

**Meeting of the Eligibility and Budget Review Committee  
of the Legal Services Trust Fund Commission (LSTFC)**

**Meeting Summary and Action Items**

**Wednesday, October 28, 2020**

**9:00 a.m. – 2:00 p.m.**

**Zoom Conference**

**OPEN SESSION**

Chair Eric Isken called the meeting to order at 9:02 a.m.

**I. ROLL CALL**

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

**Committee Members**

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

**Liaisons**

Salena Copeland (LAAC)

**State Bar Staff**

Erica Carroll  
Brady Dewar  
Doan Nguyen

**II. CALL FOR PUBLIC COMMENTS**

Chair Isken invited members of the public to comment on any items on the agenda.

Andrew Cain, Directing Attorney of Law Foundation of Silicon Valley's Children and Youth program, joined the call and spoke about his organization's request to budget IOLTA funds to support representation in juvenile dependency matters. Mr. Cain explained that there is dedicated state and federal funding for juvenile dependency work in California, but Law Foundation of Silicon Valley (LFSV) does not believe the existing funding sources are sufficient to cover all expenses incurred when providing representation to children. He also mentioned the organization's interdisciplinary model, using attorneys and social workers to achieve improved outcomes in these cases.

Other members of the public included Preeti Mishra from Dependency Advocacy Center, who stated she was available should the Eligibility & Budget Review Committee (Committee) have questions related to her organization's request to allocate funds to support a social worker position.

### **III. CONSENT**

#### **A. Approval of Meeting Summary and Actions Items from August 14, 2020 Meeting**

Chair Isken asked if any Committee members requested any changes to, or discussion of, this item. Hearing none, the Chair invited a motion; the motion to approve the meeting summary and action items was passed by unanimous roll call vote (Bennett moved, Mann seconded).

### **IV. DISCUSS AND RECOMMEND APPROVAL OF IOLTA AND EAF BUDGETS FOR GRANT YEAR 2021**

#### **A. Update on Submission of Final Audits/Financial Statements from NLS and CHOC**

Senior Program Analyst Erica Carroll summarized the Committee's previous decision to tentatively recommend approval of Neighborhood Legal Services' (NLS) and Family Legal Assistance at CHOC Children's (CHOC) 2021 IOLTA/EAF applications, pending receipt of their final audit or financial statement. Neither program was able to meet the original extension date of August 1, but CHOC submitted its financial review by August 31, which staff reviewed and approved.

NLS informed staff it would not be able to provide its final audit by August 31, but it did submit its draft audit and confirmed it would submit the final audit by September 30. Authority to permit such an extension was delegated to the Chair of the LSTFC, and the extension was granted. NLS submitted its final audit on September 29, and it matched the draft numbers that were previously provided. Thus, no further action from the Committee was required as both organizations complied with the requirements for final approval of their applications.

#### **B. Review and Discuss Budget-Related Issues: Late Submissions, Purchase of Real Property/Capital Additions, Deviations from Standard Program/Administrative Expense Ratios, Possible Non-Qualifying Activities**

Carroll provided an overview of budget issues for Committee discussion. She summarized the real property purchase/capital addition requirements, which the Committee reviews if they exceed the lesser of \$5000 or five percent of the grant award. This year, only one organization, NLS, requested use of \$25,000 of IOLTA funding for construction and improvements in its El Monte office. Staff recommended approval of the request, as it was a similar request to that approved last year. Committee members had additional questions regarding the use of the funds, such as the length of the lease, NLS' current operating capacity, the nature of specific improvements and how it would affect depreciation.

Staff indicated they would have to follow up with NLS for answers to some of the questions, and Committee members confirmed they would like answers prior to deciding whether to approve the use of the funds.

A number of programs also deviated from the recommended target allocation of 75 percent or more of grant funds to personnel and programs and 25 percent or less to non-personnel and administrative expenses. Legal Aid Society of San Bernardino allocated 73 percent to program expenses because it was implementing a new case management system. Staff recommended approval of this deviation. NLS proposed allocating 65 percent of its funds to personnel. The request to make office improvements brought this percentage down, as well as the need to pay bar dues and obtain contract services from interpreters and translators. Staff recommended approval of this deviation.

The budget proposal instructions also recommend that organizations budget less than 40 percent of their personnel expenses to employee benefits. One organization, Mental Health Advocacy Services (MHAS), deviated from this because they will host an Equal Justice Works Fellow in 2021. The way the fellowship is structured, the fellow's salary is mostly covered, but fellowship funds cannot be used for anything else. MHAS planned to use its 2021 funding to supplement the fellow's benefits, leading to a higher percentage allocated to that category. Staff recommended approval of this deviation.

Finally, staff turned to review of possibly non-qualifying activities or uses of grant funds. Dependency Advocacy Center (DAC) planned to use its funding exclusively on social work positions and a supervising attorney for the social workers. Salena Copeland of Legal Aid Association of California (LAAC) commented that LAAC is currently conducting a survey of how legal services organizations are integrating social work into their legal practice. Staff noted that the Committee has typically allowed IOLTA and EAF funds to be allocated to social work staff so long as there is a nexus between the social work position and legal outcomes. DAC uses an interdisciplinary model of social workers and attorneys in its dependency cases, and staff believed it demonstrated sufficient connection between funding these positions and achieving improved legal outcomes. Moreover, the Committee approved a similar use of the funds by this organization last year, but because there is no existing rule, it was elevated to the Committee's attention this year. Staff recommended approval of this use of the funds.

The Committee also discussed LFSV's request to use IOLTA funds to provide representation in dependency proceedings. Carroll reported that, historically, IOLTA and EAF funds have not been used for these services because—though they are civil legal services—dedicated funding sources and contracts exist to cover that work. The use of IOLTA or EAF funds in dependency work by other organizations has been permitted for activities that are clearly not encompassed by existing contracts (such as social work staff).

After listening to public comment from LFSV's Directing Attorney Andrew Cain, the Committee members indicated they needed more information to understand how the funding would be utilized. Committee members and State Bar staff asked Mr. Cain questions pertaining to LFSV's juvenile dependency work, how it is currently funded, how they determine indigency, and whether this would lead to existing

Judicial Council funds and IOLTA funds covering the same work. Mr. Cain was asked about the reimbursement process, and he stated that the contract from Judicial Council awards the organization a certain amount per year and LFSV takes any case assigned; they are not reimbursed as a flat fee per matter nor billing an hourly rate.

The Committee engaged in lengthy discussion about whether allowing this use of IOLTA funds would be consistent with the intent of the IOLTA statute and whether LFSV could reasonably argue that, despite their contracts, the work is insufficiently funded. Staff recommended that the Committee defer a decision on this budget until more information could be requested from LFSV, and the Committee agreed.

Carroll also mentioned that three organizations, Legal Aid Society of San Bernardino, Asian Pacific Islander Legal Outreach, and Justice and Diversity Center of the Bar Association of San Francisco, were late in submitting their budget proposals. She explained that there is a grace period in which organizations can still submit their budgets but after a few hours, organizations would need to contact staff to reopen the application to permit them to submit. Given that all were submitted within an hour of the deadline, staff was not asking the Committee to act on any of these proposals. The Committee engaged in discussion around the purpose of deadlines and if, when, and what type of consequences may be appropriate for failure to submit a timely budget proposal. Carroll mentioned this is a topic that will eventually be addressed by the LSTFC's Rules Committee. The Committee agreed this issue should be addressed but no action was taken at this meeting.

Carroll informed the Committee that one organization, HEART LA, declined its tentative allocation and did not submit its budget proposal. Its combined IOLTA and EAF allocations, approximately \$11,500, would be held and redistributed during the next funding cycle.

After discussion of all the above, staff recommended that the Committee approve all budget-related issues or deviations with the exception of NLS and LFSV, with those two organizations to be revisited at the Committee's November 13 meeting. Isken moved and Planthold seconded. The motion passed by unanimous roll call vote of the members present (Bayles-Fightmaster abstained as to LFSV, and Savage was absent for this vote).

### **C. Recommend Approval of IOLTA and EAF Budgets for Grant Year 2021 to Legal Services Trust Fund Commission**

After Committee discussion of the outstanding budget issues, staff recommended that the Committee recommend approval of all 2021 IOLTA/EAF budget proposals (listed in Attachment C to the meeting memorandum) to the Legal Services Trust Fund Commission, with the exception of Neighborhood Legal Services and Law Foundation of Silicon Valley, pending further information from both organizations.

Isken moved to adopt the recommendation, and Bayles-Fightmaster seconded. The Committee approved the motion by unanimous roll call vote with the following abstentions as to specific

organizations: Isken (Bet Tzedek), Connolly (Community Legal Services in East Palo Alto), Friedman (California Rural Legal Assistance, Inc.; California Rural Legal Assistance Foundation; Worksafe), Mann (Disability Rights California), Meeker (Public Law Center), Planthold (Bay Area Legal Aid), and Savage (Mental Health Advocacy Services).

## **V. NEXT STEPS FOR ELIGIBILITY AND BUDGET REVIEW PROCESS**

### **A. November 13 Meeting: Budget Review and Carryover Requests**

Carroll stated that budget revisions and carryover requests related to 2020 IOLTA and EAF funds are due on November 2, 2020. She reported that as of the previous day, 17 requests had been received, but organizations still had several days to request and submit their forms, so staff would not know until that point the final number.

Given the unprecedented increase in IOLTA funding in 2020 coupled with a significant decrease in 2021, several requests are anticipated. Requests between 10 and 25 percent of the grant award are reviewed by the Office of Access & Inclusion. Any request over 25 percent will be elevated to the Committee for review.

### **B. Preview of 2021 Meeting Calendar**

Carroll reported that staff is still working to coordinate meeting dates and would need to postpone the preview of the calendar to the Committee's next meeting on November 13.

## **VI. ADJOURN**

There being no further business before the Committee, the meeting was adjourned at 10:47 a.m.