

## A. 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 ~~for the fiscal year that concluded during the prior calendar year~~ by an independent certified public accountant as defined in California Business and Professions Code §§5033 and 5055 and Regulations of the Commodity and Securities Exchanges, C.F.R. 210.2-01 (b) and (c). 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;

(a) Such audited financial statement must be created in accordance with generally accepted auditing standards by independent certified public accountants certified by the state of California; a financial review must be created in accordance with standards for accounting and review services by independent certified public accountants certified by the state of California. "Independent certified public accountant" means a certified public accountant who meets the standards of independence described in the Regulations of the Commodity and Securities Exchanges, C.F.R. 210.2-01 (b) and (c).

(b) All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the nonprofit corporation and necessary to facilitate the audited financial statement or financial review and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians must be made available to the person or persons preparing the audited financial statement or financial review;

- (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 <del>or reviewed</del> financial statement <u>or financial review</u> 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 such extension be granted beyond the date upon which grant allocations are determined.</p>

## 3. Eligibility Guidelines for Qualified Legal Services Projects

- 2.7. Financial information required in the application must align with the applicant's submitted audited financial statement or review of financial statements-financial review. See State Bar Rule 3.680 (E)(1) and the Schedule of Charges and Deadlines for additional information about the audit requirement. 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 TEMPLATE<sup>1</sup>**

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<sup>1</sup> 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.

**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”).

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 State Bar~~ Rule 3.680(E)(1), and Business and Professions Code Section 6222, require Recipient to submit to the State Bar an audited financial statement or financial review ~~that has been audited or reviewed~~ by an independent certified public accountant as specified in the Schedule of Charges and Deadlines ~~within ninety (90) days of the close of Recipient's fiscal year.~~