



The State Bar *of California*

Date: November 15, 2019

To: Legal Services Trust Fund Commission Rules Committee

CC: The Legal Aid Association of California

From: Christine Holmes, Senior Program Analyst, Office of Access & Inclusion

Subject: Codification of Grant Administration Practices:
Audit or Review of Financial Statements Requirement

EXECUTIVE SUMMARY

The Legal Services Trust Fund Commission (LSTFC) Rules Committee is working to gather, codify, and revise, as necessary and appropriate, all of the decision points and considerations that are used as part of the grant administration and determination processes and procedures. The end product of the codification process is to devise and revise practices, procedures and protocols and ensure transparency, consistency, and accountability in grant administration. LSTFC's effort follows the recommendation of the Legal Services Trust Fund Stakeholder Working Group, which was adopted by the State Bar Board of Trustees in January 2019, to provide equity into the day-to-day administration of funding through the Office of Access & Inclusion.

This memo seeks to clarify the audit requirement for IOLTA and EAF funded organizations that report annual gross corporate expenses over \$500,000. Staff recommend that in-kind donated services, like pro bono, not count toward an organization's gross corporate expenditures for the purpose of determining whether the organization's expenditures exceed the \$500,000 threshold. This will allow those with a smaller budget to conduct a less onerous and less expensive review of its financial statements to submit as part of its IOLTA/EAF application.

In addition, the memo also seeks to clarify the necessary credentials for the preparer of a financial review if an organization reports gross corporate expenditures below the \$500,000 threshold and chooses to submit a financial review rather than an audit. Staff recommend that financial reviews must be prepared by independent certified public accountants who follow a standard for this type of review.

On October 18, 2019, the State Bar shared a draft of this codification memo with the Legal Aid Association of California (LAAC) for the purpose of gathering feedback from the legal aid community on the recommendations. LAAC shared the draft memo with the Executive

Directors of IOLTA funded programs requesting feedback. On October 24, 2019 LAAC submitted the feedback to the State Bar indicating it supported staff's recommendations without significant opposition. However, the IOLTA funded programs requested clarification on why the threshold was set at \$500,000 and a few programs requested the threshold be raised to \$1 million or \$1.5 million. Staff recommends maintaining the \$500,000 threshold. Undergoing an audit can promote better internal controls and help programs, especially those that are smaller, govern and operate more effectively and efficiently.

BACKGROUND

IOLTA and EAF grants are awarded to approximately 100 nonprofit legal services organizations each year to provide free civil legal aid in California to indigent persons. The grantees/applicants must comply with criteria set forth in Business & Professions Code sections 6210-6228, State Bar Rules and Appendices, Eligibility Guidelines for Legal Services Projects and Support Centers, General Grant Provisions, and Standards for Financial Management Systems and Audits. Applicants that qualify for IOLTA and EAF funds may apply for other funding opportunities¹ as available through the Office of Access & Inclusion.

State Bar Staff (staff) reviewed the six governing authorities for direction regarding the audit requirement for applicants. In addition, staff reviewed the IOLTA and EAF grant agreements between the State Bar and grantees that list the contractual obligations of the grantee as stated in the governing authorities. Staff also reviewed the American Bar Association Standards For the Provision of Civil Legal Aid (ABA Standards) which serves as guidance for organizational best practices for legal services providers.

No authority references an existing policy regarding whether in-kind donated services should be included in the calculation of the organization's gross corporate expenditures. The authorities are also silent on the credentials of the preparer of a financial review. A brief review of all the governing authorities, contractual documents, and guidance are listed as follows:

1. Business and Professions Code: Section 6222 requires recipients to submit "a financial statement to the State Bar, including an audit of the funds by a certified public accountant or a fiscal review approved by the State Bar."
2. State Bar Rules: Rule 3.680(E)(1) mirrors the statutory requirement, requiring an applicant to provide "an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. A financial review in lieu of an audited financial statement may be submitted by an applicant

¹ Other funding opportunities include Partnership Grants, Bank Community Stabilization and Reinvestment Grants, and Equal Access Fund Homelessness Prevention Grants.

whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines.”

3. The Schedule of Charges and Deadlines (Appendix A to the State Bar Rules) sets that threshold amount of gross corporate expenditures requiring the submission of a full audit at \$500,000.
4. Eligibility Guidelines for Qualified Legal Services Projects:² Guideline 2.7 states that the application must include a financial statement that includes the total gross corporate expenditures of the applicant. The commentary to Guideline 2.7.1 specifically references the \$500,000 threshold.³
5. General Grant Provisions: Provision 4.04 and 4.05 reference the requirement of a timely audit or review of financial statements conducted by an independent certified public accountant, but do not discuss how to calculate total gross corporate expenditures.
6. Standards for Financial Management Systems and Audits: There is no reference to the requirement of an audit or review of financial statements.

IOLTA and EAF Grant Agreements specifically require that the grant recipient abide by the terms of the grant including Rule 3.680(E)(1) and Business and Professions Code section 6222.

And lastly, the American Bar Association’s (ABA) Standards For the Provision of Civil Legal Aid identifies that one way to measure compliance with sound accounting principles and funder requirements is to undergo an annual independent financial audit.

DISCUSSION

Depending on a nonprofit’s funding source(s), an independent audit may be required. While the Internal Revenue Service (IRS) does not require nonprofits to obtain audits, other government agencies, like the federal Office of Management and Budget (OMB) requires any nonprofit that spends \$750,000⁴ or more in federal funds in a year (whether directly or by passing the money on to other nonprofits) to obtain a “single audit” to test for compliance with federal grants management standards. In addition, states may require nonprofits having a certain annual income to be audited if they solicit funds from their state’s residents. California requires annual audits for nonprofits registered with the State that have gross incomes of \$2 million or more.⁵

² The Eligibility Guidelines for Qualified Support Centers do not reference the requirement of an audit or review of financial statements.

³ 3.680(E)(1) was revised, effective January 25, 2019, to change the timeline for when the audits and financial reviews need to be submitted. The Guideline was not similarly updated, and thus is now inconsistent.

⁴ 2 CFR part 200, subpart F. OMB Guidance § 200.501. superseded OMB Circular A-133 which set the audit threshold amount at \$500,000.

⁵ Government Code section 12586(e).

CURRENT AUTHORITIES

State Bar Rule 3.680(E)(1) and Business and Professions Code section 6222 require a grantee to provide either an audited financial statement by an independent certified public accountant or a financial review in lieu of an audited financial statement if the grantee's gross corporate expenditures for the fiscal year that concluded in the prior calendar year were less than the \$500,000⁶ threshold. Both an audit and a review conducted by an independent CPA ensure consistency with generally accepted accounting principles and involve review of an organization's financial statements. The key difference between an audit and a review is the auditor is required to test and verify the financial information examined. A financial audit is an examination of the financial records, accounts, accounting practices and internal controls of an entity culminating in an opinion. An audit is only one component of confirming good internal controls, it does not always prevent or catch fraud. An audit also "does not provide an opinion on financial strategy or organizational sustainability." A financial review is a lower standard of examination and does not review an organization's internal controls.

In addition, staff conduct program and fiscal monitoring visits to all grantees every three years, in part, to insure that basic financial controls and procedures are in place. In preparation for these visits and as part of the application process, staff review the audits and reviews as its baseline financial controls and information.

GROSS CORPORATE EXPENDITURES

Financial Burdens

Audits expenses may be significant for nonprofit organizations. In addition, audits often require substantial staff and board member time. The price for the kind of financial statement audit required by the rules varies by region and the complexity of the organization's finances. The professional fees for an audit of a nonprofit is generally between \$5,000 and \$20,000.⁷ A financial review tends to be a more affordable option for smaller organizations because it is not conducted with the same level of investigation or analysis as an audit.⁸

Determining Gross Corporate Expenditures

⁶ The \$500,000 gross corporate expenditures threshold has been included in the Schedule of Charges and Deadlines (Appendix A to the State Bar Rules) since it was adopted in 2007.

⁷ <https://www.councilofnonprofits.org/nonprofit-audit-guide/why-audit-when-not-required>.

⁸ <https://www.councilofnonprofits.org/nonprofit-audit-guide/what-is-a-review>.

For the purposes of determining whether to submit an audit or financial review, a legal services organization looks at its total expenditures in its financial statements or Form 990.⁹ A dollar value is attributed to in-kind donated services and this value is listed both as income and as an expense on an organization's financial statements. Therefore, the recording of contributed services offset each other.¹⁰

Historical Questions Brought Before The Legal Services Trust Fund Commission

The Office of Access & Inclusion received four 2020 IOLTA/EAF applications with financial reviews even though their gross corporate expenditures exceeded \$500,000. Two of the organizations were over the \$500,000 threshold because of in-kind donated services. Staff noted to the Eligibility and Budget Committee in a memo for the July 19, 2019 meeting, that State Bar Rule 3.80(E)(1) and related authorities are silent on whether gross corporate expenditures should include in-kind donated services. Absent a policy on in-kind donated services, staff recommended and the committee accepted the reviewed financial statements for the 2020 grant applications.

Of the other two applicants, one applicant that submitted a financial review did not anticipate that the organization would exceed the \$500,000 threshold and engaged an auditor too late to meet the deadline. The other applicant was unaware of the audit requirement. Over the past five years, only a few applicants that submitted financial reviews instead of audits were discussed at LSTFC meetings. The issue of whether it was in-kind donated services that brought the organization over the \$500,000 had not been elevated to the level of the LSTFC, but had been discussed within the Eligibility and Budget Committee. In prior years, some organizations submitted reviewed financial statements that were accepted even though their gross corporate expenditures were over the \$500,000 threshold. Those organizations were below the threshold if their in-kind donated services were subtracted from the gross corporate expenditures.

Staff Recommendation

In absence of existing policy to provide further guidance, staff recommend amending the Schedule of Charges and Deadlines to indicate that in-kind donated services be excluded in calculating the amount of gross corporate expenditures for the purpose of determining whether the organization's expenditures exceed the \$500,000 threshold. This recommendation will allow smaller organizations which primarily deliver legal services through pro bono

⁹ Tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations file Form 990 to provide the IRS with the information required by section 6033.

¹⁰ Malvern J. Gross, Jr., John H. McCarthy, & Nancy E. Shelmon, *Financial and Accounting Guide for Not-for-Profit Organizations*, 7th ed. (John Wiley & Sons, Inc., 2005), 111-112.

attorneys to decide whether an audit or review will best meet their current organizational needs.

CREDENTIALS OF THE PREPARER OF THE FINANCIAL REVIEW

As noted above, Business and Professions Code section 6222 requires a grant recipient to provide the State Bar a financial statement, including an audit of funds, or a fiscal review. While the statute specifies that an audit is to be performed by a CPA, it only notes that the fiscal review must be approved by the State Bar, and does not otherwise specify the credentials of the preparer. Neither State Bar Rule 3.680(E)(1) nor the Eligibility Guidelines provide any clarification on this point. The General Grant Provisions, another governing authority which was developed by the LSTFC to clarify the requirements of the LSTFP on grant recipients, and the IOLTA and EAF grant agreements state more explicitly the financial statement must be audited or reviewed by an independent certified public accountant.

Applicants have submitted reviews of their financial statements that were not conducted by independent CPAs. Most recently, a 2020 IOLTA/EAF applicant submitted a review not conducted by an independent CPA and while the applicant was not rejected solely because of this, it was a factor in the decision. As noted previously, financial reviews are seen as a more affordable financial accountability measure than an audit; however, in general, both are conducted by Certified Public Accountants. CPAs are licensed by the state after passing a rigorous examination and meeting certain educational requirements.¹¹

Staff Recommendation

Staff recommend amending State Bar Rule 3.680(E)(1) to explicitly state that financial reviews must be conducted by Certified Public Accountants. This recommendation will ensure better financial accountability of grantees and applicants not only to the LSTFC, but also to the organizations' staff and board and to its clients.

CODIFICATION RECOMMENDATIONS

The proposed changes to State Bar Rule 3.680(E)(1) and the Schedule of Charges and Deadlines will provide clarity for the public, grant applicants, staff and the LSTFC as to how to account for in-kind donated services in determining whether the grant applicant needs an audit or a review of its financial statement and will ensure consistency in the application of the rule.

¹¹ Gross, Jr., John H. McCarthy, & Nancy E. Shelmon, *Financial and Accounting Guide for Not-for-Profit Organizations*, 7th ed. (John Wiley & Sons, Inc., 2005), 492.

In the interest of consolidating the governing authorities to the greatest extent possible, staff recommend eliminating references to the audit and financial statement requirement from the Eligibility Guidelines for Qualified Legal Services Projects and General Grant Provisions and revising the Grant Agreement to refer only to the Schedule of Charges and Deadlines on this issue. This recommendation will remove discrepancies regarding the audit requirement in the governing authorities and eliminate the need to update multiple authorities whenever changes are made.

Lastly, staff recommend that guidance regarding the format and content of the audit or review of financial statements be incorporated into the Standards for Financial Management Systems and Audits, a document which was developed to instruct grant recipients regarding accounting policies related to the grant funds. Approving this recommendation will provide further direction in the codification process regarding the topics of fiscal administration and quality control.

COMMUNITY FEEDBACK

On October 18, 2019, a draft version of this memo, which included everything except the final paragraph in the Executive Summary and this section, was shared with LAAC for the purpose of gathering feedback from the legal aid community on the recommendations. LAAC then shared the draft memo with the Executive Directors of the IOLTA funded programs to review and provide feedback. On October 24, 2019, LAAC submitted the feedback to the State Bar indicating it supported staff's recommendation without significant opposition. However, the IOLTA funded programs requested clarification on why the threshold was set at \$500,000 and a minority of programs requested the threshold be raised to \$1 million or \$1.5 million.

RESPONSE TO COMMUNITY FEEDBACK

History of the \$500,000 Threshold

The LSTFC meeting minutes from 2001 provide context for how the \$500,000 threshold was determined.

During the April 20, 2001, meeting of the LSTFC, Judy Garlow, Director of the State Bar's Legal Services Trust Fund Program (LSTFP) at the time, stated that the Administrative Office of the Courts (AOC) asked the LSTFP to consider changing the threshold used to distinguish between programs that must submit audited financial statements and those that can submit reviewed financial statements. The AOC suggested the threshold be reduced to \$300,000 from \$750,000. Ms. Garlow indicated that 12 programs would be affected by the proposed change. A motion was adopted to ask the State Bar's Board of Governors (later renamed Board of Trustees) to delegate to the Commission authority to conduct public hearings on the subject.

Bonnie Hough from the Judicial Council, provided a report on the public hearings at the September 7, 2001, LSTFC meeting. It was noted that although there were no presenters at the hearings, comments were received from two programs and the LAAC intended to offer an alternative proposal.

Discussion of the issue concluded during the LSTFC meeting on December 14, 2001. LAAC proposed using \$500,000 and a grant amount of over \$750,000 as the threshold that would trigger the requirement for an audited financial statement. Bonnie Hough and Ms. Garlow recommended the threshold be \$500,000 and that there be no reference to a grant amount. A motion was passed to recommend the Board of Governors amend Rule 4.2 to lower the threshold for submission of audited financial statements from \$750,000 to \$500,000.

Raising the \$500,000 Threshold

As mentioned above, the State Bar recognizes that audit expenses may be significant for programs and often require substantial staff and board member time. However, in 2018, the average amount of funding to IOLTA/EAF grantees was \$408,000 and the mean was \$253,000. Spending between \$5,000 and \$20,000 for an audit to provide reasonable confidence that the program's financial statements are materially correct is a sound investment in the program's financial health.

It is the State Bar's experience that smaller programs often operate with less financial infrastructure and internal controls and therefore could benefit more from an audit. An audit, in addition to ensuring that financial statements are materially correct, can also provide information to help programs govern and operate more effectively and efficiently. A program's willingness to submit its finances to independent scrutiny demonstrates creditability, transparency, and accountability to donors and prospective donors alike.

According to the American Institute of Certified Public Accountants,³ programs that receive audits tend to add more "self-imposed discipline" to their financial infrastructure and internal controls, including "requiring adequate backup for routine cash disbursement and preparing bank reconciliations; designing and implementing effective accounting systems; properly reporting the results of fundraising campaigns; compliance with donor restrictions; and avoiding inappropriate conflicts of interest, private inurement, and prohibited transactions."

Finally, the American Bar Association Standards For the Provision of Civil Legal Aid indicates all legal aid providers should undergo an annual independent financial audit as a best practice.

³ AICPA. Do I Want or Need a Financial Statement Audit? Not-for-Profit Section.

It further states, the program’s “governing body should adopt procedures that assure the highest level of service from its auditors.” And the program “should establish an active audit committee and should periodically solicit bids from auditing firms to perform the annual financial audit.”

Staff Recommendation

Staff recommend keeping the threshold used to distinguish between programs that must submit audited financial statements and those that can submit reviewed financial statements at \$500,000.

ATTACHMENT LIST

- A. September 16, 2019 memo outlining the Codification process to the LSTFC, 2019 Interest on Lawyers’ Trust Accounts and Equal Access Fund Grantees, and the Legal Aid Association of California
- B. Proposed Amended Governing Authorities
 - 1. State Bar Rules - Title 3 Division 5, Chapter 2
 - 2. Eligibility Guidelines for Qualified Legal Services Projects
 - 3. General Grant Provisions
 - 4. Grant Agreement (template)
- C. Other Governing Authorities
 - 1. IOLTA statute – Business and Professions Code sections 6210-6228
 - 2. Eligibility Guidelines for Qualified Support Centers
 - 3. Standards for Financial Management Systems and Audits



The State Bar of California

Date: September 16, 2019

To: Legal Services Trust Fund Commission
2019 IOLTA and EAF Grantees

CC: Legal Aid Association of California

From: Hellen Hong, Director, Office of Access & Inclusion

Subject: Process to Codify Grant Administration Practices

Following the recommendation of the Legal Services Trust Fund Stakeholder Working Group, adopted by the State Bar Board of Trustees, the State Bar, through the Legal Services Trust Fund Commission (LSTFC), will be undertaking a process to gather and codify all of the decision points and considerations that are used as part of the grant determination processes and procedures. This effort will provide greater transparency into the grant making process and ensure consistency in the thoughtful decisions made by the LSTFC and State Bar staff in the day-to-day administration of IOLTA/EAF and other grants.

Currently, there are six governing authorities that guide the LSTFC and State Bar staff in making decisions about eligibility, budgeting, allocation amounts, and other factors governing the award of grants under IOLTA and EAF. They are listed as follows:

1. IOLTA Statute – Business and Professions Code Sections 6210-6228
2. State Bar Rules - Title 3 Division 5, Chapter 2
3. Eligibility Guidelines for Qualified Legal Services Projects (LSP)
4. Eligibility Guidelines for Support Centers (SC)
5. General Grant Provisions
6. Standards for Financial Management Systems and Audits

In addition, grant agreements between the State Bar and grantees list the contractual obligations of the grantee as stated in the Act, Rules, the Eligibility Guidelines, General Grant Provisions and application materials provided by the recipient.

Lastly, the American Bar Association Standards For the Provision of Civil Legal Aid provides guidance for legal service providers as organizations and for their staff who represent low income clients.

The State Bar recognizes that many issues are complex; some may not lend themselves to being incorporated into a rule and certain questions require flexibility and interpretation based on specific fact patterns. There are many decision points in the IOLTA funding process including: assessing qualified expenditures, addressing pass through funds, etc., that should be memorialized in a State Bar rule to provide grantees clear information as to how these issues will be treated and to ensure consistent application by staff or the LSTFC.

As discussed with the LSTFC at its May 10, 2019 meeting, the process to develop recommendations for revisions to the rules and guidelines to address the above will use staff led working groups consisting of staff, up to two LSTFC members (based on expertise, availability, and complexity) and LAAC staff. It is anticipated that LAAC will be representing the input of the legal services community. The working groups would present their recommendations to a Committee on Process to Codify Grant Administration Practices of the LSTFC (“Rules Committee”) that will meet quarterly. This will provide a venue for public feedback, comments and input on the recommendations.

The State Bar suggests bundling the topics to be addressed in the chart, below. Specific questions that would need clarity are:

1. What is the current practice or issue?
2. Is there a current document that would need to be revised?
3. Is the recommendation for a proposed new rule or guideline?

The chart below discusses the work groups and common questions that would need consideration under each area. The work groups do not have to address the issues in the order presented below. The State Bar expects the timeline to take approximately a year, assuming the work groups can address multiple issues at a time and present its findings and recommendations to the subcommittee. Until the process is complete, the current practices would continue as to not adversely impact grantees.

Each of the work groups will be led by a OAI staff member who will draft a recommended process, rule or guideline change. This draft will be submitted to LAAC for input (which is intended to reflect input of the community). LAAC and their stakeholders will then review

and provide suggested amendments, additions, or deletions to the proposal in writing back to OAI. We anticipate that LAAC will represent the interest of the legal aid community but with nearly 100 diverse organizations, there may not always be consensus. Based on the feedback from LAAC and their stakeholders, we can amend the recommendations as a joint proposal or provide recommendations and include the issues raised by LAAC to the publicly noticed bi-monthly Rules Committee. This provides multiple avenues for organizations and grantees to provide input - through LAAC, in the publically noticed Rules Committee meetings, the full LSTFC Commission meeting, the Board of Trustees meeting, and finally during the public comment period for any State Bar rule changes.¹

I anticipate at each meeting the Committee will address at least two issues but not certain what may change based on complexity and feedback from LAAC and community stakeholders. The State Bar will calendar these meetings beginning in November for a total of seven meetings until December 2020.

After the Rules Committee votes on recommendations, they will be brought to the full LSTFC for a vote. Unless it is determined that moving some of the rule proposals forward earlier makes sense, in November 2020, all the recommendations will be brought to the Board of Trustees, or a committee thereof, for approval to circulate for a formal public comment period.

Rule Committee Meeting	Issue Topic
November	Audit and RFP
January	Law School Clinics Deeming
March	Primary Purpose Impact and Legal Advocacy Pro Bono Allocation
May	Fiscal Administration + Quality Control
July	Any follow up items
September	Support Centers (any follow up items)
November	Other Issues (if necessary)

¹ Anyone can sign up to receive the agendas and respective materials for the Legal Services Trust Fund Meetings at <http://board.calbar.ca.gov/Committees.aspx>

	SUBJECT MATTER	ITEMS TO COVER/EXAMPLES/INCONSISTENCIES	EXISTING STATUTE, RULE, OR GUIDELINE? (INITIAL SWEEP AND NOT INCLUSIVE)	LEAD STAFF
1	Quality Control	<ul style="list-style-type: none"> - What should be the standards for governance, leadership and administration of an organization? - What should be the consequences of findings from monitoring visits or other events that raise questions of quality control? - Should the standards be updated to refer to best practices for nonprofit organizations? - Are there ways to streamline some of the processes with other County/State/Federal audits? 	<ul style="list-style-type: none"> - Rule 3.661C cite the Standards for Provision of Legal Aid adopted by the ABA in Aug 2006 - Standards for Financial Management Systems and Audits (from May 2006) is listed in the General Grant Provisions (from Jan 2004) under Appendix A, Assurances - LSPs Guidelines 2.4 Commentary cite B&P §6123(a) and 6217 (a) which don't exist anymore 	Christine Holmes
2	RFP Review Process for Discretionary Grants	<ul style="list-style-type: none"> - Process for reviewing applications, especially discretionary grants not connected to formula distributions like partnership, bank grants, and EAF Homelessness Prevention funds. - Inclusion of a scoring rubric in RFP, understanding there are subjective factors. - Assessment of funding request - Assessment of past performance 	<ul style="list-style-type: none"> - May not need to be in a rule but in guidelines of an RFP. - See issues like 5-Year Rule Policy for Partnership Grants 	Greg Shin
3	Administration	<ul style="list-style-type: none"> - Process for accountability on late submissions or failure to submit documents, noncompliance with reporting requirements and repeated failure to abide by deadlines - Unapproved budget variances and/or unused grant funds 	<ul style="list-style-type: none"> - Could include SB Rule 3.681 which dictate fines and penalties 	Erica Carroll

4	Law School Clinics	<ul style="list-style-type: none"> - What is the definition of an “identifiable law school unit” from Statute? - Standards of a financial audit which is normally from the entire institution which is not aligned with the statutory requirement - Clarity on application of indirect costs 	<ul style="list-style-type: none"> - “Identifiable Law school unit” § 6213(a) - General definition of law school as a law school accredited by SB under Rule 3.670(A) and 3.80(A) - LSP 2.6.1 Commentary for law schools - LSP 2.3.5 Commentary for law schools - No language on indirect costs in rules or guidelines except for indirect cost allocation under Standards 100.32 - Audit requirement under LSP 2.71 with no exception for law schools 	Dan Passamaneck
5	Fiscal	<p><u>Out of County Determination</u></p> <ul style="list-style-type: none"> - Process or analysis to determine counting work and allocation for multiple counties (currently inconsistent) <p><u>Pass through Funds</u></p> <ul style="list-style-type: none"> - Defining what is qualified expenditures (QE) and impact on primary purpose analysis. (ex. DOJ funding) - Process for analyzing pass through funds and impact on primary purpose of legal services. <p><u>Exchange Funds</u></p> <ul style="list-style-type: none"> - When one grantee subgrants to other IOLTA grantee, who counts the QE? And which eligibility standards apply (LSP vs. Pro Bono)? - Inconsistent reporting requirements of who counts the QE. <p><u>Audit</u></p> <ul style="list-style-type: none"> - Standards for requirement of a financial audit for expense over \$500,000 when 	<ul style="list-style-type: none"> - B&P Code §6216(b) - LSP Guidelines 2.8 Commentary - General Grant Provisions 3.03 <ul style="list-style-type: none"> - LSP Guidelines 2.7.2 + Commentary on QEs - LSP Guidelines 2.8 + Commentary on application of out of county work as applied to statewide/impact cases <ul style="list-style-type: none"> - General Grant Provisions 3.05 Subcontracting <ul style="list-style-type: none"> - LSP Guidelines 2.7 state “gross expenditures in excess of \$500K” must submit an audited financial statement 	Frank Bittner and Doan Nguyen

		<p>that includes in-kind value of pro bono services</p> <p><u>Carry over, budget, and cost reporting</u></p> <ul style="list-style-type: none"> - What should be the standards for financial management? Should IRS standards be used? And review of 990s included? - Should financial & program performance be integrated? - Review of current reports. Why quarterly reports? Why have detailed budgets? Why have 25% non-personnel and Administrative cost limits? - Process and clarity of who approves at what point of time. With current funding distributions does budget variances of 10% or does \$1,000/\$10,000 still make sense? - Inconsistent application of 25% director approval. - Carry Over Processes - There is no rule or guideline on how indirect costs are considered for QE. 	<ul style="list-style-type: none"> - General Grant Provisions 4.04/4.05 - LSP Guidelines 2.7.1 - General Grant provisions 7.01 - General Grant provisions 7.01 - General Grant provisions 7.01 - General Grant provisions 7.01 - General Grant provisions 4.02 (B) speaks to administrative methodology 	
6	Support Centers	<ul style="list-style-type: none"> - How to measure income screening for support centers? - Defining “significant support service?” - Can SCs charge the LSPs that attend trainings (for food, or rental, no minimum or %)? - 	<ul style="list-style-type: none"> - SC guidelines 2.2.1 commentary - SC guidelines 2.2.4 commentary 	Rocio Avalos

7	Primary Purpose	<ul style="list-style-type: none"> - Currently staff reviews previous year budget to determine if the qualified expenditures are at 75% to qualify as primary purpose not the future budget 	<ul style="list-style-type: none"> - Inconsistent with 3.671a, which directs review of future budget - LSP Guidelines 2.3.5 commentary - SC Guidelines 2.3 Commentary 	Doan Nguyen
8	Pro bono allocation	<ul style="list-style-type: none"> - Defining if applicant's principal means of delivery of legal services is through recruitment of attorneys in private practice - Is there urban bias built in to threshold pro bono test? - Simplification of pro bono test 	<ul style="list-style-type: none"> - B&P Code §6216(b)(1)(B) - LSPs Guidelines 2.9.2 Commentary 	Christine Holmes
9	Deeming	<ul style="list-style-type: none"> - What are the rules on deeming every 3 years? - Commission has authority to deem support center even if they were not deemed to be of special need by the majority of the LSPs - Should entire deeming process be reviewed? - Lack of clarity on if/when the Commission can "deem" a SC as special need if not voted by a majority of LSP. 	<ul style="list-style-type: none"> - SC Guidelines 2.91 Commentary 	Christal Bundang
10	Impact and Litigation/Advocacy - Defining civil legal services and indigency	<ul style="list-style-type: none"> - Defining civil legal services – including advocacy, counseling, mediation, policy work, social work and related services. - Defining indigency and standards to demonstrate indigency (e.g, no specific age for AAA funding based on Statute) and indigency standards for impact litigation and advocacy. - Application of definition under B&P6213(d) re: receipt SSI or receipt of free services under OAA - What activities are so negligible as not needed to report (such as just signing on letters of support) ? 	<ul style="list-style-type: none"> - Need to update Rule 3.671 on definition of civil legal services - Rule defining B&P 6213 (d) - SC Guidelines 2.2.1 Commentary - For example, we currently require deduction for mediation services for QE but allow mediation as a type of legal services for Partnership Grants. 	Elizabeth Hom

11	Other Issues	<ul style="list-style-type: none"> - What are the rebuttal factors for AAA and LSC for 6214(a) on the presumption for qualifications? - What does having a presumption and what factors could rebut or should be conclusive presumption? Currently, we aren't applying the presumption. 	- Statute Section 6414(a)	Doan Nguyen
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Attachment B. Proposed Amended Governing Authorities

1. STATE BAR RULES - TITLE 3 DIVISION 5, CHAPTER 2

Article 3. Applications and distributions

Rule 3.680 Application for Trust Fund Program grants

To be considered for a Trust Fund Program grant, a qualified legal services project or qualified support center seeking a Trust Fund Program grant must submit a timely and complete application for funding in the manner prescribed by the Commission. The applicant must agree to use any grant in accordance with grant terms and legal requirements.

- (A) A qualified legal services project must meet statutory criteria.
- (B) A qualified support center must agree to offer support services in two or more of the following ways: consultation, representation, information services, and training. The board of directors of the support center must establish priorities for providing such services after consulting with legal services attorneys and other relevant stakeholders.
- (C) A support center not in existence prior to December 31, 1980 must demonstrate that it is deemed to be of special need by a majority of qualified legal services projects in accordance with Trust Fund Program procedures. Upon request, the Commission must make available to the applicant a list of all the names and addresses of qualified legal services projects.
- (D) A nonprofit corporation that believes it meets the criteria for a qualified legal services project and qualified support center may submit two applications, one as a project and one as a support center, indicating in each application whether it is to be considered the primary or secondary application. The Commission will consider the secondary application only if the primary application is not approved. No applicant may receive a grant as a qualified legal services project and as a qualified support center.
- (E) An application must include
 - (1) an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. A financial review [by an independent certified public accountant](#) in lieu of an audited financial statement may be submitted by an applicant whose gross corporate expenditures, [excluding in-kind donated services](#), were less than the amount specified in the Schedule of Charges and Deadlines;
 - (2) information about the maintenance of quality service and professional standards and how the applicant maintains standards, such as internal

quality control and review procedures; experience and educational requirements of attorneys and paralegals; supervisory structure, procedures, and responsibilities; job descriptions and current salaries for all filled and unfilled professional and management positions; and fiscal controls and procedures.

- (3) a budget and budget narrative, which must be submitted within thirty days of receipt of a notice of tentative allocation, explaining how funds will be used to provide civil legal services to indigent persons, especially underserved client groups such as, the elderly, the disabled, juveniles, and non-English-speaking persons within the applicant's service area; and
- (4) information about program activities, such as substantive practice areas, extent and complexity of services, a summary of litigation, and populations served.

Rule 3.680 adopted effective March 6, 2009.

2. RULES OF THE STATE BAR OF CALIFORNIA APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2019

	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.680(E)(1)	<p>Threshold amount of gross corporate expenditures, <u>excluding in-kind donated services</u>, requiring submission of an audited financial statement.</p> <p>Deadline for applicant to submit an audited or reviewed financial statement for the fiscal year that concluded during the prior calendar year.</p>	\$500,000	<p>Not applicable</p> <p>Promptly when available, and no later than May 1. Upon written request, an extension up to the application deadline may be granted by the State Bar staff. Upon a showing of extraordinary circumstances, the Commission may grant an extension beyond the application deadline. Under no circumstances shall</p>

			such extension be granted beyond the date upon which grant allocations are determined.
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3. Eligibility Guidelines for Qualified Legal Services Projects

- 2.7. The application must include financial information and records, as necessary and supported by the applicant's submitted audit or review of financial statements. ~~include a financial statement that includes the total expenditures of the applicant. The financial statement must meet the requirements of Guideline 2.7.1 below.~~

~~2.7.1.—The statement must show expenditures for the completed fiscal year ended most recently before the application deadline, and must be audited or reviewed by an independent certified public accountant. A financial review, in lieu of an audited financial statement, may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines. Applicants must submit a financial statement no later than 90 days after the end of their fiscal year. The required financial statement must be received prior to the disbursement of any funds from the Legal Services Trust Fund Program.~~

Commentary:

~~Independent CPA audited or reviewed statements are required of organizations with gross expenditures of less than \$500,000. Organizations with gross expenditures in excess of \$500,000 must submit audited statements. If such a statement is unavailable at the time of the application, you may substitute an approximated financial statement, but you must submit an audited or reviewed statement no more than 90 days after the end of their fiscal year. [B&P Code §6222; Rule 3.680(E)(1); Schedule of Charges and Deadlines]~~

4. GENERAL GRANT PROVISIONS

4.04. AUDIT RESOLUTION

The Commission may require Recipients to follow a systematic method to assure timely and appropriate resolution of annual audit findings and recommendations and to report progress in such manner and at such times as the Commission shall deem appropriate.

~~4.05.—FINANCIAL STATEMENTS~~

~~Recipients shall submit a financial statement for the fiscal year ended most recently within 90 days of the close of their fiscal year. The financial statement shall be audited or reviewed by an independent certified public accountant. Any recipient whose gross expenditures exceeded \$500,000 during the fiscal year shall be required to submit an audited statement. Submission of a financial statement as required in this section shall constitute compliance with the requirement in Rule 4.2 of the Regulating Rules that an applicant for funding must submit such a statement within 60 days after the application deadline.~~

5. GRANT AGREEMENT TEMPLATE¹

GRANT AGREEMENT THE STATE BAR OF CALIFORNIA OFFICE OF ACCESS & INCLUSION – IOLTA/EAF FUND GRANT

This Grant Agreement (“Agreement”) is made as of January 1, «GrantYear», (“Effective Date”) between The State Bar of California, a California public corporation, with a principal place of business at 180 Howard Street, San Francisco, CA 94105 (“State Bar”), and «ProgramLegalName», a California nonprofit corporation, with a principal place of business at «ProgramPPBaddress» (“Recipient”).

RECITALS

Pursuant to California Business and Professions Code Section 6210-6228 (“Act”) and Title 3, Division 5, Chapter 2 of the Rules of the State Bar of California, (“Rules”), a Legal Services Trust Fund Program (“Program”) has been established in the State of California. The Office of Access & Inclusion administers the Program.

Recipient has completed, executed, and submitted to the State Bar an Application for Funding under the Program. As part of the Application for Funding, Recipient has completed, executed, and submitted to the State Bar Certifications, Assurances, Attachments, and a Proposed Budget (collectively, including the Application for Funding, “Application Materials”).

In reliance upon the representations and agreements made in the Application Materials, State Bar has determined that Recipient is eligible for an IOLTA/EAF grant under the Program for the period commencing on January 1, «GrantYear» and ending on December 31, «GrantYear» (“Grant Period”).

¹ There are separate grant agreements for IOLTA and EAF grants. The templates are the same for the portion discussed in this memo and therefore have been combined above for simplicity.

The governing board, the officers, and similarly empowered staff of Recipient have read and understand the Act, the Rules, the Application Materials, the Legal Services Trust Fund Program General Grant Provisions (“Grant Provisions”), and the Legal Services Trust Fund Program Eligibility Guidelines (“Eligibility Guidelines”). Recipient has familiarized appropriate staff with the requirements of the Act, the Rules, the Grant Provisions, and the Application Materials.

AGREEMENTS

1. Pursuant to the Act and Rules, and in reliance upon the promises and representations made by Recipient, the State Bar grants to Recipient «Final IOLTA/EAF grant Allocation» (“Grant Amount”).
2. The Act, Rules, Grant Provisions, Eligibility Guidelines, and Application Materials, including any additions or amendments made to the Application Materials by agreement between the State Bar and Recipient, are incorporated into this Agreement as if set forth in their entirety in this Agreement. Recipient agrees to comply with the Act, Rules, Grant Provisions, Eligibility Guidelines, Assurances, and other agreements made in the Application Materials. Recipient agrees to comply with all lawful statutes, rules, regulations, guidelines, policies, instructions, and similar directives pertaining to the Program (collectively, “Directives”) issued by the State of California, the Supreme Court of the State of California, or the State Bar, including without limitation, any Directive adopted after the Effective Date.
3. Recipient acknowledges that the terms of this grant, including ~~Grant Provision Article 4.05, Regulating Rule 3.680(E)(1), and Business and Professions Code Section 6222,~~ require Recipient to submit to the State Bar a financial statement that has been audited or reviewed by a certified public accountant as specified in the Schedule of Charges and Deadlines ~~within ninety (90) days of the close of Recipient’s fiscal year.~~



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (Heading of Division 3 added by Stats. 1939, Ch. 30.)

CHAPTER 4. Attorneys [6000 - 6243] (Chapter 4 added by Stats. 1939, Ch. 34.)

ARTICLE 14. Funds for the Provision of Legal Services to Indigent Persons [6210 - 6228] (*Article 14 added by Stats. 1981, Ch. 789, Sec. 1.*)

[6210.](#) The Legislature finds that, due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons, especially underserved client groups, such as the elderly, the disabled, juveniles, and non-English-speaking persons, do not adequately meet the needs of these persons. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons, and to initiate new programs that will provide services to them. The Legislature finds that the use of funds collected by the State Bar pursuant to this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government. The Legislature further finds that the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and the improvement of the administration of justice.

(*Added by Stats. 1981, Ch. 789, Sec. 1.*)

[6211.](#) (a) An attorney or law firm that, in the course of the practice of law, receives or disburses trust funds shall establish and maintain an IOLTA account in which the attorney or law firm shall deposit or invest all client deposits or funds that are nominal in amount or are on deposit or invested for a short period of time. All such client funds

may be deposited or invested in a single unsegregated account. The interest and dividends earned on all those accounts shall be paid to the State Bar of California to be used for the purposes set forth in this article.

(b) Nothing in this article shall be construed to prohibit an attorney or law firm from establishing one or more interest bearing bank trust deposit accounts or dividend-paying trust investment accounts as may be permitted by the Supreme Court, with the interest or dividends earned on the accounts payable to clients for trust funds not deposited or invested in accordance with subdivision (a).

(c) With the approval of the Supreme Court, the State Bar may formulate and enforce rules of professional conduct pertaining to the use by attorneys or law firms of an IOLTA account for unsegregated client funds pursuant to this article.

(d) Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar or as modifying the statutes and rules governing the conduct of members of the State Bar.

(Amended by Stats. 2007, Ch. 422, Sec. 2. Effective January 1, 2008.)

[6212](#). An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:

(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney's or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.

(b) Except as provided in subdivision (f), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing in this article shall preclude an eligible

institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.

(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to the State Bar. Fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the attorney or law firm maintaining the IOLTA account. Fees and charges shall not be assessed against or deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions do not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Chapter 422 of the Statutes of 2007 or in making investment products available to IOLTA members.

(d) The attorney or law firm shall report IOLTA account compliance and all other IOLTA account information required by the State Bar in the manner specified by the State Bar.

(e) The eligible institution shall be directed to do all of the following:

- (1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.
 - (2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for which the remittance is sent, for each account the rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.
 - (3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.
- (f) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA-eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other requirements applicable to the investment product. If the eligible institution elects to pay that higher interest

rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product.

(Amended by Stats. 2009, Ch. 129, Sec. 1. Effective January 1, 2010.)

6213. As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project that provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) "Fee generating case" means a case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

- (1) An interest-bearing checking account.
- (2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money market fund.
- (3) An investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).

(k) "Eligible institution" means either of the following:

- (1) A bank, savings and loan, or other financial institution regulated by a federal or state agency that pays interest or dividends in the IOLTA account and carries deposit insurance from an agency of the federal government.
- (2) Any other type of financial institution authorized by the California Supreme Court.

(Amended by Stats. 2010, Ch. 328, Sec. 14. Effective January 1, 2011.)

6214. (a) Projects meeting the requirements of subdivision (a) of Section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older American Act funds shall be presumed qualified legal services projects for the purpose of this article.

(b) Projects meeting the requirements of subdivision (a) of Section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:

- (1) They receive cash funds from other sources in the amount of at least twenty thousand dollars (\$20,000) per year to support free legal representation to indigent persons.
- (2) They have demonstrated community support for the operation of a viable ongoing program.

(3) They provide one or both of the following special services:

(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.

(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6214.5. A law school program that meets the definition of a "qualified legal services project" as defined in paragraph (2) of subdivision (a) of Section 6213, and that applied to the State Bar for funding under this article not later than February 17, 1984, shall be deemed eligible for all distributions of funds made under Section 6216.

(Added by Stats. 1984, Ch. 784, Sec. 2.)

6215. (a) Support centers satisfying the qualifications specified in subdivision (b) of Section 6213 which were operating an office and providing services in California on December 31, 1980, shall be presumed to be qualified support centers for the purposes of this article.

(b) Support centers not qualifying under the presumption specified in subdivision (a) may qualify as a support center by meeting both of the following additional criteria:

(1) Meeting quality control standards established by the State Bar.

(2) Being deemed to be of special need by a majority of the qualified legal services projects.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6216. The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefor.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this

article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.

(Amended by Stats. 1984, Ch. 784, Sec. 3.)

6217. With respect to the provision of legal assistance under this article, each recipient shall ensure all of the following:

- (a) The maintenance of quality service and professional standards.
- (b) The expenditure of funds received in accordance with the provisions of this article.
- (c) The preservation of the attorney-client privilege in any case, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to indigent persons.
- (d) That no one shall interfere with any attorney funded in whole or in part by this article in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility and this chapter.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6218. All legal services projects and support centers receiving funds pursuant to this article shall adopt financial eligibility guidelines for indigent persons.

(a) Qualified legal services programs shall ensure that funds appropriated pursuant to this article shall be used solely to defray the costs of providing legal services to indigent persons or for such other purposes as set forth in this article.

(b) Funds received pursuant to this article by support centers shall only be used to provide services to qualified legal services projects as defined in subdivision (a) of Section 6213 which are used pursuant to a plan as required by subdivision (c) of Section 6216, or as permitted by Section 6219.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6219. Qualified legal services projects and support centers may use funds provided under this article to provide work opportunities with pay, and where feasible, scholarships for disadvantaged law students to help defray their law school expenses.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6220.](#) Attorneys in private practice who are providing legal services without charge to indigent persons shall not be disqualified from receiving the services of the qualified support centers.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6221.](#) Qualified legal services projects shall make significant efforts to utilize 20 percent of the funds allocated under this article for increasing the availability of services to the elderly, the disabled, juveniles, or other indigent persons who are members of disadvantaged and underserved groups within their service area.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6222.](#) A recipient of funds allocated pursuant to this article annually shall submit a financial statement to the State Bar, including an audit of the funds by a certified public accountant or a fiscal review approved by the State Bar, a report demonstrating the programs on which they were expended, a report on the recipient's compliance with the requirements of Section 6217, and progress in meeting the service expansion requirements of Section 6221.

The Board of Trustees of the State Bar shall include a report of receipts of funds under this article, expenditures for administrative costs, and disbursements of the funds, on a county-by-county basis, in the annual report of State Bar receipts and expenditures required pursuant to Section 6145.

(Amended by Stats. 2011, Ch. 417, Sec. 60. Effective January 1, 2012.)

[6223.](#) No funds allocated by the State Bar pursuant to this article shall be used for any of the following purposes:

- (a) The provision of legal assistance with respect to any fee generating case, except in accordance with guidelines which shall be promulgated by the State Bar.
- (b) The provision of legal assistance with respect to any criminal proceeding.
- (c) The provision of legal assistance, except to indigent persons or except to provide support services to qualified legal services projects as defined by this article.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6224.](#) The State Bar shall have the power to determine that an applicant for funding is not qualified to receive funding, to deny future funding, or to terminate existing funding because the recipient is not operating in compliance with the requirements or restrictions of this article.

A denial of an application for funding or for future funding or an action by the State Bar to terminate an existing grant of funds under this article shall not become final until the applicant or recipient has been afforded reasonable notice and an opportunity for a timely and fair hearing. Pending final determination of any hearing held with reference to termination of funding, financial assistance shall be continued at its existing level on a month-to-month basis. Hearings for denial shall be conducted by an impartial hearing officer whose decision shall be final. The hearing officer shall render a decision no later than 30 days after the conclusion of the hearing. Specific procedures governing the conduct of the hearings of this section shall be determined by the State Bar pursuant to Section 6225.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6225.](#) The Board of Trustees of the State Bar shall adopt the regulations and procedures necessary to implement this article and to ensure that the funds allocated herein are utilized to provide civil legal services to indigent persons, especially underserved client groups such as but not limited to the elderly, the disabled, juveniles, and non-English-speaking persons.

In adopting the regulations the Board of Trustees shall comply with the following procedures:

- (a) The board shall publish a preliminary draft of the regulations and procedures, which shall be distributed, together with notice of the hearings required by subdivision (b), to commercial banking institutions, to members of the State Bar, and to potential recipients of funds.
- (b) The board shall hold at least two public hearings, one in southern California and one in northern California where affected and interested parties shall be afforded an opportunity to present oral and written testimony regarding the proposed regulations and procedures.

(Amended by Stats. 2011, Ch. 417, Sec. 61. Effective January 1, 2012.)

[6226.](#) The program authorized by this article shall become operative only upon the adoption of a resolution by the Board of Trustees of the State Bar stating that regulations have been adopted pursuant to Section 6225 which conform the program to all applicable tax and banking statutes, regulations, and rulings.

(Amended by Stats. 2011, Ch. 417, Sec. 62. Effective January 1, 2012.)

[6227.](#) Nothing in this article shall create an obligation or pledge of the credit of the State of California or of the State Bar of California. Claims arising by reason of acts done pursuant to this article shall be limited to the moneys generated hereunder.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6228.](#) If any provision of this article or the application thereof to any group or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

Legal Services Trust Fund Program

Eligibility Guidelines

SUPPORT CENTERS ONLY

**The State Bar of California
180 Howard Street
San Francisco, CA 94105-1617**

Legal Services Trust Fund Program Eligibility Guidelines

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Legal Services Trust Fund Program Eligibility Guidelines

The Legal Services Trust Fund Program Eligibility Guidelines were designed as a brief statement of factors governing eligibility for an allocation under the Legal Services Trust Fund Program. The Guidelines, together with their Commentary, are intended to incorporate provisions found in the statute (Business and Professions Code §6210, et seq.) and at Title 3, Rules 3.660-3.692 of the Rules of the State Bar of California.

Commentary follows each guideline and is designed to further assist you in seeking an allocation under the Legal Services Trust Fund Program. Bracketed references are to the Business and Professions Code (B&P Code) and Rules of the State Bar.

Requirements for All Applicants

- 1. To be considered for a Legal Services Trust Fund Program grant, an applicant must submit a timely and complete application for funding in the manner prescribed by the Legal Services Trust Fund Commission (the Commission). To qualify for an allocation under the Legal Services Trust Fund Program, an applicant must be either:**
 - a. a qualified legal services project (Legal Services Projects Guidelines 2-2.9); or**
 - b. a qualified support center (Support Centers Guidelines 2-2.9).**

A single applicant may not qualify as both a legal services project and a support center. [Rule 3.680(D)]

Commentary:

The main distinction between a legal services project and a support center is found in the primary purpose of the organization. Compare Legal Services Projects Guideline 2.3 with Support Centers Guideline 2.3. You must indicate on your application the status under which you wish to be considered. You may complete the applications for both a legal services project and a support center. If you qualify in the category of first preference, you will not be considered in the second category. If you do not qualify in the category of your first choice, you will be considered for eligibility under the category of your second choice, if your primary purpose and function qualifies you for that category. [Rule 3.671(A)-(C)]

- 1.1. All applicants must include with their applications an assurance that the applicant will use the funds allocated from the Legal Services Trust Fund Program for the purposes set forth in §§6210-6228 of the Business and Professions Code.**

Commentary:

The application includes an Assurances form. Execution of that form will satisfy the requirements of Guidelines 1.1-1.3.

- 1.2. Within 30 days after notice of a tentative allocation from the Commission, the applicant must submit a budget and budget narrative for the expenditure of the allocation.
 - 1.2.1. For support centers, the budget and budget narrative must show that all funds allocated from the Legal Services Trust Fund Program will be used in support of qualified legal services projects providing free legal services in California.
- 1.3. All applications must include an assurance that the applicant:
 - 1.3.1. at all times will honor the attorney-client privilege and will uphold the integrity of the adversary process; and
 - 1.3.2. will not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Legal Services Trust Fund Program; and
 - 1.3.3. does not discriminate on the basis of race, color, national origin, religion, sex, handicap, or age.

Commentary:
See Commentary 1.1 above. [B&P Code §§6210, 6217, 6221; Rule 3.682]
- 1.4. If the Commission or staff requests any further information relating to an applicant's eligibility, or related to the amount of the allocation under the Legal Services Trust Fund Program, the applicant must supply that information. However, the Commission is not required to notify applicants if their initial application fails to include information sufficient to demonstrate eligibility. Failure to provide information necessary to the Commission's decisions on eligibility or eligible expenditures (or failure to supply requested information relevant to those decisions) will be grounds for denial of eligibility, or for refusal to recognize part of the applicant's expenditures within the allocation formula. [Rules 3.680(E) and 3.691(A)]

Requirements for Support Centers

2. To be a qualified support center, the applicant must meet (a) each of the requirements of Guidelines 1.1-1.3 above, and (b) each of the following Guidelines 2.1-2.7, and (c) the requirements of either Guideline 2.8 or 2.9.

Commentary:

The qualified support center must meet: (1) the requirements applicable to all applicants (see Guidelines 1.1-1.3); (2) the mandatory requirements of Guidelines 2.1-2.7 applicable to all support centers; and (3) either the eligibility presumption established by Guideline 2.8, or the requirements for quality control and "special need" set forth in Guideline 2.9.

The mandatory requirements applicable to all support centers (Guidelines 2.1-2.7) contain two separate requirements. A support center must demonstrate that it provides a significant level of legal support services to qualified legal services projects in California (the “significant level” test). Additionally, a support center must demonstrate that its primary purpose and function is the provision of legal support services (the “primary purpose and function” test). [Rule 3.680(A)]

2.1. The applicant must be a nonprofit corporation (in California or another state).

Commentary:

In order to demonstrate your status as a California corporation, copies of the Articles of Incorporation certified by the California Secretary of State and a current Certificate of Status from the California Secretary of State showing that the corporation is in good legal standing must be filed with the Legal Services Trust Fund Program. To demonstrate your nonprofit status, copies of (1) the determination letter from the Internal Revenue Service granting your application for exemption from the appropriate provisions of subchapter (f) of Chapter 1 of the Internal Revenue Code of 1954, as amended and (2) the determination letter from the State Franchise Tax Board granting your application for exemption from the appropriate section of the California Revenue and Taxation Code must be filed with the Legal Services Trust Fund Program. If you have not received such determination letter(s), attach copy(ies) of your application(s) for exemption together with an explanation of its/their status. [B&P Code §6213(a)(1); Rules 3.670(A), 3.680(A)]

2.2. The application must demonstrate through objective information that the organization currently:

Commentary:

The statute requires that applicants must **currently** be providing the services described in Guidelines 2.2.1-2.2.4.

The regulations require that you demonstrate with “objective information” that you provide the required services. Objective information that can be used to demonstrate your services is described in Guidelines 2.2.1-2.2.3. See also Commentary 2.3. [B&P Code §6213(b); Rule 3.670(B), 3.671(B), 3.680(E)(2), 3.680(E)(4)]

2.2.1. provides a significant level of legal training, legal technical assistance, or advocacy support to qualified legal services projects

Commentary:

You must demonstrate that you are currently providing **a significant level** of legal training, legal technical assistance, or advocacy support to programs that are qualified for Legal Services Trust Fund Program allocations as legal services projects. In order to meet this test, the services provided must be offered on a regular and consistent basis.

Such training, assistance or support include, but are not limited to, the direct provision of civil legal services to an indigent person, either as co-counsel with

an attorney employed or recruited by a qualified legal services project, or at the request of an attorney employed or recruited by a qualified legal services project that is unable to assist the client [see Rule 3.672(B)(2)], provided that:

- a. you keep written records to demonstrate that the direct provision of services was either as co-counsel with an attorney employed or recruited by a qualified legal services project, or at the request of such an attorney [Rules 3.672(B), 3.682]; and
- b. you establish and use policies and procedures that encourage qualified legal services projects to participate in the organization's representation of persons referred by them.

Support services provided to organizations that are not qualified legal services projects, or to attorneys in private practice who were not recruited by a qualified legal services project, will not be taken into consideration for purposes of demonstrating that a support center provides a significant level of services to qualified legal services projects.

In deciding whether you meet the "significant level" test, the Legal Services Trust Fund Commission will consider several factors. At a minimum, you must demonstrate that in the last year you have provided legal training, legal technical assistance, or advocacy support to at least ten qualified legal services projects. For purposes of this test, services provided to more than one office of a multi-office legal services project shall only count as services to one project. In addition, for purposes of this test, you **cannot** count the distribution of newsletters, general mailings, or the provision of other materials of general distribution. You must maintain written records of requests for services to demonstrate the number of projects to which you provided services.

You must provide services to at least ten projects to qualify as a support center. Applicants that fail to meet this test will be found not to have provided a significant level of services to qualified legal services projects.

Provided you meet this minimum test, you must also demonstrate through objective information that the nature and content of the services you provided were significant. In determining whether a support center's services were significant, the Commission may consider the following factors and any others that aid in making that determination:

- a. The provision of legal training, legal technical assistance, and advocacy support to a large number of projects is relevant data for demonstrating a significant level of support. However, numbers alone will not be the sole test.
- b. Services must be substantial in nature, not merely simple or intermittent responses to requests for assistance. For example, responding to ten simple requests for assistance will not itself demonstrate a significant level of support services. One large-scale complex lawsuit that takes a substantial amount of attorney time to complete will demonstrate a more significant level of services than a simple individual action. However,

handling a substantial number of individual actions may also demonstrate a significant level of work. Distribution of newsletters or other educational material will not itself meet the “significant level” test, but development of useful resources for qualified legal services projects is relevant data for demonstrating a significant level of support.

2.2.2. and such training, assistance, or support is not only actually available statewide

Commentary:

Your services must actually be available statewide. You must hold your services available on request on a statewide basis to all qualified legal services projects irrespective of where they are located within the state and publicize the availability of such services on a statewide basis. This publicity should ordinarily include at least two written communications during each calendar year, directed to every qualified legal services project in California, in which you describe the availability of your services. These written communications may be included in newsletters or other regular publications. You should send a copy of the communications to the Legal Services Trust Fund Program when you send them to the legal services projects.

Second, you must also demonstrate through objective information that your services are actually available and publicized throughout the state. In determining whether this requirement is met, the Commission may consider such factors as your staff’s participation in task forces and other training forums, your distribution of newsletters and general mailings, and any other efforts you make to give notice of the availability of services.

2.2.3. but is also actually provided statewide

Commentary:

You must also demonstrate that you provide services on a statewide basis. Your services must have actually been utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. Southern California counties shall include the counties of San Luis Obispo, Kern, San Bernardino and counties further south. At the end of these Guidelines, is a list of the counties assigned to each of the nine State Bar Districts.

In determining whether a support center’s services were statewide, the Commission may consider the following factors and any other objective information that aids in making the determination:

- a. The provision of support services to a number of State Bar Districts or counties larger than the minimum stated above would be relevant data for demonstrating a geographic distribution of service. However, numbers alone will not be the sole test.
- b. Statewide services must be substantial in nature, not merely simple or intermittent responses to requests for assistance. For example, providing

most services in one or a few counties but occasionally responding to inquiries from other parts of the state will not itself demonstrate a statewide distribution of services.

For purposes of determining whether your services were actually provided on a statewide basis, the Commission will consider only the provision of legal training, legal technical assistance, and advocacy support. Other services provided, such as general information, the distribution of newsletters, and general mailings, will not be sufficient to demonstrate that an applicant is not local but statewide, or that an applicant has provided services in a majority of the State Bar Districts.

2.2.4. without charge

Commentary:

The “without charge” standard is fully met when services are provided without imposing any fee or requiring any payment. However, training services may still be considered “without charge” when the fee imposed is directly tied to the actual additional expense incurred in training an individual and does not include general expenses that are incurred in providing the training to the community at large. To illustrate:

- a. Direct expenses that can be charged to individuals participating in training events include the actual cost of their own refreshments, lodging, materials distributed (including manuals, workbooks, and binders), per participant webinar fees, and similar costs associated with individual participation.
- b. Training expenses that should not be charged to participants include the costs of facilities rental for the training event; general costs of materials, equipment, and services necessary to conduct trainings (such as visual aids, projectors, IT services, licensing fees, and delivery charges); expenses associated with travel, food, or lodging for staff or outside trainers; costs of developing materials (including staff salaries and consultant fees/expenses); and organizational expenses, including but not limited to insurance, audit costs, library costs, overhead, or telecommunications expenses.

Under Business and Professions Code §6213(b), the “without charge” standard applies to assistance provided to qualified legal services projects. It would be consistent with the spirit of the Legal Services Trust Fund statute, whenever possible, to also extend this consideration to fellow qualified support centers.

2.2.5. through an office in California.

Commentary:

You must actually have a regularly functioning office physically located in California and provide these services through that office. The office must have been in existence and operating prior to your application for a Legal Services Trust Fund Program grant.

2.3. The provision of legal training, legal technical assistance, or advocacy support without charge must be the primary purpose and function of the corporation.

Commentary:

You must demonstrate that it is the primary purpose and function of the **corporation** viewed as a whole, and not simply that of part of the corporation, to provide free legal training, legal technical assistance, or advocacy support. You may consider the provision of similar services in other states when determining the primary purpose and function of the corporation.

To be considered legal training, legal technical assistance, and advocacy support, the services must meet the following criteria:

- a. Services must be provided (1) to attorneys or lay advocates or others involved in the direction or operation of legal services projects that provide legal services to indigent persons; or (2) to attorneys in private practice who are providing legal services without charge to indigent persons; or (3) directly to indigent persons when requested to do so by a qualified legal services project.
- b. The content of the training and technical assistance must be directed toward meeting the legal needs of indigent persons or the functioning of the legal services project.
- c. The direct provision of legal services to clients is not a “support service” unless it is delivered (1) as co-counsel with a qualified legal services project; or (2) as co-counsel at the request of a private attorney representing indigent clients without charge; or (3) after a referral from a qualified legal services project.
- d. The provision of similar legal support services in states other than California will be considered in determining the primary purpose and function of the corporation.

A support center shall be presumed to meet the “primary purpose and function” test if the services described above constitute more than 75 percent of the corporation’s expenditure budget in the year for which it is seeking an allocation from the Legal Services Trust Fund Program.

If the organization cannot meet the “primary purpose and function” test by complying with this presumption, you may demonstrate the primary purpose and function by other means. You will need to demonstrate that the primary purpose of the organization is to assist legal services advocates who provide direct civil legal services to indigent clients through the provision of legal training, legal technical assistance, and advocacy support. You must show that the primary purpose is not the direct provision of legal services to clients and that the support services consist of training, technical assistance, and advocacy support. [B&P Code §6213(b); Rule 3.671(B), (C)]

- 2.4. If the organization receives funds from sources other than the Legal Services Trust Fund Program, the applicant must submit a plan assuring that the services funded from the Legal Services Trust Fund Program are in addition to those already funded from other sources.**

Commentary:

Describe the sources, amounts, and conditions of your funding other than the Legal Services Trust Fund Program and the additional services you intend to provide with the monies allocated by the Legal Services Trust Fund Program. You must also submit a plan to maintain your current level of funding from sources other than the Legal Services Trust Fund Program. [B&P Code §6216(c)]

- 2.5. The application must include an agreement by the organization to use all funds allocated from the Legal Services Trust Fund Program in support of qualified legal services projects providing free legal services in California, and to restrict use of funds allocated from the Legal Services Trust Fund Program to matters directly related to the needs of legal services clients.**

Commentary:

You may meet this requirement by signing the Assurances form that is part of the application. [B&P Code §6216(c)]

- 2.6. The application must include a resolution of the board of directors of the corporation establishing the organization's priorities for the provision of legal support services. The adoption of this resolution must have followed consultation with legal services attorneys, members of the private bar, and eligible clients.**

Commentary:

You must attach to your application a resolution adopted by your board of directors within the last two years establishing the organization's priorities. In addition, you must describe the manner in which legal services attorneys, members of the private bar, and eligible clients were consulted for purposes of establishing priorities. Those consulted to meet this requirement must include persons who are not members of your board of directors. [Rule 3.680(B)]

- 2.7. The organization must offer a range of services including more than one of the following: consultation, representation, information services, and training.**

Commentary:

Describe the manner in which the organization offers services falling under at least two of the headings: consultation, representation, information services, and training. [Rule 3.680(B)]

- 2.8. The organization must meet either the requirements of this Guideline 2.8, or the requirements of Guideline 2.9. To meet the requirements of this Guideline 2.8, the organization must have met the requirements of Guidelines 2.2-2.3 on December 31, 1980.**

Commentary:

If the organization has met the general requirements applicable to all applicants, Guidelines 1.1-1.4, and has met the requirements of Guidelines 2.1-2.7, it must also meet either the requirements of this Guideline 2.8, or the requirements of Guideline 2.9.

In order to meet the requirements of Guideline 2.8 (and thus avoid the necessity of complying with Guideline 2.9), the organization must, on December 31, 1980, have been a nonprofit organization which had as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge, and which was actually providing a significant level of such services to qualified legal services projects, and such training, assistance, or support must have been available statewide without charge through an office in California at that time. [B&P Code §6215(a)]

If the organization has previously been determined by the Commission to meet this requirement, you do not need to reestablish it each grant year.

2.9. An applicant that does not meet the requirements of Guideline 2.8 must meet the requirements of Guidelines 2.9.1 and 2.9.2 below:

2.9.1. The organization must be deemed to be of special need by a majority of the qualified legal services projects. If an applicant was affirmatively deemed of special need for one grant period, the Commission will assume (without need for further information) that it continues to be so deemed for the immediately following two grant periods.

Commentary:

If you do not meet the presumption established by Guideline 2.8, the organization must be deemed of special need by a majority of legal services projects which receive allocations from the Legal Services Trust Fund Program. The statute requires that the organization presently be so deemed.

Evidence of such deeming in prior years, while it may be considered by the Commission as relevant evidence, is not determinative of the issue before the Commission except in the two funding periods after the grant period for which you were so deemed. The Commission itself intends to solicit the views of qualified legal services projects as to whether the organization is presently deemed of special need in every third year, starting with their application for the first funding period. Therefore, you must (for your first, fourth, seventh, etc., funding periods) supply the Commission with a one-page description of the organization.

The Commission will solicit advice from qualified legal services projects whether they presently deem the organization to be of special need. More than one-half of those whose advice is solicited must respond affirmatively in order for the organization to be eligible. Upon request, the Commission will make available to you a list of the names and addresses of the qualified legal services projects from which the Commission will solicit views.

In deciding whether they deem a support center to be of special need, projects will be instructed to consider what support the legal services projects in California need in delivering legal services to indigent persons, and to evaluate how the organization's services meet that need, including such issues as the quality and/or quantity of the organization's work. Project directors will be encouraged to consult with service providers or others associated with the project in making their decision. [B&P Code §6215(b)(2); Rule 3.680(C)]

2.9.2. The application must include a description of the organization's quality control procedures and standards, including, but not limited to, the matters described below:

Commentary:

The State Bar's Board of Governors adopted the American Bar Association's Standards for the Provision of Civil Legal Aid as the quality control standards for the Legal Services Trust Fund Program, pursuant to Business & Professions Code §6225 and Rule 3.661(C). These standards are the State Bar's guidelines for review and approval of applicant and recipient program practices.

If you are already subject to quality control reviews by any non-Trust Fund Program funding source or entity, describe the quality control review procedures to which you are subject, and attach the most recent comprehensive written quality control review by that entity in lieu of the information requested by Guidelines 2.9.2.1-2.9.2.4. (It is not necessary to explain in detail the review procedures followed.)

If you are not subject to such review procedures, describe your quality control standards and how compliance with each of the subjects listed in Guidelines 2.9.2.1–2.9.2.4 is ensured. The Commission is particularly interested in the standards and procedures regarding supervisory structure, procedures, and responsibilities. [B&P Code §§6123(b) and 6217(a); Rule 3.680(E)(2)]

2.9.2.1. the minimum experience and education requirements for attorney and paralegal employees;

2.9.2.2. the current salaries and job descriptions for all filled and unfilled management and professional positions, including paralegal personnel;

2.9.2.3. the minimum experience and educational requirements for attorney supervisors;

2.9.2.4. the supervisory structure, procedures, and responsibilities.

State Bar of California Districts Prior to July 1, 2010

District 1

Butte
Colusa
Del Norte
Glenn
Humboldt
Lake
Lassen
Mendocino
Modoc
Nevada
Placer
Plumas
Shasta
Sierra
Siskiyou
Sutter
Tehama
Trinity
Yuba

District 2

Napa
Sacramento
Solano
Sonoma
Yolo

District 3

Alameda
Contra Costa

District 4

Marin
San Francisco
San Mateo

District 5

Alpine
Amador
Calaveras
El Dorado
Fresno
Inyo
Kern
Kings
Madera
Mariposa
Merced
Mono
Monterey
San Benito
San Joaquin
San Luis Obispo
Santa Cruz
Stanislaus
Tulare
Tuolumne

District 6

Santa Clara

District 7

Los Angeles

District 8

Orange
Santa Barbara
Ventura

District 9

Imperial
Riverside
San Bernardino
San Diego

Revision to Guidelines for Support Centers with respect to determination of whether or not the Support Center is providing services “statewide” in California.

Background: Support Centers must establish that their services are available, and are actually provided, on a “statewide” basis. Since the Program’s inception, the Trust Fund Program has been using State Bar Board of Trustee districts to demonstrate that a Support Center’s breadth of service is “statewide.” For reasons unrelated to Trust Fund Program grants, the Board of Trustees revised its districts in 2012 in a way that did not work for Trust Fund Program purposes. Therefore, the Commission determined to use the old districts (2010 Map attached) pending a resolution adopting a new regional map to define “statewide” for support centers.

At its June 2016 meeting, the Commission defined new regions for viewing “statewide” support, and after vetting the recommendations at LAAC Support Center meetings, and at a State Bar bi-monthly call with Legal Services programs, adopted the resolution at its December meeting. The new map for defining “statewide” better achieves its intended goals than the previous criteria, including assuring services outside the Bay Area and Los Angeles corridors.

Beginning 2017, Support Centers must demonstrate that they provide services in 5 of the 7 attached regions.

Previous Eligibility Guideline 2.2.3 for Support Centers:

Commentary:

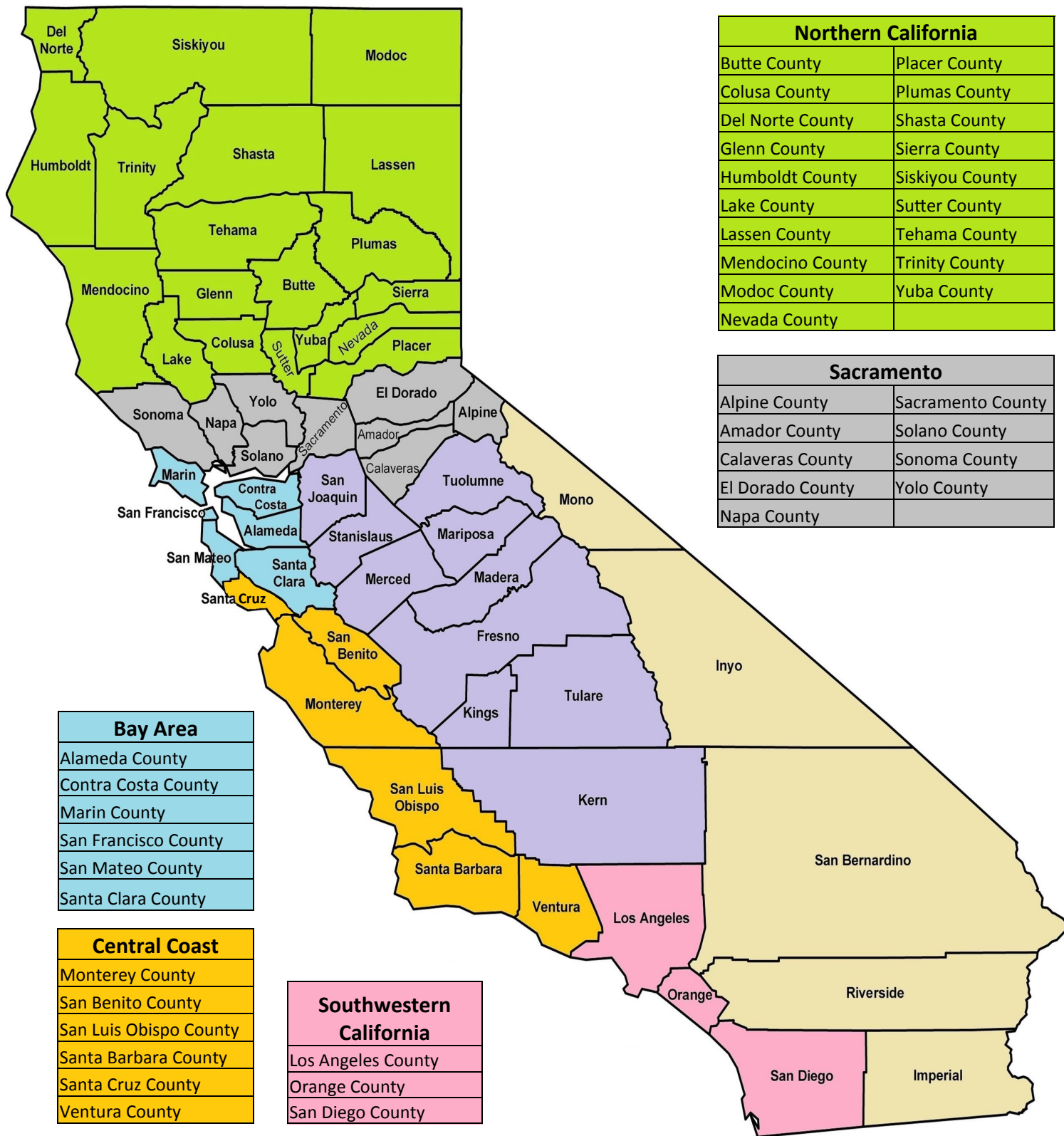
You must also demonstrate that you provide services on a statewide basis. Your services must have actually been utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. Southern California counties shall include the counties of San Luis Obispo, Kern, San Bernardino and counties further south. At the end of these Guidelines, is a list of the counties assigned to each of the nine State Bar Districts.

Approved Revision to Eligibility Guideline 2.2.3 for Support Centers:

Commentary:

You must also demonstrate that you provide services on a statewide basis. Effective January 2017, your services must be utilized in five of the following seven districts: Northern California, Sacramento Area, Bay Area, Central Coast, Central Valley, Eastern California, and Southwestern California. At the end of these guidelines is a list of the counties assigned to each of the regions. (see, Legal Services Trust Fund Program, Support Center – 2017 Regional map)

Note: For services provided in 2016, Support Centers may apply the new regions, or rely on the prior requirement that the services were utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. (see State Bar Districts, 2010 map)



**Legal Services Trust
Fund Program**

Support Center — 2017 Regional Map

STATE BAR DISTRICTS

The composition of State Bar Districts and the number of elected seats (in parentheses) on the Board of Governors in each District are as follows:



THE STATE BAR OF CALIFORNIA
LEGAL SERVICES TRUST FUND PROGRAM

**STANDARDS FOR FINANCIAL MANAGEMENT
SYSTEMS AND AUDITS**

MAY 2006

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STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS AND AUDITS

100.00 GENERAL COMMENT

The State Bar of California (SBC) requires that the accounting principles employed by its Recipients in recording transactions and preparing financial statements be based upon generally accepted accounting principles (GAAP).

When applying these Standards, every Recipient should review the suggested accounting policy in each area in light of its materiality to the program. Items that are not material should be accounted for in the most reasonable and efficient manner. The concept of materiality as used in accounting has been defined as a state of relative importance. The materiality of an item may depend on its size, nature or a combination of both. The working rule in applying the concept of materiality is to ask the question: "Is the item of sufficient importance to influence the conclusions and actions of users of the financial information?" More specifically, if the items were not accounted for in accordance with the standards, would the reader of the financial statements be misled with respect to understanding the nature and extent of assets available for use in program operations; the nature and extent of liabilities incurred by the program; the trust relationships that may exist between the program and clients; and, among other considerations, the nature and scope of the program's operations.

100.20 ACCRUAL OR CASH BASIS OF ACCOUNTING

A Recipient's annual financial statements may be prepared on the accrual or cash basis of accounting. Under the accrual basis of accounting, expenses are recorded when incurred as opposed to when they are actually paid. Revenue is recorded when earned instead of when received.

Under the cash basis of accounting, expenses are recorded when actually paid as opposed to when incurred. Revenue is recorded when received instead of when earned.

100.30 COST PRINCIPLES

100.31 Basic Policy; Scope. Grant funds may be used only for allowable costs of the activities for which the Grant was awarded. These Standards for Financial Management Systems and Audits identify the principles to be used in determining allowable costs. The principles apply to Grant activities conducted by Recipients.

100.32 Costs Allowable with Approval. Each set of cost principles identifies certain costs that, in order to be allowable, must be approved by the SBC. Other costs do not require approval. The following procedures govern approval of these costs.

- (a) When costs are treated as Administrative costs, acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval.
- (b) When the costs are treated as Program costs, the SBC must approve them in advance.

Costs contained in the Approved Budget shall be deemed approved.

100.40 PROPERTY (Reversionary Interest)

In many cases, a funding source maintains a reversionary interest in property purchased with its funds. Simply stated, a reversionary interest requires that property, or the proceeds from the sale of such property, must be returned to the appropriate funding source if at some future date such property is disposed of or recipient's funding is terminated, or if the SBC does not fund a recipient immediately following the expiration of a grant period.

Approval for sale of property is required. It shall be in writing and signed by the Director in order to be valid. When requesting a prior approval, Recipients shall address their requests to the Director.

The SBC intends to retain a reversionary interest in property acquired with the Grant. In the event of a cessation of use of such property by the Recipient for uses approved by the SBC, then the Recipient must return the property to the SBC or make arrangements satisfactory to the SBC to insure that the property or its proceeds (if disposition is approved by the SBC) is transferred to an approved provider of civil legal services to the indigent and used for an approved purpose.

100.60 ACCOUNTING RECORDS

The following is a brief description of the accounting records considered necessary for the adequate recording of financial transactions. Accounting records must be maintained on a double-entry accounting system and must be adequate to enable the recipient to prepare its annual financial statements, internal budget and other management reports.

- 100.61 General Ledger. The general ledger is used to summarize and classify all financial transactions from data accumulated in the books of original entry into their proper accounts (i.e., salaries, space, etc.). It is the source for most of the data needed for preparing financial statements. The general ledger is the final and permanent record of all of the Recipient's financial transactions.
- 100.62 Cash Receipts Journal. The cash receipts journal is a book of original entry in which cash receipts (i.e., cash, checks, and money orders) are recorded in chronological sequence when received. Bank deposit slips must contain sufficient information so that all deposits can be identified with their source.
- 100.63 Cash Disbursements Journal. A cash disbursements journal is a book of original entry in which disbursements are recorded in a chronological sequence. All disbursements must be made by pre-numbered checks used in numerical sequence. Each check must be supported by appropriate documentation (i.e., payroll records, invoices, contracts, travel reports, etc.) evidencing the nature and propriety of the expense and documenting the approval by an authorized official.
- 100.64 Payroll Records. Basic payroll records must accumulate payroll data required by federal, state and local laws. Documentation must be maintained to support individual gross earnings. A personnel file

should be established for each employee and should include the following data:

- (1) Employment contract if applicable, wage or salary authorization.
- (2) Current Federal income tax withholding form (W-4).
- (3) Current State income tax withholding form.
- (4) Authorization for all other payroll deductions.
- (5) Authorization for all wage/salary actions.

Each Recipient is required to establish an adequate time-reporting system. This system must be able to identify employee hours worked so that compliance with federal and state laws with respect to overtime and pay rates can be demonstrated. It must also be able to demonstrate accountability for time to the public. A small Recipient with several employees could use a sign-up sheet whereby every employee would record his/her daily hours. A larger Recipient would probably utilize a "time report" system whereby such employee would complete and sign an individual time sheet. Whether a sign-up sheet, a time report or other method is utilized, a supervisor in a position to verify the information should approve the document.

A vacation and sick leave record must be maintained currently for each employee. This record would include information in hours or other reasonable units (i.e., days, fractions of days) for the amount of

vacations and sick leave earned during the period taken during the period, and remaining at the end of the period. As a method of checking the accuracy of this record and providing employees with knowledge of "where they stand," employees should be informed of their vacation and sick leave balances periodically.

100.65 Property Records. Individual property records shall be maintained for each item costing in excess of \$1,000 per unit. The property records to be maintained must include: (1) a description of the item, including model and serial number (if the property has no such number, it must be tagged with an identifying number to ensure the internal records are effective in controlling property); (2) date of acquisition; (3) check number used to pay for item; (4) cost; and (5) useful life.

100.66 General Journal/Journal Voucher. A general journal or journal voucher system is used to process transactions, which are not recorded originally in the cash receipts journal, cash disbursements journal or payroll register. Each journal entry must be supported by a complete explanation and documentation of the transaction being recorded.

The accounting records discussed in these Standards can be maintained by either a manual or an automated system. Each Recipient should establish the system most appropriate to meet its needs and to provide an adequate audit trail of all transactions.

100.70 BASIC CHART OF ACCOUNTS

The following is an illustrative basic chart of accounts, which would provide details necessary for the preparation of financial statements in accordance with these Financial Management Systems and Audits Standards. This illustration is not intended to dictate the format or level of detail to be used by individual programs, but is simply one method of achieving the accounting requirements of these Standards. While the account numbering system, account descriptions and level of detail utilized by Recipients should be designed to provide management reporting and financial disclosures specifically related to that program, they must also accommodate the SBC reporting requirements.

The illustrative chart of accounts assigns a three-digit number to every major natural account classification reflected in the financial statements. By changing the last two digits of the three-digit number, Recipients can maintain the greater detail needed to control and monitor operations. For example, the natural account “cash-general” is a broad description. Most organizations would require an individual general ledger account for each bank account. This can be achieved by establishing accounts under a natural account classification as follows:

<u>100 Cash – General</u>	<u>Account No.</u>
General Disbursement Account PDQ Bank	101
Payroll Account - PDQ Bank	102
Petty Cash	103

The total of all 100 series accounts (i.e., 101, 102, and 103) represents the cash amount reported in the financial statements. This procedure can be used to maintain details for any of the natural account classifications reported in the financial statements.

A sample chart of accounts is shown below. Each Recipient's chart of accounts must reflect the degree of detail appropriate under the circumstances.

<u>Natural Classifications</u>	<u>Account No.</u>
<u>Assets (100 Series):</u>	
Cash - General (Title)	100
General Disbursement Account	101
Payroll Account	102
Petty Cash	103
Receivables (Title)	120
Receivable - SBC	121
Prepaid and Travel Advance	130
Travel Advances	131
Prepaid Expenses	132
Furniture, fixtures and equipment (Title)	140
Furniture	141
Fixtures	142
Equipment	143
Leasehold Improvements (Title)	150
Leasehold Improvements	151
Law Library	160

Accumulated Depreciation (Title)	170
Furniture	171
Fixtures	172
Equipment	173

Liabilities (200 Series):

Accounts Payable (Title)	
Employee Withholding Payables	200
(Title) FICA, FIT, SIT, SDI, etc.	210
Accrued Payable (Title)	220
Accounts Payable Disbursement	221
Advance Payable	222
Accrued Payable	223

Fund Balance (300 Series) (Title):

General Fund	310
Property	320

Revenue (400 Series):

Grants Revenue (Title)	400
Revenue - SBC	401
Interest Revenue (Title)	410
Interest	411
Miscellaneous (Title)	420
Miscellaneous	421

Expenses (500 and 600 Series):

Personnel (Title)	500
Lawyers	501
Paralegals	502
Other Staff	503
Employee Benefits	530

Legal Consultants	540
Contract Services	550
Training Expenses	560
Travel	570
Space and Occupancy	580
Insurance Expenses	590
Office Expenses	600
Telephone Expenses	610
Litigation Costs	620
Equipment Rental	630
Miscellaneous Purchases of Property and Library	640
Depreciation and Amortization	650

Property Activity (700 Series):

Acquisition of Property	700
Acquisition of Library	710
Proceeds from Sale of Property	720
Gain or Loss on Sale of Property	730

100.80 DESCRIPTION OF ACCOUNTS

The basic chart of accounts described above provides one method of organizing a Recipient's accounting records. Whether the Recipient utilizes this chart of accounts or another, the general ledger must contain the following accounts, which record an acceptable level of detail for full financial disclosure. The following account descriptions are intended to illustrate the nature of the charges that may be made to specific accounts. Particular Recipients may require different designations to accommodate their own information needs.

100.81 Assets.

Cash--General Disbursements - To record funds on deposit in bank accounts for operating purposes as opposed to special purposes such as payroll and escrow accounts discussed below. Separate accounts should be maintained for each bank account.

Cash--Payroll Account - To record the amount on deposit in a separate bank account for payment of payroll and maintained on an imprest basis.

Petty Cash - To record cash held at the Recipient's office for paying minor bills. The account must be maintained on an imprest basis with the balance established at the lowest possible level commensurate with efficient operations. The petty cash account in the general ledger always reflects the total value of the fund, in cash and/or vouchers. The fund should be reimbursed periodically for the exact amount of the petty cash vouchers.

Receivable(s)--Other - To record miscellaneous accounts receivable.

Travel Advances to Employees - To record the amount of travel advances outstanding (i.e., advanced to employees but not accounted for on subsequent expense reports). A subsidiary record or subaccount must be maintained for each employee.

Deposits - To record the amount of refundable deposits made, for example, to the telephone company or landlord.

Prepaid Expenses - To record the amount of expenses paid which

apply to future periods. SBC recommends that a prepaid expense should not be recorded unless the expense applies to a period more than 18 months from the date incurred and the prepaid balance of an individual item is considered material. The Recipient may choose to record additional prepaid items outside this prescribed criteria if management believes the information is needed.

100.82 Liabilities (Accrual Basis of Accounting).

Accounts Payable - To record the amount of unpaid vendor invoices on hand. This account should be used at the close of an accounting period to convert the books to the accrual basis of accounting. If books are maintained on the accrual basis, the account will have a continuous balance.

Employee Withholdings Payable - To record the amount of money that has been withheld from the employees' salaries (i.e., FICA, federal, state and local taxes, pension, health insurance, etc.). Separate accounts should be maintained for each type of withholding.

Accrued Expenses - To record the estimated cost of goods or services received for which an invoice has not yet been received. The accrual is utilized at the close of an accounting period to record salaries, employer's share of FICA taxes, other taxes, etc., which are owed but not paid. Separate accounts should be maintained for accrued salaries and other miscellaneous accruals (e.g., utilities and consultant fees).

100.83 Fund Balance.

Restricted - This account accumulates the balance of support over expenses for grants, contracts and other awards, which have restrictions attached.

Property - This account accumulates the net equity in all furniture, fixtures, equipment and law books purchased.

100.84 Support and Revenue.

Grant and Contracts - To record the amount of funds earned during the accounting period.

Interest Revenue - To record interest earned during the year.

Miscellaneous Revenue - This account records miscellaneous income which cannot be classified in any of the above accounts. Where amounts are significant, separate accounts should be established.

100.85 Expenses.

Salaries and Wages - To record the salaries of all program personnel. Normally, including all salaries and wages in one account would not provide adequate information about program activities. Salaries and wages must be subdivided into those constituting Program Costs and those constituting Administrative Costs. Each program should subdivide the salaries and wages account into the categories, which will be most meaningful for management and evaluation by the SBC.

Employee Benefits - To record the costs of items such as employer FICA taxes, unemployment taxes, employer retirement contributions,

employer health and life insurance payments, workmen's compensation and other payroll related benefit items offered by the program. Individual subaccounts must be maintained for each of these items.

Legal Consultants - To record the payments for legal consultants who are not full-time employees of the program.

Contracted Services - To record the costs of contracted or purchased services. For financial statement purposes contract services should be adequately described as to their nature where material. For example, for proper disclosure, contract services may require classifications into accounting services and other consulting services.

Training Expenses - All non-personnel costs paid for with regular program funds, associated with the training or continuing education of staff members, should be included here. Examples would be: travel to/from training events, per diem, conference registration fees or tuition, purchase of training materials, rent for facilities used in a training event, consultant fees paid to trainers, etc. Materials or equipment purchased for training with a value in excess of \$1,000 should be reported under "Capital Additions." No program personnel costs should be included here.

Travel - To record travel costs (e.g., local transportation, lodging expenses while away and airfare). This account should be subdivided in accordance with the management's needs to control the various

elements of travel costs such as travel relating to legal work, travel relating to administrative work, travel related to training, etc.

Space and Occupancy - To record the costs of rent, utilities (such as electricity, water and gas), janitorial services and hazard insurance. Individual subaccounts should be maintained for these items as is necessary.

Insurance Expenses - This category includes professional liability insurance, bonding, property insurance (fire and theft) and liability insurance for property and automobiles.

Office Expenses - To record the costs of office supplies, printing, reproduction supplies, advertising and publicity, postage, telephone and insurance other than hazard and employee benefit insurance. Recipients should establish separate accounts for any of the above items if the amounts are significant.

Telephone Expenses - This category includes estimates for the rent of telephone equipment and long distance calls. Similar and related expenses such as telegraph or other telecommunications should be included as well.

Litigation Costs - To record costs of depositions and transcripts, service of process, filing fees, expert witnesses and any other litigation costs paid by the program and not the client.

Equipment Rental - To record all costs of renting or leasing furniture and equipment.

Library Maintenance - To record the costs of all publications purchased for the library that are not capitalized.

Note: Adequate financial statement disclosure may require that account descriptions different from the above be used. The above descriptions represent suggestions for grouping similar costs. The level of detail for adequate financial statement reporting and meaningful management reports may be determined by the Recipient and its auditor.

110.00 INTERNAL CONTROL

A financial audit will not prevent defalcations and is not intended for that specific purpose. Every program must rely instead upon its own system of internal accounting controls and procedures to detect promptly and help reduce the likelihood of misappropriation of funds. The objectives of internal controls are not limited to this purpose only. This section discusses minimum internal control procedures Recipients must establish to meet the objectives inherent in the definition of internal control.

110.10 DEFINITION

Internal controls encompass the coordinated methods and measures adopted by an organization to safeguard assets, check the accuracy and reliability of accounting data, promote operating efficiency, and encourage adherence to prescribed management policies. Obviously this is a broad definition and extends beyond those matters, which relate directly to accounting and financial reporting. It encompasses controls over all of the paper work in an organization.

This section will emphasize the physical and administrative controls over a program's assets--principally cash. At best, the required and suggested procedures will minimize the likelihood of misappropriation of assets and misstatement of accounts and maximize the likelihood of detection if it occurs.

110.20 CHARACTERISTICS

In establishing an adequate system of internal control, certain basic concepts must be considered. Although each organization is unique, and, therefore, any control procedures must likewise be unique and "custom made," the following characteristics are generally applicable.

- 110.21 Definition of Authority and Responsibility. The duties of all program personnel should be defined as to their specific responsibilities. Such a delineation may be flexible and informal in a small program with a few employees, or it may be carefully defined by an administrative manual in a larger program. In the accounting area this means that only certain specified individuals may sign checks, approve invoices

for payment, prepare grant and contract reports and deposit cash receipts.

110.22 Segregation of Duties. Broadly considered, segregation of duties means that program and accounting functions should be separated so that no individual simultaneously has both the physical control and the record keeping responsibility for any asset or categories of assets (e.g., cash, bank reconciliation, supplies, and property). Within the accounting area, duties preferably should be segregated so that no individual can initiate, execute and record a transaction without a second individual being involved in that process. If this level of segregation is not possible because of the program's size, the work of the accountant should be reviewed and approved by the program director or the director's delegate.

110.23 Establishment of Independent Checks and Proofs. Independent checks and proofs consist of regular internal checks on the recording of transactions and the preparation of financial reports. For example, a certain measure of clerical accuracy can be accomplished through the use of a columnar cash disbursements journal that is balanced monthly and posted to the general ledger. Thereafter, the general ledger cash balance would be reconciled to the monthly bank statement.

110.30 PRIMARY FEATURES

The following features are considered basic internal control procedures that any program, regardless of size, should establish. It cannot be overemphasized that these features represent only the rudimentary control procedures that must be incorporated by every recipient to demonstrate a minimum level of financial stewardship. Once these features have been successfully implemented, recipients should begin assessing additional procedures to provide greater control assurances.

1. Each Recipient should have adequately trained competent accountant personnel to properly document, record, account for and report on its financial transactions.
2. All bank accounts must be authorized by the Recipient's board of directors. There must be sufficient justification for utilizing more than one bank account. Any account not used must be closed and the bank notified in writing not to process any subsequent transactions. Any remaining blank checks for closed accounts must be destroyed.
3. All cash receipts must be recorded in a journal. Checks received must be restrictively endorsed and deposited intact currently.
4. All disbursements (other than petty cash disbursements) must be made by prenumbered checks signed by two (2) individuals authorized by the board of directors. No checks may be made payable to cash.
5. All disbursements must be supported by vendors' invoices or other supporting documents.

6. Bank statements must be reconciled monthly to the general ledger balance. The reconciliations must be reviewed and approved by a responsible individual and retained.
7. Petty cash funds must be maintained on an imprest basis and recorded in the general ledger.
8. The physical facilities for storing blank checks, general ledger, subsidiary ledgers and other important documents must be adequate.
9. Detailed property records must be maintained and reconciled to the general ledger. Once a year an inventory must be taken of the program's property and the results of that inventory compared to the accounting records. Significant differences should be investigated.
10. There should be fidelity insurance on all individuals who handle cash, sign checks, have purchasing or other financial responsibilities.
11. There must be an organized filing system for all paid invoices, cancelled checks, contracts and agreements, reports to funding sources, tax returns (with supporting work papers and employee files).
12. There must be interim management reports preferably prepared monthly, but at least quarterly, that compare actual expenditures to the Approved Budget. The program director should review the reasons for any significant variations from the budget, and also compare projected future expenditures against the unexpended portion of the budget.
13. General policy with respect to insurance coverage should be defined and procedures instituted to insure that all significant business risks have

been covered. Insurance coverage should periodically be reviewed with a competent insurance agent.

120.00 FINANCIAL REPORTING

The report consists of two parts: (1) Forms A and B, and (2) Form C. Forms A and B must be completed by all recipients. Multi-county recipients must also complete Form C of the report.

Each recipient is required to report to the SBC on a calendar quarter basis. Quarterly and year-to-date reports must be mailed to the SBC within thirty days following the end of each calendar quarter. The report format of the quarterly financial statement is illustrated on pages 22 through 24. Electronic forms can be found on-line at <http://www.calbar.ca.gov/ioltaapplicationmaterials>.