the mortgage or renovations) arose and were brought to the Committee's attention.

Director Hong reviewed the typical distribution of funds and timeline of budgeting. She informed the Committee regarding guidelines for purchase of real and personal property with grant funds and discussed some examples of permissible purchases, with the goal that the majority of funding should be targeted towards providing, and creating greater capacity for, legal services.

VIII. ADJOURN

The meeting was adjourned at 11:43 a.m.