

LSTFC Eligibility and Budget Review Committee Meeting

Friday, June 26, 2020

10:00 a.m. – 12:00 p.m.

Held via Zoom Video Conference Meeting:

MEETING SUMMARY AND ACTION ITEMS

The meeting was called to order at 10:15 a.m.

OPEN SESSION

I. ROLL CALL

Committee Members

J. Eric Isken (Chair)
Banafsheh Akhlaghi
Louise Bayles-Fightmaster
Pamela Bennett
Erica Connolly
Herman L. DeBose
Rebecca Delfino
Corey Friedman
Zahirah Mann
James Meeker
Debra Meyers
Bob Planthold
Kim Savage

Staff

Erica Carroll
Brady Dewar
Doan Nguyen
Greg Shin
Kim Warmesley

Liaisons

Debra Manning (Board of Trustees)

Public

Salena Copeland (Legal Aid
Association of California)

Roll call was taken, and a quorum was established. Chair Isken welcomed new Eligibility and Budget Review (E&BR) Committee members Corey Friedman and Kim Savage.

II. CALL FOR PUBLIC COMMENTS

No one requested time for public comment.

III. CONSENT

A. Approval of Meeting Summary and Action Items from May 1, 2020 Meeting

Meeker requested an edit to a statement that was attributed to him in the May 1, 2020 Meeting Summary and Action Items and requested that the following sentence be amended as follows:

~~Unlike~~ The decennial census which occurs every ten years, asks questions about citizenship households, members of households in terms of gender, ethnicity, and age, and is important for drawing congressional boundaries,..."

The Committee approved by roll call vote the Meeting Summary and Action Items from the May 1, 2020 meeting with the changes noted above (Meeker moved, Isken seconded; Friedman and Savage abstained).

IV. BUSINESS

A. Update on Outcome of 2019 Monitoring Visits to California Rural Legal Assistance, Inc. (CRLA) and Inland Empire Latino Lawyers Association, Inc. (IELLA)

Program Supervisor Doan Nguyen provided an update on the 2019 monitoring visits for two organizations: California Rural Legal Assistance (CRLA) and Inland Empire Latino Lawyers Association (IELLA).

CRLA - There were a number of programmatic findings including increasing diversity in their governance, outreach to a broader constituency, and low staff wages. There were also fiscal findings related to cost allocations, bank reconciliations, and cash receipts handling. It was further discovered that they had mis-allocated State Bar bank grant funds which they have since returned a portion of to correct the error. While they have stated that they will be creating protocols and policies to address these issues, staff is recommending a careful review of their 2021 IOLTA/EAF application and audit.

IELLA - There were several programmatic findings including staff's role in attorney oversight, frequency of Board meetings, and staff performance. While IELLA provided sufficient responses to the programmatic findings, their responses to the fiscal findings will require further review. The fiscal findings included a dormant bank account, dual operating bank accounts, and noncompliance with California's minimum wage requirements. Staff is also recommending a careful review of their 2021 IOLTA/EAF application and may suggest an eligibility review conference if further review is warranted.

Nguyen mentioned that staff would like to make it a practice to bring substantive findings/issues to the Committee as early as possible so that potential eligibility issues can be determined sooner rather than later.

B. Discuss and Approve Grantee Requests to Make Real Property Purchases and/or Capital Additions Using 2020 IOLTA funds

At its meeting on November 1, 2019, the E&BR Committee reviewed and conditionally approved the proposed budgets to allocate IOLTA funds to purchases of real property/capital additions for the following eight organizations: California Rural Legal Assistance (CRLA), Disability Rights California (DRC), Greater Bakersfield Legal Assistance (GBLA), Legal Aid Foundation of Los Angeles (LAFLA), Legal Aid Society of San Bernardino (LASSB), Legal Services of Northern California (LSNC), Neighborhood Legal Services (NLS), and Public Counsel. Final approval was withheld pending receipt

and review of appropriate, supporting documentation which was due on March 31, 2020. Due to recent public health concerns caused by COVID-19, some organizations requested and were granted extensions to submit their documentation, while others opted to revise their budgets:

- CRLA and DRC provided the appropriate documentation by the original March 31, 2020 deadline.
- LASSB withdrew its request to allocate funds to purchase a parking lot and make improvements to/expand their office building.
- Public Counsel's request to use IOLTA fund for improvements as capital additions in their proposed budget were later determined to fall under the guidelines for Management of Personal Tangible Property. Because these are actually leasehold improvements, they will no longer require preapproval by the Commission.
- NLS submitted a revised budget indicating that they will no longer be utilizing IOLTA funds towards office construction and expansion and instead make equipment purchases. As a result, the Commission will no longer need to review NLS' budget in the context of a real property purchase and staff will review their revised budget accordingly.
- GBLA submitted revised documentation requesting to prepay their mortgage obligation and forego their previously planned renovation and improvements to their office building.
- LAFLA provided documentation for assessments, planning, and design for construction on their East Los Angeles office.
- LSNC provided documentation to prepay the remainder of their mortgage on their main office building in Sacramento. They reported that after the mortgage payoff, LSNC will be the sole owner and occupant of the building which is partially occupied by another tenant.

The Committee discussed the documentation submitted by GBLA, LAFLA and LSNC. Committee member Mann inquired whether the Real Property Guidelines made a distinction between actual construction costs and preconstruction costs (like design and planning). Staff reported that the Guidelines are dense and have not been updated since their creation over 30 years ago; staff interpreted the Guidelines fairly liberally in this instance but recommended that updates be made to clarify the Guidelines.

Senior Program Analyst Erica Carroll mentioned during the discussion that the Guidelines clearly state that these expenditures are not intended as an investment or endowment but rather should enhance organizations' operations in service to indigent clients. Additional assurances had not been required of the grantees regarding the use of the funds, though some organizations affirmatively acknowledged their obligations through board resolutions. Current grant agreements and provisions regarding the receipt and use of IOLTA funds already require similar assurances, and staff believed that to be sufficient. Nonetheless, Carroll indicated that should the Committee wish to seek a separate acknowledgment in the future, that would be possible. At least one Committee member expressed interest in establishing such a requirement.

The Committee approved by roll call vote the budgets for GBLA, LAFLA, and LSNC based on the documentation submitted. (Planthold moved, DeBose seconded).

C. Update on 2021 IOLTA/EAF Applications

Nguyen shared a PowerPoint presentation to provide an overview of the 2021 IOLTA/EAF application review process.

Staff has a compressed application review period this year due to the original application deadline of May 15, 2020 being extended to June 15, 2020 due to COVID-19.

Staff received a total of 106 applications including 99 renewal applications and seven new applications for funding. Eighty-four applicants are seeking funding as qualified legal services projects (QLSPs) and 22 as support centers (SCs).

Nguyen highlighted some key dates during the upcoming IOLTA/EAF application review period:

- June 26, 2020 - E&BR meeting to approve late applications and audit extension requests
- July 10, 2020 - E&BR meeting to review and discuss first group of applications (including applications from brand new programs) and schedule eligibility review conferences as needed for late July and early August
- Late July and early August - E&BR meeting to review and discuss second batch of applications
- Aug 14, 2020 - E&BR to present funding recommendation to LSTFC
- Staff begins running IOLTA funding formula and releases grant allocations on August 24, 2020 to approved programs and they have 30 days to submit budgets
- October 28, 2020 - E&BR meeting to review and discuss any budget issues (if needed)
- November 13, 2020 - LSTFC meeting to approve final grant award allocations
- Staff begins to cut checks so that programs receive funds in January 2021

Carroll explained that the following three programs submitted their 2021 IOLTA/EAF applications past the June 15, 2020, 5:00 pm deadline:

- Inland Empire Latino Lawyers Association - submitted on June 15 at 6:16 pm
- Justice & Diversity Center of the Bar Association of San Francisco - submitted on June 15 at 5:21 pm
- Senior Citizens Legal Services submitted on June 15 at 5:29 pm (second year in a row that it submitted a late application)

While acknowledging that these applications were late, given that they were all submitted within an hour and a half of the deadline, staff is recommending that these applications be accepted.

A discussion ensued about how strict the E&BR Committee should be with respect to the application deadline. Committee members also discussed whether late application submission was a pattern with any of these programs.

The Committee approved by roll call vote to accept the late applications for Inland Empire Latino Lawyers Association, Justice & Diversity Center of the Bar Association of San Francisco, and Senior Citizens Legal Services (Planthold moved, Akhlaghi seconded).

D. Discuss and Approve Audit Extension Requests

Carroll explained that staff has discretion to approve audit extension requests up to the application deadline (June 15, 2020) but that any requests for submission past that date (i.e. on or after June 16) must be approved by the Committee.

The fifteen programs noted below requested an extension to complete and submit their audits or financial reviews. The primary reason cited for the extension request was delays related to COVID-19 including office closures and inability of auditors to access/review organizations' records.

- Asian American Advancing Justice - Los Angeles
- Asian Pacific Islander Legal Outreach
- Bay Area Legal Aid
- Center for Human Rights & Constitutional Law Foundation
- Community Lawyers, Inc.
- Community Legal Aid SoCal
- Family Legal Assistance at CHOC Children's
- Inland Counties Legal Services
- Justice & Diversity Center of the Bar Association of San Francisco
- Legal Aid Society of San Bernardino
- Legal Services of Northern California
- Neighborhood Legal Services
- Senior Citizens Legal Services
- Voluntary Legal Services Program of Northern California
- Wage Justice Center

Carroll further explained that Community Lawyers, Inc., a new applicant for 2021 IOLTA/EAF funding, submitted a late extension request to submit their audit. It was noted that their initial audit submission titled "Financial Review for 2019 & 2020" did not appear to be a financial review completed by an independent CPA.

Nguyen highlighted that while OA&I's guidelines and office past practice has been that the financial review must be completed by an independent CPA, the State Bar Rules are not clear on this issue and the Rules Committee will be submitting a proposal to the Board of Trustees to align OA&I's guidelines and the State Bar Rules. Nguyen further highlighted that law school clinics have been previously allowed to submit a university or law school audit with a financial review/audit specific to the clinic as an attachment. While recently the practice has been to accept financial reviews completed by an independent CPA, that has not always been the practice for law school clinics. It was also noted that Community Lawyers, Inc. was found ineligible for IOLTA/EAF funding last year because it failed to meet the primary purpose requirement and did not submit the required audited or reviewed financial statement with its 2020 application.

Nguyen added that if approved, once these late audits are received and reviewed, if substantial issues/findings are discovered that require further review and investigation, staff may ask the

Committee to convene another meeting (beyond what's already being proposed to be scheduled) to discuss those issues/findings.

Nguyen further relayed that staff has been very transparent with the new programs that IOLTA revenue has dropped and that the IOLTA/EAF grant application process is fairly rigorous. Nguyen also mentioned that a possible topic for codification discussion may be whether the Committee should adopt some threshold minimum for IOLTA/EAF grants given the amount of work required for review of a new application.

Akhlaghi requested that the PowerPoint presentation along with the key dates covering the upcoming IOLTA/EAF application review period be provided to the Committee members. She also welcomed and expressed her thanks to Friedman and Savage for joining the E&BR Committee.

The Committee approved by roll call vote staff's recommendation that August 1, 2020 be set as the deadline for submission of the final audit or financial review for the fourteen programs listed above to allow staff sufficient time to prepare grant allocations. (Isken moved, Friedman seconded, Planthold noted that he abstained with respect to the vote for Bay Area Legal Aid).

The Committee further approved by roll call vote staff's recommendation that August 1, 2020 be set as the deadline for submission of the final audit or financial review by an independent CPA for Community Lawyers, Inc. to allow staff sufficient time to prepare grant allocations. (Isken moved, Meyers seconded, Planthold noted that he will be recusing himself for any voting related to Bay Area Legal Aid).

Isken closed by suggesting that given the numerous meetings that will most likely be required to address issues related to the review and approval of 2021 IOLTA/EAF applications, meeting dates should be calendared as quickly as possible. Nguyen will follow up by distributing Doodle polls to facilitate scheduling of those meetings.

There was some additional discussion about the submission of late applications and what, if anything, should be done to address and mitigate this issue going forward. Nguyen suggested that a possible approach could be to address this issue in codification by implementing some type of penalty for late submissions. Isken commented that there will be plenty of opportunity to further discuss this issue.

V. ADJOURN

The meeting was adjourned at 11:50 am