

**Legal Services Trust Fund Commission Meeting
Meeting Summary and Action Items**

**Friday, August 14, 2020
12:00 p.m. – 4:00 p.m.**

Zoom Conference

OPEN SESSION

Chair Banafsheh Akhlaghi called the meeting to order at 12:05 p.m.

I. ROLL CALL

Roll was taken and quorum was established. All members were present on Zoom or by phone.

Commission Members

Chair Banafsheh Akhlaghi
Vice Chair Eric Isken
Amin Al-Sarraf
Louise Bayles-Fightmaster
Pamela Bennett
Will Boschelli
Erica Connolly
Corey Friedman
Zahirah Mann
James Meeker
Debra Meyers
Bob Planthold
Richard Reinis
Kim Savage
Christian Schreiber
Christina Vanarelli

Advisors

Judge Lisa R. Jaskol
Justice William J. Murray, Jr.

Liaison

Salena Copeland (LAAC)
Bonnie Hough (Judicial Council)

Public

None

State Bar Staff

Carolina Almarante
Vicky Avila
Frank Bittner
Christal Bundang
Erica Carroll
Christine Holmes
Brady Dewar
Elizabeth Hom
Doan Nguyen
Dan Passamaneck
Greg Shin

II. CALL FOR PUBLIC COMMENT

Chair Akhlaghi invited members of the public on any items on the agenda. No public comment was made.

III. CONSENT

A. Approval of Meeting Summary and Action Items from June 26, 2020 Meeting

The Legal Services Trust Fund Commission (Commission) approved by unanimous roll call vote the Action Summary from the June 26, 2020 meeting (Planthold moved, Isken seconded).

IV. RECENT DEVELOPMENTS

A. Chair's Report

Chair Akhlaghi reported that the Council on Access and Fairness (COAF) has invited the Commission to its August 28 meeting and we will be inviting COAF to the Commission's November meeting. Chair Akhlaghi is looking forward to increasing collaboration between

both sub-entities. She also wanted to acknowledge the Commission, staff, and liaisons for their hard work before the start of the next term. In the upcoming term, Commission will be joined by two new members.

B. State Bar Report on Board of Trustees Actions

None.

C. Staffing Updates

Acting Program Manager Doan Nguyen reported that interviews are underway for the Office of Access & Inclusion (OA&I) director position and anticipate hiring a new director by the Commission's next meeting in November. OA&I is also currently hiring for two backfill Senior Program Analyst positions.

D. IOLTA Revenue Update

Program Supervisor Carolina Almarante provided an update regarding IOLTA revenue. Overall, compliance rates remain above the Federal Fund Target Rate. In June, the average rates for all participating financial institutions were .34 basis points, higher than the anticipated .16 to .20 basis points. And, the Top 10 revenue-generating banks maintained an average rate of .54 basis points. While there was a sharp drop in rates mid-March (a 60% decrease in revenue from March to April), monthly rates have maintained steady since June and average monthly revenue of \$1.89 million.

V. BUSINESS

A. Discuss and Approve Recommendation of Eligible and Ineligible Applicants for IOLTA and EAF Funding for Grant Year 2021

Vice Chair Isken and Senior Program Analyst Erica Carroll reported that for the 2021 IOLTA and EAF grant year, the Eligibility and Budget Review (E&BR) Committee reviewed and considered 106 applications. Substantial application issues were elevated to the E&BR Committee and addressed at separate Eligibility Review Conferences with the organizations. Vice Chair Isken commended both staff and the Committee for their hard work during this grant year's atypically compressed cycle.

Carroll provided an overview of the IOLTA and EAF eligibility requirements and the application process for Qualified Legal Services Projects (QLSP) and Support Centers. Related to threshold requirements, she also reported that four Support Centers - Family Violence Appellate Project, Impact Fund, Legal Services for Prisoners with Children, and National Immigration Law Center were deemed to be of special need by majority of QLSPs.

Based on the eligibility requirements, the E&BR Committee recommends that 101 organizations be found eligible and that 5 organizations be found ineligible for 2021 IOLTA and EAF grant funding.

In addition, 21 QLSPs applied for pro bono allocation. Carroll reviewed the pro bono threshold requirement and reviewed Tests A, B and C. There were 11 QLPs applying for pro bono allocation under Test C, which requires a narrative explanation for how the organization's principal means of delivery is through recruitment of attorneys in private practice to provide free legal representation to indigent persons. The E&BR Committee

recommends that 9 organizations be found eligible and that 2 organizations - Legal Aid Society of San Bernardino (LASSB) and Legal Aid of Marin be found ineligible for pro bono allocation. LASSB had a significant audit finding regarding the accuracy of its reported pro bono hours and the E&BR Committee determined that Legal Aid of Marin did not provide a sufficient Test C narrative.

Carroll also reported that during the IOLTA and EAF application review process, there was a question raised about whether parole work was considered civil legal services. The State Bar determined that it was qualifying work for purposes of IOLTA.

Out of the 106 applications received, there were seven new applicants, six of which participated in Eligibility Review Conferences. The E&BR Committee recommends that the five new organizations be found ineligible for 2021 IOLTA and EAF funding for the following reasons:

- **Community Lawyers, Inc.** Submitted an incomplete application, as it did not provide an independent financial review. It also did not demonstrate a sufficient methodology for identifying and deducting non-qualifying work and tracking income eligibility. There were also governance issues addressed at the ERC. The E&BR Committee provided this organization with feedback should they choose to reapply in the future.
- **East Bay Family Defenders (EBRC).** Did not start income screening until July 1, 2020 and lacked a sufficient methodology to report qualified expenditures. The E&BR Committee determined that was not appropriate for EBRF to use statistics from another organization as a proxy. EBRC has been encouraged to apply for future IOLTA and EAF funding.
- **Housing Rights Center (HRC).** Submitted an incomplete application and did not have a sufficient methodology for deducting over-income or non-legal services. Following HRC's ERC, the E&BR Committee granted additional time for HRC to complete its application, but HRC did not meet this deadline.
- **Kids in Need of Defense (KIND).** KIND does not meet threshold requirements, as it is not incorporated in California. KIND also submitted an incomplete application, as it did not provide an audit. Based on estimated expenditures, KIND's qualified expenditures were below 50%, which. During the ERC, KIND indicated that it does not intend on incorporating in California and it is unclear if KIND will apply for future IOLTA and EAF funding.
- **USC Gould – Immigration Law Clinic.** Did not satisfy the "independent" audit/financial review threshold requirement, and staff was unable to confirm the accuracy of the reported expenditures.

The E&BR Committee also recommends that the remaining two new organizations – Social Justice Collaborative (SJC) UnCommon Law and be found eligible for 2021 IOLTA and EAF funding.

Following the Commission decision, staff will send out determination letters to all organizations found ineligible. Organizations will be given 30 days to respond and appeal the decision, so the Commission may need to reconvene before the November meeting if there is an appeal filed.

Finally, Carroll provided an update regarding two organizations - Family Law Assistance at Children's Hospital of Orange County (CHOC) and Neighborhood Legal Services (NLS) - who were unable to meet the August 1 extension deadline to submit their audit of financial review.

The Commission approved by unanimous roll call vote the following resolution (Boschelli moved, Planthold seconded):

Upon a showing of extraordinary circumstances, CHOC is granted an extension to submit its final 2019 financial review by August 31, 2020. The Commission also finds CHOC eligible for 2021 IOLTA/EAF funding pending receipt of the final audit. If the audit is not submitted by August 31, 2020, the Chair of the Commission is delegated authority to approve a request by CHOC for further extension or extensions if the Chair, in conjunction with staff, to determine the request is reasonable and necessitated by the extraordinary circumstances that justified the initial extension to August 31.

Upon a showing of extraordinary circumstances, NLS is granted an extension to submit its final 2019 audit by August 31, 2020. The Commission also finds NLS eligible for 2021 IOLTA/EAF funding pending receipt of the final audit. If the audit is not submitted by August 31, 2020, the Chair of the Commission is delegated authority to approve a request by NLS for further extension or extensions if the Chair, in conjunction with staff, to determine the request is reasonable and necessitated by the extraordinary circumstances that justified the initial extension to August 31.

The Commission approved by unanimous roll call vote the following resolution (Isken moved, Meyers seconded):

RESOLVED, that the Legal Services Trust Fund Commission finds 18 organizations eligible for a pro bono allocation and three organizations ineligible for the allocation in 2021, as reflected in Attachment B to the memorandum to the Commission; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Commission finds the following five programs **ineligible** for IOLTA and EAF funding for grant year 2021: (1) Community Lawyers, Inc.; (2) East Bay Family Defenders; (3) Housing Rights Center; (4) Kids in Need of Defense; (5) USC Gould School of Law Immigration Clinic; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Commission finds that the remaining 101 applicants, listed in Attachment A to the memorandum **eligible** for IOLTA and EAF funding for grant year 2021, with CHOC and NLS eligible pending receipt of their final audit/financial review in accordance with the Commission's prior resolutions.

Yes (16): Akhlaghi, Isken, Al-Sarraf, Bayles-Fightmaster, Bennett, Boschelli, Connolly, Friedman, Mann, Meeker, Meyers, Planthold, Reinis, Savage, Schreiber, Vanarelli

Abstentions (5): Isken (Bet Tzedek and USC Gould), Boschelli (Community Lawyers, Inc., East Bay Family Defenders, Housing Rights Center, Kids in Need of Defense), Mann (Housing Rights Center), Meeker (Public Law Center), Planthold (Bay Legal)

B. Discuss and Approve Recommendations for 2021 Partnership Grant Funding

Commission Member Vanarelli and Senior Program Analyst Dan Passamaneck provided an overview of the Partnership Grant application process and reported that for the 2021 grant year, the Partnership Grant (PG) Committee received 35 proposals from 24 organizations. The total requested funding amount was \$2,696,00 and the PG Committee has \$2,423,410 available to distribute.

During the June 26 meeting, the PG Committee made tentative funding allocations. It was also determined that Partnership Grant funds could not be used for expungement and infraction-related work. In response, organizations were either able to carve out these amounts from their proposals. Follow up questions regarding this matter will be addressed in the codification process. The PG Committee met again on August 11 to make final recommendations regarding funding allocation amounts.

The Commission approved by unanimous roll call vote the following resolution (Planthold moved, Savage seconded):

RESOLVED, that the Legal Services Trust Fund Commission approves the Partnership Grants funding recommendations for 2021 Partnership Grants, as approved by the Partnership Grants Committee at its August 11, 2020 meeting.

C. Discuss and Approve Distribution Plan for \$31 Million National Mortgage Fund

Commission Member Schreiber and Senior Program Analyst Greg Shin reported that the HP Committee met on August 12 to develop a distribution timeline and plan regarding the \$31 million from the National Mortgage Settlement Fund.

With a target distribution date of January 2021, the HP Committee and staff are planning to hold a webinar for potentially interested organizations in early September with a proposed deadline of September 11 for the formula applications. From September through October, the HP Committee will create working groups to review all applications and provide a recommendation in mid-November. The Commission may need to schedule an ad hoc meeting in December to approve the HP Committee's recommendation for monies to be distributed in January 2021.

The \$31 million distribution will be modeled after the EAF HP funds and bifurcated into two tranches, with 75 percent going towards a formula grant and remaining 25 percent towards a competitive grant.

The HP Committee will be distributing \$22,087,500 in formula grants, over a three-year period, with a minimum grant amount of \$50,000 and maximum amount based on the percentage of the organization's IOLTA allocation. Organizations applying under this grant will be required to highlight its specific work/activities, provide a budget and project assurances.

The HP Committee will be distributing \$7,362,500 in competitive grants, also over a three-year grant period. However, there will not be minimum or maximum grant award amounts and organizations will be permitted to subgrant with both IOLTA and non-IOLTA organizations. Organizations applying under this grant will be required to answer project

questions, provide a budget, and project assurances. Another component is that the competitive grants will have a scoring rubric component, which is still being developed by the HP Committee.

Some additional issues that will need to be addressed is to further clarify and define “rural” in the application and that organizations are not restricted to limiting this funding to indigent clients at or below 125% FPL. However, applicant organizations will need to specify this in the application and would be subject to commission review and approval. In addition, current grantees approved for this funding cannot count over-income work towards its qualified expenditures for IOLTA and EAF application purposes.

The Commission approved by unanimous roll call votes to approve the following resolution (Friedman moved, Schreiber seconded):

RESOLVED, that the Legal Services Trust Fund Commission approve the timeline for the distribution of the \$31 Homelessness Prevention funds; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Commission approve the Formula and Competition Grant Application in concept.

Yes (15): Akhlaghi, Isken, Al-Sarraf, Bayles-Fightmaster, Bennett, Connolly, Friedman, Mann, Meeker, Meyers, Planthold, Reinis, Savage, Schreiber, Vanarelli
Abstention (1): Boschelli

- D. Discuss and Approve Recommendation for 2019 and 2020 Bank Grants Budget Revisions**
- E. Discuss and Approve Recommendation for 2018 Bank Grant Budget Revision and Carryover Requests**

Commission Member Kim Savage and Senior Program Analyst Christine Holmes reported on updates from the Bank Grant Committee. During its July 20 meeting, the Bank Grant Committee recommended to adopt a flexible approach regarding carryover requests. The Committee is also recommending approval of three budget revision requests, with the condition that remaining funds be returned to the State Bar, unless a carryover is requested and approved.

The Commission approved by unanimous roll call vote the following resolution (Planthold moved, Reinis seconded):

RESOLVED, that the Legal Services Trust Fund Commission approve the 2019 budget revisions for the 2018 Bank Grant projects of California Rural Legal Assistance, Inc., Legal Assistance for Seniors, and Impact Fund; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Commission 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 it is

FURTHER RESOLVED, that the Legal Services Trust Fund Commission maintain a flexible approach to budget revision requests.

Yes (14): Akhlaghi, Al-Sarraf, Bayles-Fightmaster, Bennett, Boschelli, Connolly, Friedman, Mann, Meeker, Meyers, Planthold, Reinis, Savage, Vanarelli

Abstention (1): Schreiber

Holmes also discussed several updates regarding OneJustice's Inland Empire Community Redevelopment Pro Bono Project. OneJustice was awarded \$800,000 for the 2020 Bank Grant and originally partnered with four QLSPs for this project – 1) Bet Tzedek, 2) LASSB, 3) Inland Empire Latino Lawyers Association (IELLA) and 4) Catholic Charities of San Bernardino & Riverside Counties (Catholic Charities). As an update, LASSB is no longer a subgrantee for this project and those funds have been re-allocated to increase OneJustice staff time.

IELLA also informed OneJustice that it was no longer able to continue as a subgrantee due to organizational hardships. OneJustice is requesting that Inland County Legal Services (ICLS) replace IELLA as subgrantee. In this capacity, ICLS would be doing the same work as IELLA for the same amount of \$135,000. If approved, OneJustice's partners for this project would be Bet Tzedek, Catholic Charities and ICLS.

The Commission approved by unanimous roll call vote the following resolution (Meyers moved, Savage seconded):

RESOLVED, that the Legal Services Trust Fund Commission 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.

VI. STAFF UPDATES ON GRANT ADMINISTRATION

A. 2020 Monitoring Visits Schedule

Nguyen provided a list of scheduled 2020 monitoring visits and reminded the Commission members to reach out to staff if they are interested in participating in a visit. While staff does anticipate completing majority of the visits by the end of the year, some visits may extend into 2021, which has been approved by the Judicial Council.

B. 2020 Bank Grants

Staff did not have additional information to report under this agenda item.

C. 2020 EAF-Homelessness Prevention Grants

Shin reported that the HP Committee met on August 12 to consider requesting an extension to spend the EAH-HP grant funds beyond June 30, 2021. However, the HP Committee ultimately decided not to make the request and will await to review expenditures from the next quarter.

VII. LIASIONS REPORTS

A. Council on Access and Fairness Report on Program Developments

Acting Program Manager Elizabeth Hom shared several of the Diversity and Inclusion goals outlined in the State Bar's strategic plan, which is being carried out by COAF. Current D&I activities include outreach efforts to high school and college students, examining law school retention, modifying MCLE requirements to include implicit bias, and ongoing work regarding the Judicial Council toolkit. COAF is will also be working with the Legal Aid

Association of California (LAAC) to host a diversity summit regarding retention, career advancement and compensation in the profession. Finally, Hom shared that the State Bar recently published the first annual diversity report card, which will be shared with the Commission following the meeting.

B. Judicial Council Report on Program Developments

Liaison Bonnie Hough reported that there was a decrease in 2021 partnership grant funding because filing fees are lower than anticipated. This is partly due to the moratorium, as courts are not currently collecting fees. Overall, the courts are looking at a \$2 million cut in fees from the \$5 million they normally anticipate. If additional fees come in, they will be put in next year's allocation. Hough reported that there was an 11% drop in EAF portion. Hough also informed the Commission that Judicial Council submitted a report to the legislature on June 30 regarding Shrive grant applications.

C. Legal Aid Association of California Report on Program Developments

Liaison Salena Copeland reported that the LAAC is continuing its training and convening regarding recruitment and retention. LAAC continues to track and advocate for a continued eviction moratorium and increased legal services funding. LAAC also continues to train legal aid attorneys. LAAC partnered with the National Institute for Trial Advocacy (NITA) for a trial advocacy skills training in July and another training is scheduled in September. LAAC plans to hold another training by the end of the year.

In addition to the \$31 million from the National Mortgage Fund, there is \$300 million for general mortgage assistance. LAAC is in contact with the California housing finance board to coordinate efforts.

VIII. ADJOURN

There being no further business before the Commission, the meeting was adjourned at 3:07 p.m.

CLOSED SESSION

None.