



# The State Bar *of California*

## OFFICE OF ACCESS & INCLUSION

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Date: July 14, 2020

To: Members, LSTFC Bank Grant Committee

From: Christine Holmes, Senior Program Analyst

Subject: Budget Revisions and Carryover Policy

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### EXECUTIVE SUMMARY

The Legal Services Trust Fund Commission Bank Grant Committee (Committee) is charged with distributing and administering the Bank Community Stabilization and Reinvestment Grant (Bank Grant). At the recommendation of the Committee, the Legal Services Trust Fund Commission (Commission) awarded two sets of three-year Bank Grants in 2018 and 2020.

Grantees report project expenses in accordance with the approved yearly budgets and may request budget modifications as the need arises. In the final year of the award, grantees are expected to spend down the remaining amount of the grant. However, like the need for budget revisions, grantees may encounter unexpected issues that result in challenges spending down the grant award. Grantees may then request to carryover unspent funds into the next year.

The Committee will meet on July 20 to review three budget revisions and a program's request to replace a partnering organization with a new organization for its 2020 Bank Grant. This memorandum outlines staff's recommendations regarding these requests, as informed by project evaluations and other background information. It also addresses the Commission's authority to approve carryover requests into the year following the grant period. Staff's recommendation is to be flexible with these requests considering the COVID-19 pandemic and the significant impacts on grantees' ability to conduct project activities due to state and local shelter-in-place orders. The Committee's recommendations regarding these issues will be submitted to the full Commission for approval at its August 14 meeting.

### BACKGROUND

The Bank Grants are discretionary grants distributed by the State Bar, through the Commission, from the \$50.9 million California received from the settlement of lawsuits brought by the U.S. Department of Justice (DOJ) against Bank of America and Citi. The Committee is charged with

administering the Bank Grants, including crafting recommendations for the Commission to approve regarding funding criteria, distributions, and administration.<sup>1</sup>

In 2017, the Commission allocated approximately, \$28.5 million to fund 71 projects for a three-year grant period starting in January 1, 2018 and ending December 31, 2020 (2018 Bank Grants). In 2019, the Commission allocated approximately, \$6.5 million to fund 13 projects for a three-year grant period starting in January 1, 2020 and ending December 31, 2022 (2020 Bank Grants). This memorandum is intended to provide information on current practices for the administration of the three-year 2018 and 2020 Bank Grants regarding revisions to approved project budgets and carryover of unspent funds after the end of the grant period.

## **BUDGET REVISION REQUEST POLICY**

Pursuant to the Grant Agreement (See Template Grant Agreement in Attachment A), grantees must use the grant funds as indicated in the approved budget from the proposal materials. Any material change in the budget must be approved by the State Bar. Any change up to 10 percent of the grant is not considered material and is permissible without approval. (See General Grant Provisions section 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.<sup>2</sup>

The approved budget consists of a yearly grant budget and total project budget for the three-year grant period identifying how funds will be allocated by line item to the project. Line items include personnel costs<sup>3</sup>, non-personnel costs,<sup>4</sup> and subgrants. Grantees may request to revise their budgets throughout the grant period. This may happen for a variety of reasons including unexpected costs, shifts in client need, or changes in staffing.

## **2019 BUDGET REVISION REQUESTS**

Grantees report project expenses in accordance with the approved yearly budgets. For the grant year ending on December 31, 2019, grantees were required to submit project expenses as a part of the project's annual evaluation. Grantees also report on the status of the project including successes, challenges, and lessons learned. Fiscal and program staff review the evaluation to determine compliance with the grant agreement and other governing authorities, and if the project is on schedule to meet its stated goals and objectives.

The 2019 annual bank grant evaluation was due on March 6, 2020. Staff reviewed the submitted evaluations and identified, through the expense reports, that three grantees

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<sup>1</sup> Based on the Functional Matrix approved by the Board of Trustees (Board) in January 2019, the Board approves distribution plans for Bank Grant funds. See Attachment C.

<sup>2</sup> This division of responsibility is set forth in the Functional Matrix. See Attachment C.

<sup>3</sup> Personnel line item expenses include attorneys, paralegals, other staff and employee benefits.

<sup>4</sup> Non-personnel line item expenses include: space; equipment rental and maintenance; office supplies, printing and postage; telecommunications; technology; program travel; training; library; insurance; litigation; capital additions; contract services to clients; evaluation; and other. There is also a subcategory for administrative line item expenses for personnel and non-personnel.

deviated from the approved budget by more than 25 percent. This threshold requires a budget revision to be reviewed and approved by the Commission. Staff notified the grantees and released the budget revision form for the grantees to complete. Discussion of the submitted budget revisions follows below.

## **CARRYOVER REQUEST POLICY**

Under the terms of the grant agreement, grantees are expected to spend their grant awards within the grant period and “in accordance with the budget, timeline, and programmatic design set forth in the Proposal Materials.”<sup>5</sup> As with budget revisions, grantees may encounter unexpected issues that result in challenges spending down the grant award within the specified grant period. The grant agreements and general grant provisions that are incorporated into the agreement by reference, both require recipients to return any unspent funds after the expiration of the grant period unless a carryover request is approved. The grant agreement reserves the State Bar’s sole discretion to approve or deny any carryover request. Pursuant to the Board of Trustees resolution<sup>6</sup>, staff may approve carryover requests for Bank Grant funds of up to 25 percent of the total grant; requests exceeding 25 percent require Commission approval.

## **DISCUSSION**

### **Budget Revisions for Committee Approval**

As previously mentioned, the Commission reviews budget revisions over 25 percent and determines whether or not to approve the requests. The following three grantees submitted budget revisions for review.

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

CRLA’s Systemic Legal Assistance to Promote Healthy Community Development and Preserve Affordable Housing Project builds on its rural foreclosure assistance by expanding services to address patterns of blight in communities in the Central Valley and Central Coastal areas. To prevent blight and improve community conditions, CRLA focuses on (1) building the capacity of communities through outreach and education to promote civic engagement and prevent fraud and financial abuse, (2) representation to remedy predatory lending and preserve housing, and (3) advocacy to enforce Housing Element laws and improve community conditions.

CRLA’s approved budget for 2019 (year two) was \$275,000. The actual expenses as reported in the evaluation were \$197,158, a deviation of \$77, 842 or 28.31 percent. Five line items account for most of the deviation.

#### Personnel Expenses

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<sup>5</sup> Attachment B, Template Bank Grant Agreement

<sup>6</sup> This division of responsibility is set forth in the Functional Matrix. See Attachment C.

- \$57,082 was approved for attorney expenses. The actual expense was reported as \$35,359, a deviation of 38 percent.
- \$41,077 was approved for employee benefit expenses. The actual expense was reported as \$33,638, a deviation of \$7,439 or 18 percent.

#### Non-Personnel Expenses

- \$4,261 was approved for office supply expenses. CRLA reported zero expenses for this line item.
- \$20, 570 was approved for litigation expenses. CRLA also reported zero expenses for this line item.
- \$17,729 was approved for program travel expenses. The actual expense was reported as \$2,609, a deviation of \$15,120 or 85 percent.

Despite not spending down the entire budgeted amount for year two of the grant, CRLA reported it is on schedule to meet project goals. For example, through its foreclosure prevention work, clients were assisted in 128 cases, exceeding its goal of 60 direct client services. CRLA continues to disseminate materials in English and Spanish and to air PSAs regarding Mortgage Scams, Second Mortgage Foreclosures, and the Modification Process through Radio Bilingue.

CRLA also continues to promote infrastructure improvement and to address and prevent blight. For example, CRLA assisted residents in Parklawn, in Stanislaus County, to organize a community clean-up and close an alley to prevent dumping. In response, the County created a \$100,000 fund to address illegal dumping, emphasizing dumping in alleys.

#### Staff Recommendation

In its budget revision, CRLA added all unspent funds from 2019 to the same line items for the 2020 budget, the final year of the grant period. CRLA noted in its evaluation that an additional staff attorney was added to the project in year three of the grant to focus on community redevelopment efforts in the Central Valley.

Staff recommends approving the budget revision and allowing CRLA the opportunity to spend down the unspent funds in grant year 2020. As previously mentioned, any remaining unspent funds at the end of the grant period, December 31, 2020, will be returned to the State Bar unless a carryover is requested and approved.

## **2. Legal Assistance for Seniors (LAS)**

LAS was awarded a formula grant for its community education and outreach programs regarding legal rights of seniors in Alameda County. With the formula grant, LAS started a Housing Community Education and Policy Development Project to provide presentations to low-income seniors informing them of their rights regarding housing stability. LAS education and outreach also extends to cities, focusing on how housing laws may adversely impact low-income seniors and working with cities to build grantees to protect and preserve the rights of seniors in rental living spaces.

LAS's approved budget for 2019 was \$25,562 including \$562 of unspent funds from year one of the grant. The actual expenses as reported in the evaluation were \$17,021, a deviation of \$8,541 or 33.4 percent. Personnel line items account for the deviation.

#### Personnel Expenses

- \$9,209 was approved for paralegal expenses. The actual expense was reported as \$4,402, a deviation of \$4,807 or 52 percent.
- \$2,639 was approved for other staff expenses. The actual expense was reported as \$1,649, a deviation of \$990 or 38 percent.
- \$3,751 was approved for employee benefit expenses. The actual expense was reported as \$2,286, a deviation of \$1,465 or 39 percent.

Despite not spending down the entire budgeted amount for year two of the grant, LAS reported it is on schedule to meet project goals. For example, LAS developed several presentations:

- (1) "Basic Housing Rights for Seniors," for both tenants and landlords which discusses common issues such as rent increases, evictions, and security deposits, and
- (2) a presentation about aging in place and the risks and responsibilities in hiring in-home care to meet daily living needs.

In its evaluation, LAS noted that in the first two months of 2020 it has already increased its expenses in personnel time across all staffing categories for future community education events and outreach. LAS is currently working on developing a homeownership preservation presentation which will address foreclosures, reverse mortgages, and home scams.

#### Staff Recommendation

In its budget revision, LAS added all unspent funds from 2019 to the same line items for the 2020 budget, with one exception. LAS proposes to equally reallocate \$300 currently allocated for reservations for exhibition booths and tables to office supplies and printing and postage.

Staff recommends approving the budget revision and allow LAS the opportunity to spend down the unspent funds in grant year 2020. As previously mentioned, any remaining unspent funds at the end of the grant period, December 31, 2020, will be returned to the State Bar unless a carryover is requested and approved.

### **3. Impact Fund**

Impact Fund's project seeks to improve access to clean water and other services for communities in unincorporated areas of the San Joaquin Valley. The Access for Low Income Californians to Clean Water & Services Project strives to (1) identify opportunities and provide subgrants for impact litigation, (2) create a Clean Water Network and convene an annual Clean Water Forum, and (3) create a Clean Water Toolkit for community advocates.

Impact Fund recently revised their budget for approval in October 2019. The original budget did not include funds to subgrant for impact litigation. The revision re-allocated funds to include subgrants: \$82,745 for year two and \$94,140 for year three. The Commission approved this budget revision at its meeting on November 22, 2019.

Despite the recent budget revision, Impact Fund reported a significant budget deviation for 2019. Impact Fund's approved total budget for 2019 was \$130,000. The actual expenses as reported in the evaluation were \$74,081, a deviation of \$55,919 or 43 percent. The deviation is almost solely the result of unspent funds for subgrants. Of the \$82,745 approved for subgrants, actual expense reported was only \$27,630, a deviation of \$55,115 or 67 percent.

In its evaluation, Impact Fund notes that is on schedule to meet its project goals, despite a few setbacks with slow impact litigation activity in the area. For example, in 2019 Impact Fund created the webinar, "Clean Water 101: The fight for safe drinking water in California. The webinar served as an introduction to Impact Fund's second Clean Water Forum in August 2019. The webinar is also a key component of the Clean Water Toolkit which is available through the Impact Fund's website.

As noted above, the level of impact litigation activity in the central valley was lower than anticipated. Impact Fund only made four subgrants for impact litigation in 2019, the largest being \$13,665. Based on the proposed budget revision, Impact Fund will have approximately \$150,058 to redistribute as subgrants in 2020. Of this amount, Impact Fund will give a \$25,000 subgrant to the Leadership Counsel for Justice & Accountability (LCJA) to program the 2020 Clean Water Forum. LCJA is in the central valley with strong connections to community advocates and is committed to creating partnerships between local legal service organizations and community organizations. Impact Fund is partnering with LCJA to ensure sustainability of the Clean Water Network and Forum after the bank grant period ends.

Of the remaining \$125,058, Impact Fund is actively recruiting organizations from its established network. The deadline for Letters of Interest (LOI) for fall subgrants is July 14; however, Impact Fund will be flexible with the deadline in response to organizations facing COVID-19 related challenges. Subgrant awards have no minimum and the maximum amount awarded to an organization is \$50,000. Impact Fund also noted a potential increase in impact litigation due to the expiration of ground water pollution permits for large dairy farms.

### **Staff Recommendation**

As noted above, Impact Fund is actively recruiting organizations to submit LOIs and anticipates the Clean Water Forum will provide another opportunity to highlight the subgrant opportunity. Impact Fund determined an in-person Clean Water Forum is necessary to achieve its goals and will likely submit a carryover request to hold this forum in 2021 and award any remaining subgrant funds.

Staff recommends approving the budget revision and allow Impact Fund the opportunity to spend down the unspent funds in grant year 2020. As previously mentioned, any remaining

unspent funds at the end of the grant period, December 31, 2020, will be returned to the State Bar unless a carryover is requested and approved.

### **Options Available to Commission for Carryover Requests**

The grant agreement sets a six-month spend down period for approved carryover of unspent bank grant funds. Past office practice was consistent with the time frame.<sup>7</sup> As previously mentioned, carryover requests exceeding 25 percent require Commission approval. The COVID-19 pandemic has had significant impact on grantees providing services due to state and local shelter-in-place orders. Several grantees have inquired about carryover requests to be spent down over the full 2021 year. Staff anticipate more inquiries and requests as the reopening continues at a slow pace due to recent COVID-19 outbreaks.

Staff has reviewed the applicable statutory and regulatory authorities and has identified no limitation on the Commission's broad discretion to consider requests to carryover unspent bank grant funds for expenditure in the next year (the provision in the grant agreements limiting carryovers to 180 days is a term binding the grantees that the State Bar may waive).

The Commission passed at its June 26 meeting the following motions regarding 2020 IOLTA budget revisions and carryover requests: (1) 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 (2) Maintain a flexible and generous approach to budget revision requests...." Staff recommend the Committee pass similar motions in regard to carryover and budget revision requests for bank grants.

### **RECOMMENDATION**

In summary, staff recommends the Committee approve the following motions to then submit to the full Commission for approval at its August 14 meeting.

1. Approve the 2019 budget revisions for the 2018 Bank Grant projects of California Rural Legal Assistance, Inc., Legal Assistance for Seniors, and Impact Fund;
2. Maintain a flexible approach to carryover requests for 2018 Bank Grants with grant periods ending in 2020, in particular by allowing larger amounts to be carried over and by permitting spenddown over all of 2021; and,
3. Maintain a flexible approach to budget revision requests.

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<sup>7</sup> Eight programs with projects ending on December 31, 2017 were approved to spend down unspent funds over six months of 2018.

## ONEJUSTICE 2020 BANK GRANT REVISION BACKGROUND

OneJustice is requesting the Bank Grant Committee consider its proposal to replace a partnering organization with a new organization for its Inland Empire Community Redevelopment Pro Bono Project. See Attachment D. OneJustice's project was awarded the seconded highest grant amount, \$800,000, for the grant period 2020 through 2022. The project budget originally included subgrants to four partner organizations: Bet Tzedek, Legal Aid Society of San Bernardino, Inland Empire Latino Lawyers Association, and Catholic Charities of San Bernardino & Riverside Counties. The goal of the project is to create a sustainable pro bono clinic model for transactional legal assistance to small businesses in this region by strengthening the capacity of the partnering organizations.

In March, Inland Empire Latino Lawyers Association (IELLA) informed OneJustice it was "no longer able to carry out their 2020 Bank Grant deliverables" because it was experiencing operational hardships due to COVID-19 and the resulting state and local shelter-in-place and social distancing requirements to minimize the spread of the virus. As a partnering organization, IELLA was included in the project budget for a total of \$135,000 spread across the three-year grant period.

The subgrant to IELLA amounts to just under 17 percent of the total grant award. Pursuant to Grant Provisions 7.01 Budget Revisions, IELLA dropping out of the project creates a material deviation of over 10 percent in the project budget requiring OneJustice to request a budget revision. As previously mentioned, Staff has discretion to approve budget revisions up to 25 percent of the grant, and the Commission reviews anything above that percentage. However, OneJustice's proposal is to add a new partnering organization in place of IELLA and keep the subgrant amount and activities the same.

Partnerships and collaboration were a key selection criteria as outlined in the request for proposal which states, "the State Bar will consider the extent to which an applicant already has developed necessary partnerships, or has demonstrated the ability to collaborate with community organizations, local government, or other stakeholders to accomplish their goals." The Committee made its funding recommendations based, in part, on partnerships as described in OneJustice's original proposal. As such, OneJustice's current proposal to replace a partnering organization is being elevated to the Committee for a determination.

OneJustice considered other Inland Empire organizations to replace IELLA as a partner for the project and decided to approach Inland Counties Legal Services (ICLS). OneJustice and ICLS had already discussed an informal collaboration for this project and have worked together in different capacities for many years. ICLS informed OneJustice that they would participate in the project even though there was no guarantee the Bank Grant Committee would approve them as a formal partner.

When IELLA backed out of the project, OneJustice was already down from four partnering organizations to three. Shortly after OneJustice was awarded the bank grant in November 2019, one of its partners, the Legal Aid Society of San Bernardino (LASSB), experienced significant organizational challenges. As a result, State Bar staff spoke with OneJustice and provided them



an opportunity to revise their budget. OneJustice decided not to include LASSB in the bank grant project and revised their budget to provide additional support to the other three partners including cultivating pro bono relationships in the Inland Empire and the Los Angeles area. OneJustice also increased its personnel expenses to develop better remote clinic technology. Staff recommended approval of OneJustice's budget revision and the Bank Grant Committee voted to adopt the recommendation at its meeting on March 13, 2020.

## **DISCUSSION**

The Committee has two options regarding OneJustice's proposal. Staff recommend the Committee adopt the first option to approve the proposal.

1. OneJustice proposes to add ICLS in place of IELLA as a partnering organization for its Inland Empire Community Redevelopment Pro Bono Project and award ICLS a subgrant of \$135,000 over the three-year period in accordance with the current project budget. Should the Committee approve this proposal, OneJustice will update the name of its partnering organization in its project's proposal in SmartSimple and no further action will be required regarding this change.
2. As stated above, IELLA was included in the project budget for a total of \$135,000 or just under 17 percent of the total grant award which is over the 10 percent threshold for material deviation requiring a budget revision as stated in Grant Provisions 7.01. Staff has discretion to approve budget revisions up to 25 percent of the grant. Should the Committee deny OneJustice's proposal, OneJustice will need to submit a budget revision for staff approval.

### **Staff Recommendation**

As noted above, the Bank Grant Committee acknowledged the value of the Inland Empire Community Redevelopment Pro Bono Project by awarding it the second largest grant of the 2020 distribution. OneJustice has demonstrated its commitment to meeting the goals and objectives of its project by quickly adapting to several unforeseen challenging circumstances. Staff recommends approval of OneJustice's proposal to add ICLS and maintain its proposed goals and objectives.

## **RECOMMENDATION**

Staff recommends the Committee approve the following motion to then submit to the full Commission for approval at its August 14 meeting.

1. Approve OneJustice's proposal to replace Inland Empire Latino Lawyers Association with Inland Counties Legal Services as a partnering organization for its Inland Empire Community Redevelopment Pro Bono Project.

## **ATTACHMENT LIST**

- A. 2018 Bank Grant Agreement (Template)
- B. State Bar General Grant Provisions
- C. Functional Matrix from Appendix I Review Process
- D. March 24, 2020 Letter from OneJustice

**GRANT AGREEMENT  
LEGAL SERVICES TRUST FUND PROGRAM  
THE STATE BAR OF CALIFORNIA  
COMMUNITY STABILIZATION AND REINVESTMENT GRANTS**

This grant agreement ("Grant Agreement") is made as of January 1, 2018 ("Effective Date"), between The State Bar of California ("State Bar"), a California public corporation and [Recipient legal business name], a California nonprofit corporation ("Recipient").

**RECITALS**

In 2015, in accordance with bank settlements with the U.S. Department of Justice, the Legal Services Trust Fund Program applied for and received grants from Bank of America and Citi for administration of grants to legal services organizations to provide foreclosure prevention legal assistance and community redevelopment legal assistance ("Program").

Recipient submitted a proposal for a three (3)-year grant, pursuant to the Request for Proposals for Bank Community Stabilization and Reinvestment ("BCSR") grants. Recipient has also submitted revised forms, budgets, and responses to requests for supplemental information about its Proposal, which together with the Proposal, comprise its Proposal materials ("Proposal Materials").

In reliance upon the representations and agreements made in the Proposal Materials, the State Bar has determined to award a three (3)-year grant to Recipient from the Program, utilizing Bank of America funds, for the period commencing on January 1, 2018 and ending on December 31, 2020 ("Grant Period"). Recipient is required to submit evaluative reports and data and other information as requested in a timely matter. Recipient is also required to make progress in the work plan as outlined in the BCSR grants application. Failure to make acceptable progress towards a project's approved grant activities and deliverables may result in discontinuation of the grant before expiration of the Grant Period. Specifically, the State Bar reserves the right to terminate or adjust the grant before completion of the Grant Period for the reasons stated above or if non-qualifying activities are performed.

Recipient has familiarized its responsible staff and governing board ("Governing Board") with the bank Program requirements, Proposal Materials and this Grant Agreement, and the Governing Board, officers, and similarly empowered staff of Recipient have read and now agree to the terms of this Grant Agreement.

**AGREEMENTS**

1. Pursuant to the bank Program requirements and in reliance upon the promises and representations made by Recipient, the State Bar grants to Recipient [\$\_\_\_\_\_.00] per year ("Annual Grant Amount") for three (3) years for a grand total of [\$\_\_\_\_\_.00] ("Total Grant Amount") for the project entitled, [\_\_\_\_\_] ("Grant Project").

2. The Proposal Materials, including any additions or amendments made to the Proposal Materials and Recipient's written responses to requests for supplemental or revised information about its Proposal, are incorporated into this Grant Agreement as if set forth in their entirety in this Grant Agreement. Recipient agrees to comply with the Proposal Materials, including specifically the Project Assurances set forth in the application. Recipient agrees to comply with all lawful statutes, rules, regulations, guidelines, policies, instructions, and similar directives issued by Bank of America, its monitor, and/or State Bar pertaining to the Program (collectively, "Directives"), including, without limitation, any Directive adopted after the Effective Date of this Grant Agreement.

3. (a) The State Bar will use its best efforts to distribute the first of three (3) Annual Grant Amounts within thirty (30) days of full execution of this Grant Agreement. The State Bar, however, will in no circumstances bear any liability to Recipient or to other persons or entities for delay in payment.

The State Bar may in its sole discretion determine to disburse funds in monthly or quarterly installments, conditioned upon timely reports or other deliverables.

(b) Notwithstanding any provision of this Grant Agreement regarding the payment of grants, Recipient acknowledges that the Total Grant Amount and all payments thereof shall be made from funds received through Bank Settlement Agreements with the U.S. Department of Justice. Consequently, Recipient shall not be guaranteed any specific dollar amount in grant funds or any grant funds at all, if funds are insufficient or unavailable to the State Bar pursuant to terms of the settlement agreements, and the bank agreements with the State Bar. The State Bar shall not assume any liability whatsoever to Recipient for any failure to pay the Total Grant Amount or any part thereof that results because funds are insufficient or unavailable to the State Bar for any reason.

(c) The three (3)-year grant will be funded based on Recipient's demonstration of reasonable performance during the Grant Period, submission of timely reports, and that all other grant terms are met. Recipient is required to submit evaluative reports and data and other information as requested in a timely matter. Additional installments of a three (3)-year grant will be paid only after reasonable performance of Grant Project, submission of timely reports, and all other grant terms are met.

(d) The State Bar reserves the right, in its sole discretion, to hold, discontinue, or require return of funding, if the funds are not used in accordance with the Proposal Materials. Recipient is required to make progress in the work plan as outlined in the BCSR grants application. Failure to make acceptable progress towards a Grant Project's approved grant activities and deliverables may result in discontinuation of the grant before expiration of the Grant Period. Specifically, the State Bar reserves the right to terminate or adjust the grant before completion of the grant for the reasons stated above or if any non-qualifying activities are performed.

4. (a) Recipient represents that it is authorized to accept disbursement of funds for the grant under this Grant Agreement under applicable federal, state, and local laws.

(b) Recipient represents and warrants that Recipient's Proposal Materials do not contain any misstatement of a material fact or omission of any material fact. Recipient will notify the State Bar promptly of any change in any material fact affecting Recipient's eligibility to receive funds under the grant Program, such change including, without limitation, any change that affects the accuracy of any statement made in conjunction with Recipient's application for a grant under the grant Program.

5. Grant funds must be used in accordance with the budget, timeline, and programmatic design set forth in Proposal Materials. No substantial changes in the budget, timeline, or Grant Period may be made without prior written approval from the State Bar.

6. (a) Recipient will segregate funds from the Total Grant Amount in a separate fund account and maintain its books and records in such a manner that the receipts and expenditures of grant funds received for Grant Project will be separately identified and distinguished on such books and records. Recipient will keep such records as well as copies of all reports and supporting documentation for at least four (4) years after the close of the Total Grant Amount and will make such books, records, reports and supporting documentation available to the State Bar or any of its designees upon request. If this proposal includes subgrantees, Recipient shall bear sole responsibility for complying with this Section 6(a), except as otherwise expressly agreed by the State Bar per Section 14(f) below.

(b) Recipient agrees to submit financial and program activity reports to the State Bar as requested, to provide copies of any materials produced with grant funds, and to cooperate with the State Bar in evaluating the results of the grant.

(c) Recipient will permit State Bar's agents to inspect at any time any office or other premises maintained by Recipient or used by Recipient in connection with the expenditure of funds received under the grant Program. Recipient will cooperate with the State Bar's agents during such inspections and will furnish the agents with any information that the agents reasonably request as

relevant to determining Recipient's compliance with this Grant Agreement. The State Bar's right of access to Recipient's records for purposes of compliance will survive the expiration of the Grant Period. In complying with disclosure requirements of this Grant Agreement and of the Program, Recipient may withhold any client-identifying information when Recipient reasonably determines that disclosure would violate a rule of professional responsibility.

(d) Any unused or excess grant funds shall be returned by Recipient to the State Bar within sixty (60) days of the completion of the three (3)-year Grant Period. *At the completion of the Grant Project, the Grant Period may be extended for an additional one hundred and eighty (180) days, upon the prior written request of the Recipient and at the sole discretion of the State Bar.*

7. Recipient acknowledges its obligation to inform all providers of subcontracted services of the requirements of the Program and this Grant Agreement and to obtain from all subcontracted services providers a written agreement to comply with all requirements of this Grant Agreement as if that provider is the Recipient. Recipient assigns to the State Bar all rights that Recipient has acquired or will acquire to inspect the premises and records of providers of subcontracted services to ensure compliance with the requirements of the Program and this Grant Agreement.

8. Recipient shall not represent or in any way suggest that it may obligate or pledge the credit of the State of California or of the State Bar.

9. For all publications produced with funding under the Program, Recipient hereby assigns to the State Bar a royalty-free, nonexclusive, irrevocable, world-wide right and license to reproduce, publish, display, distribute and use these materials. Recipient also hereby assigns to the State Bar a royalty-free, nonexclusive, and irrevocable right to authorize qualified legal services projects, support centers, and courts to use these materials.

10. Recipient agrees that the State Bar and/or Bank of America and its affiliates, including the independent settlement monitor and its agents, will have the right to include information about Recipient, any donation made to Recipient, and any other related information provided by Recipient, in its advertising and marketing materials, public reports, and press announcements and releases in all forms of media throughout the world without compensation or consent. The State Bar and/or Bank of America shall obtain Recipient's prior written approval of use of Recipient's name or trademarks, and such approvals do not give the State Bar or Bank of America any right, title or interest in Recipient's name or trademarks. Such approval to use Recipient's name and trademarks shall not be unreasonably withheld, conditioned, or delayed.

11. Recipient will work with the State Bar and Bank of America with respect to parameters of any recognition. Recipient shall obtain the prior written approval of Bank of America prior to any use of the Bank of America name or trademarks and such approvals do not give Recipient any right, title or interest in the Bank of America name or trademarks. Recipient shall obtain the prior written approval of the State Bar prior to any use of the State Bar name or trademarks and such approvals do not give Recipient any right, title or interest in the State Bar name or trademarks.

12. (a) Recipient agrees to indemnify, defend, and hold harmless the State Bar (including its trustees, officers, agents, and employees, as the same may be constituted now and from time to time hereafter) from and against any and all liabilities, losses, damages, expenses or costs, whatsoever (including reasonable attorneys' fees, expenses and costs), which may arise against or be incurred by the State Bar and Bank of America or its foundation, as a result of or in connection with (i) claims by any and all contractors, subcontractors, providers of consulting services, material suppliers, laborers, or any other person, firm, or corporation retained by Recipient to furnish or supply work, service, materials or supplies in connection with the performance of this Grant Agreement; (ii) claims by any person, firm or corporation for injury or damage by Recipient or Recipient's agents in connection with the provision of services pursuant to this Grant Agreement; and (iii) Recipient's breach of this Grant Agreement, or any covenants, representations or warranties herein. Notwithstanding anything in this Section 12(a) to the contrary, neither this Section 12(a) nor any other provision of this Grant Agreement

shall require Recipient to protect, indemnify or hold harmless Bank of America or its foundation or its respective subsidiaries, successors, permitted assigns, officers, directors, agents or employees (together, "B of A parties") from any liabilities, losses, damages, expenses or costs incurred directly by B of A parties arising from or in connection with Recipient's provision under this Grant Agreement of legal assistance that may involve B of A parties. This indemnity provision shall survive the termination or expiration of this Grant Agreement.

(b) Recipient will use best efforts to have the State Bar and Bank of America named as an insured party to any liability insurance policies purchased by or for Recipient.

13. This Grant Agreement does not impose on State Bar any obligation to provide Recipient funds in excess of the Total Grant Amount or after the end of the Grant Period.

14. (a) This Grant Agreement, together with the Proposal Materials and Directives, contains and constitutes the entire agreement between the State Bar and Recipient regarding Recipient's Total Grant Amount for the Grant Project. This Grant Agreement shall be binding upon agents and successors of both parties. If this proposal includes subgrantees, Recipient shall bear sole responsibility for assuring all organizations' compliance with this Grant Agreement, except as otherwise expressly agreed by the State Bar per Section 14(f) below.

(b) This Grant Agreement was made and entered into by the parties in the State of California and shall be construed according to the laws of that State. Any action or suit brought to interpret, construe or enforce the provisions of this Grant Agreement shall be commenced in the Superior Court of the State of California, County of San Francisco. Recipient will continue meeting its responsibilities under this Grant Agreement during any dispute, action or suit.

(c) Each party warrants that it has full power and authority to enter into and perform this Grant Agreement and the person signing this Grant Agreement on behalf of each party has been properly authorized and empowered to enter into this Grant Agreement. Each party further acknowledges that its officers, directors, or similarly empowered persons have read this Grant Agreement, understand it, and agree to be bound by it.

(d) No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. No consent or waiver by one party to a breach of this Grant Agreement by the other party, whether expressed or implied, shall constitute consent to, waiver of, or excuse for any other, different or subsequent breach.

(e) In the event of any violation by Recipient of this Grant Agreement's terms and conditions, including, but not limited to, executing the work of the grant in compliance with the Proposal Materials and providing interim and final reports in a timely manner, the State Bar reserves the right in its absolute discretion to terminate the Total Grant Amount and/or this Grant Agreement. The State Bar's determination will be final, binding and conclusive on Recipient and Recipient's sub-recipients, if any. In addition to any other remedies available to the State Bar, upon termination of the Total Grant Amount and/or this Grant Agreement, Recipient will repay to the State Bar any portion of the Total Grant Amount that has not been spent for the Grant Project.

(f) This Grant Agreement is not assignable by the Recipient, either in whole or in part, without the prior consent of the State Bar in the form of a formal written amendment.

(g) Recipient, and the agents and employees of Recipient, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

15. (a) All notices given in connection with this Grant Agreement will be in writing and be made personally or by first-class, certified, registered or express mail addressed to the parties at the addresses stated below AND sent to the email address below:

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

Attention: Stephanie L. Choy, Managing Director  
Legal Services Trust Fund Program  
[stephanie.choy@calbar.ca.gov](mailto:stephanie.choy@calbar.ca.gov)

Recipient: [Recipient legal business name]  
[Address 1]  
[City, State Zip]

Attention: [Executive Director name]  
Executive Director  
Email address

Notices given by mail will be deemed to have been given five (5) business days after being deposited in a United States Postal Services mailbox or with an express courier mail service. Changes in address for purposes of giving notice will be effective two (2) weeks after giving notice of the change in address.

By executing this Grant Agreement below, the parties agree to its terms.

Date:

\_\_\_\_\_  
THE STATE BAR OF CALIFORNIA

Date:

\_\_\_\_\_  
[RECIPIENT LEGAL BUSINESS NAME]

By:

\_\_\_\_\_

By:

\_\_\_\_\_

\_\_\_\_\_  
Print Name and Title of The State  
Bar Executive Officer

\_\_\_\_\_  
[Print Name of Executive Director]

By:

\_\_\_\_\_

\_\_\_\_\_  
[Print Name and Title of Board  
Officer]

THE STATE BAR OF CALIFORNIA  
LEGAL SERVICES TRUST FUND PROGRAM

GENERAL GRANT PROVISIONS

JANUARY 2004



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ARTICLE I

GENERAL

1.01 INTRODUCTION

In 1981, the California Legislature adopted Division 3, Chapter 4, Article 14 of the Business and Professions Code entitled "Funds for the Provision of Legal Services to Indigent Persons." In so doing, the Legislature made the following findings:

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

To accomplish the above purposes, the Legislature created the Legal Services Trust Fund Program under the auspices of the State Bar of California and charged the State Bar with the implementation and administration thereof. The State Bar in turn and acting pursuant to statutory authority, created the Legal Services Trust Fund Commission to administer the Legal Services Trust Fund Program. In order to clarify the requirements of the program on recipients of grants, the Legal Services Trust Fund Commission has developed these General Grant Provisions. Unless otherwise indicated, all grant recipients will be required to comply with these provisions.

## 1.02 DEFINITIONS

The capitalized terms used in these General Grant Provisions are defined as follows:

"Act" - means Business and Professions Code Division 3, Chapter 4, Article 14 (Section 6210, et seq.) which is the Legal Services Trust Fund enabling provision.

"Annual Financial Statements" or "Financial Statements" - means Recipient's annual financial statements, including a Balance Sheet, and a Statement of Support, Revenue and Expenses and Changes in Fund Balances, the accompanying footnotes, and any other statements the SBC, Commission, Recipient and/or Recipient's auditor determine are necessary to make the financial statements not misleading.

"Approved Budget" - means the Proposed Budget and Budget Narrative submitted by a Recipient for the expenditure of the Grant after it has been approved by the Commission as provided in Rule 5.1.

"Budget Narrative" - means the budget explanation submitted to the Commission by a Recipient along with the Proposed Budget as provided in Rule 5.1.

"Carryover" - means the use of Grant Funds in a Grant Period subsequent to the Grant Period for which they were awarded.

"Commission" - means the Legal Services Trust Fund Commission.

"Default" - See Section 9.01.

"Director" - means the Director of the Legal Services Trust Fund.

"General Grant Provisions" or "Provisions" - means these General Grant Provisions as amended by the Commission from time to time.

"Grant" - means the amount of funds awarded to a Recipient for a Grant Period

pursuant to the Grant Agreement.

"Grant Agreement" - means the contract between a particular Recipient and the SBC pursuant to which a grant award is made and to which these provisions are attached.

"Grant Closeout" - means the process by which a granting agency determines that all applicable administrative actions and all required work of the Grant have been completed by the Recipient and the SBC.

"Grant Period" - means the period of time specified in the Grant Agreement during which expenditures for items set forth in the Approved Budget may be applied against the Grant.

"Installments" - means portions of the Grant as disbursed by the Commission from time to time.

"Project" - means identified activity or program approved by the Commission.

"Proposed Budget" - means the itemized budget submitted by the Recipient as provided in Rule 5.1.

"Recipient" - means a qualified legal services project or support center as defined in the Act and named in the Grant Agreement as the recipient of the Grant.

"Rules" - means the Rules Regulating Interest-Bearing Trust Fund Accounts adopted by the SBC pursuant to the Act as amended from time to time.

"SBC" - means The State Bar of California.

"Termination" - means cessation of payment of Grant Installments and withdrawal of the recipient's right to receive and authority to obligate previously awarded Grant funds before that right and authority would otherwise expire. It also means the voluntary relinquishment of that right and authority by the Recipient. "Termination" does not include the refusal of the Commission to consent to a Carryover or the determination by the Commission that a Recipient is

not eligible to receive funds for a subsequent Grant Period.

## **ARTICLE II**

### **GRANT PAYMENT PROVISIONS**

#### **2.01 TIMING OF PAYMENTS**

Upon a Recipient's satisfaction of each of the conditions contained in Section 2.04 hereof, the Commission shall release one-fourth of the Grant to the Recipient. Subject to Section 2.02, the remainder of the Grant will be released in three substantially equal Installments on the first day of each calendar quarter following the release of the first Installment. Notwithstanding the foregoing, the Commission reserves the right in its sole discretion to alter the disbursement schedule of the Grant for any or all Recipients from time to time. Recipients should submit requests for different disbursement schedules at the time of submission of the Proposed Budget and include a detailed explanation in the Budget Narrative or as a request for budget alteration if the reason for a change occurs after the beginning of the Grant Period. In the event of a Default, the Commission may impose reasonable conditions, which must be satisfied before all, or any portion of the Grant is released.

#### **2.02 FUNDING ADJUSTMENTS**

The Commission reserves the right to make adjustments in the amount, permitted uses or other conditions of the Grant to any or all Recipients as it may deem appropriate from time to time. Adjustments may be made by the Commission to the Grant in total or to any one or more Installments. The Commission will condition disbursement of any funds which it may award in addition to the Grant on its review and approval of a supplement to the Approved Budget in such form as the Commission may direct, specifying the use of such additional funds by the

Recipient. Recipients will expend such additional funds only in accordance with the approved supplement to the Approved Budget.

### **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 indicate in the Budget Narrative.

### **2.04 CONDITIONS PRECEDENT TO RELEASE OF FUNDS**

Prior to the release of the first Installment of the Grant, Recipients will have satisfied each of the following conditions:

1. The Recipient has submitted a Proposed Budget and Budget Narrative within thirty days of notification of Grant award in accordance with the Rules and such Proposed Budget and Budget Narrative have been approved by the Commission.
2. The Recipient has executed the Grant Agreement.
3. The Recipient shall have made the assurances set forth in Appendix "A" or "B" as applicable, attached hereto and the factual statements made therein shall remain unchanged.
4. All of the statements and representations contained in the application

for funding shall be accurate and remain unchanged materially.

No further Installments shall be released to the Recipient if the Recipient has not continued to satisfy the conditions set forth in paragraphs 3 and 4 above.

### **ARTICLE III**

#### **APPROVED BUDGET AND USE OF FUNDS**

##### **3.01 APPROVED BUDGET**

Upon receipt of notification of a proposed Grant, a Recipient shall submit within thirty days, a Proposed Budget and Budget Narrative for the proposed expenditure of the Grant for each county in which it provides legal services. The Commission will provide instructions and guidelines for the submission of the Proposed Budget and Budget Narrative. All Proposed Budgets and Budget Narratives will be reviewed by the Commission for compliance with the Act and the Rules. Upon approval of the Proposed Budget and the Budget Narrative by the Commission said Proposed Budget and Budget Narrative shall be deemed an "Approved Budget," and the Grant will be disbursed to the Recipient in accordance with Article II of these Provisions, subject to the Act, Rules, General Grant Provisions and the Approved Budget.

##### **3.02 USE OF FUNDS**

The Grant shall be expended by the Recipient to provide civil legal services to indigent persons as defined in the Act and the Rules and for the specific purposes and in the amounts as set forth in the Approved Budget as amended from time to time in accordance with the procedure provided herein. In addition, Recipients that are qualified legal services projects, as defined in the Act, will make significant efforts to utilize twenty percent of the Grant for increasing the availability of civil legal services to the elderly, the disabled, juveniles, non-English-



speaking or other indigent persons who are members of disadvantaged and underserved groups within their service area. Such efforts will be delineated in the Proposed Budget and Budget Narrative.

### **3.03 ALLOCATION OF FUNDS BY COUNTY**

Recipients that are qualified legal services projects must spend the Grant for services in the county for which the funds were allocated.

### **3.04 COMPLIANCE WITH LAWS**

Recipients must at all times comply with the assurances contained in Appendix "A" or "B" as applicable. In addition, Recipients will comply with all relevant statutes, rules, regulations or decisions of the State of California or any applicable subdivision thereof.

### **3.05 SUBCONTRACTING**

Recipients may enter into subcontracts with providers of civil legal services provided such subcontracts are for the provision of services in accordance with the Act, Rules, Grant Agreement and these General Grant Provisions. All such subcontracts will contain the assurances set forth in Appendix "A" or "B" as applicable. The Recipient will be responsible for ensuring the compliance by such subcontractors with the Act, the Rules and these procedures. All such subcontracts shall grant the Recipient the right to inspect the books, records and program activities of the subcontractor to ensure compliance with the requirements hereof. Recipient will specifically assign its inspection rights to the SBC and/or the Commission as a part of the Grant Agreement. Fully executed copies of all such subcontracts will be attached to the Budget Narrative or appropriate supplemental Budget Narrative submitted by the Recipient or shall promptly be submitted upon subsequent execution of such subcontracts. All subcontracts will provide for a waiver of any claim of rights and indemnification by the subcontracting party against

the SBC or the Commission.

## ARTICLE IV

### STANDARDS FOR RECIPIENT FINANCIAL MANAGEMENT SYSTEMS AND AUDITS

#### 4.01 FINANCIAL MANAGEMENT STANDARDS

Recipients will comply with financial management standards and requirements which may be imposed by the Commission from time to time to reasonably enable the Commission to monitor and evaluate the Recipient's Project and use of the Grant funds as required by the Act and the Rules. To assist in such evaluation, for any fiscal year that begins on or after July 1, 1992, the recipient will segregate Legal Services Trust Fund Program grant expenditures in a separate fund for accounting and reporting purposes.

#### 4.02 ALLOCATION

The Approved Budget and financial reports will allocate Project expenses paid with Grant funds between program costs and administrative costs. Such allocation will be based on reasonable estimates and formulas which will be explained in the Budget Narrative.

A. Program Costs. "Program Costs" are those that are identified specifically with the direct delivery of civil legal services. Typical Program Costs are:

1. Compensation of attorneys, paralegals, law clerks, law students and direct support staff for time and effort devoted specifically to the provision of legal services.
2. Cost of materials acquired, consumed or expended specifically for the purpose of the Grant.
3. Equipment and other approved capital acquisitions necessary to

accomplish the purposes of the Grant.

4. All other items of expense incurred specifically to carry out the purposes of the Grant.

B. Administrative Costs. "Administrative Costs" are those incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved. Charges for Administrative Costs normally will include items such as the cost of maintaining buildings, utilities or administrative salaries incurred for the benefit of the Project as a whole, as well as other activities of the Recipient.

#### 4.03 SOURCE DOCUMENTATION

Accounting records shall be supported by source documentation such as cancelled checks, paid bills, timecards, payrolls, etc. The Commission may disallow unsupported expenditures and may require that funds expended for unsupported expenditures be returned.

#### 4.04 AUDIT RESOLUTION

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

#### 4.05 FINANCIAL STATEMENTS

Recipients shall submit a financial statement for the fiscal year ended most recently within 90 days of the close of their fiscal year. The financial statement shall be audited or reviewed by an independent certified public accountant. Any recipient whose gross expenditures exceeded \$500,000 during the fiscal year shall be required to submit an audited statement. Submission of a financial statement as required in this section shall constitute compliance with the

requirement in Rule 4.2 of the Regulating Rules that an applicant for funding must submit such a statement within 60 days after the application deadline.

## **ARTICLE V**

### **REPORTING OF PROGRAM PERFORMANCE**

#### **5.01 REPORTING BY RECIPIENTS**

Recipients shall submit a financial and program activity report to the Commission quarterly during the Grant Period at such times as shall be directed by the Commission. These reports will be in the form and contain the information specified by the Commission. The financial report will detail the expenditure of the Grant to date, compare those expenditures against the Approved Budget and will disclose any facts or events which would make the Recipient ineligible for funding if applying for funding as of the date of the Report. The financial and program activity report will also provide information sufficient to determine compliance with 6221 of the Act.

#### **5.02 SIGNIFICANT DEVELOPMENTS BETWEEN SCHEDULED REPORTING DATES**

Between the scheduled reporting dates, events may occur which have significant impact upon the Grant. The Recipient shall inform the Commission as soon as the following types of conditions become known:

1. Problems, delays or adverse conditions which will materially impair the Recipient's ability to comply with the Approved Budget. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
2. Any facts or events which would make the Recipient ineligible for

funding if it were making application for funding at that time.

### **5.03 PROGRAM VISITS**

Visits to one or more of a Recipient's places of business or that of a subcontractor of a Recipient may be made as necessary by SBC representatives to inspect and review a Project's physical facilities, financial records, operational policies and procedures, including but not limited to first-hand observation of Recipient's or subcontractor's delivery of civil legal services, and such other aspects of a Recipient's program as reasonably necessary to ensure compliance with the Act, the Rules, the Grant Agreement and these provisions.

## **ARTICLE VI**

### **RETENTION AND ACCESS REQUIREMENTS FOR RECORDS**

#### **6.01 LENGTH OF RETENTION PERIOD**

A. Except as provided in paragraphs (B) and (C) of this section, records shall be retained for five years from the starting date of the submission of the final expenditures report or ending date of Grant Period, whichever is later.

B. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the five-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period, whichever is later.

C. In order to avoid duplicate record keeping, the Commission may make special arrangements with Recipients to retain any records which are continuously needed for joint use. The Commission will request transfer of records to its custody when it determines that the records possess long-term value. When the records are transferred to or maintained by the Commission, the five-year retention is not applicable to the Recipient.

## 6.02 SUBSTITUTION OF MICROFILM

Copies made by microfilming, photocopying or similar methods may be substituted for the original records.

## 6.03 ACCESS TO RECORDS

A Records of Recipients. The SBC, or any of its authorized representatives, shall have the right of access to any books, documents, papers or other of the Recipient's records which are pertinent to the Grant, in order to make audits, examinations, excerpts and transcripts.

B. Expiration of Right of Access. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are retained.

# 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.

#### **7.02 PROGRAM CHANGES**

In the event of any of the following program changes, the affected Recipient will notify the SBC in writing within three (3) business days:

1. The occurrence of any event which makes or with the passage of time will make the Recipient ineligible to receive a Grant if it applied at that time;
2. Any material change in the Recipient's program or other funding, if any, which would make the Budget Narrative inaccurate; or
3. Any change in the name, address or telephone number of the Recipient or any change of the individual who is responsible for the Recipient's expenditure of the Grant.

ARTICLE VIII

REVERSIONARY RIGHTS OF STATE BAR

8.01 RETENTION OF RIGHT

The SBC hereby reserves a reversionary right in all Grant funds expended by a Recipient to acquire property or an interest therein. The SBC may require the Recipient to take such reasonable steps as may be necessary to secure the SBC's reversionary interest.

8.02 EXERCISE OF RIGHT

Upon the termination of a Grant or if the SBC does not fund a Recipient immediately following the expiration of a Grant Period, the SBC may within six (6) months give written notice of its election to exercise its right of reversion to all property of Recipient acquired with Grant funds. If notice is not given within the six (6) month period, the SBC will be deemed to have waived its reversionary right in the property or Grant funds. However, such waiver does not release the Recipient from its obligation to use the Grant funds or property for the purposes stated in the Approved Budget. Title to the property will be deemed to have reverted to the SBC upon giving of the notice described herein. Upon receipt of such notice, the Recipient will immediately deliver the property to the SBC, or otherwise dispose of it as directed by the SBC.

8.03 DISPOSITION OF PROPERTY WHICH HAS REVERTED

In the notice of exercise of its reversionary rights, the SBC shall direct the Recipient to:

1. physically deliver the property to the SBC at a location designated by the SBC;
2. direct the Recipient to sell the property for a price and on terms acceptable to the SBC and remit the sale proceeds to the SBC; or



3. deliver the property to any other Recipient to be used by such Recipient for a use approved by the SBC.

## **ARTICLE IX**

### **DEFAULT AND REMEDIES**

#### **9.01 DEFAULT DEFINED**

For purposes of these General Grant Provisions, a Recipient shall be deemed in default upon the occurrence of any of the following:

1. Any material violation by the Recipient of the Act, any of the Rules, the Grant Agreement, these General Grant Provisions, any other applicable statute, ordinance or law or any other rules, regulations or provisions applicable to the Trust Fund Program which may hereafter be adopted.
2. Any use of Grant Funds not in substantial accordance with the Approved Budget and Budget Narrative including approved revisions for that Grant Period.
3. The occurrence of any event, which would make the Recipient ineligible to receive a Grant if applying for one at that time.
4. The submission of any materially false or intentionally misleading information to the SBC, the Commission or the Director as a part of the Approved Budget, Budget Narrative, financial report, financial statements or otherwise.
5. Any failure to return unused Grant funds at the end of a Grant Period unless a Carryover has been approved by the Commission.

## 9.02 REMEDIES UPON DEFAULT

In the event of a default by a Recipient, the SBC shall have the right to do the following:

1. Adopt a monthly Grant disbursement schedule (including demanding a return of Grant funds already disbursed in excess of the pro rata current month's Installment) and conditioning payment of subsequent Installments on the Recipient's cure of the Default.
2. Terminate the Grant. Notwithstanding a termination of the Grant, the Recipient shall be entitled to continue to receive Grant funds on a monthly disbursement schedule subject to an obligation to restore funds received after notification of termination upon final disposition of any appeal brought by the Recipient as provided in the Act and the Rules.
3. Demand repayment of Grant funds improperly expended by a Recipient and institute legal action to recover them.

## ARTICLE X

### GRANT CLOSEOUT

#### 10.01 CLOSEOUT

A. Except as otherwise provided herein, each Grant shall be closed out as promptly as is feasible after expiration or termination.

B. In closing out Grants, the following shall be observed:

1. Return all unused Grant funds immediately unless a Carryover thereof has been approved by the Commission.

2. Within thirty (30) days of any termination, the Recipient shall submit a final accounting of all Grant funds for the current Grant Period.

3. The Recipient shall submit, within ninety (90) days of the date of expiration or termination, all financial, performance and other reports required by the terms of the Grant, the Act and the Rules, including without limit the audited financial statements required by the Act. The SBC may extend the due date for any report upon receiving a justified request from the Recipient, and may waive any report which is not needed.

**10.02 RIGHTS NOT AFFECTED**

A. The closeout of a Grant does not affect the retention period for, or SBC rights of access to, records as provided herein.

B. If a Grant is closed out without audit, the SBC retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

C. The closeout of a Grant does not affect the Recipient's responsibilities with respect to property under Article VIII hereof, or unexpended Grant funds as provided herein.

**10.03 AMOUNTS PAYABLE TO SBC**

For each Grant, the following sums shall constitute a debt or debts owed by the Recipient to the SBC, and shall, if not paid upon demand, be recovered from the Recipient or its successor or assignees by setoff or other action as provided by law:

1. Any Grant funds paid to the Recipient by the SBC in excess of the amount to which the Recipient is finally determined to be entitled;

2. Any amounts due the SBC under these Provisions; and

3. Any other amounts finally determined to be due the SBC.

10.04            **TERMINATION BY CONSENT**

In addition to termination upon a Default, Grants may be terminated in whole or in part as follows:

1. By the SBC with the consent of the Recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion of the Grant to be terminated; or
2. By the Recipient, upon written notification to the SBC, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the SBC determines that the remaining portion of the Grant will not accomplish the purposes for which the Grant was made, the SBC may elect to terminate the Grant in its entirety.

Appendix A

ASSURANCES FOR LEGAL SERVICES PROJECTS

The project assures compliance with the following:

1. Funds allocated by the Trust Fund Program will be used only for the purposes set forth in Business and Professions Code §§ 6210-6228, and the corresponding regulating rules and any additional amendments thereto.
2. The project will:
  - a. at all times honor the attorney-client privilege and will uphold the integrity of the adversary process;
  - b. not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Trust Fund Program;
  - c. not discriminate on the basis of race, color, national origin, religion, sex, handicap or age.
3. All funds allocated by the Trust Fund Program will be expended exclusively for services in California.
4. All funds allocated by the Trust Fund Program will be expended exclusively on civil matters.
5. All funds allocated by the Trust Fund Program will be expended exclusively on services to the indigent.
6. Attorneys fees awarded to project generated through court awards in cases funded through the Trust Fund Program will be used to provide legal services without charge to indigent persons.
7. All funds allocated by the Trust Fund Program will be expended exclusively for services in the county for which the monies were allocated. Allocations made by the Trust Fund Program will be by a pro rata county-by-county formula.
8. Significant efforts shall be made to utilize 20 percent of the funds allocated under this article for increasing the availability of services to the elderly, the disabled, juveniles, or other indigent persons who are members of disadvantaged and underserved groups within project service area.
9. The project will comply with quality control review procedures adopted by the State Bar.
10. The project will comply with fiscal management and control procedures (Standards for Financial Management Systems and Audits) adopted by the State Bar.
11. The project will permit site visits or present additional information deemed reasonably necessary to determine compliance with the laws governing the Legal Services Trust Fund Program.

## Appendix B

## ASSURANCES FOR SUPPORT CENTERS

The center assures compliance with the following:

1. Funds allocated by the Trust Fund Program will be used only for the purposes set forth in Business and Professions Code 6210-6228, and the corresponding regulating rules and any additional amendments thereto.
2. The center will:
  - a. at all times honor the attorney-client privilege and will uphold the integrity of the adversary process;
  - b. not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Trust Fund Program;
  - c. not discriminate on the basis of race, color, national origin, religion, sex, handicap or age.
3. All funds allocated by the Trust Fund Program will be used in support of qualified legal services projects (including attorneys in private practice who provide legal services to indigent persons without charge) providing free legal services in California and the applicant center agrees to restrict its use of funds allocated from the Trust Fund Program to matters directly related to the needs of legal services clients.
4. The center's board of directors must by resolution establish the center's priorities for the provision of legal services. The resolution must be made pursuant to consultation with legal services attorneys, members of the private bar, and eligible clients.
5. The center assures that the services funded by the Trust Fund Program are in addition to those already funded for qualified legal services projects by other sources.
6. The center will comply with quality control review procedures adopted by the State Bar.
7. The center will comply with fiscal management and control procedures (Standards for Financial Management Systems and Audits) adopted by the State Bar.
8. The center will permit site visits or present additional information deemed reasonably necessary to determine compliance with the laws governing the Legal Services Trust Fund Program.
9. If your program is part of a corporation and some or all of your program's income is derived from general unrestricted funds of the corporation, you must provide an assurance from the corporation's chief executive officer stating that the corporation's contribution from its general unrestricted funds to your program will not be reduced from the previous fiscal year level. The Commission may grant an exception to the requirement of the previous sentence because of impracticality, as where the corporation suffers a diminishment of its unrestricted funds and is therefore required to reduce its funding to all of its programs.

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

March 24, 2020

Christine Holmes  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Dear Christine,

OneJustice seeks to change one of the subgrantees for our 2020 Bank Grant. Through this grant, OneJustice's goal is to help create community redevelopment in the Inland Empire by working with two local organizations to provide pro bono transactional law clinics to small businesses. Part of the success of this grant depends on the ability of these Inland Empire organizations to have enough resources, staff, and organizational security to complete their deliverables. OneJustice chose organizations within the Inland Empire that, to the best of OneJustice's knowledge, had this track record. OneJustice was very excited to be working with two amazing organizations and was fully confident of completing the grant deliverables and goals.

However, none of us expected COVID-19 to have such a devastating impact on every aspect of non-profit organizations -- from operations to service delivery -- and OneJustice has found that certain organizations have been harder hit than others, including some organizations in the Inland Empire. One of OneJustice's Inland Empire subgrantees, Inland Empire Latino Lawyers Association (IELLA), recently reached out to OneJustice to let us know that IELLA was no longer able to carry out their 2020 Bank Grant deliverables. Their Executive Director explained that IELLA's offices are on lockdown and many staff members do not possess the technological infrastructure to work from home. Additionally, with their offices closed, less clients are calling, and the organization is not in a position to take on additional work going forward. With this considered, IELLA made the very hard decision to back out from this grant to ensure that OneJustice has a dedicated partner able to do the work.

Accordingly, OneJustice has had to pivot to consider other Inland Empire organizations, in order to ensure that this banner project is a success. Prior to COVID-19, OneJustice was already in conversation with Inland Counties Legal Services (ICLS) about an informal collaboration on this grant. ICLS was very open to this idea and OneJustice staff members were going to check back in with ICLS once the clinic model had been finalized. Upon learning about IELLA, OneJustice and ICLS spoke about a formal partnership and ICLS was enthusiastic about this possibility. OneJustice would now like to bring in ICLS as a formal partner on this project to replace IELLA.

OneJustice and ICLS have worked together for many years in different capacities. For years, OneJustice has coordinated the California Project Directors Association, a meeting of the Legal Service Corporation funded legal aid organizations in California. ICLS is a prominent member of that association and OneJustice has always had a positive relationship with them through that work. Most recently, OneJustice's Healthy Nonprofit Team trained ICLS's Board of Directors on governance and

is currently in the final stages of finalizing an organizational strategic plan. Additionally, OneJustice has consulted with ICLS in the past on building their pro bono program, and their pro bono director is currently part of OneJustice's Pro Bono Accelerator -- a project highly complementary to the Inland Empire Community Development project. Finally, many past and current ICLS staffers have been members of OneJustice's Executive Fellowship program, which teaches nonprofit management to legal aid staff.

In conclusion, OneJustice respectfully requests the State Bar to adopt the proposed change to OneJustice's 2020 Bank Grant. This will allow OneJustice to continue its work to create pro bono infrastructures and provide pro bono transactional legal assistance to small businesses in the Inland Empire, which is more important now than ever before.

Thank you for considering this request. Please feel free to reach out to me if you have any questions or need additional information.

Sincerely,

Sharon Bashan  
Director, Pro Bono Justice