

## **LSTFC Eligibility and Budget Review Committee Meeting**

Friday, November 1, 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 10:00 a.m.

#### *OPEN SESSION*

##### **I. ROLL CALL**

###### **Committee Members**

Pamela Bennett (LA)

Rebecca Delfino (by phone)

J. Eric Isken (by phone)

Bob Planthold (SF)

Bonnie Hough (Judicial Council, by phone)

Debbie Manning (Board of Trustees, by phone)

###### **Staff**

Rocío Avalos (SF)

Frank Bittner (SF)

Erica Carroll (LA)

Brady Dewar (SF)

Doan Nguyen (SF)

###### **Public**

Will Roscoe (Public Advocates, by phone)

Guillermo Mayer (Public Advocates, by phone)

Preeti Mishra (Dependency Advocacy Center, by phone)

Estela Casas (Greater Bakersfield Legal Assistance, by phone)

Deborah Davis (Legal Aid Society of San Bernardino, by phone)

###### **Liaisons**

Jasmine Kaddoura (California

Commission on Access to Justice, SF)

Roll call was taken, and a quorum was established.

There being no current chair of the committee, Delfino made a motion to appoint Isken Chair Pro Tem for this meeting (Planthold seconded), which the Committee approved by unanimous roll call vote.

##### **II. CALL FOR PUBLIC COMMENT**

Committee member Isken led the meeting and requested public comment. Estela Casas from Greater Bakersfield Legal Assistance (GBLA) stated that she would be available should the Committee have questions regarding GBLA's proposed budget later in the meeting.

No one else requested time for public comment.

### **III. CONSENT**

#### **A. Approval of Notes and Action Summary from 8/23/19 Meeting**

The Committee approved by unanimous roll call vote the Action Summary from the August 23, 2019 meeting (Planthold moved, Bennett seconded).

### **IV. DISCUSS AND APPROVE IOLTA AND EAF BUDGETS FOR GRANT YEAR 2020**

#### **A. Review and Discuss Budget-Related Issues**

##### **i. Overview of Budget Issues**

Program Supervisor Doan Nguyen provided an overview of the IOLTA and EAF budgeting process, including staff review and explanation of budget proposals requiring Committee review before approval. This included budget proposals requesting purchase of real property over \$5,000 or five percent of the tentative grant award; proposals that allocated less than 75 percent of funds to program or personnel expenses; and budgets that proposed to fund activities that did not clearly qualify as “legal services” pursuant to the IOLTA statute. Staff identified all budget proposals falling into these categories, and the Committee addressed each in turn.

Doan also highlighted the historic increase in IOLTA funds for 2020 and how this may have impacted several of the organizations’ requests to allocate funds differently than they have in the past. Due to the increase in requests to use grant funds for capital improvements and real property purchases, the 97 grantees were reminded of the State Bar’s Guidelines for purchases of both real and tangible personal property; however, the budget application and instructions did not request documentation mentioned in the Real Property Guidelines, and consequently grantees would need to compile this information after approval.

Staff recommended that grantees produce necessary documentation within the first quarter of 2020 and that large tangible personal property purchases or leases be reviewed at monitoring visits. The Committee agreed that all approved real property recommendations would be contingent on production of the necessary documents during the first quarter of 2020, and applied that condition to all votes related to real property/capital addition requests.

A number of programs also proposed using grant funds for activities that did not clearly fall under the definition of “legal services.” Doan explained that staff do not have discretion to determine what constitutes “legal services” for activities that do not squarely fit under the term as currently defined. She noted that this will be a topic that the Legal Services Trust Fund Commission will revisit in the coming year through the planned codification process, but for now staff are elevating those activities for review.

##### **ii. Proposals for Real Property or Capital Investments**

###### **1. California Rural Legal Assistance, Inc. (CRLA)**

CRLA proposed to spend \$579,910 on reducing its mortgage debt. Staff recommended approval. After discussion, the Committee unanimously voted to recommend approval of this use of the funds (Planthold moved, Isken seconded).

## **2. Disability Rights California (DRC)**

DRC proposed to spend a combined \$615,000 on construction costs to expand its Sacramento office as well as pay off its second mortgage. There was some discussion among the Committee about the amount of the request, noting that it was a smaller proportion of the overall budget given the organization's projected allocations. The Committee unanimously voted to recommend approval of the use of the funds for these construction and debt service costs (Planthold moved, Bennett seconded).

## **3. Greater Bakersfield Legal Assistance (GBLA)**

GBLA proposed to use \$415,000 towards improvements to its workspace (renovating bathrooms, painting the building, removing asbestos-containing materials and old carpeting, moving the client entry), as well as potentially reducing its debt burden. There was a question among the Committee about the proportion of the amount requested to the overall grant; Estela Casas from GBLA commented that it represented 87 percent of the increase in this year's funding, leading to the variance in personnel versus non-personnel funding that would be discussed later. Planthold moved to approve the use of the funds for these purposes, Isken seconded, and the Committee unanimously approved by roll call vote.

## **4. Legal Aid Foundation of Los Angeles (LAFLA)**

LAFLA proposed using \$345,745 of its funds on a design package that included architectural, structural, mechanical, electrical and plumbing work and assessments. Planthold questioned whether there was a continuing obligation to allocate funds to these activities if, for example, the organization discovers more work is required after such assessments. Brady Dewar from the Office of General Counsel reported that there is no continuing obligation by the State Bar but if the organization wishes to allocate more funds, it can go through this process again in future funding cycles. After discussion, the Committee unanimously approved by roll call vote to recommend this as a permissible use of funds (Planthold moved, Isken seconded).

## **5. Legal Aid Society of San Bernardino (LASSB)**

LASSB proposed to use \$332,962 to acquire an adjacent parking lot and necessary improvements for client security and access, as well as a building expansion. Of that total, \$132,962 would be devoted to the building expansion and used as leverage for cy pres funds. Staff reported a lack of specificity regarding planned building expansion, as well as uncertainty regarding whether the cy pres funds have been awarded. Deborah Davis from LASSB requested to comment and was allowed. She reported that the organization received \$75,000 in cy pres funds already, with the possibility of receiving over \$100,000 more but that this amount was not yet guaranteed. There was discussion among the Committee about whether proposed improvements could be accomplished if other funding sources did not materialize. Staff recommended that this budget be revised. Planthold moved to adopt the staff recommendation, Isken seconded, and the Committee unanimously approved by roll call vote the motion for LASSB to revise its statements in the budget regarding the use of \$132,962 for the building expansion.

## **6. Legal Services of Northern California (LSNC)**

LSNC proposed to use \$351,630 to prepay its mortgage for eight years at its administrative center in Sacramento. The Committee unanimously voted to approve this use of the funds by roll call vote (Planthold moved, Isken seconded).

## **7. Neighborhood Legal Services (NLS)**

NLS proposed to spend \$200,000 to expand its working space to accommodate additional staff. The Committee unanimously voted by roll call to approve this use of the funds (Planthold moved, Bennett seconded).

## **8. Public Counsel**

Public Counsel proposed to spend \$34,000 to build additional office space and purchase other necessary items such as cubicles and wiring. The Committee noted that this amount was nominal in comparison to the total grant award and, after discussion, Planthold moved to approve this request and Isken seconded; the motion was approved unanimously by roll call vote.

### **iii. Deviations from Program/Administrative Ratios (75 Percent Program/Personnel vs. 25 Percent Admin/Non-Personnel)**

#### **1. Asian Americans Advancing Justice – Los Angeles (AAAJ – LA)**

AAAJ – LA proposed to spend 46 percent of the IOLTA grant on Personnel due to expenses for updated case management system, and technology and hardware purchases. The Committee unanimously voted by roll call vote to recommend approval of this deviation (Planthold moved, Isken seconded).

#### **2. California Rural Legal Assistance, Inc. (CRLA)**

CRLA proposed to devote 69 percent of the IOLTA grant to Program expenses, and 68 percent to Personnel. The deviation was accounted for by the mortgage prepayment that the Committee previously discussed. The Committee unanimously recommended approval by roll call vote (Planthold moved, Isken seconded).

#### **3. Center for Gender and Refugee Studies (CGRS)**

CGRS proposed to devote 63 percent of the IOLTA grant to Personnel expenses. They reported this variance was due to their contract with a web developer to update their technical assistance delivery system and asylum case database. The Committee unanimously voted by roll call vote to recommend approval of this deviation (Planthold moved, Isken seconded).

#### **4. Greater Bakersfield Legal Assistance (GBLA)**

GBLA requested to devote 47 percent of their IOLTA grant to Personnel expenses for the same reasons previously discussed and approved by the Committee. They unanimously voted by roll call vote to recommend approval (Planthold moved, Isken seconded).

#### **5. Lawyers' Committee for Civil Rights (LCCR)**

LCCR planned to devote 71 percent of the IOLTA grant to Personnel, owing to an update of their case management system and strategic planning process. The Committee voted unanimously by roll call vote to recommend approval (Planthold moved, Isken seconded).

#### **6. Legal Aid of Marin**

Legal Aid of Marin proposed devoting 36 percent of the IOLTA grant to Personnel but did not provide an explanation for this variance. After some discussion, the Committee voted unanimously by roll call vote to have Legal Aid of Marin revise their budget to provide an explanation of the deviation in order for the Committee to make a recommendation (Isken moved, Planthold seconded).

#### **7. Legal Aid Society of San Bernardino (LASSB)**

LASSB proposed to spend 48 percent of the IOLTA grant on Personnel expenses, due to their request to make capital additions to the property. The Committee previously voted to recommend that LASSB revise their budget and affirmed this recommendation by unanimous roll call vote (Planthold moved, Isken seconded).

#### **8. Legal Services of Northern California (LSNC)**

LSNC proposed to spend 67 percent of the IOLTA grant on Personnel expenses; the deviation was due to some staff retention issues and the proposed prepayment of LSNC's mortgage. The Committee previously voted to allow LSNC's mortgage prepayment and recommended to approve the deviation by unanimous roll call vote (Isken moved, Planthold seconded).

#### **9. Los Angeles County Bar Association (LACBA)**

LACBA proposed to spend 61 percent of the EAF grant on Personnel expenses and explained that the deviation was due to contracting with an outside attorney to manage their pro bono activities. The Committee recommended by unanimous roll call vote to approve the deviation (Planthold moved, Isken seconded).

#### **10. Neighborhood Legal Services (NLS)**

NLS proposed to devote 72 percent of the IOLTA grant to Personnel expenses due to its request to make infrastructure improvements in its office. The Committee previously voted to recommend approval of the capital addition, and affirmed that by unanimous roll call vote to approve the variance (Planthold moved, Isken seconded).

#### **11. Riverside Legal Aid**

Riverside Legal Aid planned to devote 71 percent of the IOLTA grant to Personnel expenses, reporting that this variance was due to hiring contract attorneys. The Committee unanimously voted by roll call vote to recommend approval of this deviation (Planthold moved, Isken seconded).

#### **iv. Review of Activities as Legal Services**

##### **1. California Indian Legal Services (CILS)**

CILS proposed to use grant funds to study the 1928 Census conducted by the Bureau of Indian Affairs and currently used as conclusive evidence for individuals to prove their membership in tribes that are not federally recognized in order to obtain government benefits to which they are entitled. They further proposed to use funds for a Water Reconnaissance Study to update and clarify the status of tribal water rights. As a qualified legal services project, the Committee discussed whether CILS' proposal constituted "legal services" to indigent persons and ultimately concluded that they would recommend approval of the activity for this year, while acknowledging it may be discussed further during the codification process. The vote to recommend approval of these activities was passed by roll call vote (Planthold moved, Isken seconded, Bennett voted no).

##### **2. Dependency Advocacy Center (DAC)**

DAC proposed to use their grant funds to employ social workers under the supervision of an attorney as part of their interdisciplinary service model for their youth clients and provided examples of the activities they would undertake. Staff noted that this type of activity had been approved in the past if integral to the legal strategy or outcome. This question arose during the eligibility phase of the application process, and at the time DAC proposed to fund more than social workers with the IOLTA grant but subsequently submitted a budget that indicated otherwise due to funding restrictions from other grants. The Committee voted unanimously by roll call vote to recommend approval of this activity as "legal services" for this year but again noted it may come up during the codification process (Planthold moved, Isken seconded).

##### **3. Eviction Defense Collaborative (EDC)**

EDC similarly proposed to employ social workers to pair with their most vulnerable clients at risk of homelessness. The Committee unanimously recommended to approve this activity by roll call vote (Planthold moved, Isken seconded).

##### **4. Public Advocates**

Public Advocates is a qualified legal services project and planned to use grant funds to work on impact litigation and advocacy work (rather than direct services to clients) for their Education Equity and Metropolitan Equity programs. This created a potential problem with ensuring services were targeted to indigent persons. The Committee previously voted to review each activity proposed by Public Advocates. The Committee voted unanimously by roll call vote to recommend approval of these activities for the coming year (Isken moved, Delfino seconded).

#### **B. Approve Recommended IOLTA and EAF Budgets for Grant Year 2020**

The Committee reviewed the remaining budgets that staff recommended to approve. Planthold moved to approve the remainder of the list with the exception of Legal Aid Society of San Bernardino and Legal Aid of Marin, and Isken seconded. The Committee unanimously passed the motion by roll call vote with the following exceptions:

1. Bennett voted no regarding California Indian Legal Services
2. Planthold abstained as to Bay Area Legal Aid

3. Isken abstained as to Bet Tzedek

## **V. NEXT STEPS FOR ELIGIBILITY AND BUDGET REVIEW PROCESS**

### **A. IOLTA and EAF Budgets Requiring Additional Discussion or Program Follow-up**

The Committee will revisit the two budgets requiring revision (Legal Aid Society of San Bernardino and Legal Aid of Marin) before making a recommendation to the Commission. This will take place at the November 22<sup>nd</sup> meeting immediately preceding the Commission meeting.

### **B. November 22 Committee and Commission Meeting**

Doan discussed the upcoming Eligibility and Budget Review Committee and Legal Services Trust Fund Commission meetings scheduled for November 22, 2019. The November 22<sup>nd</sup> Committee meeting will likely be shortened to one hour, to commence at 11 a.m. rather than 10 a.m., and the Commission meeting is scheduled from 12 p.m. to 4 p.m.

### **C. Calendar of Eligibility and Budget Review Committee Meetings for 2020**

The Committee reviewed the 2020 calendar and clarified and confirmed with staff that the February 28, 2020 meeting will take place from 10 a.m. to 12 p.m.; the calendar will be updated.

## **VI. ADJOURN**

The meeting was adjourned at 11:35 a.m.