



Date: May 20, 2020

To: Members, Legal Services Trust Fund Commission

From: Doan Nguyen, Acting Program Manager
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Subject: Approval of Interest on Lawyers' Trust Accounts (IOLTA) Grant Distribution for 2020 and 2021

EXECUTIVE SUMMARY

Annually, the Legal Services Trust Fund Commission (Commission) recommends to the Board of Trustees the grant amount to be made available for distribution from Interest on Lawyers' Trust Accounts (IOLTA) to qualified nonprofit legal aid organizations in California. Interest revenue generated by these accounts is the main source of funding for these grants, referred to as "IOLTA grants," but over the years these funds have been supplemented by Justice Gap Fund donations and optional contributions from State Bar licensees as part of their annual licensing fee payments.

At this time last year, the Federal Reserve had set the Federal Funds Rate (FFR) at 2.5 percent. Based on bank remittances at that time, we projected \$39 million in IOLTA revenue in 2020. However, on March 16, 2020, the FFR dropped to near zero and is likely to stay there for some time. As a consequence, we anticipate the IOLTA revenue will drop to approximately \$15 million for the 2020 calendar year, and \$8 million in 2021. In light of the dramatic decrease in revenue, the Commission will need to decide, in addition to the 2021 IOLTA distribution, whether to modify the 2020 IOLTA distribution, currently set at \$55.3 million.¹

The Commission will meet on May 27 to discuss the available funding scenarios and convene again on June 26, 2020 to finalize its recommendations. The Board of Trustees will meet on July

¹ The amount the Board of Trustees initially approved for distribution in 2020 was \$55.5 million. However, due to changes in eligibility for some organizations in the ensuing months, the Commission made adjustments to the distribution, leading to \$55.3 million.

16, 2020 to consider the Commission's recommendations. This memo outlines staff's preliminary recommendations regarding the 2020 and 2021 IOLTA distributions, as informed by feedback from the legal aid community. It also addresses the extent of the Commission's authority to approve grantees' carryover requests into the next grant year, including which decisions are within the Commission's purview and which would require approval by the Board of Trustees.

Staff's preliminary recommendations to the Commission are as follows:

1. Recommend no change to the 2020 IOLTA distribution to the Board of Trustees; using \$15 million from the cash on hand to meet the \$55.3 million distribution; and, leaving a projected reserve of \$14.6 million;
2. Recommend a 2021 IOLTA distribution of \$20.6 million; using a projected \$8.4 million from the cash on hand; and, leaving a projected reserve of \$6.2 million;
3. Recommend that the Board of Trustees delegate authority to the Commission to make changes to the 2020 and/or 2021 IOLTA distributions if significant additional funding is made available (or lost) to IOLTA-funded grantees;
4. Adopt a flexible approach to carryover requests for programs that would like to save some of the funding for next year (i.e. consider allowing higher carryover for longer periods than typically approved); and,
5. Allow larger budget revisions and more liberal deviations from the standard allocation of 75 percent of the grant to programs and 25 percent to administration.

Staff recommends the above to balance the need for funding now in a time of crisis where there is higher demand for legal services, versus the need to sustain stable future funding in years when revenues will likely be lower. Staff strongly believes that maintaining the current 2020 IOLTA distribution coupled with generous approvals of carryover requests will enable programs to address their individual needs more effectively and to respond to the needs of their communities more strategically.

BACKGROUND

IOLTA STATUTE

In 1981 the Legislature authorized the IOLTA program under Business and Professions Code sections 6210-6228 (IOLTA statute). The purpose of the statute was to increase access to justice and improve the administration of justice through expansion of legal services. In pursuit of those goals, it prioritized improving the quality of existing free legal services in civil matters to indigent persons and initiating new programs to provide such services.

The IOLTA statute requires lawyers to place nominal client funds, or funds that are on deposit for short periods of time, into interest- or dividend-bearing accounts in which the interest or dividend is paid to the State Bar.² Such accounts can only be kept at approved financial institutions certified by the State Bar to ensure compliance with the IOLTA statute.

The interest earned from pooled IOLTA accounts is remitted to the State Bar. The State Bar subtracts its administrative costs and then distributes the approved fund amount (based on the IOLTA statutory formula) to qualified legal aid nonprofit organizations that provide free legal services in civil matters to indigent persons in California. The Office of Access & Inclusion administers the Legal Services Trust Fund Program for the State Bar under the oversight of the Commission and Board of Trustees.

In 2007, AB 1723 (Jones, Ch. 422, Stats. of 2007) amended the IOLTA statute to specify that IOLTA accounts should earn no less than the interest rate or dividend generally available to non-IOLTA depositors at the same institution. This is referred to as “comparability.” However, shortly after that change in law became effective in 2008, the United States entered a recession and interest rates plummeted; thus, the IOLTA program did not reap the anticipated benefits of comparability until the past few years. Current events cast doubt on the ability of the IOLTA program to leverage the benefits of comparability in the short term, given that interest rates have returned to the very low levels seen in the 2008 recession.

DISTRIBUTION OF IOLTA FUNDS

Each year, the Commission recommends for approval to the Board of Trustees the amount of IOLTA grants to be made available for distribution. These funds are disbursed to qualified nonprofit legal aid organizations that provide free legal services to indigent Californians in civil legal matters and the support centers that offer legal advocacy, technical assistance and training to the direct service legal aid organizations.

In the first eight grant years (1984-1992) the Legal Services Trust Fund Program recommended to the Board distribution of the total money projected to be “on hand” as of the end of the prior year, less administrative costs during the same period. In other words, the program collected money for a year and then gave it out in the following year, such that 100 percent of the money for grants was “on hand” for distribution throughout the year. Financial institutions continued to remit interest earned, so the program always had on hand about one full year’s revenue.

² If there is a large sum of money involved, or it will be held for a long time, an attorney can hold the client's funds in an individual account, designated as a Client Trust Account, and the interest earned will go to the client.

In 1992, in response to low interest rates and declining revenue, the then Board of Governors adopted a cash-on-hand policy to hold only 75 percent of a year's cash on hand. Over the years, subsequent interest rate declines led to further reductions bringing the target range to 25 to 30 percent.

IOLTA revenue remained flat between 2001 and 2004—approximately \$10 million—but showed a steady increase beginning with the 2005 grant year. In 2006 the Commission proposed, and the Board of Governors approved, a revision to the cash-on-hand policy (also known as the reserve policy, see Attachment A). The goal was to build reserve funds that could be distributed during lean years. Then, as now, the Commission recognized that the ability to rely on stable IOLTA funding is critical to the health and survival of legal aid organizations that receive IOLTA funding.

For many legal aid organizations, IOLTA funding is core support, meaning that organizations have the flexibility to use the funds where they need it most; many other funders impose specific restrictions on funds (e.g. salaries only, but no benefits or no overhead costs). Unlike foundation funding that may not be as reliable, IOLTA grants offer stability to grantees by supporting all aspects of their operations needed to provide free civil legal services to the indigent. Moreover, once a grantee's eligibility is established they are statutorily guaranteed funding.

In applying the cash-on-hand policy over the past few years, a portion of increased receipts was held in reserve as a hedge against future declines in revenue. Under the policy, when revenue is higher than in the previous year, grants are increased incrementally while also increasing the reserve/cash on hand. The cash-on-hand policy applies the following methodology:

1. The previous year's grant distribution is established as the planned grant distribution base amount;
2. The planned grant distribution base is increased by 5 percent over the prior year's amount;
3. Ten percent of the prior year's grant distribution is set aside to the reserve/cash on hand;
4. And finally any remainder in the total projected funds available for the year is split equally, increasing both grant distribution and reserve/cash on hand.

This prudent planning to build a reserve proved essential during the Great Recession of 2008. IOLTA revenue reached what was then a record high of \$22.3 million in 2008. Then, due to the recession and unprecedented low interest rates, IOLTA revenue dropped to \$7 million and stayed at or below that amount for nearly a decade. Funds put aside because of the reserve policy (and additional revenue from sources such as the Justice Gap Fund and the Legal Services Assistance Fund) supplemented low IOLTA revenue.

In 2018 and 2019, the revenue increased considerably, in tandem with rising interest rates. The revenue in 2018 was nearly triple that of 2017, reaching \$20.9 million. The 2019 revenue was also remarkable, as it more than doubled again, to \$46.5 million. This allowed the opportunity to replenish the reserve while still distributing record amounts in IOLTA grants.

Recertification Efforts and Leadership Bank Program to Increase Revenue

As of March 2020, financial institutions in California held about \$5.25 billion in IOLTA deposits. In addition to the natural growth of IOLTA revenue corresponding to rising interest rates, for the past three years the Office of Access & Inclusion has engaged in an intensive bank recertification and negotiation effort. The Office receives interest from approximately 170 financial institutions offering IOLTA accounts. The recertification process confirms their compliance with the IOLTA statute, particularly ensuring that IOLTA accounts holding those assets are receiving comparable interest rates to similarly situated accounts. Many financial institutions began paying higher interest rates as a result of the recertification process, and to date 13 remain to be recertified. The recent increase in IOLTA revenue was the result of rising interest rates combined with recertification efforts to ensure compliance and negotiate higher interest rates on IOLTA accounts.

This allowed for higher distributions. In 2019, the State Bar distributed \$27.5 million in IOLTA grants, nearly double the amount distributed in the prior year. In 2020, the amount approved for distribution doubled again, to approximately \$55 million, and the reserve as of December 31, 2019 was \$49.8 million. The chart below illustrates the IOLTA grant distributions over the past six years.³

Year	IOLTA Grant Distribution (in millions)	Percent Change over Previous Year
2020	\$55.3 (authorized)	101%
2019	\$27.5	98%
2018	\$13.8	26%
2017	\$11	(1%)
2016	\$11.1	10%
2015	\$10.1	5%

³ Note that IOLTA revenue mentioned in the previous section and the grant distribution do not always match. This is due to maintaining a reserve and supplementing grants with additional funds through licensing fees and the like.

Leadership Bank Program

In 2008, the State Bar adopted revisions to the State Bar Rules to reflect the comparability law enacted in 2007, mandating that IOLTA-eligible institutions pay comparable interest rates or dividends on their IOLTA accounts in one of three ways:

1. Establish IOLTA accounts as comparable-rate products;
2. Pay the comparable-product rate on IOLTA deposits accounts, less chargeable fees, if any; or
3. Pay the Established Compliance Rate (known as ECR) determined by the Legal Services Trust Fund Commission.⁴ (See Rule 2.130.)

In order to advance the State Bar's goal to increase access to justice, the State Bar established a "Leadership Bank" program in late 2019 to encourage financial institutions to do the following:

1. Pay at least the ECR rate on all IOLTA accounts; and
2. Waive any fees or charges on these accounts.

The Leadership Bank Program aims to increase revenue to support civil legal services and streamline operations for the State Bar of California. Leadership Banks are required to pay the ECR, which is currently higher than the interest rate offered on comparable products that are aligned with the FFR. These "Leadership Banks" are highlighted on the State Bar's website as preferred IOLTA-eligible institutions and lead partners supporting access to justice through the IOLTA program.

Currently, 11 banks participate in the Leadership Bank program. The decision to identify as a Leadership Bank is voluntary; State Bar staff will continue to encourage IOLTA-eligible institutions to demonstrate their commitment to IOLTA-funded organizations by choosing to be a Leadership Bank. The State Bar's ongoing efforts to increase enrollment in the Leadership Bank Program is one way to mitigate some of the loss in IOLTA revenue that will otherwise occur over the course of the year (see next section).

CHANGES TO THE FEDERAL FUNDS RATE AND ONGOING FUNDING CHALLENGES

Through most of 2019, the FFR was 2.5 percent, the highest it had been in over 10 years. By the end of 2019, the FFR decreased to 1.75 percent, but actual IOLTA revenues still exceeded 2019

⁴ The Legal Services Trust Fund Commission set the Established Compliance Rate at 68 percent of the Federal Funds Rate (FFR) or 0.68 percent (whichever is higher) in 2008. At the highest FFR in 2019, the ECR was 1.70 percent. It has since returned to 0.68. Note that financial institutions are not obligated to adopt the ECR if they offer a similar interest rate on IOLTA accounts as they do on their other financial products. Consequently, many financial institutions may be offering lower interest rates than the ECR given the current economic climate.

estimates by \$5 million. Unfortunately, in March 2020, the FFR fell precipitously to 0.25 percent as an attempt to offset the dramatic impact of COVID-19 on the economy.⁵

The current FFR is likely to remain low for quite some time.⁶ The consequence of these changes will be significantly lower IOLTA revenue than originally anticipated for 2020, changing our projection of \$39 million to approximately \$15 million.⁷ Though we anticipated some decrease in the interest rate by the end of 2019, and even possible recession, the recent drop in interest rates to 0.25 percent was completely unexpected when the Board of Trustees approved a 2020 IOLTA distribution of \$55.5 million.

Unfortunately, it is too soon to have a reliable prediction of when the FFR will increase. Assuming, as is likely, that the FFR stays steady through 2021, IOLTA revenue is projected at \$8.2 million annually, a fraction of the high watermark experienced in 2019. This will require using a greater proportion of the reserve to supplement the IOLTA distributions in the next few years, consistent with the reserve policy discussed earlier.

When the Commission recommended and the Board of Trustees approved the 2020 distribution amount, it was considered a moderate distribution level based on a conservative projection. It was believed that the ongoing recertification of banks holding IOLTA accounts would bolster against some of the loss in revenue from possibly declining interest rates. However, this is no longer the case.

Due to the FFR drop, staff has prepared scenarios to assist the Commission while reconsidering the previously approved grant distributions for 2020. There is enough cash on hand to continue with the current distribution plan, but doing so would significantly deplete the reserve. This in turn would impact funding in subsequent years, as there would be less cash in reserve to supplement lower revenue from interest remittance, possibly jeopardizing the stability of funding in 2021 and beyond.

⁵ The FFR represents a target range of interest rates, in this case zero to 0.25 percent. The standard is to use the higher end of the range as the target when working with financial institutions.

⁶ In the case of the recession starting in 2008, interest rates did not increase for seven years—until December 2015—and the increase was gradual.

⁷ As noted, this is a projection, and was based on the assumption that the amount on deposit in IOLTA accounts would remain stable. April 2020 was the first full month where the interest rate changes took effect. The impact of the interest rate change on remittances from banks from this month will provide far better indication of the outlook for the rest of the year. Unfortunately, we are still waiting for reports from several banks. We plan to provide a full update at the Commission's June meeting regarding the amount of deposited assets that remain and the interest revenue generated for April; we will endeavor to provide any preliminary information available at the May meeting.

CURRENT CARRYOVER POLICY

Under Business and Professions Code section 6216, the State Bar must distribute funds remitted from IOLTA accounts on an annual basis. Pursuant to the IOLTA grant agreements signed by the recipients, grantees are also expected to spend their grant awards within the year; the grant period runs from January 1 through December 31 of the year the funds are awarded. At times grantees face challenges in spending down the full amount. When that happens, they typically ask to carry over the remaining award balance into the next calendar year. Otherwise, pursuant to the General Grant Provisions, specifically section 2.03, the grantee would have to return the unspent funds at the end of the grant period. (See Attachment B.)

Office practice regarding carryover requests requires grantees to notify the Office of Access & Inclusion so that the amount can be appropriately tracked and reconciled through quarterly reports. Requests to carry over less than 10 percent will be permitted. Those between 10 and 25 percent of a grant must be approved by the Office of Access & Inclusion, and any request to carry over an amount exceeding 25 percent of a grant must be reviewed and approved by the Commission. This policy was approved by the Board of Trustees in January 2019. (See Attachment C.)

Carryovers equal to 10 percent or more of the grant require a narrative explanation from the grantee regarding the circumstances leading to the request, which is reviewed by staff or the Commission (as appropriate). For approved carryover requests, grantees are notified that they must spend those funds by June 30 (i.e. the end of the second quarter) or return the remaining sum to the State Bar. This reflects longstanding office practice. However, there are no governing authorities requiring that carryover funds be spent within any set timeframe. Staff anticipates increased carryover requests into 2021 due to the uncertainty around funding, and that grantees may request the ability to carry funds over for more than six months. Staff recommends that the Commission consider granting these requests in light of the current circumstances.

TREATMENT OF BUDGET REVISIONS AND DEVIATIONS

Similar to carryover requests, sometimes grantees request to revise their budgets during the grant year. This may happen for a variety of reasons, from staffing changes to an increased need for supplies or unexpected costs. A recent example was the need to invest in more laptops to adapt to remote working conditions on short notice due to COVID-19.

The current policy for budget revisions is similar to the carryover policy: anything up to \$10,000 or 10 percent of the grant, whichever is less, is permissible without approval. (See General

Grant Provision 7.01 in Attachment B.) Staff has discretion to approve revisions up to 25 percent of the grant, and the Commission reviews anything above that percentage.⁸ Grantees are expected to notify the State Bar as soon as possible once they become aware of the need for a revision, so these requests may occur throughout the year, versus carryover requests, which typically happen towards the end of the grant period. These revisions are routinely granted.

When approving proposed budgets for the year, or reviewing budget revisions during the year, staff and the Commission seek to ensure that programs allocate a minimum of 75 percent of the budget to program costs with the remaining 25 percent or less to administration costs; a similar allocation is expected for personnel versus non-personnel costs. This reflects longstanding practice; staff may approve budgets that fall within these parameters but elevate budgets that deviate for Commission review. Deviation from these allocations is a threshold that signals a budget may require closer scrutiny to ensure it complies with grant requirements, but it is not a fixed rule.

The Commission has discretion to deviate from these percentages if a grantee provides an appropriate explanation of their need to do so. For 2020 and 2021, staff recommends that the Commission adopt a flexible approach to both budget revisions and those that deviate from the standard 75/25 allocation between programs and administration and personnel versus non-personnel.

ALTERNATIVE DISTRIBUTION SCENARIOS FOR 2020 IOLTA FUNDS

After the FFR dropped to zero to 0.25 percent, the Office of Access & Inclusion analyzed the impact this would have on funding for the next four years if the current 2020 IOLTA distribution held. Staff also prepared alternative projections in the event the Commission recommends to reduce funding now in order to stabilize awards in the next few years. Attachment D presents the calculations of various reductions to 2020 funding, showing the anticipated revenues, the proposed distribution based on application of the cash-on-hand policy, and the amount of reserves that would be remaining for future years. The options considered thus far are as follows:

- A. Maintain the current 2020 IOLTA distribution of \$55.3 million, leaving \$14.6 million in projected reserve, and allowing a 2021 distribution of \$20.6 million;
- B. Reduce the 2020 IOLTA distribution by 13 percent, which will result in \$48 million in IOLTA funding and leave a projected reserve of \$21.9 million, allowing a 2021 distribution of \$26.2 million;

⁸ This division of responsibility is set forth in the functional matrix approved by the Board of Trustees in January 2019. See Attachment C.

- C. Reduce the 2020 IOLTA distribution by 25 percent, which will result in \$41.5 million in IOLTA funding and leave a projected reserve of \$28.4 million, allowing a 2021 distribution of \$31.2 million; or
- D. Reduce the 2020 IOLTA distribution by 33 percent, which will result in \$37 million in IOLTA funding and leave a projected reserve of and \$32.8 million, allowing a 2021 distribution of \$25 million⁹

These figures are based on conservative projections and estimates, as there are many factors to consider and changes to any of them could impact revenue and distribution moving forward. The projections assume that the interest rate will remain at its lowest rate through 2024, that the State Bar will not be able to generate more revenue through the recertification process or Leadership Bank Program, and that voluntary donations through fee statements and the Justice Gap Fund will decrease slightly.

DISCUSSION

POSSIBLE CHANGES TO 2020 IOLTA DISTRIBUTION AND ITS EFFECT ON 2021 IOLTA AWARDS

Based on the following information and considerations, staff recommends no change to the 2020 distribution of \$55.3 million, and a 2021 distribution of \$20.6 million, leaving a projected \$6.2 million in reserve at the end of the 2021 calendar year (described as Option A, above).

Grantees' Response to Potential Funding Changes

The Office of Access & Inclusion held a webinar on Thursday, April 30 to provide IOLTA grant recipients an overview of these possible IOLTA distribution scenarios. Approximately 150 people attended the webinar, and a document with Frequently Asked Questions was prepared and distributed as a follow-up to the webinar. (See Attachment E.) A survey was distributed in order for grantees to provide feedback on their preferences regarding the 2020 and 2021 IOLTA distributions, as well as any impact they anticipate on their operational capacity from COVID-19. Responses were due on May 8.

Of 99 grantees, 93 responded. For 2020, over two-thirds of respondents reported they anticipate no change to their expenses or a slight decrease. Sixteen percent expect an increase of 10 to 30 percent in their expenses this year. These were mostly qualified legal services projects (only one support center chose this option). Similar responses were reflected in the 2021 projected expenses. While approximately two thirds expect a negative impact on funding

⁹ Under this option, the 2021 distribution would be lower despite reducing the distribution more now because more funds would be applied to the 2022 distribution to stabilize funding. See Attachment D.

from other sources in 2020, the vast majority (82 percent) expect a decrease in outside funding in 2021, mostly between 10 to 30 percent. If this holds true, organizations with increasing expenses but decreasing sources of funding (approximately one fifth of grantees) will be most acutely affected. (See Attachment F for full summary of survey responses.)

Grantees also ranked their preference amongst the four distribution scenarios discussed above using forced-choice ranking. A ranking of one (most preferred) was weighted more heavily than a ranking of four (least preferred). Chart 1 illustrates the weighted score for each scenario. The weighted scores demonstrated more support for a 13 percent (Option B) or 25 percent change (Option C) in comparison to no change (Option A) or a 33 percent change (Option D) scenario. Chart 2 reflects the number of responses for each scenario across ranking preference.

Chart 1

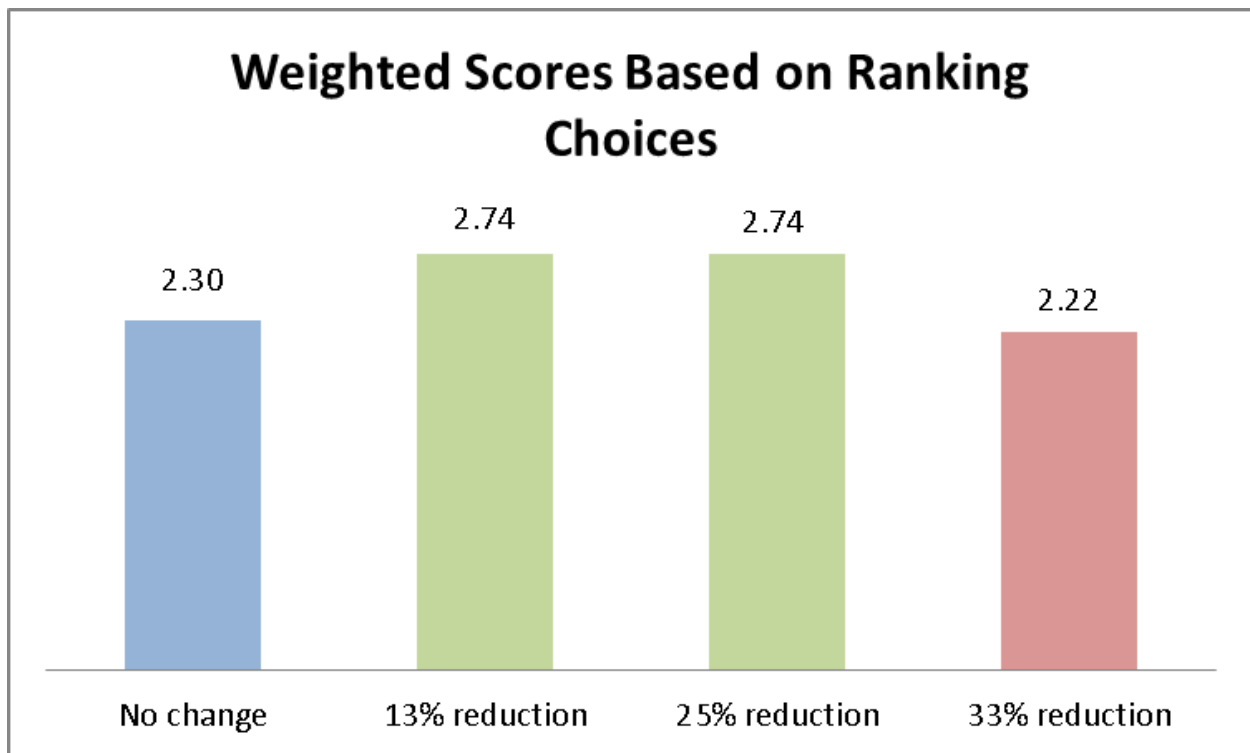


Chart 2

Weight	40%	30%	20%	10%	Weighted Score	Total Responses
	Ranked #1	Ranked #2	Ranked #3	Ranked #4		
No change	29	12	10	42	2.3	93
13% reduction	17	37	37	2	2.74	93
25% reduction	19	33	39	2	2.74	93
33% reduction	28	11	7	47	2.22	93

The two most extreme options—keeping the current distribution or reducing it by 33 percent—were both the most preferred and the least preferred options. Thirty-one percent (29 of 93 respondents) wanted no change as their first choice, while 45 percent listed it as their last choice. Almost the same number of respondents preferred a 33 percent reduction as their first choice, but 50 percent of respondents listed that as their last choice. Many grantees preferred more modest reductions as their second or third choices, which is why, with the weighted rankings, a 13 percent or 25 percent reduction emerged as the most preferred, or supported, choices overall. (See Chart 2 above). Attachment F provides more detailed information regarding organizations’ responses, including breaking out responses based on organizational size (based on total corporate expenditures).

Several comments mentioned the increased demand for services given the ongoing crisis and the fact that reducing funding now may impact their ability to provide services. Similarly, some have assumed financial obligations that they expected to meet based on the previously-approved funding distribution and would risk default or layoffs with major decreases in funding. Moreover, this reduction would occur fairly late in the year, leaving the possibility of an uneven impact on organizations that were spending proportionately each quarter versus those that saved more funds for the second half of the year.¹⁰ A major reduction, such as 33 percent, might even destabilize some agencies so much that they would cease to operate, depriving them of the intended benefit of preserving additional funds for future years.

On the other hand, several organizations preferred a moderate reduction now to ensure stable funding in the next couple years. Just as there are ongoing conversations and meetings around

¹⁰ Though grantees submit quarterly reports, they are not required to spend equal amounts of the grant each quarter. They can budget however they see fit within the calendar year as long as the award is spent down during the grant period.

what will happen with IOLTA , grantees expressed deep uncertainty about their other funding sources; multiple survey responses underscored the fact that they were only able to estimate what the future may hold in terms of expenses and funding. There is the possibility of additional emergency funding, but it is too soon to say what amount, if any, will be available this year. If more funding streams become available, it could partially offset the reductions to 2020 IOLTA funds, at least for some organizations, but it would unlikely reach all grantees.¹¹

While maintaining the current 2020 distribution of \$55.3 million will result in a 63 percent decrease in 2021 grants to \$20.6 million, staff strongly believes that the no change recommendation coupled with generous carryovers into 2021 will enable programs to address their individual needs more effectively. The survey results demonstrate the varying challenges organizations are facing during the current health crisis, with some needing increased funding to match immediate increased demand and others anticipating demand for services to rise in 2021 or beyond.

Flexible carryovers will provide programs that need to save funding for 2021 with the ability to do so while also allowing programs with increased need in 2020 to spend down their full grant award. While we recognize that allowing programs large carryovers, as opposed to returning unused funds to be redistributed through the IOLTA formula in a subsequent year, could potentially penalize programs that have yet to apply for IOLTA funding, this concern appears to be outweighed by the concrete needs of the current grantees and the low-income communities they serve.

Considerations Regarding Alternative Distribution Scenarios and Potential Funding for IOLTA-funded Grantees

Staff recommends no change to the 2020 IOLTA distribution. To the extent the Commission wishes to contemplate the other alternatives, we have included relevant considerations here, as well as a summary of additional funding streams that may become available this year.

- 1. 13 percent reduction to the 2020 IOLTA distribution:** If the Commission were to choose a 13 percent reduction in the 2020 IOLTA distribution, staff would recommend a 2021 IOLTA distribution of \$26.2 million. That amount is very close to the 2019 distribution. In that sense, the original 2020 IOLTA distribution would be the anomaly, and the 2021 IOLTA distribution would be more in line with prior grant awards. Implementing a 13 percent reduction would allow the State Bar to withhold a little more than half of the fourth quarter payment¹² and to maintain a larger reserve to buoy IOLTA distributions in

¹¹ For example, a bill that would provide an additional \$31 million for renters' legal assistance is being considered in the California Legislature.

¹² This would not affect Equal Access Fund payments which come from a different source.

future years in the event the economy does not recover as quickly as hoped.¹³ Given that approximately two thirds of grantees reported that they expect their expenses will remain the same or decrease in 2020 and 2021, a modest reduction may be prudent. However, it would have to take into account anticipated reductions to other sources of funding.

Moreover, a 13 percent reduction represents a compromise between the two most drastic options (do nothing or reduce the 2020 distribution by 33 percent). Based on the weighting in the survey of grantees, the 13 percent and 25 percent reduction options were given preference based on grantees' rankings. For those organizations that did not want any reduction to this year's funding, it is still possible that emergency funding (highlighted below) may become available to supplement those losses, an option which is less likely in subsequent years as we move away from the current crisis. For those organizations that indicated that they were willing to take a larger funding reduction now for more stable funding later, a 13 percent reduction in the 2020 IOLTA distribution paired with a generous carryover policy can help those organizations reserve some 2020 funds for next year.

2. **25 percent reduction to the 2020 IOLTA distribution:** A 25 percent reduction would lead to a \$31.2 million recommended distribution in 2021. This option received the same weighted score as the 13 percent reduction option based on grantees' survey responses. However, at least one grantee pointed out that anything higher than 13 percent would exceed the ability to maintain full-time equivalents, leading to layoffs. (Any reduction has the potential to lead to layoffs, but the bigger the funding reduction, the more likely this becomes a necessity rather than an option.) Given the fact that the distribution scenarios and estimates prepared by staff were based on conservative, or low, projections, a 25 percent cut might be more drastic than necessary.
3. **33-percent reduction to the IOLTA distribution:** Though almost a third of grantees ranked this as their most preferred option out of a desire for stable funding in continuing years, over fifty percent ranked it as their least preferred option. Some of the grantees that were opposed explained that it is easier to plan for future reductions in funding than it is to adapt to unexpected ones so late into the grant period. Since future reductions are inevitable—the question is not “if” but “how much”—at least they will have the ability to thoughtfully accommodate those changes. This would not be possible with a major change to funding now.

¹³ As noted previously, it took several years for interest rates to rise after the last recession.

Staff strongly recommends against this option. Such a large reduction, especially in the third quarter of the grant period, would contravene typical guidance from the State Bar, which is to spend as much of the award in the grant period as possible. It would effectively penalize grantees that have been spending down their awards accordingly, and it could cause more difficulties for grantees than it solves. If the Commission chooses to approve carryovers more liberally, grantees could opt to reduce their 2020 awards by requesting the amount to be carried over into 2021.

Below are potential additional funding opportunities (and in one instance, a loss) for IOLTA-funded grantees that may be relevant to the Commission's decision. This list is not exhaustive, nor is it guaranteed. More definitive information will be provided at the meetings in May and June if and where possible.

1. **Request for \$35 Million Addition to Equal Access Fund (EAF) Proposed by Assembly Judiciary Committee:** If approved, this funding would be rolled into our current EAF grants, which are administered by the State Bar and 90 percent distributed using the IOLTA formula and the other 10 percent as Partnership grants. We will know once the State's budget for fiscal year 2020-2021 is approved in late June, barring any delays in the process. (See Attachment G.)
 - a. In contrast, Governor Newsom's May Budget Revision, published May 14, includes a five percent reduction to his proposed 2020-2021 budget affecting EAF grants. If approved, this would reduce the EAF grants (consisting of EAF-IOLTA and EAF Partnership grants) by \$1,019,000 in 2021 (based on the proposed allocation of \$20.4 million from the General Fund in the original version of the budget).
2. **Assembly Bill 2272:** This bill would provide funding for eviction defense and prevention services, including rental assistance. As currently drafted, the Legal Services Trust Fund Commission would administer the funding, but it would be open to non-IOLTA programs as well. If approved, these funds would not be evenly distributed to all IOLTA programs, and it could be structured as a competitive RFP. This will not be introduced as part of the June state budget; at the earliest, it may be negotiated in budget trailer language in August or September 2020.
3. **\$331 Million in National Foreclosure Settlement:** The California Department of Finance is undergoing a one-year planning period to see how these funds should be spent and which agency would be the most appropriate to administer them. The State Bar has been in conversation with the Department of Finance regarding the portion of funding that will go towards legal services. The Governor's May Revision dedicates \$31 million of these funds to the EAF to assist legal aid agencies that represent or provide legal assistance to homeowners, former homeowners, or renters in housing-related matters.

The State Bar has advocated for a flexible interpretation of that language, in line with the administration of EAF-Homelessness Prevention funding where economic security related to the threat of foreclosure can apply to a variety of issue areas (employment, public benefits, etc.). The California Housing Financing Agency will administer the remaining \$300 million for housing counseling and mortgage assistance. We will be able to provide a more thorough update in the next few weeks.

Though any possible additional funding sources are encouraging and would be helpful to the legal aid community, staff does not recommend relying on receipt of funds when making a decision regarding the 2020 IOLTA distribution. Not only are they not guaranteed, but in the case of AB 2272 and the National Foreclosure Settlement, both those funding sources would restrict funding to certain substantive practice areas. Consequently, not all IOLTA grantees would benefit equally from these funding sources, and some would continue to rely more heavily on stable IOLTA awards. However, should the \$35 million Equal Access Funds be approved, staff would recommend that the Commission consider a modification to the 2021 IOLTA distribution based on the additional general EAF funding, thus avoiding a steep decline in IOLTA funding in future years.

Options Available to the Commission When Considering Carryover Requests

Section 6216 of the IOLTA statute instructs that the “State Bar shall distribute all moneys received under the program ... for the provision of civil legal services to indigent persons,” and further, that “the funds shall be distributed on an annual basis.” Similarly, IOLTA grant agreements signed by grantees also reflect a one-year funding cycle that requires spending the funds in the year distributed.

Carryover requests into the next year are permissible but have traditionally only extended to the end of the second quarter on June 30. When a grantee submits a carryover request, the request will unquestionably be approved if below 10 percent of the grant. A request equal to 10 to 25 percent of the grant may be approved by the staff of the Office of Access & Inclusion, and anything above 25 percent must be reviewed and approved by the Commission. Carryover requests are not uncommon and are routinely approved. It is also rare for an organization to fail to spend down the carryover funds within the first two quarters of the next year.

With the current economic climate and uncertainty around future funding sources and grant awards, staff has received numerous inquiries about the policy for carryover requests. Staff communicated to grantees that the State Bar will be as flexible as possible regarding these requests but also indicated that it would require further analysis regarding the limits of the Commission’s authority in this regard.

While Business and Professions Code section 6216 requires funds to be distributed on an annual basis, no statute or State Bar Rule requires grantees to spend funds within any particular timeframe. Given the requirements of the General Grant Provisions, it is clear that the carryover request must be submitted before the end of the one-year grant cycle in the IOLTA grant agreements. Nonetheless, that does not mean that the Commission is limited in how long of an extension it may allow.

After further review of the IOLTA statute, State Bar Rules, and Grant Provisions, staff is of the opinion that the Commission has wide discretion in determining the amount of the carryover request and time that the grantee has to spend the funds. Thus, the Commission may review and approve individual carryover requests in whatever amount and for up to the full year on a case-by-case basis, which staff recommends. However, staff also emphasizes the Commission's oversight role as a steward of IOLTA grant funds; though recommending a flexible approach, staff urges careful consideration of any carryover and/or budget revisions requests to ensure they are reasonable under the circumstances and otherwise comport with the Grant Provisions.

If the Commission wishes to create a blanket policy that differs from current practice when handling carryover requests (e.g. automatically approving carryover requests up to 50 percent of the grant award instead of on a case-by-case basis for requests above 25 percent), this will require approval by the Board of Trustees. Staff does not believe that the unusual circumstances occasioning such large or extended carryover requests reflect the norm. Further, staff does not recommend establishing fixed policies on the basis of the current crisis, as it will take time to understand the long-term implications of the current economic situation; the larger policy issues can be addressed during the existing codification process.

Recommendations Regarding 2020 and 2021 IOLTA Distributions, and Carryover and Budget Revision Requests

The Commission's choices regarding possible changes to the current IOLTA distribution will have a direct impact on the amount of funding available for distribution in 2021. The Commission's treatment of carryover requests and budget revisions also affects the financial impact on grantees as they try to sustain their operations and staff in the face of a public health emergency. Consequently, staff recommends that the Commission (1) recommend no change in the 2020 IOLTA distribution, (2) recommend to the Board of Trustees a distribution of \$20.6 million in 2021, and (3) consider extending carryover periods for up to a full year and/or allowing larger budget revisions where appropriate on a case by case basis.

By the time the Commission makes a recommendation and the Board of Trustees votes on the 2020 and 2021 IOLTA distributions, we will already be in the third quarter of the year. Making

any reductions that far into the year would likely have an uneven impact on grantees.¹⁴ Many grantees highlighted the fact that they had undertaken certain financial obligations or investments with the expectation that they would receive the full grant award in 2020. Assuming the Commission adopts a generous approach to carryover and budget revision requests, choosing to keep the 2020 IOLTA distribution the same would provide the most autonomy to grantees to make their own budgeting decisions.

Given the varied assessments from grantees describing the impact of COVID-19 on their operations and expenses, such flexibility may be the best way to ensure that grantees can continue to meet their obligations effectively. This may be especially crucial for organizations that may lose alternative funding sources in the meantime. Cutting these organizations' IOLTA awards in addition to the loss of other funds, would directly impact their amount of qualified expenditures on their future IOLTA applications, resulting in a diminished award. Thus, these organizations would actually lose more money over time compared to other grantees.

As previously discussed, because no statute, Rule, or other authority mandates that grantees spend funds within a set timeframe, the Commission has wide discretion in the amount of the IOLTA grant award that it can allow a grantee to carry over into the next year, and in the amount of time the Commission can allow for the spenddown. Relaxing restrictions on the amount and/or length of carryover requests, with proper oversight, could help buffer the inevitable drop in funding that will occur in 2021, regardless of what decision is made regarding the 2020 distribution itself.

Staff recommends that the Commission review individual carryover requests above 25 percent of the 2020 award with an eye toward approving such requests. Staff further recommends that the Commission consider allowing the spenddown over the course of the entire year in 2021, rather than limiting it to the first half.¹⁵ Grantees must provide an explanation of the need for the carryover, which will allow the Commission the opportunity to assess the reasonableness of each request.

Staff does not recommend that the Commission create a blanket policy regarding carryovers going forward, however. Staff believes the Commission should handle these requests on a case-by-case basis and that consideration of any policy change in this area should be reserved for the ongoing codification process.

¹⁴ For example, a 33 percent reduction would require checks to be delayed until a decision on the distribution is finalized or require the third quarter payment to be divided into installments, as a 33 percent annual reduction would eliminate the fourth quarter payment entirely and reduce the third quarter payment

¹⁵ Staff recommends that carryover requests that are not in excess of 25 percent of the grant but that seek to spend down the funds over an extended period of time (i.e. more than 180 days) be elevated for Commission review as this is a deviation from current practice.

In summary, staff makes the following recommendations to the Commission:

1. Maintain the current 2020 IOLTA distribution in the amount of \$55.3 million;
2. Recommend a 2021 IOLTA distribution of \$20.6 million to the Board of Trustees;
3. Recommend that the Board of Trustees delegate authority to the Commission to make changes to the IOLTA distribution if significant additional funding is made available (or lost) to IOLTA-funded grantees;
4. Maintain a flexible and generous approach to carryover requests for 2020 grant funds, in particular by allowing larger amounts to be carried over and by permitting spenddown over all of 2021; and,
5. Maintain a flexible and generous approach to budget revision requests, including permitting deviations from the 75 percent program/25 percent program/administration allocation.

Upcoming Commission Meetings and Eventual Recommendation to the Board of Trustees

This memorandum is intended to provide as much information and as many options as possible for the Commission to have a full discussion at the May 27 meeting. However, a vote is not planned until the June 26 meeting. Nonetheless, to provide a concrete starting point for the Commission's discussion, staff proposes a possible motion, below:

"In light of the unforeseen economic impact of COVID-19 and the attendant drop in interest rates affecting the revenue generated by the Interest on Lawyers' Trust Accounts (IOLTA) funds, the Legal Services Trust Fund Commission recommends that the Board of Trustees maintain the 2020 IOLTA distribution at \$55,294,144, leaving a projected reserve of \$14,618,204, and further recommends approval of the 2021 IOLTA distribution in the amount of \$20,590,926, which would use \$8,440,926 of the projected reserve at the end of 2020, and leave a projected reserve of \$6,177,278 at the end of 2021.

If changes to the Equal Access Fund occur, impacting IOLTA-funded grantees, then the Commission recommends that the Board of Trustees delegate authority to the Commission to determine whether increases or decreases to the 2020 and/or 2021 IOLTA distributions are appropriate."

As mentioned earlier, the position that the Commission takes on carryover requests and budget revisions does not require approval by the Board of Trustees unless the Commission wishes to make an overarching policy change.

ATTACHMENTS LIST

- A.** State Bar 2006 Cash On Hand Policy/Reserve Policy
- B.** General Grant Provisions
- C.** Functional Matrix from Appendix I Review Process
- D.** Distribution Spreadsheets
- E.** Frequently Asked Questions Distributed to Programs on May 4
- F.** IOLTA Distribution Survey and Summary of Grantee Responses
- G.** Assembly Committee on Judiciary Letter Regarding Proposed EAF Funding

AGENDA ITEM

MARCH 54-166

Legal Services Trust Fund Program:
Set Amount for Distribution for
2006-2007 IOLTA Grants

BCSR

03/17/06

Open / Action
Item III.B.

DATE: February 28, 2006

TO: Members of the Board of Committee on Stakeholder Relations
Members of the Board of Governors

FROM: Judy Garlow, Director, Legal Services Trust Fund Program

SUBJECT: Legal Services Trust Fund Program:
Set Amount for Distribution for 2006-2007 IOLTA Grants

Executive Summary

Each year, the Board of Governors sets an amount for distribution in Legal Services Trust Fund Program grants from interest on lawyer trust accounts ("IOLTA"). Since 1992, the method for setting the amount has been to allocate for the grants the amount of prior year revenue less administrative costs, adjusted by an amount by which cash on hand as of June 30 is projected to be more or less than a specific percent of the prior year's net revenue. Most recently, this cash-on-hand target has been 30 percent. After consultation with the Legal Aid Association of California, the Legal Services Trust Fund Commission is recommending adjusting this target for this year upward to approximately 50 percent, so as to take advantage of increased IOLTA revenue to put us in a position to cushion the effects of lower interests rates as needed in the future. Using this system will result in 2006-2007 grants of \$12.7 million, up about 6 percent from the \$12 million distributed in the 2005-2006 grant year.

BACKGROUND

The Board of Governors each year sets an amount for distribution in IOLTA grants to be administered by the Legal Services Trust Fund Program. That amount is distributed for the grant year beginning July 1. The amount is set in March or April, depending on the board meeting schedule, so that the Trust Fund Commission can notify each recipient program of a grant amount, give them 30 days to prepare proposed budgets, review the budgets and still get grant agreements signed and the checks mailed in July.

For each of the first eight grant periods (fiscal years 1984-1985 through 1991-1992), the amount approved for distribution was the total money projected to be on hand June 30. This amounted to the total revenue of the program in the year preceding the grant period, less administrative costs during the same period. In other words, the program collected money for a year and then gave it out in the following year.

At the beginning of the grant year, 100 percent of the money for grants was on hand. Grants were disbursed in quarterly payments. At the same time, money came in that would become the next year's grants, so the program always had on hand about one full year's revenue.

In 1992, the Board of Governors changed that system on the recommendation of the Legal Aid Association of California and the Trust Fund Commission. We moved away from a system where grants were made up only of money already in hand, and to a system of paying part of the grant out of income as it came in. The motivation for this change was the view that the program did not need to keep such a large amount of cash on hand, especially in times of low interest rates and correspondingly lower revenue.

The basic distribution method remained, as before, to allocate for grants the amount of prior year revenue less administrative costs. To determine the amount for distribution, this net prior year revenue amount was adjusted by the amount by which cash on hand as of June 30 was projected to be more or less than a set percentage of the prior year's revenue amount. When the original change was made in 1992, interest rates had begun to drop and the target was set at 75 percent, in order to increase grants by 6 percent over the previous year even though revenue was down about 7 percent. Subsequently, interest rates fell dramatically. The cash-on-hand target was reduced to 60 percent and then to 30 percent, where it has remained for the last 12 grant years.

In years when revenue is increasing, the money coming in exceeds the grant amount going out, and cash on hand builds up above 30 percent. That "extra" amount is added onto the grants for the next year, resulting in a larger increase. In years when revenue is decreasing, the money coming in is less than the grant amount going out, and cash on hand drops below 30 percent. We make up for that by holding back money to increase the cash on hand for the next year, resulting in a greater decrease in grants.

This system has had the desired effect of putting the money in the hands of grant recipients quickly, and has minimized the amount of the program's cash on hand. Because of the swings in interest rates in the last several years, however, it has also meant there were somewhat unpredictable swings in the amount of grants from year to year. As just one example, the total grant amount went up 22 percent in 2001 and then back down 38 percent the following year. Although the grants on average represent a small share of each recipient's total income, in many cases, the ups and downs have been significant. In a time of increasing revenue, the Trust Fund Commission decided to explore whether there might be a better approach.

PROPOSED CHANGE

The Commission has now discussed its proposed change with the Legal Aid Association of California, which consulted with all of the recipients of Trust Fund Program grants. LAAC came back to the Commission in support of the proposal, with a few relatively small suggestions that the Commission has incorporated into this recommendation.

The proposal is to increase cash on hand above 30 percent with the goal of decreasing the fluctuation in grants caused by sizable increases and decreases in interest rates. In years of increasing revenue, grants would be held to a smaller increase than is currently provided for, so as to increase cash on hand. Then in years of decreasing revenue, the cash on hand will be spent down again, to keep grants larger than they would otherwise have been.

The recommendation of the Commission and the legal services community involves a three-step calculation for years in which income is increasing:

- The amount for distribution will be allowed to increase by 5 percent before increasing cash on hand above the current 30 percent. For 2006-2007, this means an increase from \$12 million to \$12.7 million in total grants.
- The funds that would represent the next 10 percent increase—in this case, \$1.2 million—will go to increasing the cash on hand.
- In years when revenue increases more than that, the additional amount will be divided equally between increased grants and increased cash on hand, up to a cap of 75 percent of the previous year's available funds. For this year, there is \$229,520 to be shared equally between grants and increased cash on hand.

Two elements of this change will required ongoing discussion between the Legal Services Trust Fund Commission and the Legal Aid Association, to arrive at further recommendations as needed by this time next year. The first of these two elements is the system for distributing the funds held back when we come upon years of declining income. It is much more difficult to come up with an automatic formula for that. It is likely that a policy will be developed after consultation with the Legal Aid Association.

A second issue for ongoing discussion is the cap on the amount held back to increase cash on hand. LAAC suggested limiting the cash on hand to a specific target, in the range of 50 to 75 percent. The Trust Fund Commission has agreed to a 75 percent cap, and also agreed to discuss whether it should be smaller (or larger) than that. The amount for this year will be 53 percent. Between now and the next time the board goes through this process, a year from now, we can explore the most effective cap. This is a decision that must in any case be made annually, based on the particular income in that year.

CURRENT AND PROJECT REVENUE AND CASH ON HAND

Using this revised system for determining the grant amount will result in setting the grant amount for 2006-2007 at \$12.7 million. This grant amount is larger than the 2005-2006 distribution, due primarily to increased income from substantial increases in the balance on deposit in attorney-client trust accounts and also to small increases in the interest rates on checking accounts.

We currently expect net IOLTA revenue (income less expenses) for the period July 1, 2005 through June 30, 2006 to be \$14 million. At this income level, the program expects to have on hand as of June 30, 2006 about \$7.5 million, which is 53 percent of last year's net revenue. To calculate the grant amount for the coming year, we have added to last year's grant amount a 5 percent increase, plus half of the amount by which net revenue is greater than 15 percent of last year's grants.

RECOMMENDATION

The attached schedule shows the calculation, based on actual experience to date and projections through the rest of the grant year.

Because money will continue to be disbursed as it is received, the Trust Fund Commission will continue to monitor revenue closely and will return with recommendations if there are significant variances from the projections. The agreements signed with grant recipients will continue to include language to make clear that payment of these grants is contingent upon the Legal Services Trust Fund Program having sufficient money on hand from IOLTA revenue to make the scheduled payments. In addition, the Trust Fund Commission will meet with LAAC over the coming months to evaluate the effectiveness of the procedures used this year and what changes should be made for the future.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT: None.

PROPOSED RESOLUTION

The Board Committee on Stakeholder Relations will have a recommendation at the time of your meeting. If you agree with this proposal, the following resolution would be appropriate:

RESOLVED, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2006 through June 30, 2007 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$12,720,721 calculated as follows

- (1) The amount projected to be received by the Legal Services Trust Fund Program and the interest earned thereon from July 1, 2005 through June 30, 2006, totaling \$15,256,329, shall be allocated for the grant period July 1, 2006 through June 30, 2007.
- (2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2005 through June 30, 2006, totaling \$1,220,280.
- (3) To be subtracted from the total amount prior to distribution shall be \$1,200,568, 10 percent of prior year net revenue reserved for cash on hand.
- (4) Also to be subtracted from the total amount prior to distribution shall be \$114,760, one-half of the amount over 15 percent of prior year net revenue reserved for cash on hand, and it is

FURTHER RESOLVED that grant payments are to be made from funds received pursuant to Business and Professions Code Section 6212 and the income earned from investment of such funds, and that payment of grants is contingent upon the State Bar having sufficient money on hand from such sources to make the scheduled payments; and it is

FURTHER RESOLVED that the Legal Services Trust Fund Commission is directed to monitor program revenue during the grant year and to recommend action to change the total grant amount for the year if needed in the event of significant variances from projections.

STATE BAR OF CALIFORNIA
Legal Services Trust Fund Distribution
Available Funds for Grant Period 2006-2007

DATE: FEBRUARY 21, 2006

AMOUNT**A. Revenue: 7/1/05 – 6/30/06**

2005:	3rd Quarter	\$	3,726,984
	4th Quarter		3,679,345
2006:	1st Quarter (Projected)		3,900,000
	2nd Quarter (Projected)		<u>3,950,000</u>
Total Revenue		\$	15,256,329

B. Administrative Costs: 7/1/05 – 6/30/06

7/1/05 – 12/31/05	\$	734,972
1/1/06 – 6/30/06 (Budgeted)		815,308
Less Projected Equal Access Fund Reimbursements		<u>(330,000)</u>
Total Administrative Costs	\$	1,220,280

C. Cash-on-Hand Calculation

Cash on Hand 6/30/05	\$	5,547,400
Add: Net Revenue 7/1/05 – 6/30/06		14,036,049
Less: 2005-2006 Grants (Net of amounts from past years redistributed)		<u>(12,005,677)</u>
Projected Cash on Hand – 6/30/06 (53 percent of prior year net revenue)	\$	7,577,772

Grant Amount Calculation

2005-2006 Net Revenue	\$	14,036,049
Less 10 percent reserved for cash on hand		(1,200,568)
Less one-half of amount over 15 percent reserved for cash on hand	\$	<u>(114,760)</u>

Total Grant Amount for 2006-2007	\$	12,720,721
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Prior Year Distribution (2005-2006)	\$	12,005,677
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Percent Increase from Prior Year Distribution	6%
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ATTACHMENT

Selection Guidelines for State Bar Appointments to the ABA House of Delegates

The State Bar will strive to appoint members from its applicant pool meeting the following guidelines:

- One (1) delegate who qualifies as the young lawyer representative;
- Up to two (2) delegates to include the most immediate past member of the ABA Board of Governors and any immediate past officer of the ABA from the California ABA Delegation;
- Two (2) members who have not had substantial volunteer experience but who possess the leadership and other skills to be successful delegation members; and
- Six (6) delegates who have substantial bar experience, especially with the ABA, and are typical of other State Bar appointments.

Unless otherwise authorized by the Board of Governors, Each each member of the State Bar's ABA delegation would be eligible for reappointment to no more than three (3) consecutive two-year appointments or a maximum of six (6) consecutive years of service with the delegation. Delegates who have completed such service may apply in the future after a period of not less than two years from the date of the expiration of the delegate's last term of service with the State Bar.

All members will be encouraged to become broadly participant in ABA activities in order to fully represent the interests of California attorneys.

54-166

RESOLVED, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2006 through June 30, 2007 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$12,720,721 calculated as follows:

- (1) The amount projected to be received by the Legal Services Trust Fund Program and the interest earned thereon from July 1, 2005 through June 30, 2006 totaling \$ 15,256,329, shall be allocated for the grant period July 1, 2006 through June 30, 2007.
- (2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2005 through June 30, 2006, totaling \$1,220,280.
- (3) To be subtracted from the total amount prior to distribution shall be \$1,200,560 10 percent of prior year net revenue reserved for cash on hand.
- (4) Also to be subtracted from the total amount prior to distribution shall be \$114,760, one-half of the amount over 15 percent of prior year net revenue reserved for cash on hand, and it is

FURTHER RESOLVED that grant payments are to be made from funds received pursuant to Business and Professions Code Section 6212 and the income earned from investment of such funds, and that payment of grants is contingent upon the State Bar having sufficient money on hand from such sources to make the scheduled payments; and it is

FURTHER RESOLVED that the Legal Services Trust Fund Commission is directed to monitor program revenue during the grant year and to recommend action to change the total grant amount for the year if needed in the event of significant variances from projections.

RESOLVED, upon recommendation of the Committee on Group Insurance Programs, that the Board Committee on Operations, acting on behalf of the Board between regularly scheduled meetings, hereby approves the formal acknowledgment of Raphael Cotkin's 25 years of service to the State Bar of California; and it is

FURTHER RESOLVED, that that Board Committee on Operations, acting on behalf of the Board between regularly scheduled meetings, hereby authorizes the Committee on Group Insurance Programs to formally present this Board Resolution to Raphael Cotkin at it's Planning Session dinner on Monday, March 13, 2006.

[The above is a report of emergency fax-poll action taken by the Board Committee on Operations on behalf of the Board, March 3 – 6, 2006, between regularly scheduled Board meetings.]

RESOLVED, upon the recommendation of the Los Angeles County Bar Association, that the Board Committee on Operations, acting on behalf of the Board between meetings, approves the resolution adopted by the Los Angeles County Bar Association; and it is

FURTHER RESOLVED, that the Board Committee on Operations, acting on behalf of the Board between meetings, authorizes participation in this resolution in the Tribute Book by March 15, 2006, to be presented to the Chief Justice at the dinner in his honor on April 4, 2006.

[The above is a report of emergency fax-poll action taken by the Board Committee on Operations on behalf of the Board, March 3 – 6, 2006, between regularly scheduled Board meetings.]

Upon motion made, seconded and adopted, it was

RESOLVED, upon recommendation of the Board Committee on Operations, that the Board hereby rejects the Foundation's proposed change to the at-will termination clause, accepts the Foundation's change to the revenue, and modifies Article 2.3 of the MOU along the lines discussed, and delegate to the Executive Director the authority to communicate a final proposal to the Foundation; and it is

THE STATE BAR OF CALIFORNIA
LEGAL SERVICES TRUST FUND PROGRAM
GENERAL GRANT PROVISIONS
(excerpts)

JANUARY 2004

ARTICLE II
GRANT PAYMENT PROVISIONS

2.03 UNEXPENDED FUNDS

At the conclusion of a Grant Period, the Recipient will account to the SBC for the disposition of the Grant as a part of the financial statements required by Business and Professions Code § 6222. Any unused portion of the Grant will be returned to the SBC at the time for such accounting unless the Recipient receives specific authorization from the SBC to retain all or a portion thereof. Any funds so retained by the Recipient at the direction of the SBC will be used by the Recipient in the next Grant Period in accordance with the Approved Budget for such Grant Period. Unused funds which are returned to the SBC shall become a part of unallocated funds administered by the Commission. Recipients who anticipate expending Grant funds beyond the end of the Grant Period for which they were awarded should so indicated in the Budget Narrative.

ARTICLE VII
PROGRAM CHANGES AND BUDGET REVISIONS

7.01 BUDGET REVISIONS

Recipients shall not materially deviate from the Approved Budget without first obtaining the prior written consent of the Director. A material deviation will be deemed to have occurred in the event of anticipated or actual expenditures of Grant Funds which are materially greater or less than as set forth in the Approved Budget, whether in total or by individual line item, or

which materially alter the ratio of Program to Administrative Costs or which involve a disposition of property acquired with Grant Funds. Budget amount increases or decreases will be deemed material when they meet either of the following tests:

1. The individual deviation is in excess of \$1,000 and exceeds the lesser of \$10,000 or 10% of the Recipient's Grant for that Grant period; or
2. The accumulated total of all budget deviations since the beginning of the Grant Period exceeds the lesser of \$10,000 or 10% of the Recipient's Grant for that Grant Period.

In the event of a material budget deviation, the Recipient shall request a revision of its Approved Budget. Such request shall be in a writing submitted to the Director fully delineating the request, the reasons for it, why it is necessary and its effect on the Recipient. The Director may request such additional information that he or she may deem necessary. If the Director determines that use of funds is consistent with the Legal Services Trust Fund Program, he or she will approve the request and the Approved Budget will be deemed amended accordingly.

Recipients shall report all increases or decreases in the approved budget as part of the quarterly financial report submitted pursuant to grant provision 5.01. This information must be submitted whether or not the increase or decrease was a material deviation for which prior consent was required.

Key Grant Approval and Administration Functions by Grant Type	Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role
IOLTA/EAJ/Justice Gap/Licensee Fee Statement Grants									
Development of policy/guidelines/statutory change	Propose rule and guideline changes	Commission role has been inconsistent	Propose rule and guideline changes; identify "gray areas" and bring to Commission for review	Approve rule and guideline changes, identify need for new rules and guidelines to address "gray areas"; address "gray areas" through guideline or rule revision proposals annually	Yes	X		Unclear as related to guidelines	Approve all rule and guideline changes
Review application and audit to determine eligibility	Staff determines eligibility for most programs, subject to final Commission approval	Commission determines eligibility (If staff review reveals substantive issues.) Final vote on all eligible programs.	Staff determines whether programs have met the primary purpose requirement for most programs, and where determination is not apparent, staff elevates to Commission for determination. Staff prepares agenda item for Commission review and approval reflecting eligibility determination recommendations with ability to place some or all recommendations on consent calendar.	Commission determines eligibility (If staff review reveals substantive issues.) Final vote on all eligible programs.	No*			None	None
Determination of program level allocations	Staff runs the formula	Commission approval of full list of programs and allocations	Staff	Approve full list of programs and allocations	No		X	None	Informational item to BOT
Establish data reporting requirements	Staff	Commission approval of changes inconsistent	Staff may propose changes to data reporting requirements.	Commission approves all changes to data reporting requirements.	Yes	X (non-technical changes)	X (technical changes)	None	Approve data reporting requirements which will be codified in either guidelines or rules.
Review/revise carryover policy	Staff proposes	Commission approves	Same	Same	No	X		None	Approve changes to carryover policy which will be codified in either guidelines or rules.
Review of carryover requests	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves requests in excess of 25%	Same	Same	No		X	None	None

Key Grant Approval and Administration Functions by Grant Type	Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role
Review/approve budget revision	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves revisions in excess of 25%	Same	Same	No		X	None	None
Review/revise deeming process/policy	Staff proposes	Commission approves	Staff proposes	Commission approves	No	X		None	Approve changes to deeming process which will be codified in rules or guidelines.
Partnership Grants									
Establish evaluation, selection, and funding level criteria	Unclear	Unclear	Staff recommends	Commission approves	Yes	X		None	Approve (Judicial Council may also need to approve)
Recommendations for project approval and funding amount	Team of Staff and Commission	Team of Staff and Commission	Same	Same	No			None	Informational item to the BOT
Review/approval of budget revisions	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves revisions in excess of 25%	Same	Same	No		X	None	None
Review/revise carryover policy	Staff proposes	Commission approves	Same	Same	No	X		None	Approve changes to carryover policy which will be codified in either guidelines or rules.
Review/approve carryover requests	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves requests in excess of 25%	Same	Same	No		X	None	None
Bank Grants									
Develop policy regarding how funds will be distributed	Joint Staff and Commission Effort	Joint Staff and Commission Effort; Commission approved terms of RFP	Same	Same	No	X		None	Board approval of policy regarding how funds will be distributed

Key Grant Approval and Administration Functions by Grant Type	Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role
Approval of budget revisions	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves revisions in excess of 25%	Same	Same	No		X	None	None
Review/revise carryover policy	Staff proposes	Commission approves	Same	Same	No	X		None	Approve changes to carryover policy
Review/approve of carryover requests	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves requests in excess of 25%	Same	Same	No		X	None	None

The STATE BAR OF CALIFORNIA
History of Legal Aid Grants by Year - Based on Grant Year

Grant Year	G R A N T S					
	IOLTA	EAF IOLTA Formula	EAF Partnership	EAF Homeless Prevention	Bank Settlement	Totals
1984-85	\$ 6,881,000					\$ 6,881,000
1985-86	10,425,942					10,425,942
1986-87	12,360,011					12,360,011
1987-88	14,894,864					14,894,864
1988-89	15,648,532					15,648,532
1989-90	18,384,261					18,384,261
1990-91	21,581,165					21,581,165
1991-92	21,428,612					21,428,612
1992-93	22,729,133					22,729,133
1993-94	15,200,001					15,200,001
1994-95	5,756,477					5,756,477
1995-96	6,611,789					6,611,789
1996-97	9,275,796					9,275,796
1997-98	10,322,491					10,322,491
1998-99	12,062,740					12,062,740
1999-00	11,316,009	8,550,000	950,000			20,816,009
2000-01	11,048,167	8,550,000	950,000			20,548,167
2001-02	13,502,192	8,550,000	950,000			23,002,192
2002-03	8,334,637	8,550,000	950,000			17,834,637
2003-04	7,540,236	8,550,000	950,000			17,040,236
2004-05	8,355,983	8,707,820	950,000			18,013,803
2005-06	12,005,677	8,563,521	950,000			21,519,198
2006-07	12,720,721	12,574,041	1,397,120			26,691,882
2007-08	13,827,156	14,399,980	1,600,000			29,827,136
2008-09	15,520,448	14,399,971	1,600,000			31,520,419
2009-10	13,968,373	14,400,000	1,625,000			29,993,373
2010-11	11,873,095	18,000,000	2,000,000			31,873,095
2011-12	10,685,784	14,580,000	1,570,000			26,835,784
2012-13	10,685,784	14,665,872	1,624,000			26,975,656
2013-14	14,425,869	14,462,200	1,518,000			30,406,069
2015	10,098,108	16,263,394	1,441,604			27,803,106
2016	11,088,089	12,750,000	1,419,000		4,872,790	30,129,879
2017	11,035,486	17,199,506	1,702,000		7,089,925	37,026,917
2018	13,849,656	22,889,072	2,845,710		9,891,289	49,475,727
2019	27,463,024	22,923,100	2,575,000	14,800,001	9,452,789	77,213,914
2020	55,294,144	23,399,148	2,666,000	5,049,999	11,111,629	97,520,920
Totals	\$ 508,201,452	\$ 292,927,625	\$ 32,233,434	\$ 19,850,000	\$ 42,418,422	\$ 895,630,933

Notes: 1) 2013-14 IOLTA grants include 18 month period from July 2013 to Dec 2014.

2) 2015 EAF grants include 15 month period from Oct 2014 to Dec 2015.

Average FFR Interest Rate	1.92%	0.16%	0.18%	0.10%	0.14%	0.11%	0.09%	0.13%	0.39%	1.00%	1.79%
Income	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Bank Trust Account Revenue	\$ 22,268,850	\$ 6,540,851	\$ 6,793,426	\$ 6,077,611	\$ 5,007,709	\$ 4,992,897	\$ 5,225,763	\$ 5,584,435	\$ 6,439,199	\$ 7,036,095	\$ 20,910,031
Licensee Fee Statement-Opt out	-	-	-	1,670,370	3,304,600	3,280,250	4,843,352	6,347,184	6,332,929	6,863,038	6,030,730
Justice Gap Donations		609,392	1,040,068	868,382	2,214,528	1,041,706	969,523	1,022,211	1,161,470	1,409,276	980,045
Transfer from Affinity & Insurance	-	-	-	-	2,000,000	-	-	400,000	-	-	463,845
Transfer from Legislative Activities	-	-	-	-	-	2,000,000	-	-	-	-	-
Tax-Intercept Funds	-	-	-	-	-	-	178,289	99,134	75,822	119,584	154,868
Grants & Grant Repayments	6,128	13,993	5,417	7,353	5,867	-	-	-	-	46,753	5,000
Investment Income	634,273	177,417	51,655	18,128	14,242	14,648	13,594	14,193	56,941	77,687	143,834
IOLTA Sub-Total	24,718,174	7,341,653	7,890,566	8,641,844	12,546,946	11,329,501	11,230,521	13,467,157	14,066,361	15,552,433	28,688,353
Equal Access-CA General Funds	12,215,898	10,979,325	10,605,450	10,070,700	10,002,050	10,392,000	10,392,000	10,392,000	12,642,000	17,642,000	20,392,000
Equal Access-AB145 Filing Fees	6,104,395	5,696,068	6,323,433	5,818,791	5,706,445	5,617,106	3,806,328	3,701,281	3,800,000	4,433,556	4,926,673
Equal Access-State Bar Admin	514,575	566,446	526,379	528,451	527,199	525,120	498,910	442,413	457,500	550,626	487,904
Grant Repayments	15,682	5,866	4,321	7,737	57,735	8,123	-	-	-	-	116,876
Investment Income	80,673	18,861	12,802	3,355	(1,514)	(7,332)	(4,429)	(1,324)	2,392	10,073	(45,597)
EAF Sub-Total	18,931,223	17,266,566	17,472,385	16,429,034	16,291,915	16,535,017	14,692,809	14,534,370	16,901,892	22,636,255	25,877,856
Bank Settlement Awards	-	-	-	-	-	-	-	6,085,197	44,778,670	-	-
Grants & Grant Repayments	-	-	-	-	-	-	-	-	-	15,976	11,928
Investment Income	-	-	-	-	-	-	-	-	155,347	287,025	658,219
Bank Settlement Sub-Total	-	-	-	-	-	-	-	6,085,197	44,934,017	303,001	670,147
Total Income	\$ 43,649,397	\$ 24,608,219	\$ 25,362,951	\$ 25,070,878	\$ 28,838,861	\$ 27,864,518	\$ 25,923,330	\$ 34,086,724	\$ 75,902,270	\$ 38,491,689	\$ 55,236,356
General & Admin Expenses											
Employees as of December ¹	10	10	10	10	10	10	9	8	10	10	9
Personnel	\$ 902,007	\$ 1,034,490	\$ 970,071	\$ 1,037,705	\$ 1,042,168	\$ 1,092,472	\$ 1,077,398	\$ 1,094,524	\$ 1,111,466	\$ 1,225,475	1,499,029
Operating	217,838	84,046	101,381	115,291	105,593	105,135	148,573	130,371	47,013	85,894	61,442
Equal Access-/LAAC	193,205	202,867	192,888	174,548	169,748	226,699	154,222	229,296	198,865	197,740	178,615
Indirect Costs	327,116	312,876	354,496	462,773	493,622	469,861	398,910	578,654	663,120	806,376	829,804
General & Admin Sub-Total	1,640,166	1,634,279	1,618,836	1,790,317	1,811,131	1,894,167	1,779,103	2,032,845	2,020,464	2,315,485	2,568,890
Grant Award Distributions											
Legal Services Trust (IOLTA)	15,543,372	13,952,109	11,866,435	10,685,785	10,685,783	9,617,213	4,808,577	10,064,288	11,088,089	11,035,486	13,849,656
Equal Access	16,158,761	16,158,554	17,831,833	18,245,360	16,142,680	16,264,319	12,020,468	17,610,257	14,837,423	20,804,644	25,677,762
Bank Settlement	-	-	-	-	-	-	-	-	4,872,790	7,089,925	9,891,289
Grant Expense Sub-Total	31,702,133	30,110,663	29,698,268	28,931,145	26,828,463	25,881,532	16,829,045	27,674,545	30,798,302	38,930,055	49,418,707
Total Expenses	\$ 33,342,299	\$ 31,744,942	\$ 31,317,104	\$ 30,721,462	\$ 28,639,594	\$ 27,775,699	\$ 18,608,148	\$ 29,707,390	\$ 32,818,766	\$ 41,245,540	\$ 51,987,597
General & Admin Exp/Total Expense	4.92%	5.15%	5.17%	5.83%	6.32%	6.82%	9.56%	6.84%	6.16%	5.61%	4.94%
Year-End Net Position (Net Assets)											
Legal Services Trust (IOLTA) ²	\$ 16,048,383	\$ 8,401,696	\$ 3,269,770	\$ (49,922)	\$ 500,717	\$ 922,462	\$ 4,914,889	\$ 12,872,226	\$ 10,260,650	\$ 11,171,340	\$ 24,082,586
Total Year-End Net Position	\$ 16,048,383	\$ 8,401,696	\$ 3,269,770	\$ (49,922)	\$ 500,717	\$ 922,462	\$ 4,914,889	\$ 12,872,226	\$ 10,260,650	\$ 11,171,340	\$ 24,082,586
Percentage Net Assets to IOLTA distribution	103%	60%	28%	0%	5%	10%	102%	128%	93%	101%	174%

Legal Services Trust Fund (IOLTA) 2020 Grants Distribution Vs. Up to Date Figures for 2020 and Projections**SCENARIO 1 - No Change****Projected Available Funds for Next Year's Grants**

	2020 Approved 5/19	Updated as 4.20.20 (unaudited \$s) 2020	2021	2022 Estimates	2023	2024
A. Revenue - January through December (prior year) <i>Note that these are revenues for the prior calendar year listed in each column</i>						
Jan-March actual IOLTA Revenue	10,851,720	10,851,720	8,808,879	8,200,000	8,200,000	8,200,000
April-Dec projected IOLTA Revenue	30,384,816	35,602,396	6,150,000			
Justice Gap Funds including cy pres	1,000,000	1,537,668	1,000,000	1,000,000		
Fee Statement Contributions (opt out)	6,000,000	6,255,553	6,000,000	4,800,000	4,800,000	4,800,000
Projected Interest & Tax Intercept Funds	250,000	749,813	300,000	250,000	250,000	250,000
Total Revenue:	48,486,536	54,997,150	22,258,879	14,250,000	13,250,000	13,250,000
B. Expenses - January through December (prior year)						
IOLTA Grant Distributions - Prior Year	27,463,024	27,463,024	55,294,144	20,590,926	13,328,675	11,652,771
Administration, Net of EAF & Bank Settlement	2,100,000	1,863,243	2,100,000	2,100,000	2,100,000	2,100,000
Total Expenses:	29,563,024	29,326,267	57,394,144	22,690,926	15,428,675	13,752,771
C. Prior Year Net Surplus/(Loss)	\$ 18,923,512	\$ 25,670,883	\$ (35,135,265)	\$ (8,440,926)	\$ (2,178,675)	\$ (502,771)
D. Projected Net Assets at December of Prior Year						
Beginning Net Assets of prior year*	24,082,586	24,082,586	49,753,469	14,618,204	6,177,278	3,998,603
Projected Revenue over Expenses*	18,923,512	25,670,883	(35,135,265)	(8,440,926)	(2,178,675)	(502,771)
Prior Year Ending Net Assets:	\$ 43,006,098	\$ 49,753,469	\$ 14,618,204	\$ 6,177,278	\$ 3,998,603	\$ 3,495,831
E. Current Year Projected Revenue & Expenses						
IOLTA Revenue	39,066,192	14,958,879	8,200,000	8,200,000	8,200,000	8,200,000
Justice Gap Revenue	900,000	1,000,000	1,000,000			
Fee Statement Contributions	4,000,000	6,000,000	4,800,000	4,800,000	4,800,000	4,800,000
Interest Income & Tax Intercept Funds	250,000	300,000	250,000	250,000	250,000	250,000
Administration, Net of EAF & Bank Settlement	(2,250,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)
Current Year Revenue after Admin Expenses:	41,966,192	20,158,879	12,150,000	11,150,000	11,150,000	11,150,000
Prior Year Ending Net Assets:	43,006,098	49,753,469	\$ 14,618,204	\$ 6,177,278	\$ 3,998,603	\$ 3,495,831
Funds Available:	\$ 84,972,290	\$ 69,912,348	\$ 26,768,204	\$ 17,327,278	\$ 15,148,603	\$ 14,645,831
F. Grants						
Grant distribution from prior year	27,463,024	27,463,024	55,294,144	20,590,926	13,328,675	11,652,771
5% of 2019 Grants to Programs^	1,373,151	1,373,151				
Remainder Split between Reserve and Grants^	26,694,907	26,694,907				
Grant Adjustments		(236,938)				
Total Current Year Grants:	\$ 55,531,082	55,294,144	20,590,926	13,328,675	11,652,771	11,266,024
% Change over Previous Grant Allocation:	102%	102%	-63%	-35%	-13%	-3%
G. Reserve/Cash on Hand/Net Assets						
10% of 2019 Grants to Stabilization Reserve^	2,746,302					
Remainder Split between Reserve and Programs^	26,694,907					
Projected Reserve/Year End Net Assets:	\$ 29,441,209	14,618,204	6,177,278	3,998,603	3,495,831	3,379,807
Reserve as % of Current Year Grants~:	53%	26%	30%	30%	30%	30%

Legal Services Trust Fund (IOLTA) 2020 Grants Distribution Vs. Up to Date Figures for 2020 and ProjectionsSCENARIO 2: 13% Change

<u>Projected Available Funds for Next Year's Grants</u>		Updated as 4.20.20 (unaudited \$s)	13% Change 2020	2021	2022 Estimates	2023	2024
2020 Approved 5/19		2020	2020	2021	2022 Estimates	2023	2024
A. Revenue - January through December (prior year)		<i>Note that these are revenues for the prior calendar year listed in each column</i>					
Jan-March actual IOLTA Revenue	10,851,720	10,851,720	10,851,720	8,808,879	8,200,000	8,200,000	8,200,000
April-Dec projected IOLTA Revenue	30,384,816	35,602,396	35,602,396	6,150,000			
Justice Gap Funds including cy pres	1,000,000	1,537,668	1,537,668	1,000,000	1,000,000		
Fee Statement Contributions (opt out)	6,000,000	6,255,553	6,255,553	6,000,000	4,800,000	4,800,000	4,800,000
Projected Interest & Tax Intercept Funds	250,000	749,813	749,813	300,000	250,000	250,000	250,000
Total Revenue:	48,486,536	54,997,150	54,997,150	22,258,879	14,250,000	13,250,000	13,250,000
B. Expenses - January through December (prior year)							
IOLTA Grant Distributions - Prior Year	27,463,024	27,463,024	27,463,024	48,001,111	26,200,952	14,623,297	11,951,530
Administration, Net of EAF & Bank Settlement	2,100,000	1,863,243	1,863,243	2,100,000	2,100,000	2,100,000	2,100,000
Total Expenses:	29,563,024	29,326,267	29,326,267	50,101,111	28,300,952	16,723,297	14,051,530
C. Prior Year Net Surplus/(Loss)	\$ 18,923,512	\$ 25,670,883	\$ 25,670,883	\$ (27,842,232)	\$ (14,050,952)	\$ (3,473,297)	\$ (801,530)
D. Projected Net Assets at December of Prior Year							
Beginning Net Assets of prior year*	24,082,586	24,082,586	24,082,586	49,753,469	21,911,237	7,860,285	4,386,989
Projected Revenue over Expenses*	18,923,512	25,670,883	25,670,883	(27,842,232)	(14,050,952)	(3,473,297)	(801,530)
Prior Year Ending Net Assets:	\$ 43,006,098	\$ 49,753,469	\$ 49,753,469	\$ 21,911,237	\$ 7,860,285	\$ 4,386,989	\$ 3,585,459
E. Current Year Projected Revenue & Expenses							
IOLTA Revenue	39,066,192	14,958,879	14,958,879	8,200,000	8,200,000	8,200,000	8,200,000
Justice Gap Revenue	900,000	1,000,000	1,000,000	1,000,000			
Fee Statement Contributions	4,000,000	6,000,000	6,000,000	4,800,000	4,800,000	4,800,000	4,800,000
Interest Income & Tax Intercept Funds	250,000	300,000	300,000	250,000	250,000	250,000	250,000
Administration, Net of EAF & Bank Settlement	(2,250,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)
Current Year Revenue after Admin Expenses:	41,966,192	20,158,879	20,158,879	12,150,000	11,150,000	11,150,000	11,150,000
Prior Year Ending Net Assets:	43,006,098	49,753,469	49,753,469	\$ 21,911,237	\$ 7,860,285	\$ 4,386,989	\$ 3,585,459
Funds Available:	\$ 84,972,290	\$ 69,912,348	\$ 69,912,348	\$ 34,061,237	\$ 19,010,285	\$ 15,536,989	\$ 14,735,459
F. Grants							
Grant distribution from prior year	27,463,024	27,463,024	27,463,024	48,001,111	26,200,952	14,623,297	11,951,530
5% of 2019 Grants to Programs^	1,373,151	1,373,151	1,373,151				
Remainder Split between Reserve and Grants^	26,694,907	26,694,907	19,164,936				
Grant Adjustments		(236,938)					
Total Current Year Grants:	\$ 55,531,082	55,294,144	48,001,111	26,200,952	14,623,297	11,951,530	11,334,968
% Change over Previous Grant Allocation:	102%	101%	75%	-45%	-44%	-18%	-5%
G. Reserve/Cash on Hand/Net Assets							
10% of 2019 Grants to Stabilization Reserve^	2,746,302		2,746,302				
Remainder Split between Reserve and Programs^	26,694,907		19,164,936				
Projected Reserve/Year End Net Assets:	\$ 29,441,209	14,618,204	21,911,238	7,860,285	4,386,989	3,585,459	3,400,491
Reserve as % of Current Year Grants~:	53%	26%	46%	30%	30%	30%	30%

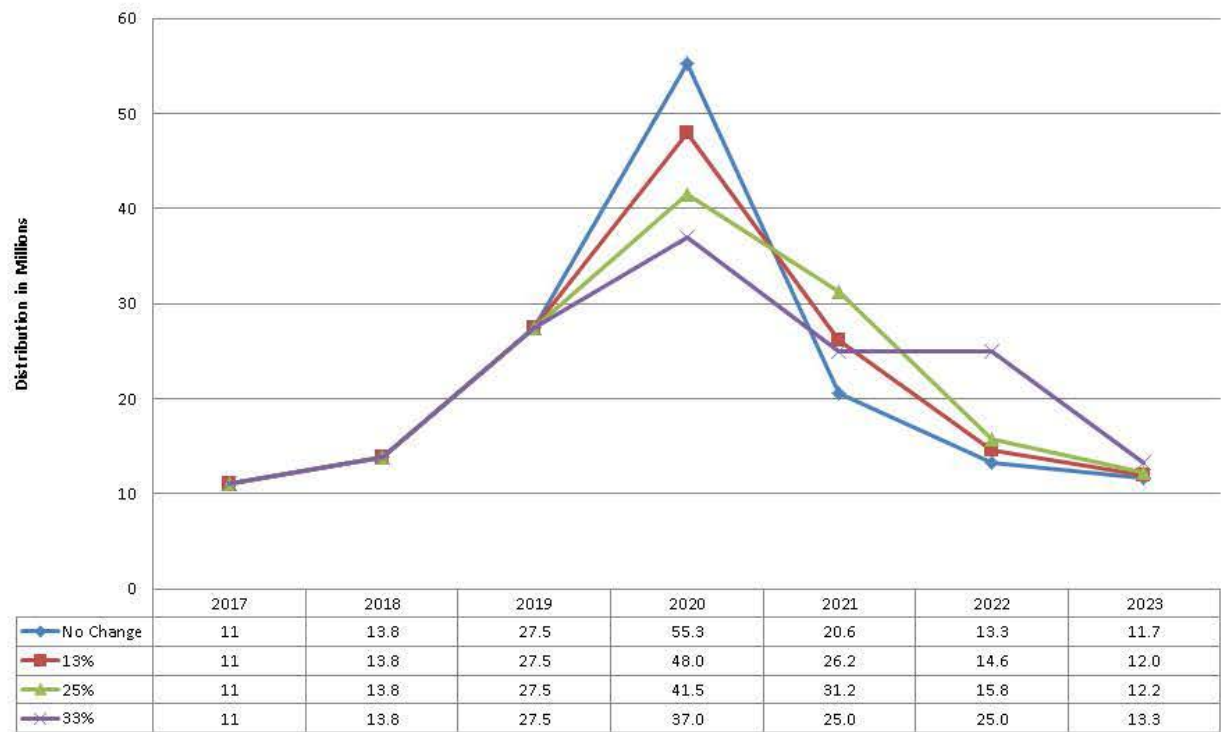
Legal Services Trust Fund (IOLTA) 2020 Grants Distribution vs. Up to Date Figures for 2020 and ProjectionsSCENARIO 3: 25% Change

<u>Projected Available Funds for Next Year's Grants</u>		Updated as 4.20.20 (unaudited \$s)	25% Change				
	2020 Approved 5/19	2020	2020	2021	2022 Estimates	2023	2024
A. Revenue - January through December (prior year)		<i>Note that these are revenues for the prior calendar year listed in each column</i>					
Jan-March actual IOLTA Revenue	10,851,720	10,851,720	10,851,720	8,808,879	8,200,000	8,200,000	8,200,000
April-Dec projected IOLTA Revenue	30,384,816	35,602,396	35,602,396	6,150,000			
Justice Gap Funds including cy pres	1,000,000	1,537,668	1,537,668	1,000,000	1,000,000		
Fee Statement Contributions (opt out)	6,000,000	6,255,553	6,255,553	6,000,000	4,800,000	4,800,000	4,800,000
Projected Interest & Tax Intercept Funds	250,000	749,813	749,813	300,000	250,000	250,000	250,000
Total Revenue:	48,486,536	54,997,150	54,997,150	22,258,879	14,250,000	13,250,000	13,250,000
B. Expenses - January through December (prior year)							
IOLTA Grant Distributions - Prior Year	27,463,024	27,463,024	27,463,024	41,470,608	31,224,415	15,782,557	12,219,052
Administration, Net of EAF & Bank Settlement	2,100,000	1,863,243	1,863,243	2,100,000	2,100,000	2,100,000	2,100,000
Total Expenses:	29,563,024	29,326,267	29,326,267	43,570,608	33,324,415	17,882,557	14,319,052
C. Prior Year Net Surplus/(Loss)	\$ 18,923,512	\$ 25,670,883	\$ 25,670,883	\$ (21,311,729)	\$ (19,074,415)	\$ (4,632,557)	\$ (1,069,052)
D. Projected Net Assets at December of Prior Year							
Beginning Net Assets of prior year*	24,082,586	24,082,586	24,082,586	49,753,469	28,441,740	9,367,325	4,734,767
Projected Revenue over Expenses*	18,923,512	25,670,883	25,670,883	(21,311,729)	(19,074,415)	(4,632,557)	(1,069,052)
Prior Year Ending Net Assets:	\$ 43,006,098	\$ 49,753,469	\$ 49,753,469	\$ 28,441,740	\$ 9,367,325	\$ 4,734,767	\$ 3,665,716
E. Current Year Projected Revenue & Expenses							
IOLTA Revenue	39,066,192	14,958,879	14,958,879	8,200,000	8,200,000	8,200,000	8,200,000
Justice Gap Revenue	900,000	1,000,000	1,000,000	1,000,000			
Fee Statement Contributions	4,000,000	6,000,000	6,000,000	4,800,000	4,800,000	4,800,000	4,800,000
Interest Income & Tax Intercept Funds	250,000	300,000	300,000	250,000	250,000	250,000	250,000
Administration, Net of EAF & Bank Settlement	(2,250,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)
Current Year Revenue after Admin Expenses:	41,966,192	20,158,879	20,158,879	12,150,000	11,150,000	11,150,000	11,150,000
Prior Year Ending Net Assets:	43,006,098	49,753,469	49,753,469	\$ 28,441,740	\$ 9,367,325	\$ 4,734,767	\$ 3,665,716
Funds Available:	\$ 84,972,290	\$ 69,912,348	\$ 69,912,348	\$ 40,591,740	\$ 20,517,325	\$ 15,884,767	\$ 14,815,716
F. Grants							
Grant distribution from prior year	27,463,024	27,463,024	27,463,024	41,470,608	31,224,415	15,782,557	12,219,052
5% of 2019 Grants to Programs^	1,373,151	1,373,151					
Remainder Split between Reserve and Grants^	26,694,907	26,694,907					
Grant Adjustments		(236,938)					
Total Current Year Grants:	\$ 55,531,082	55,294,144	41,470,608	31,224,415	15,782,557	12,219,052	11,396,704
% Change over Previous Grant Allocation:	102%	101%	51%	-25%	-49%	-23%	-7%
G. Reserve/Cash on Hand/Net Assets							
10% of 2019 Grants to Stabilization Reserve^	2,746,302						
Remainder Split between Reserve and Programs^	26,694,907						
Projected Reserve/Year End Net Assets:	\$ 29,441,209	14,618,204	28,441,740	9,367,325	4,734,767	3,665,716	3,419,011
Reserve as % of Current Year Grants~:	53%	26%	69%	30%	30%	30%	30%

Legal Services Trust Fund (IOLTA) 2020 Grants Distribution Vs. Up to Date Figures for 2020 and ProjectionsSCENARIO 4: 33% Change

<u>Projected Available Funds for Next Year's Grants</u>		Updated as 4.20.20 (unaudited \$s)	33% Change 2020	2021	2022 Estimates	2023	2024
2020 Approved 5/19		2020	2020	2021	2022 Estimates	2023	2024
A. Revenue - January through December (prior year)		<i>Note that these are revenues for the prior calendar year listed in each column</i>					
Jan-March actual IOLTA Revenue	10,851,720	10,851,720	10,851,720	8,808,879	8,200,000	8,200,000	8,200,000
April-Dec projected IOLTA Revenue	30,384,816	35,602,396	35,602,396	6,150,000			
Justice Gap Funds including cy pres	1,000,000	1,537,668	1,537,668	1,000,000	1,000,000		
Fee Statement Contributions (opt out)	6,000,000	6,255,553	6,255,553	6,000,000	4,800,000	4,800,000	4,800,000
Projected Interest & Tax Intercept Funds	250,000	749,813	749,813	300,000	250,000	250,000	250,000
Total Revenue:	48,486,536	54,997,150	54,997,150	22,258,879	14,250,000	13,250,000	13,250,000
B. Expenses - January through December (prior year)							
IOLTA Grant Distributions - Prior Year	27,463,024	27,463,024	27,463,024	37,047,076	25,000,000	25,000,000	13,319,440
Administration, Net of EAF & Bank Settlement	2,100,000	1,863,243	1,863,243	2,100,000	2,100,000	2,100,000	2,100,000
Total Expenses:	29,563,024	29,326,267	29,326,267	39,147,076	27,100,000	27,100,000	15,419,440
C. Prior Year Net Surplus/(Loss)	\$ 18,923,512	\$ 25,670,883	\$ 25,670,883	\$ (16,888,197)	\$ (12,850,000)	\$ (13,850,000)	\$ (2,169,440)
D. Projected Net Assets at December of Prior Year							
Beginning Net Assets of prior year*	24,082,586	24,082,586	24,082,586	49,753,469	32,865,272	20,015,272	6,165,272
Projected Revenue over Expenses*	18,923,512	25,670,883	25,670,883	(16,888,197)	(12,850,000)	(13,850,000)	(2,169,440)
Prior Year Ending Net Assets:	\$ 43,006,098	\$ 49,753,469	\$ 49,753,469	\$ 32,865,272	\$ 20,015,272	\$ 6,165,272	\$ 3,995,832
E. Current Year Projected Revenue & Expenses							
IOLTA Revenue	39,066,192	14,958,879	14,958,879	8,200,000	8,200,000	8,200,000	8,200,000
Justice Gap Revenue	900,000	1,000,000	1,000,000	1,000,000			
Fee Statement Contributions	4,000,000	6,000,000	6,000,000	4,800,000	4,800,000	4,800,000	4,800,000
Interest Income & Tax Intercept Funds	250,000	300,000	300,000	250,000	250,000	250,000	250,000
Administration, Net of EAF & Bank Settlement	(2,250,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)	(2,100,000)
Current Year Revenue after Admin Expenses:	41,966,192	20,158,879	20,158,879	12,150,000	11,150,000	11,150,000	11,150,000
Prior Year Ending Net Assets:	43,006,098	49,753,469	49,753,469	\$ 32,865,272	\$ 20,015,272	\$ 6,165,272	\$ 3,995,832
Funds Available:	\$ 84,972,290	\$ 69,912,348	\$ 69,912,348	\$ 45,015,272	\$ 31,165,272	\$ 17,315,272	\$ 15,145,832
F. Grants							
Grant distribution from prior year	27,463,024	27,463,024	27,463,024	37,047,076	25,000,000	25,000,000	13,319,440
5% of 2019 Grants to Programs^	1,373,151	1,373,151					
Remainder Split between Reserve and Grants^	26,694,907	26,694,907					
Grant Adjustments		(236,938)					
Total Current Year Grants:	\$ 55,531,082	55,294,144	37,047,076	25,000,000	25,000,000	13,319,440	11,650,640
% Change over Previous Grant Allocation:	102%	101%	35%	-33%	0%	-47%	-13%
G. Reserve/Cash on Hand/Net Assets							
10% of 2019 Grants to Stabilization Reserve^	2,746,302						
Remainder Split between Reserve and Programs^	26,694,907						
Projected Reserve/Year End Net Assets:	\$ 29,441,209	14,618,204	32,865,272	20,015,272	6,165,272	3,995,832	3,495,192
Reserve as % of Current Year Grants~:	53%	26%	89%	80%	25%	30%	30%

Future IOLTA Distributions by Year





The State Bar of California

OFFICE OF ACCESS & INCLUSION

Date: May 4, 2020

Subject: Answers to Frequently Asked Questions About IOLTA Funding During the Covid-19 Crisis

As a reminder, please complete the IOLTA Distribution Survey by Friday, May 8th.

What is the outlook for IOLTA funding next year and into the future?

- *We know that the Federal Funds Target Rate decreased from 2.5 percent a year ago to its current rate of zero to 0.25 percent and is likely to stay there for some time. While in 2019, actual revenues exceeded estimates by roughly \$5 million, for the 2020 calendar year, we anticipate the IOLTA revenue will drop from our projection of \$39 million to approximately \$15 million. Assuming, as is likely, that the Federal Funds Target Rate does not increase in 2021, IOLTA revenue will be close to \$8 million in successive years.*

Because interest rates had been rising in past years, and because we were successful in getting many banks to further increase the interest rates for IOLTA accounts, grants over the last few years have significantly increased.

At the same time, the Commission and the Board of Trustees is monitoring the situation closely and may have to consider reducing undistributed 2020 grant funds to avoid large swings in the annual grants for 2021 and future years.

Many factors will come into play in the recommendations of the Commission and the decision of the Board of Trustees, including our ability to advocate for more money to broadly support legal aid, and the ability of legal aid organizations to tap into stimulus funds.

Possible Reduction to 2020 IOLTA Grant Funds

IOLTA funding is a large portion of our organization's funding. Will the State Bar take this into consideration when determining a possible reduction to undistributed 2020 IOLTA grant funds?

May 4, 2020

Page 2

- *Yes. We know IOLTA funding is a large percentage of some organizations' overall funding. This will be one of many factors taken into consideration.*

When will we know if there will be a reduction to the undistributed 2020 IOLTA grant funds?

- *The Commission will discuss the data from the IOLTA Distribution Survey in at a meeting in May and approve a recommendation at its meeting on June 26. The Commission's recommendation will be discussed and decided at the Board of Trustees' meeting on July 16. After each meeting we will send an update via email.*

Will a reduction to the 2020 IOLTA grant only effect IOLTA funding?

- *Yes. EAF, EAF Homelessness Prevention, Partnership, and Bank Grants will not be subject to the reduction.*

Will a reduction of 2020 IOLTA grant funds be for the whole year?

- *Yes. The reduction will be calculated on the total amount of the 2020 IOLTA grant awarded. Depending on the percentage of the reduction (13%, 25%, or 33%), it will be held from either the fourth quarter payment or the third and fourth quarter payments (33%).*

Can we have the reduction taken from a different quarterly payment?

- *No. However, your organization does not have to spend down an even amount of each 2020 quarterly payment. For example, if your organization received other funds that need to be spent down in the second quarter, you can budget your IOLTA funds to be spent down during the third and fourth quarter.*

Will the Board's decision apply for all grantees?

- *Yes. We understand we will not have consensus across grantees which is why many factors will be taken into consideration.*

Will there be a cut in 2021 Equal Access Funds?

- *We do not currently anticipate a change to this funding.*

Quarterly Reporting

Can we submit a quarterly report that indicates we didn't spend any IOLTA funds?

May 4, 2020

Page 3

- *Yes. Quarterly reports are a tool to help your organization with its budget. However, if you anticipate a material budget deviation your organization should submit a budget revision as soon as possible. See questions in the “Budget Revision” section below for more information.*

Carry-Over

Can we carry over unspent funds from our 2020 IOLTA grant into 2021?

- *Yes; however, your organization must submit a carry-over request for review and approval if the unspent funds are equal to or greater than 10 percent of the total grant.* State Bar staff review and decide on requests less than 25 percent of the total grant. The Commission reviews and decides on requests greater than or equal to 25 percent of the total grant. See questions below for additional information. Organizations generally know by the end of the third quarter if they will have unspent funds. **The deadline for carry-over requests is November 2, 2020.***

How long does it take to approve a carry-over request?

- *Requests equal to or less than 25 percent of the total grant will be reviewed and approved by State Bar staff. Requests are typically approved within several business days depending on the volume of requests received.**
- *Requests greater than 25 percent of the total grant require approval of the Commission. Requests submitted by the November 2, 2020 deadline will be discussed and decided by the Commission at its meeting on November 13, 2020.**

If our carry-over request is approved, how long do we have to spend down our funds?

- *Remaining grant funds are traditionally approved to be spent during a 180-day carry-over period (January 1 through June 30, 2021). However, the Commission will be flexible with IOLTA carry-over requests for 2020 grants.*

How do we submit a carry-over request?

- *Contact Frank Bittner, Senior Financial Analyst at Frank.Bittner@calbar.ca.gov and your organization’s assigned State Bar contact. The form will be released to you in SmartSimple within 2 business day of your request.*

Budget Revisions

What triggers the need to submit a budget revision request?

May 4, 2020

Page 4

- *A material deviation from your organization's approved budget requires a budget revision. An Individual line item or total budget deviation that does not exceed the lesser of 10% of the total grant or \$10,000 is not considered material and thus automatically approved.*

When should we submit a budget revision request?

- *Budget revisions should be submitted during the grant year as soon as a material deviation is projected. **The deadline for budget revision requests is November 2, 2020.***

How long does it take to approve a budget revision request?

- *Requests equal to or less than 25 percent of the total grant will be reviewed and approved by State Bar staff. Requests are typically approved within several business days depending on the volume of requests received.**
- *Requests greater than 25 percent of the total grant require approval of the Commission. Requests will be discussed and decided by the Commission at its next upcoming meeting.**
 - *Requests may be submitted at the same time as a carry-over request, in which case, if submitted by the November 2 deadline, the Commission will discuss and reach a decision at its meeting on November 13, 2020.*

How do we submit a budget revision request?

- *Contact Frank Bittner, Senior Financial Analyst at Frank.Bittner@calbar.ca.gov and your organization's assigned State Bar contact. The form will be released to you in SmartSimple within 2 business day of your request.*

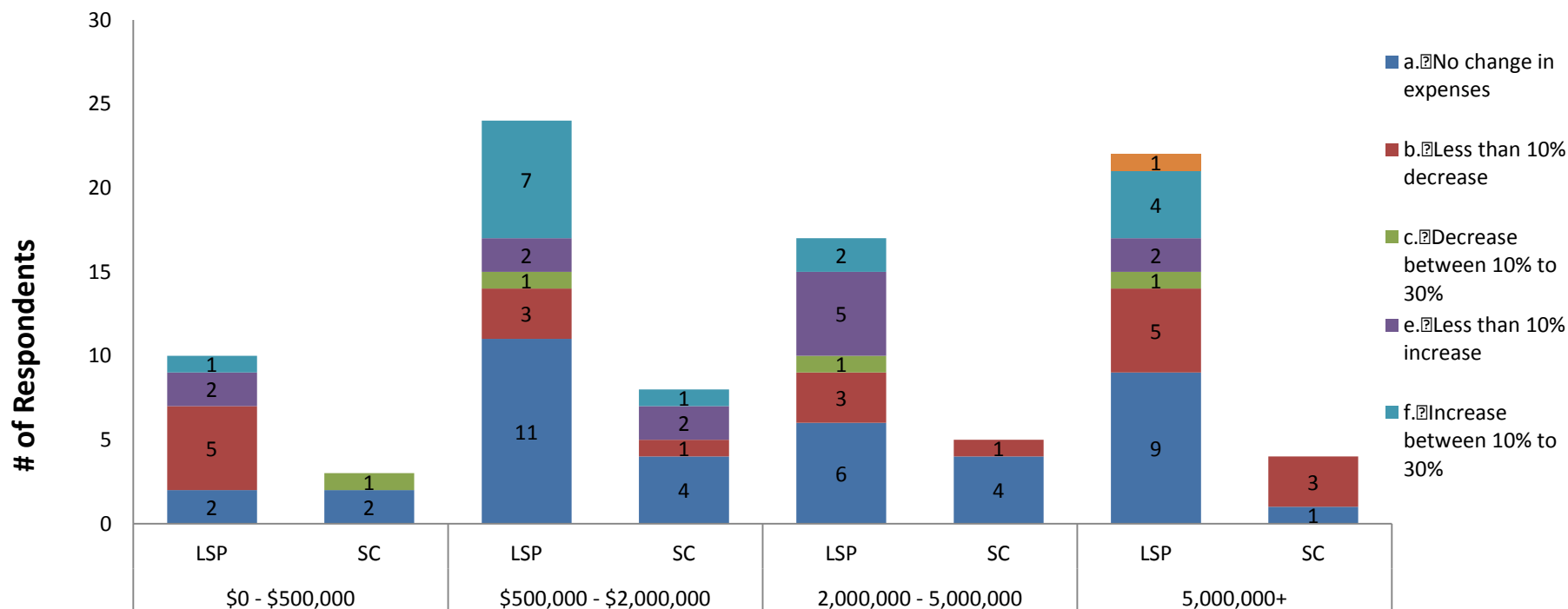
The Budget instructions indicate at least 75 percent of each IOLTA and EAF grant must be allocated to program expenses, as opposed to administration expenses. Can we deviate from the 75 percent allocation in our budget revision request?

- *Yes. Organizations have always been able to deviate from these percentages. A deviation triggers another level of review by the Commission. A proposed budget revision with less than 75 percent allocated to program expenses will need to be reviewed and approved by the Commission. The Commission will be flexible with these requests for 2020 IOLTA funding.*

*Revised on May 14, 2020 based on approved Functional Matrix.

IOLTA Distribution Survey Results

Question 1: In light of the pandemic (court closures, mandatory telecommuting, etc.), do you anticipate your agency expenses to be lower than you budgeted in 2020?

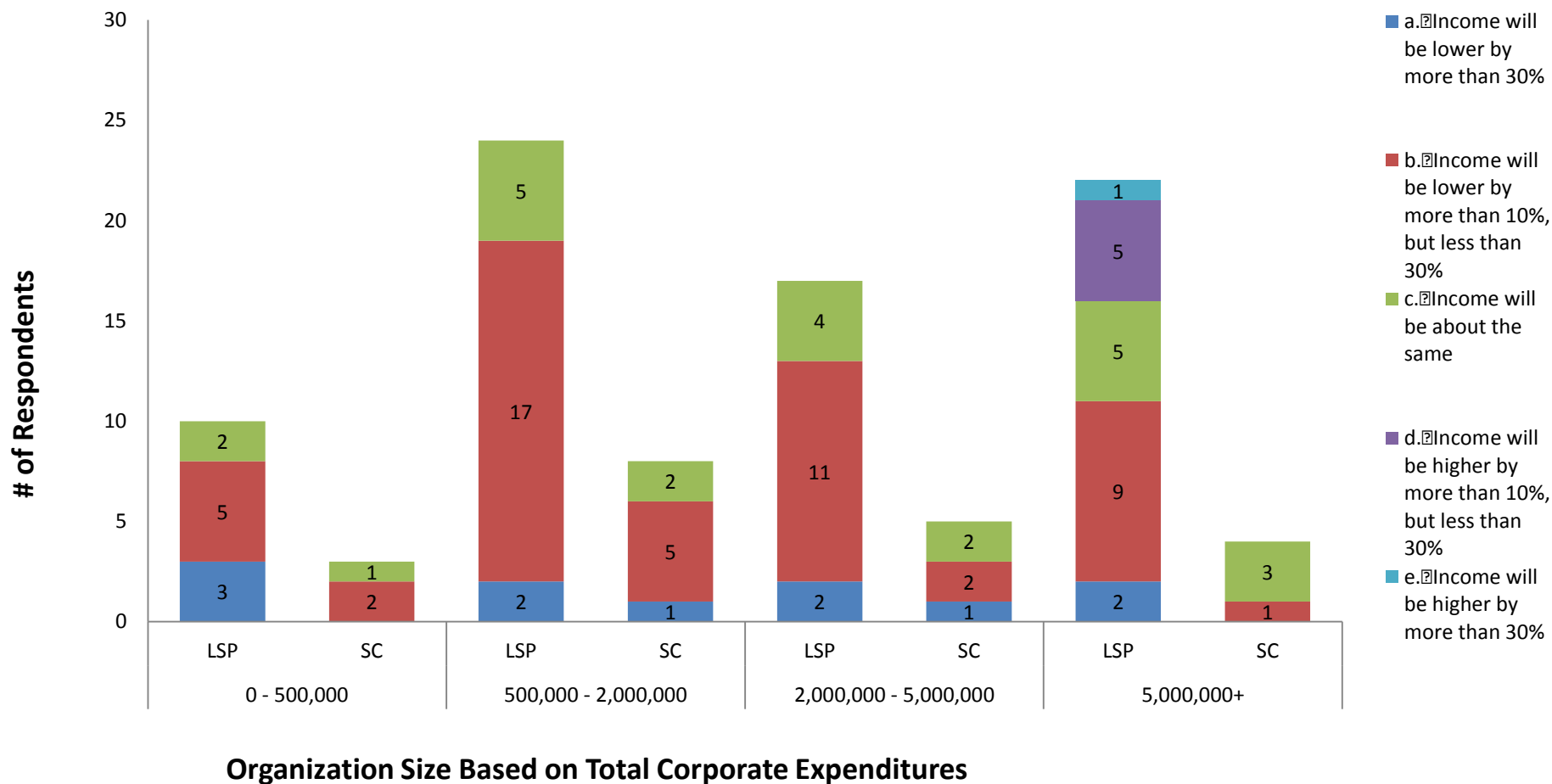


Organization Size Based on Total Corporate Expenditures

Question 1: In light of the pandemic (court closures, mandatory telecommuting, etc.), do you anticipate your agency expenses to be lower than you budgeted in 2020?

In light of the pandemic (court closures, mandatory telecommuting, etc.), do you anticipate your agency expenses to be lower than you budgeted in 2020?	Total Corporate Expenditures				
	0 - 500,000	500,000 - 2,000,000	2,000,000 - 5,000,000	5,000,000+	Grand Total
LSP	10	24	17	22	73
a. No change in expenses	2	11	6	9	28
b. Less than 10% decrease	5	3	3	5	16
c. Decrease between 10% to 30%		1	1	1	3
e. Less than 10% increase	2	2	5	2	11
f. Increase between 10% to 30%	1	7	2	4	14
SC	3	8	5	4	20
a. No change in expenses	2	4	4	1	11
b. Less than 10% decrease		1	1	3	5
c. Decrease between 10% to 30%	1				1
e. Less than 10% increase		2			2
f. Increase between 10% to 30%		1			1
Grand Total	13	32	22	26	93
Option d. More than a 30% decrease was not selected by any program					

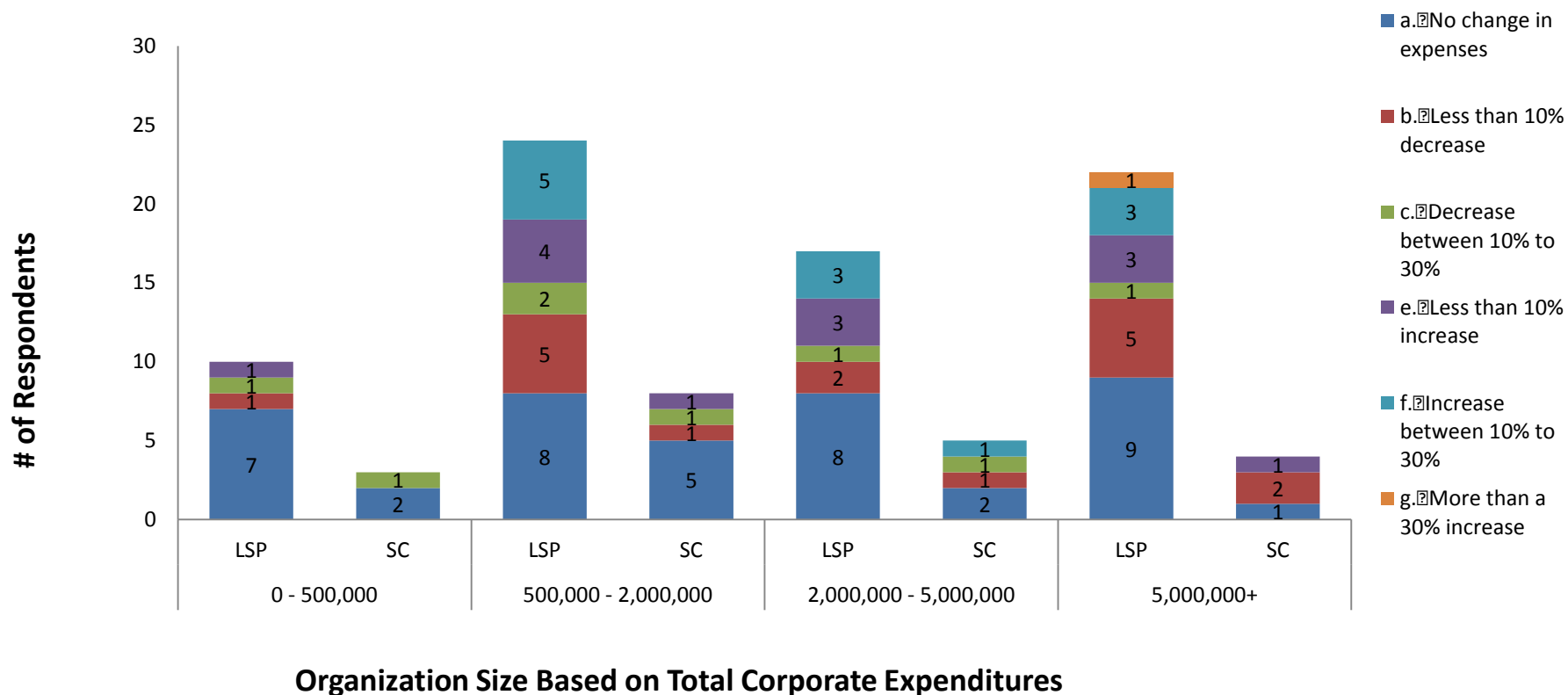
Question 2: In light of the pandemic (court closures, mandatory telecommuting, etc.), do you anticipate your agency income (from sources other than the State Bar) to be lower than you expected in 2020?



Question 2: In light of the pandemic (court closures, mandatory telecommuting, etc.), do you anticipate your agency income (from sources other than the State Bar) to be lower than you expected in 2020?

In light of the pandemic (court closures, mandatory telecommuting, etc.), do you anticipate your agency income (from sources other than the State Bar) to be lower than you expected in 2020?	Total Corporate Expenditures				
	0 - 500,000	500,000 - 2,000,000	2,000,000 - 5,000,000	5,000,000+	Grand Total
LSP	10	24	17	22	73
a. Income will be lower by more than 30%	3	2	2	2	9
b. Income will be lower by more than 10%, but less than 30%	5	17	11	9	42
c. Income will be about the same	2	5	4	5	16
d. Income will be higher by more than 10%, but less than 30%				5	5
e. Income will be higher by more than 30%				1	1
SC	3	8	5	4	20
a. Income will be lower by more than 30%		1	1		2
b. Income will be lower by more than 10%, but less than 30%	2	5	2	1	10
c. Income will be about the same	1	2	2	3	8
Grand Total	13	32	22	26	93
The following options were not selected by any Support Center: d. Income will be higher by more than 10%, but less than 30% e. Income will be higher by more than 30% was not selected by any Support Center					

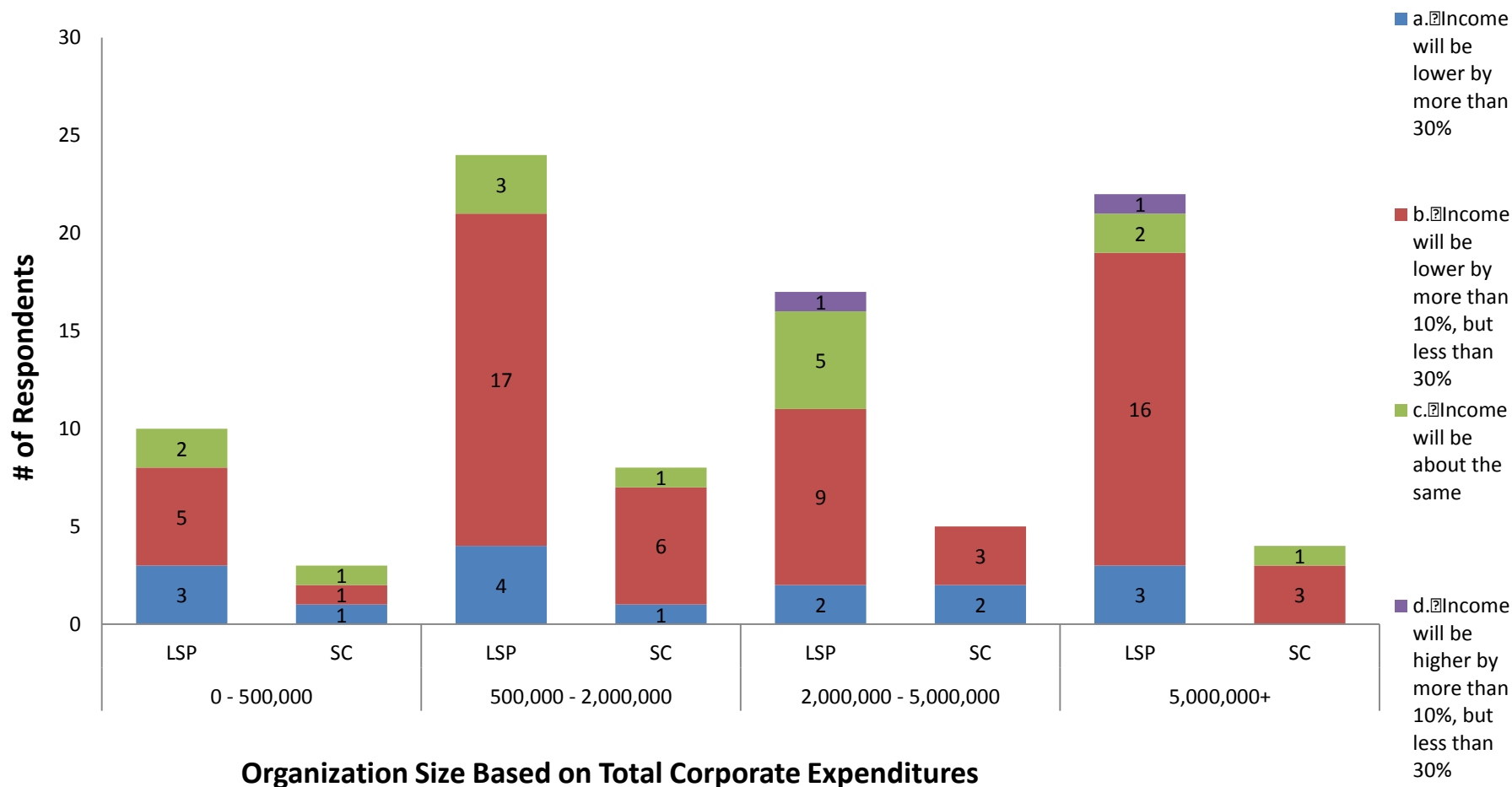
Question 3: In light of the pandemic, do you anticipate your agency expenses to be lower in 2021 than you originally planned?



Question 3: In light of the pandemic, do you anticipate your agency expenses to be lower in 2021 than you originally planned?

In light of the pandemic, do you anticipate your agency expenses to be lower in 2021 than you originally planned?	Total Corporate Expenditures				
	0 - 500,000	500,000 - 2,000,000	2,000,000 - 5,000,000	5,000,000+	Grand Total
LSP	10	24	17	22	73
a. No change in expenses	7	8	8	9	32
b. Less than 10% decrease	1	5	2	5	13
c. Decrease between 10% to 30%	1	2	1	1	5
e. Less than 10% increase	1	4	3	3	11
f. Increase between 10% to 30%		5	3	3	11
g. More than a 30% increase				1	1
SC	3	8	5	4	20
a. No change in expenses	2	5	2	1	10
b. Less than 10% decrease		1	1	2	4
c. Decrease between 10% to 30%	1	1	1		3
e. Less than 10% increase		1		1	2
f. Increase between 10% to 30%			1		1
Grand Total	13	32	22	26	93
<p>The following option was not selected by any LSP:</p> <p>d. More than a 30% decrease</p> <p>The following options were not selected by any Support Center:</p> <p>d. More than a 30% decrease</p> <p>g. More than a 30% increase</p>					

Question 4: In light of the pandemic, do you anticipate your agency income (from sources other than the State Bar) to be lower in 2021 than you originally planned?

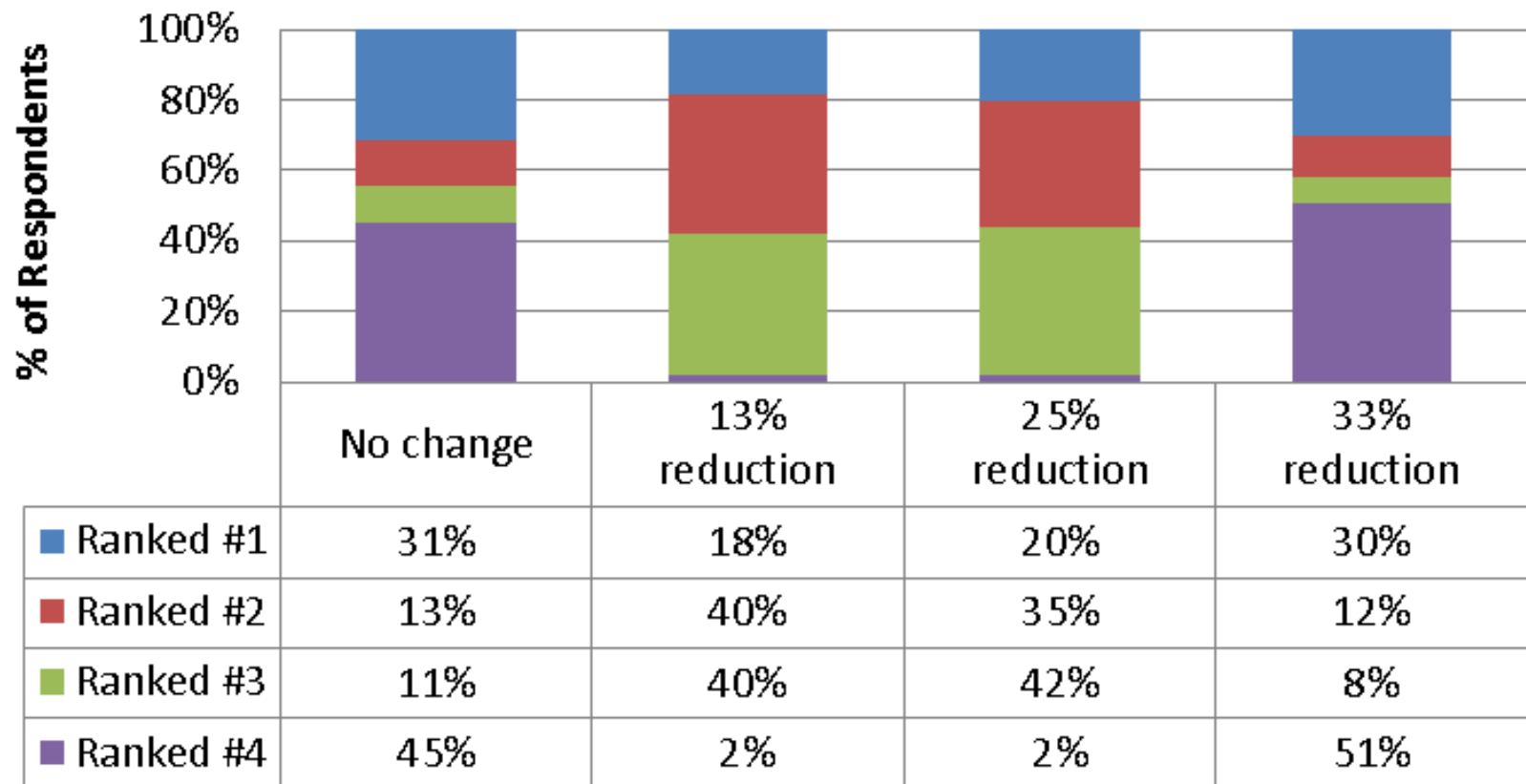


Question 4: In light of the pandemic, do you anticipate your agency income (from sources other than the State Bar) to be lower in 2021 than you originally planned?

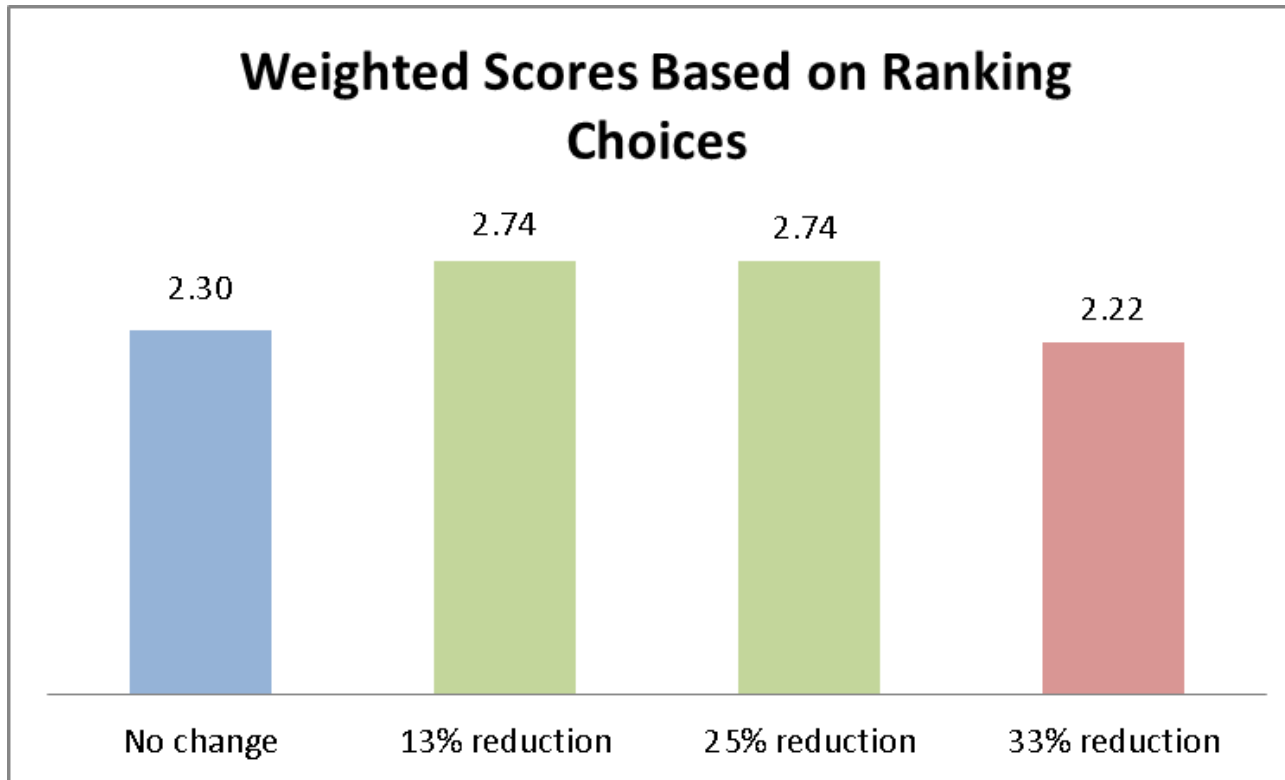
In light of the pandemic, do you anticipate your agency income (from sources other than the State Bar) to be lower in 2021 than you originally planned?	Total Corporate Expenditures				
	0 - 500,000	500,000 - 2,000,000	2,000,000 - 5,000,000	5,000,000+	Grand Total
LSP	10	24	17	22	73
a. Income will be lower by more than 30%	3	4	2	3	12
b. Income will be lower by more than 10%, but less than 30%	5	17	9	16	47
c. Income will be about the same	2	3	5	2	12
d. Income will be higher by more than 10%, but less than 30%			1	1	2
SC	3	8	5	4	20
a. Income will be lower by more than 30%	1	1	2		4
b. Income will be lower by more than 10%, but less than 30%	1	6	3	3	13
c. Income will be about the same	1	1		1	3
Grand Total	13	32	22	26	93
<p>The following option was not selected by any LSP: e. Income will be higher by more than 30%</p> <p>The following options were not selected by any Support Center: d. Income will be higher by more than 10%, but less than 30% e. Income will be higher by more than 30%</p>					

Question 5: Rank the order in which you have a preference (from 1-4, with 1 being most preferred)

Proportion of Responses for Each Scenario Across Ranking Choice



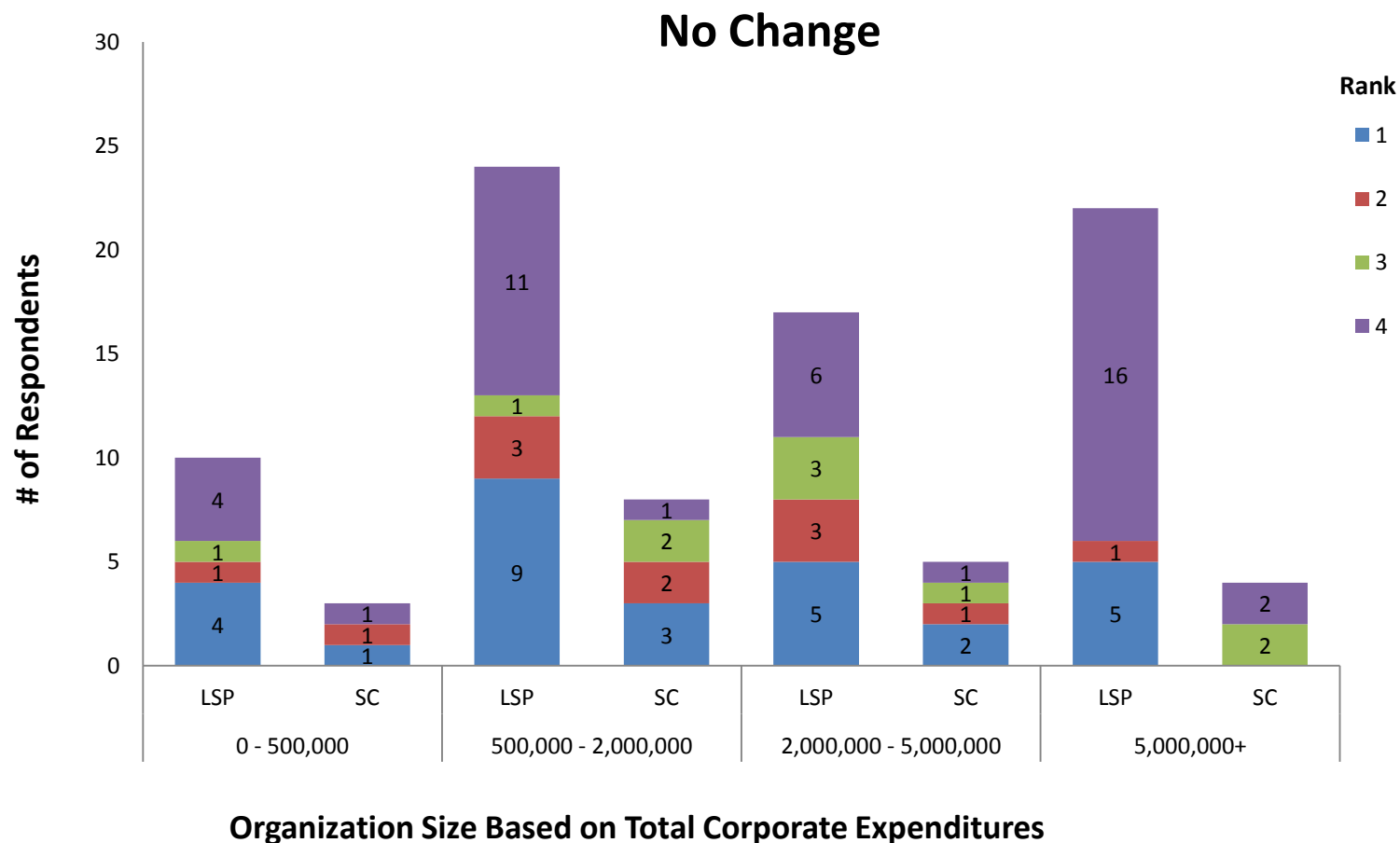
Question 5: Rank the order in which you have a preference (from 1-4, with 1 being most preferred)



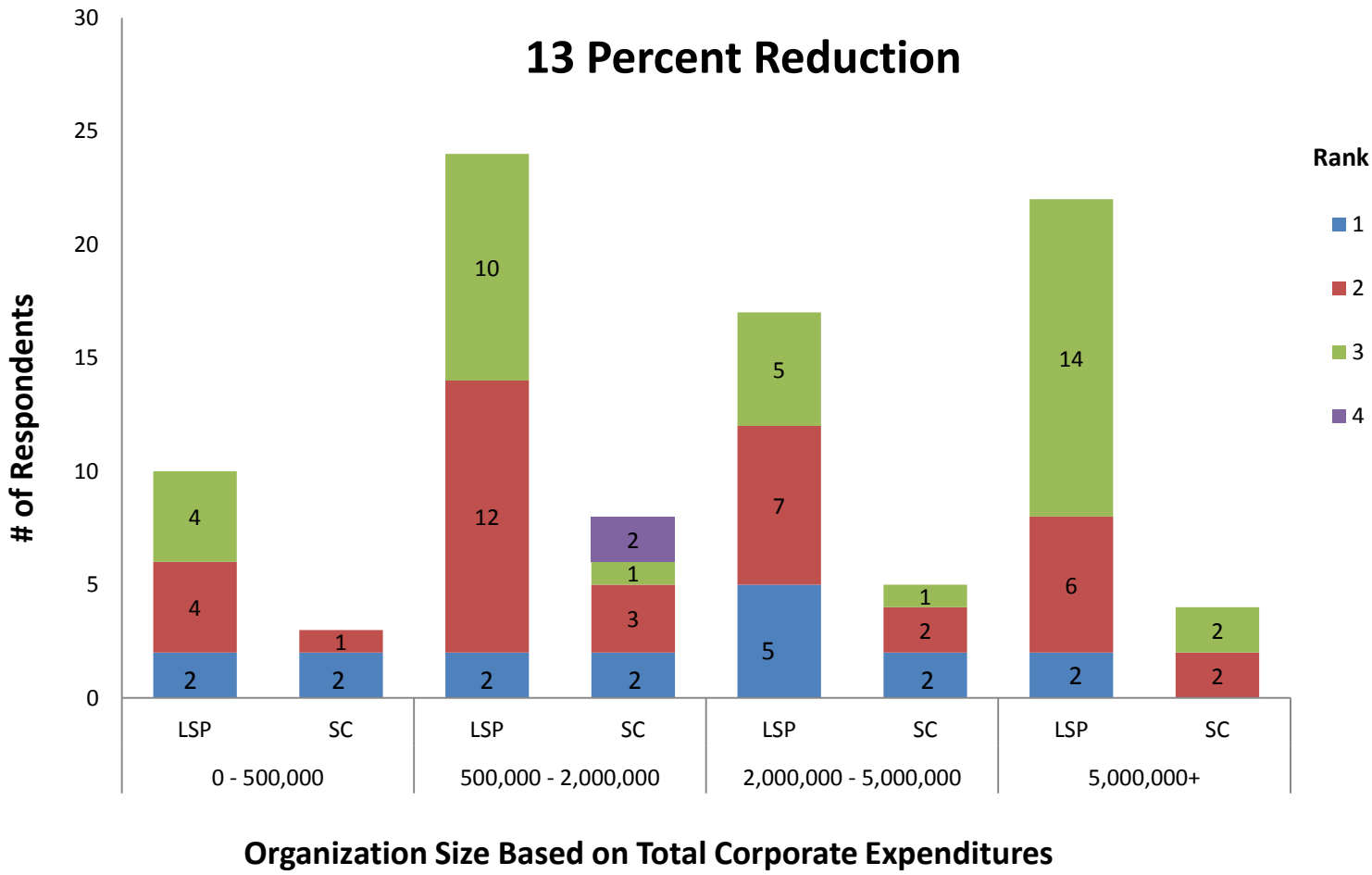
Weight	40%	30%	20%	10%	Weighted Score	Total Responses	
	Ranked #1	Ranked #2	Ranked #3	Ranked #4			
No change	29	12	10	42	2.3	93	
13% reduction	17	37	37	2	2.74	93	
25% reduction	19	33	39	2	2.74	93	
33% reduction	28	11	7	55	47	2.22	93

Question 5: Rank preference (from 1-4, with 1 being most preferred):

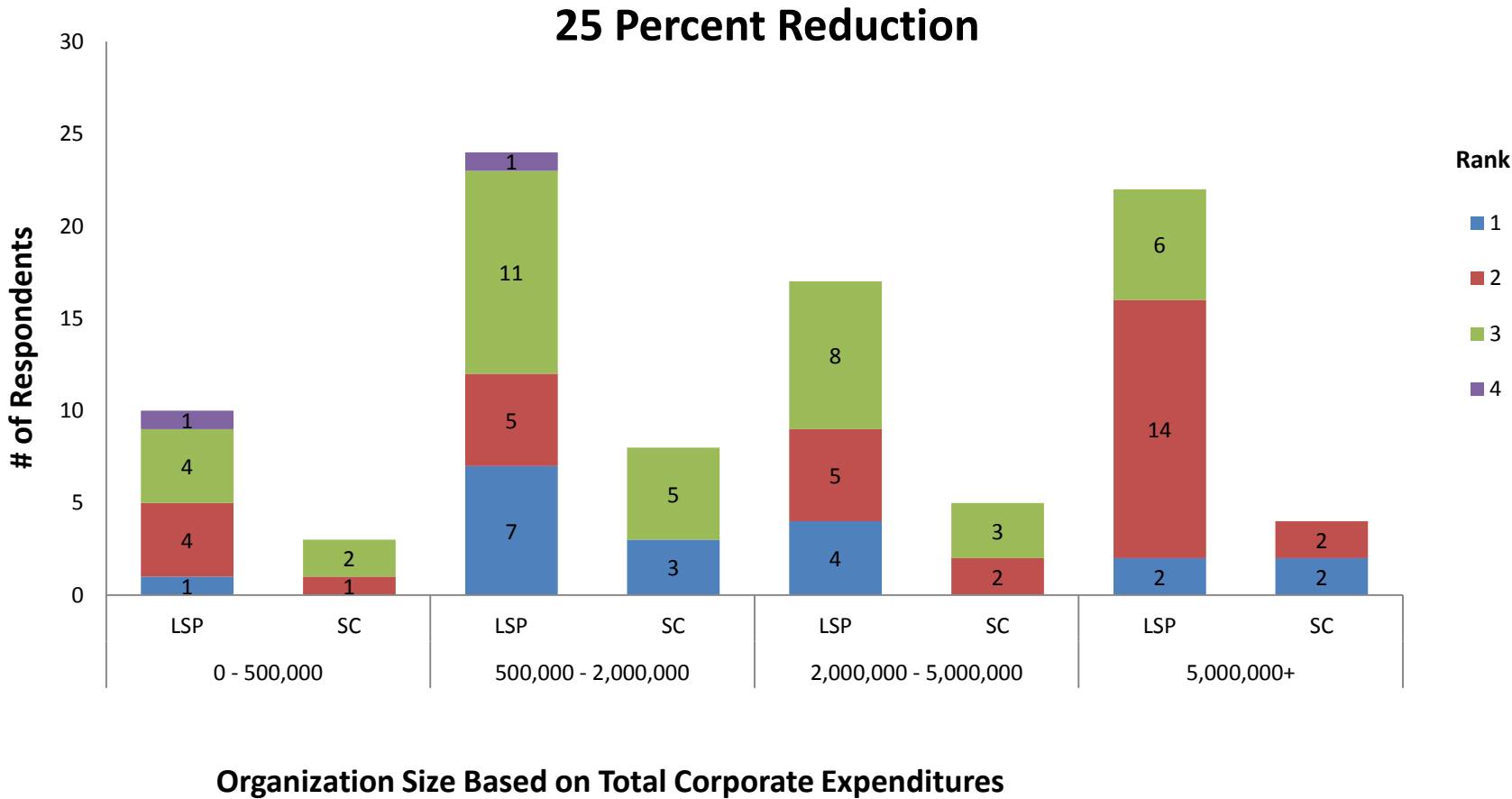
Don't change the 2020 \$55M IOLTA grant distribution; resulting in 2021 and 2022's IOLTA grant distributions of approximately \$21M and \$13M, respectively



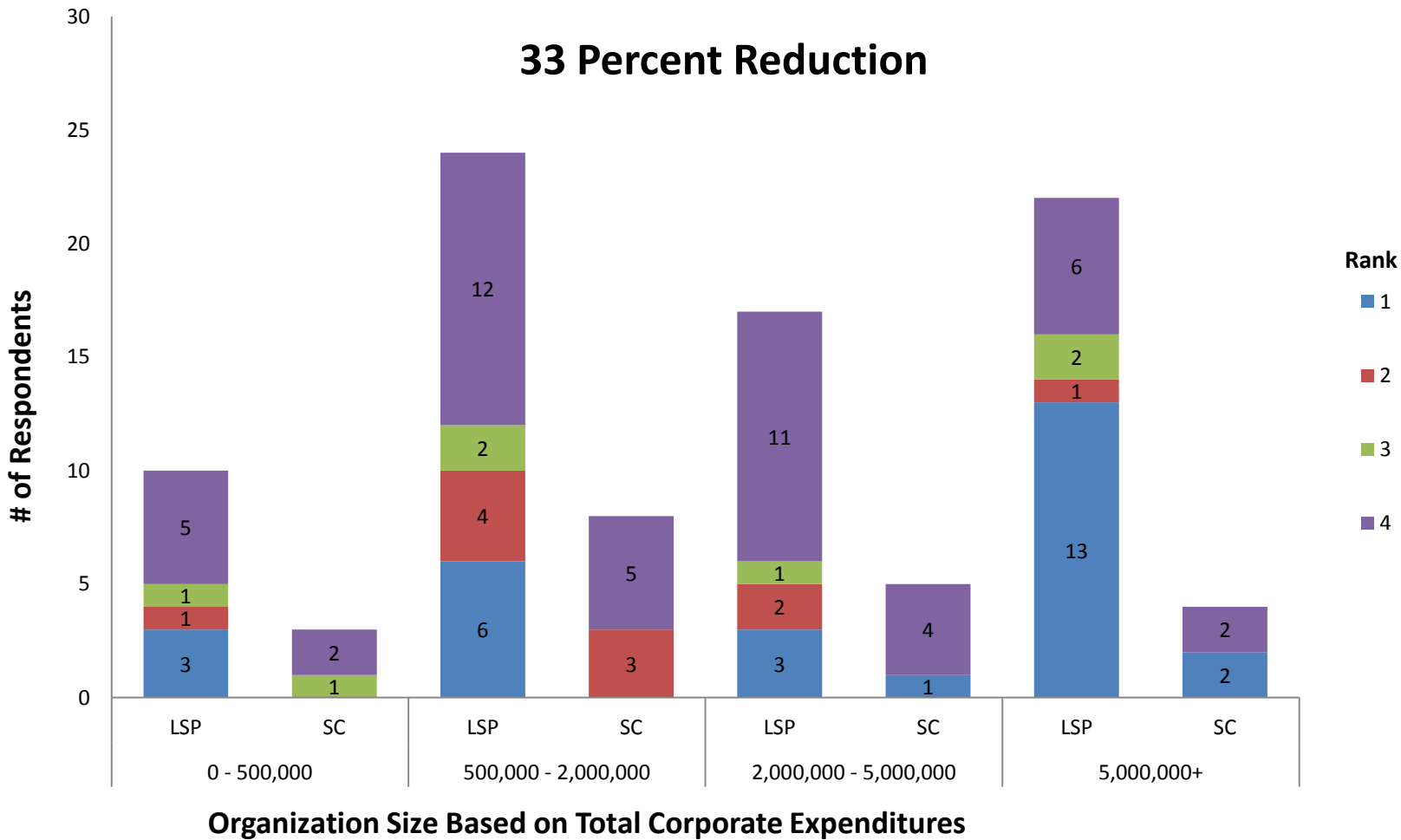
Question 5: Rank preference (from 1-4, with 1 being most preferred):
Reduce the 2020 IOLTA distribution by 13% to \$48M; resulting in 2021 and 2022’s IOLTA grant distribution of approximately \$26M and \$15M, respectively



Question 5: Rank preference (from 1-4, with 1 being most preferred):
Reduce the 2020 IOLTA distribution by 25% to \$41M; resulting in 2021 and 2021’s IOLTA grant distribution of approximately \$31M and \$16M, respectively.



Question 5: Rank preference (from 1-4, with 1 being most preferred):
Reduce the 2020 IOLTA distribution by 33% to \$37M; resulting in 2021 and 2022’s IOLTA grant distribution of approximately \$25M and \$25M, respectively.



Comments from Grantees in Response to IOLTA Distribution Survey

Organization	Size of Organization Based on Total Qualified Corporate Expenditures	No change	Reduce the 2020 IOLTA distribution by 13% to \$48M; resulting in 2021 and 2022's IOLTA grant distribution of approximately \$26M and \$15M, respectively.	Reduce the 2020 IOLTA distribution by 25% to \$41M; resulting in 2021 and 2021's IOLTA grant distribution of approximately \$31M and \$16M, respectively.	Reduce the 2020 IOLTA distribution by 33% to \$37M; resulting in 2021 and 2022's IOLTA grant distribution of approximately \$25M and \$25M, respectively.	Question #5 Comments*	Additional Comments*
1	0 - 500,000	4	3	2	1		We cancelled our annual fundraiser and plan to host a non-event. We anticipate donations will be less than half of our budgeted \$30,000. Our expenses, except parking and filing fees, remain the same.
2	0 - 500,000	1	2	3	4		Due to Covid-19, we are seeing landlords preying upon tenants who don't know their rights, are not empowered to assert them or do not otherwise have access to resources to make those rights meaningful. With landlords petrified about lost revenue, we expect these behaviors to increase as revenues decline. To address this situation, we are ramping up to meet the expected demand for services. We appreciate the State Bar's situation, but reducing funding this year will have an adverse effect on our mission.

3	0 - 500,000	2	1	3	4	<p>This was a very tough question to try to answer with so many as yet unknowns. We have more work than anticipated and fewer resources for this year. Yet, I worry that drastically lower IOLTA grants in the future could result in office closure, as State Bar grants are a substantial part of our basic operating expenses. Our natural reduction in expenses for 2020 is minimal -- some supplies that are saved by working from home. However, we are likely to be impacted by a hiring freeze and hope to purposefully save expenses so as to conserve for the drop in income in coming years. It's unclear at this point what, exactly, either of those factors will look like. Increased flexibility this year and next to allow for the constantly changing horizon and as yet unknown reality of remote courts, remote services, and increased client need would be very helpful.</p>	
4	0 - 500,000	2	1	3	4		<p>We are extremely concerned about cuts to local and state government funding in 2021. We are also concerned about a reduction over the long term from private foundations.</p>
5	0 - 500,000	1	2	3	4	<p>If we cut nothing in 2020 we can buy more time to seek more funding for 2021</p>	
6	0 - 500,000	3	1	2	4	<p>It is difficult to answer the last question meaningfully without knowing how Equal Access Funds will be impacted. I have rank ordered based upon my expectation of the time frame it will take the economy to recover.</p>	
7	0 - 500,000	4	1	2	3	<p>Another option is that an organization can choose 13%/25%/33% for their agency for the next three (3) years.</p>	
8	500,000 - 2,000,000	2	1	3	4		<p>This is a time when we really look to the State Bar for leadership to support legal services programs. There is going to be a wave of evictions, like we have not seen for some time.</p>
9	500,000 - 2,000,000	4	3	1	2		<p>We anticipate that client needs will increase in our areas of practice: Bankruptcy, Immigration and Elder/Health Law, Homeless Advocacy Project.</p>

10	500,000 - 2,000,000	2	1	3	4		Our projected decrease in income is based on current state of County contract funding for our in-person services (in-person group workshops, public events, physical co-location with County services in their offices). The Counties we serve (Santa Cruz, Monterey) are not able to make firm predictions about how they will replace / redesign these services, and there are no predictions regarding when or if these public in-person services will resume. Please note that smaller non-LSC funded organizations (who have not participated in LSC-funded TIGs) are behind in adoption of the technology and security measures necessary to smoothly transition to longer-term remote-only services.
11	500,000 - 2,000,000	4	3	2	1	We would prefer to have less funding in the short term, with the goal being longer term sustainability.	
12	500,000 - 2,000,000	1	2	3	4	We plan our budget a ways out, so getting a reduction half-way through any given year is not great.	
13	500,000 - 2,000,000	1	2	3	4	Thank you and if there is a reduction in grant distribution, can you please take into consideration the percent that IOLTA funds make up of an agency's total budget (the % the IOLTA funds amount to, in the overall income makeup in the organization). For example, IOLTA funds make up roughly 10 % of our total budget, so we would suffer a tremendous harm if we are cut in any way, thank you for considering.	
14	500,000 - 2,000,000	4	3	1	2	Even though we are voting for a reduction in the 2020 IOLTA disbursement, we would like to point out that smaller QLSPs will be more impacted overall by the 2020 reduction in the long run, because the amounts not disbursed in 2020 and put back into the 2021 and 2022 "pots", will then favor larger QLSPs when the IOLTA formula is applied to that bigger pool of IOLTA funding in 2021 and 2022. Therefore the larger QLSPs project to get potentially more funding in the future years for what they gave up in 2020 than the smaller QLSPs.	Currently, we predict that in order to mitigate a projected significant income decrease in 2021, we will have to reduce 2021 expenses by cancelling some programs and laying off staff.

15	500,000 - 2,000,000	1	2	3	4	It will take some time for the true fiscal ramification of the Covid-19 business shut-downs to be understood. In the meantime, our impoverished clients will be and are the hardest hit by the shut-downs and they will be desperate for our services. We will need more resources, not less, to recover. Delaying the decrease in funding reductions will at least give us more time to deal with the pandemic aftermath and seek additional funding for future years.	
16	500,000 - 2,000,000	2	1	3	4	income could be much lower over the next year and a half due to reduced contributions and attorneys fees	
17	500,000 - 2,000,000	1	2	3	4	I choose # a as #1 assuming that we can carryover a little more to 2021, and try to reduce some expenses this year or next year.	
18	500,000 - 2,000,000	1	2	3	4	Our expenses and hiring were based on the IOLTA grant we budgeted for before COVID (just like everyone else). A hit of more than 13% would mean a change in FTE and we want to avoid layoffs. We can modify what we will do in 2021 (not hire additional attorneys or fill vacancies), but our workload is not changing in 2020. We will do whatever we can to support the IOLTA office to build revenue to avoid an extreme shortfall in 2021	
19	500,000 - 2,000,000	1	2	3	4	Organizations have already planned for, budgeted, and incurred many expenses in 2020 based on the original IOLTA grant amounts; to change it mid-year forces us to risk defaulting on obligations or laying off staff already hired. Keeping the grant the same for 2020 gives us 1-2 years to plan to reduce expenses and/or increase other revenue in 2021 and 2022 in a thoughtful, planned way. Also, we can use any excess each individual organization may be able to manage in 2020 to carry over into 2021. In addition, in the event current interest rate projections for 2022 turn out to be low, 2022 may not end up being as catastrophic as predicted and we would have taken a big hit in 2020 for less of a long-term upside.	
20	500,000 - 2,000,000	4	3	1	2	All organizations will suffer some cuts, but some can weather these better than others. 25% reduction strikes a prudent balance between maintaining an even though reduced revenue stream over the next 2 1/2 years	

21	2,000,000 - 5,000,000	4	2	1	3		I understand that the LSTF office has delayed to submission of the LSTF/EAF applications until the middle of June. Is there any possibility of delaying the application to the end of June? Once shelter in place is lifted our office will need to: 1. Institute new health and safety protocols for both staff and clients 2. Make structural changes to the office that take into consideration the health and safety of our staff and clients. 3. Continue to work remotely while structural changes are completed.
22	2,000,000 - 5,000,000	2	1	3	4		Re answer to #4 (income will be about the same): our originally planned revenues for 2021 include projections that assume that our foundation donors do not pull back on existing or renewal grants. So while the answer is "Income will be about the same", this could change.
23	2,000,000 - 5,000,000	1	2	3	4	Since we are a smaller organization and do not receive federal funding, we project that the drying up of local funding will make our organization eligible for less IOLTA funding in future years. Therefore, we prefer to stay as close to the current year's distribution as possible.	
24	2,000,000 - 5,000,000	4	3	1	2	Regularly reaffirming staff and the Commission's willingness to be as flexible as possible with rollovers will be much appreciated -- particularly if option A or B are the ultimate choice.	
25	2,000,000 - 5,000,000	4	3	2	1	We would much rather ration the funding over time using the 33% reduction scenario. It will be easier in the long run this way.	As for the other responses above, I am very much guessing. We have no idea what the funding levels will be for many of our programs going forward. It could be much worse.
26	2,000,000 - 5,000,000	4	3	2	1	We were already planning to request a 25% carryover of IOLTA funds from 2020 to 2021. We prefer equalizing the IOLTA distribution over the three-year period as much as possible.	
27	2,000,000 - 5,000,000	1	2	3	4	The issue for us is being able to retain staff to do work. Cuts this year may impact our ability to keep on staff (and many staff can not afford to work less than F/T in Bay Area)	
28	5,000,000+	2	1	3	4		Given all the uncertainty about actual distribution amounts, and the likelihood of significant carryover flexibility, these "preferences" are at best a guesstimate.

29	5,000,000+	1	2	3	4	We have planned for the 2020 IOLTA distribution awarded for this year, and need it to meet our budgeted commitments. Cuts in awarded funds would create maximum disruption, without the opportunity to recoup in a limited fundraising environment. We can plan for future reductions, but not for roll backs of awarded funds.	We strongly oppose retraction of 2020 awards, understand that the future is uncertain, and thank you for your efforts to create so much thoughtful support for legal services.
30	5,000,000+	4	3	1	2	The idea of smoothing out funding levels for the next two years is an excellent strategy. Our hesitation is related to the significant impact our agency would feel in quarters 3 and 4 of this year.	
31	5,000,000+	4	3	2	1	We based our response on the need for our organization to count on a steady income rather than a variable source. Thank you for being open on how to distribute important financial resources to our organization.	
32	5,000,000+	1	2	3	4	We request that the Commission not cut 2020 grants and rely on organizations to slow spending now to carryover funds to cushion the decreases in subsequent years. This is a time that organizations should be offered flexibility in managing expenditures while using the funds to help low-income people in crisis now. Our organization has not received the federal increase in Legal Aid funds many other organizations have and is also anticipating cuts to State programs in addition to the IOLTA cut. Leaving our IOLTA funding in place, while we plan to generate and manage carryover this year, will provide us with the funding stability to continue our vital advocacy services.	
33	5,000,000+	4	1	2	3	I'm advocating for less of an initial reduction so we have time to plan for the inevitable future reduction in IOLTA funds. Any immediate reduction may be able to be mitigated by other relief programs.	
34	5,000,000+	4	3	2	1	The most helpful thing would be to know sooner than later.	
35	5,000,000+	4	3	2	1	Better to have consistent funding over the 3 year period in order to sustain programs and vital services. Without consistent reliable funding, programs will have difficulty planning for the future and remaining available to the Californians who need them most.	
36	5,000,000+	4	3	2	1	Because the economic conditions of 2021 and 2022 will be especially volatile/unknown it is important for us to preserve more revenue for those years.	

37	5,000,000+	1	2	3	4	We are seeing an incredible spike in demand for legal services. Now is no the time to cut funding.	
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*Some comments were lightly edited to remove identifying information.

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March 31, 2020

Assemblymember Phil Ting
 Chair, Assembly Committee on Budget
 1315 10th Street, Room 6026
 Sacramento, CA 95814

Re: Revised Assembly Committee on Judiciary Priorities in Light of COVID-19

Dear Chair Ting:

On behalf of the Assembly Committee on Judiciary, and in response to your updated Member request of March 30, 2020, I am writing to revise the Committee's budget priorities for the fiscal year 2020-2021 budget given the ongoing COVID-19 pandemic, the changing needs of Californians based on the pandemic and the ensuing economic collapse, and the impacts of those on the state budget.

In my original letter, I had urged the Budget Committee to (1) mandate that courts comply with enhanced court oversight in conservatorship cases; (2) require courts to provide greater feedback and accountability regarding trial court operations and use of new fund allocations; and (3) provide better support for unrepresented litigants. These remain important priorities necessary to ensure meaningful access to justice for all Californians. *However, in light of the current public health emergency, there is an urgent need to better support legal services programs across the state, and I am therefore revising our Committee's budget request to reflect this new reality.*

Every year, legal services programs assist over 300,000 Californians with issues ranging from housing, health and long-term care, to income maintenance, immigration, disability rights, and family law. Nonprofit legal aid organizations have become the state's invisible legal safety net for all low-income Californians, including immigrants. Currently, California legal aid organizations rely on \$20 million in state General Fund dollars to support their work—a funding amount that provides support for less than one-third of California's poorest residents. Many indigent Californians who are desperate for assistance are unable to successfully navigate the court system or present meritorious legal arguments on their own. As a result, these unrepresented litigants consume significant court resources, create delays in court calendars, and fail to adequately represent themselves.

The COVID-19 pandemic and shelter-in-place declarations have created significantly greater demand for the provision of legal services to serve as a civil justice enforcement mechanism for laws and regulations designed to protect Californians from harm, including for unlawful

evictions and firings, expedited access to unemployment benefits, incorrect termination or reduction of public benefits, access to needed health care and insurance, and domestic violence restraining orders. California legal services programs must be able to help residents across the state address these urgent legal needs.

At the same time that the need for legal services is increasing exponentially, the funds available to support legal services will be dropping significantly. One of the primary funding mechanisms upon which California has traditionally relied to fund legal aid programs has been the Interest On Lawyer Trust Accounts (IOLTA) program, which collects bank interest paid on client trust funds held by all California attorneys where the funds do not warrant setting up a separate account, either because they are small in amount or are held for a short period of time. The recent, dramatic plunge in interest rates now poses an unprecedented challenge to the premise that legal aid programs can rely on IOLTA funding to maintain their essential mission. As a result, the State Bar projects that IOLTA funds will drop by over 80 percent in two years, from \$46.5 million in 2019 to \$14.5 million in 2020 and just \$8.2 million in 2021 and beyond. Legal aid programs in California will be provided with only a fraction of their usual IOLTA support, both for the current year and the budget year, and most cannot expect to replace that loss with other sources of funding.

California needs to be the steward of progressive values punctuated with prudent sensibility, but most of all, we must minimize the harms caused to our residents by the COVID-19 pandemic. Supporting legal aid achieves all of these goals. Studies have shown that for every one dollar spent on legal aid, there is a return of six dollars to the state. If there is no increase, California will lose the valuable economic resource provided by legal services and leave vulnerable Californians without access to our courts, especially important during this time of crisis.

For these reasons, I am writing to express the Assembly Committee on Judiciary's highest priority: to *increase the Equal Access Fund by \$35 million* in order to ensure real access to the courts for all Californians during this emergency public health crisis. The Equal Access Fund—a partnership between the courts and legal aid—offers funding to local legal aid organizations to provide direct legal services to low-income Californians in civil matters.

In addition, I request that the Budget include a very small allocation (\$200,000) for the cost of convening a committee to study proposed changes to the Commission on Judicial Performance (CJP). The ongoing public health crisis has highlighted the extent to which the public and policy makers rely upon the Judicial Branch of government to fairly administer the laws and manage operation of the courts. It is imperative that the public trust judicial officers and the court system in general. The recent audit of CJP discovered structural and procedural weaknesses. These problems should be addressed in a comprehensive and holistic manner by a group of experts in judicial ethics, rather than in a piecemeal fashion, as is likely if a committee is not formed and authorized via Budget trailer bill language.

I thank you for your consideration of the Judiciary Committee's revised budget request in light of the COVID-19 pandemic and look forward to working with you to ensure that our state courts remain accessible to provide access to justice for low-income Californians who are at grave risk

AJUD Revised Priorities
Page 3 of 3

of losing their homes, their healthcare and health insurance, their public benefits, and their livelihood, as well as at heightened risk of domestic violence.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stone". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Stone
Chair, Assembly Committee on Judiciary