



Date: February 26, 2021

To: Members, Eligibility & Budget Review Committee, Legal Services Trust Fund Commission

From: Judi McManigal, Senior Program Analyst, Office of Access & Inclusion

Subject: Recommendations for Pro Bono Allocation for Grant Year 2022

---

## EXECUTIVE SUMMARY

Interest on Lawyers' Trust Accounts (IOLTA) grants are awarded to approximately 100 qualified legal services projects (QLSP) and support centers each year to support the provision of free civil legal aid in California to indigent persons. An additional pro bono allocation is available to QLSPs that recruit "substantial numbers" of pro bono attorneys and demonstrate that their "principal means" of delivering legal services is through pro bono.

To receive the pro bono allocation, grantees must meet a two-part test. The threshold test requires that the QLSP show one of the following: it recruited 30 pro bono attorneys, recruited 5 percent of the county's attorneys, or the attorneys it recruited donated 1,000 hours of legal services. If a QLSP does not pass this threshold test, it cannot receive the additional pro bono allocation.

QLSPs that pass the threshold test must then demonstrate that their principal means of delivering legal services is through pro bono, using one of three tests known as Tests A, B and C. Tests A and B compare pro bono attorney and paralegal hours to staff attorney and paralegal hours. Test C is a flexible narrative that allows organizations to explain their special circumstances and to show how their methodology demonstrates that their "principal means" of delivering legal services is via pro bono.

The Office of Access & Inclusion heard concerns from grantees about COVID-19's potential impact on their ability to meet the threshold test and Tests A/B/C for grant year 2022 (which is based on data from calendar year 2020). All of the tests rely on the QLSPs' ability to recruit, train and place pro bono attorneys; thus, many grantees reported that COVID-19's shelter-in-

place orders and other effects directly limited their ability to perform their usual pro bono activities and meet the tests.

In response, staff sent a formal survey to grantees. The survey verified that a majority of respondents, even those who previously met the threshold test and Tests A/B/C for several years, may have difficulty meeting them for grant year 2022. Staff is concerned that this annual source of funding, upon which pro bono organizations rely, is at risk due to no fault of the organizations. Staff is attempting to provide guidance for flexibility within the existing statutory framework to assist grantees.

The threshold test and Tests A/B/C are codified in the Legal Services Trust Fund Program's Eligibility Guidelines for Legal Services Projects. Proposed changes generally are intended to go through the codification process. The threshold test, because it requires specific numbers and percentages of pro bono attorneys, offers no opportunity for flexibility, which may negatively impact grantees. Test C offers the flexibility to consider a QLSP's unique circumstances and to assess whether its own methodology of calculating services demonstrates that pro bono is their "principal means" of delivering legal services. This memo reviews relevant authorities and recommends that the Legal Services Trust Fund Commission utilize the flexibility of Test C and take an expansive view when considering pro bono allocation applications for the grant year 2022 as proposed.

---

## BACKGROUND

IOLTA grants are awarded to approximately 100 QLSPs and support centers each year. These organizations provide free civil legal aid in California to indigent persons<sup>1</sup>, or legal training, legal technical assistance, and advocacy support to the organizations that directly serve indigent persons. IOLTA funds are mainly generated from interest accrued on lawyers' trust accounts.

IOLTA grants are governed by Business & Professions Code sections 6210-6228 (hereinafter the "IOLTA statute"), State Bar Rules, and Eligibility Guidelines for Legal Services Projects and Support Centers (Guidelines). The IOLTA statute is the primary governing authority that defines how IOLTA funds are generated and distributed, utilizing a formula to calculate individual award amounts.

The IOLTA formula provides that 85 percent of funds go to QLSPs, allocated to each county on a pro rata basis, and 15 percent to support centers. The formula reserves 10 percent of the QLSP funding in each county as an additional allocation for QLSPs that recruit "substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects" as their "principal means of delivering legal services." (Bus. & Prof. Code, § 6214(b)(3)(A) and § 6216(b)(1)(B).) This is commonly referred to as the "pro bono

---

<sup>1</sup> Per the IOLTA statute, an "indigent person" is an individual 1) whose income is 125 percent or less of the federal poverty threshold, or 2) is eligible for Supplemental Security Income or free services under the Older Americans Act (seniors 60+) or Developmentally Disabled Assistance Act (Bus. & Prof. Code, § 6213(d)).

allocation.” See Attachment A for excerpts of relevant governing authorities.

The Guidelines provide the specific tests for applicants to demonstrate their eligibility for the additional pro bono allocation.

1. As a threshold requirement, applicants must demonstrate that they recruit “substantial numbers” of pro bono attorneys. Applicants can show:
  - (A) they recruited at least 30 attorneys who provided services in the previous calendar year; or
  - (B) they recruited at least 5 percent of the licensed attorneys in the county served who provided services in the previous calendar year; or
  - (C) the attorneys they recruited donated at least 1,000 hours of legal services to their clients in the previous calendar year. (Eligibility Guidelines for Legal Services Projects, Guideline 2.9.1, referring in part to Guideline 2.6.3.1.)
2. If applicants meet the threshold requirement, applicants must then demonstrate that pro bono is their “principal means” of delivering legal services by meeting one of three tests in each county where they are requesting the allocation. The applicant can:
  - (A) show that the attorneys recruited actually provided substantial free civil legal services and that number of hours of services provided in the previous calendar year by volunteer attorneys exceeded the number of hours of services provided by staff attorneys; or
  - (B) demonstrate through an alternative formula:
    - (1) that the attorneys recruited actually provided substantial free civil legal services;
    - (2) that the combined number of hours of service by volunteers, both attorneys and paralegals, exceeds the combined number of hours of service by staff attorneys and paralegals; and
    - (3) that the number of hours of service by volunteer attorneys is more than half as many as the combined number of hours of service by staff attorneys and paralegals; or
  - (C) describe and explain its method used to demonstrate that pro bono is its principal means of delivering legal services. (Eligibility Guidelines for Legal Services Projects, Guideline 2.9.2, Bus. & Prof. Code, § 6216(b)(1)(B).)

These options for demonstrating “principal means” are commonly referred to as “Tests A, B and C.”

## SURVEY OF GRANTEES

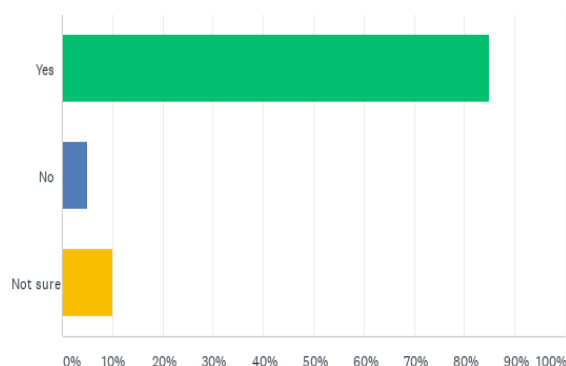
The Office of Access & Inclusion heard concerns from grantees about COVID-19's potential effect on their ability to meet the threshold test and Tests A/B/C for grant year 2022 (which is based on data from calendar year 2020). In response to concerns, State Bar staff surveyed grantees during the period January 8-22, 2021. See Attachment B for a summary of survey responses.

Twenty-eight grantees responded to the Pro Bono Allocation Survey. Of those 28, 20 received a pro bono allocation in grant year 2021. The data collected reflects and verifies the concerns that had been heard by State Bar staff. Respondents reported that:

- Of the 20 who received a pro bono allocation in grant year 2021, seven (35 percent) thought they would have difficulty meeting the threshold test.
- Of the six who met Test A, four (67 percent) thought they would have difficulty meeting Test A.
- Of the eight who met Test B, five (62 percent) thought they would have difficulty meeting Test B.

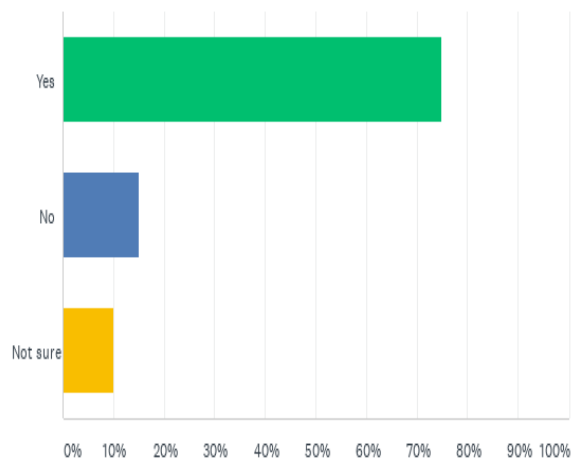
Reasons why organizations may not meet the pro bono allocation tests were overwhelmingly related to the impact of COVID-19. Eighty-five percent of respondents reported that they had current pro bono volunteers who were not able to take cases March-December 2020 because of COVID-19:

Q6 Did you have any current pro bono volunteers who were not able to take cases/provide services March-December 2020 because of COVID-19 (for any reason)?



At the same time, 75 percent reported difficulty recruiting new pro bono volunteers:

Q8 Did your organization have difficulty recruiting new pro bono volunteers in 2020 due to the impact of COVID-19?



## DISCUSSION

The survey of grantees verified the concerns expressed to staff, that even those grantees that previously satisfied the threshold requirement and Tests A/B/C for several years may have difficulty meeting the tests for grant year 2022. The tests rely on the QLSPs' ability to recruit, train and place pro bono attorneys, thus COVID-19's shelter-in-place orders, court closures, and other effects limited some QLSPs' ability to perform their usual pro bono activities and meet both the threshold test and Tests A/B/C. Based on these findings, staff wishes to consider how the Guidelines might offer flexibility to grantees with the threshold test and Tests A/B/C due to the unforeseen consequences of COVID-19.

## THRESHOLD TEST

The threshold test determines whether a QLSP has a baseline "substantial number" of pro bono attorneys. If the QLSP cannot demonstrate that they recruited 30 attorneys, or recruited 5 percent of the county's attorneys, or the attorneys they recruited donated 1,000 hours of legal services, that is the end of the inquiry. The QLSP cannot receive the additional pro bono allocation and does not continue to the second part of the test.

This threshold test is codified in the Guidelines. Proposed changes generally are intended to go through the codification process. Because this particular test is straightforward in terms of specific numbers and percentages required, there is no flexibility. This lack of flexibility may negatively impact grantees, including the seven out of 20 QLSPs responding to the survey who

received a pro bono allocation in grant year 2021 but predicted that they may be unable to meet the threshold numbers this year; they will not be eligible for the additional pro bono allocation.

### TESTS A/B/C AND HISTORICAL APPLICATION OF TEST C

If an organization meets the threshold test, it then must show that pro bono is the “principal means” by which it delivers legal services, by demonstrating one of the following:

- Test A: Pro bono attorney hours exceed staff attorney hours;
- Test B: Pro bono attorney and paralegal hours exceed staff attorney and paralegal hours AND pro bono attorney hours are more than half of staff attorney and paralegal hours; or
- Test C: Describe and explain its method used to demonstrate that pro bono is its principal means of delivering legal services.

While Tests A/B/C are also codified in the Guidelines, this section offers more alternatives for interpretation and flexibility. The Test C narrative allows organizations who may not meet Test A or Test B to share more about their organization, explain their special circumstances, and show why their methodology still demonstrates that their “principal means” of delivering legal services is via pro bono.

In the most recent round of applications for grant year 2021 (based on calendar year 2019), 21 organizations applied for the pro bono allocation for 30 projects (three of the organizations had projects in multiple counties). Of the 30 projects, 15 met Test A and/or B; 12 met Test C, and three organizations were found to have not met any of the tests. As can be seen from these numbers, even prior to COVID-19, Test C has historically played a substantial role in assessing eligibility for the pro bono allocation. Some examples of where Test C has been used previously include organizations that:

- were located in rural areas, had smaller law firms from which to recruit, and had fewer attorneys from which to draw pro bono volunteers;
- hired new staff to provide more recruiting, training and mentoring of pro bono volunteers, temporarily skewing the ratio of staff to volunteers; and
- experienced wildfires that caused significant disruption to staff and volunteers.

### STAFF RECOMMENDATIONS

The State Bar seeks to be responsive and to assist grantees whose pro bono allocation eligibility was impacted by COVID-19, while still complying with governing authorities. While the threshold requirement has no flexibility, flexibility can best be provided in the context of Test C because Test C allows the QLSP to describe and explain its own method used to show that pro

bono is its principal means of delivering legal services.

April 2, 2021 is the release data for IOLTA grant applications for grant year 2022. Part of the release is an Application Instructions document that provides guidance to grantees on eligibility criteria and on what types of information to provide to meet those criteria. In order to be transparent with grantees as to how the pro bono allocation applications will be reviewed, staff wishes to include any resolutions from this meeting in the upcoming grant Application Instructions. Given the urgency of this timeframe, staff's recommendations for the Committee will apply to grant year 2022 only. The Rules Committee will consider any long-term solutions for future years during the codification process.

Staff does not seek to modify the threshold requirement at this time, but recommends that the Legal Services Trust Fund Commission utilize the flexibility of Test C, apply the intention of the IOLTA statute to provide additional support to pro bono organizations, and take an expansive view when considering pro bono allocation applications for grant year 2022. Considerations under Test C may include, but are certainly not limited to: (1) rural QLSPs that have an especially difficult time recruiting pro bono attorneys; (2) natural disasters including fires, floods, mudslides and the COVID-19 pandemic; and (3) a history of prior pro bono allocation approvals. This use of Test C is in line with current Guidelines and past practice.

If a QLSP was approved for the pro bono allocation in three of the last four years, it has demonstrated a history of meeting the pro bono allocation tests. This should be taken into consideration and given weight. While any QLSP has year-to-year variance in its number of pro bono volunteers and pro bono hours, a dramatic change in numbers, when compared to prior years, is indicative that COVID-19 was the major/only reason for the change in numbers.

## PROPOSED RESOLUTION

Should the Eligibility & Budget Review Committee concur, the following resolution is recommended:

"The Eligibility & Budget Review Committee resolves and advises the Legal Services Trust Fund Commission, when reviewing Pro Bono Allocation applications for grant year 2022, to utilize the flexibility of Test C, apply the intention of the IOLTA statute to provide additional support to pro bono organizations, and take an expansive view when considering pro bono allocation applications. Consideration under Test C should be given in particular to organizations with a history of pro bono allocation approvals."

## ATTACHMENTS

- A. Excerpts from Governing Authorities: Business and Professions Code; Eligibility Guidelines for Legal Services Projects
- B. January 2021 Pro Bono Allocation Survey results

**Excerpts of Governing Authorities:  
Business and Professions Code sections 6213, 6214, and 6216;  
Eligibility Guidelines for Legal Services Projects, Guidelines 2.6.3. and 2.9.**

**California Business and Professions Code section 6213**

As used in this article:

(a) “Qualified legal services project” means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) “Qualified support center” means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) “Recipient” means a qualified legal services project or support center receiving financial assistance under this article.

(d) “Indigent person” means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project that provides free services of attorneys in private practice without compensation, “indigent person” also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this



subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) “Fee generating case” means a case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) “Older Americans Act” means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

(1) An interest-bearing checking account.

(2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money market fund.

(3) An investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).

(k) "Eligible institution" means either of the following:

(1) A bank, savings and loan, or other financial institution regulated by a federal or state agency that pays interest or dividends in the IOLTA account and carries deposit insurance from an agency of the federal government.

(2) Any other type of financial institution authorized by the California Supreme Court.

#### **California Business and Professions Code section 6214**

(a) Projects meeting the requirements of subdivision (a) of Section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older American Act funds shall be presumed qualified legal services projects for the purpose of this article.

(b) Projects meeting the requirements of subdivision (a) of Section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:

(1) They receive cash funds from other sources in the amount of at least twenty thousand dollars (\$20,000) per year to support free legal representation to indigent persons.

(2) They have demonstrated community support for the operation of a viable ongoing program.

(3) They provide one or both of the following special services:

(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.

(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups.

#### **California Business and Professions Code section 6216**

The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefor.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.

**Eligibility Guidelines for Legal Services Projects, Guideline 2.6.3.**

**2.6.3. The applicant must provide at least one of the following special services:**

**2.6.3.1. Recruiting substantial numbers of attorneys in private practice who serve without compensation providing the legal services referred to in Guideline 2.3 above, or**

***Commentary:***

In deciding whether you are eligible to apply as a project that recruits substantial numbers of attorneys, the Legal Services Trust Fund Commission will consider several factors. At a minimum you must meet at least one of the following tests:

- a. you recruited at least 30 attorneys who provided services in the previous calendar year; or
- b. you recruited at least five percent of the licensed attorneys in the county you serve who provided services in the previous calendar year; or
- c. the attorneys you recruited donated at least 1,000 hours of legal services for your clients in the previous calendar year.

Provided you meet one of these minimum tests, you may demonstrate your project's recruitment of substantial numbers of attorneys in one or more of the following ways:

- a. the number of attorneys recruited;
- b. the percentage of attorneys in your local service area that donated services through your project;
- c. the verified value of donated civil legal services in comparison to your expenditures and budget;
- d. the number of hours donated by each attorney;
- e. the number of attorneys in your area who have special expertise needed to provide the services your project offers; or
- f. other considerations that may affect the availability of volunteer attorneys in your service area.

Any attorney who is not an employee of the applicant can be considered in private practice, and attorneys may be considered in private practice even though they work for government agencies, corporations, or in non-legal occupations.

Attorneys can be considered to serve without compensation even when they are reimbursed for out-of-pocket expenses, whether by the client, the applicant, or other sources. [B&P Code §6214(b)(3)(A); Guideline 2.3.2 and supporting Commentary]

[Guideline 2.6.3.2. omitted]

### **Eligibility Guidelines for Legal Services Projects, Guideline 2.9**

**2.9. An applicant wishing to qualify for the additional allocation reserved for organizations that demonstrate the volunteer services of private lawyers as their principal means of delivering legal services must meet each of the following requirements:**

**2.9.1 the requirements of Guideline 2.6.3.1 above; and**

**2.9.2 the applicant's principal means of delivering legal services is the recruitment of attorneys in private practice.**

***Commentary:***

See Commentary concerning Guideline 2.6.3.1. One method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence that the attorneys recruited actually provided substantial free civil legal services and that the number of hours of services so provided in the previous calendar year by attorneys recruited exceeded the number of hours of services provided by lawyer staff employed by the applicant.

An alternative method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence (1) that the attorneys recruited actually provided substantial free civil legal services; (2) that the combined number of hours of service by volunteers, both attorneys and paralegals, exceeds the combined number of hours of service by staff attorneys and paralegals; and (3) that the number of hours of service by volunteer attorneys is more than half as many as the combined number of hours of service by staff attorneys and paralegals.

If you do not use either of these methods to demonstrate your principal delivery means, you should describe and explain in your application the method used. [B&P Code §6216(b)(1)(B)]

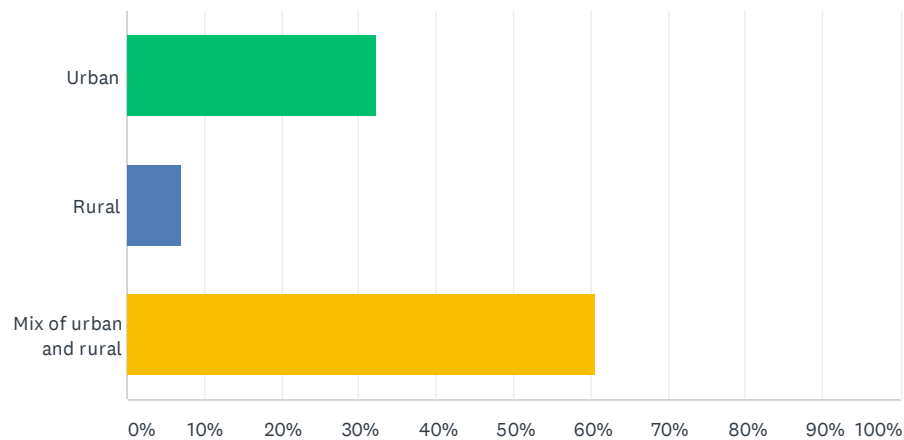
## Q1 Name of organization

Answered: 28 Skipped: 0

#	RESPONSES	DATE
1	Bet Tzedek Legal Services	1/22/2021 5:50 PM
2	Veterans Legal Institute	1/22/2021 5:01 PM
3	Public Law Center	1/22/2021 4:53 PM
4	Casa Cornelia Law Center	1/22/2021 3:16 PM
5	Iacba	1/22/2021 3:09 PM
6	INLAND EMPIRE LATINO LAWYERS ASSOCIATION	1/22/2021 2:48 PM
7	Los Angeles County Bar Association	1/22/2021 1:43 PM
8	YUBA SUTTER LEGAL CENTER	1/22/2021 12:47 PM
9	NLSLA	1/22/2021 12:46 PM
10	Family Violence Appellate Project	1/22/2021 11:37 AM
11	Community Legal Aid SoCal	1/21/2021 2:22 PM
12	Public Law Center	1/21/2021 1:14 PM
13	Legal Access Alameda	1/21/2021 7:44 AM
14	SOCIAL JUSTICE COLLABORATIVE	1/20/2021 5:57 PM
15	Stephanie Haffner	1/20/2021 4:03 PM
16	Capital Pro Bono	1/20/2021 3:26 PM
17	Community Legal Services in East Palo Alto	1/19/2021 4:46 PM
18	Inland Empire Latino Lawyers Association	1/17/2021 5:35 PM
19	Justice & Diversity Center of The Bar Association of San Francisco	1/15/2021 6:53 PM
20	Legal Aid Society of San Bernardino	1/12/2021 6:04 PM
21	Alliance for Children's Rights	1/12/2021 10:00 AM
22	Legal Aid of Sonoma County	1/11/2021 4:28 PM
23	Public Counsel	1/11/2021 9:49 AM
24	San Diego Volunteer Lawyer Program, Inc.	1/11/2021 9:09 AM
25	Riverside Legal Aid	1/10/2021 1:06 PM
26	CCLS	1/9/2021 6:25 AM
27	Harriett Buhai Center for Family Law	1/8/2021 5:55 PM
28	San Diego Volunteer Lawyer Program, Inc.	1/8/2021 5:19 PM

## Q2 Is your organization in a county that is:

Answered: 28 Skipped: 0

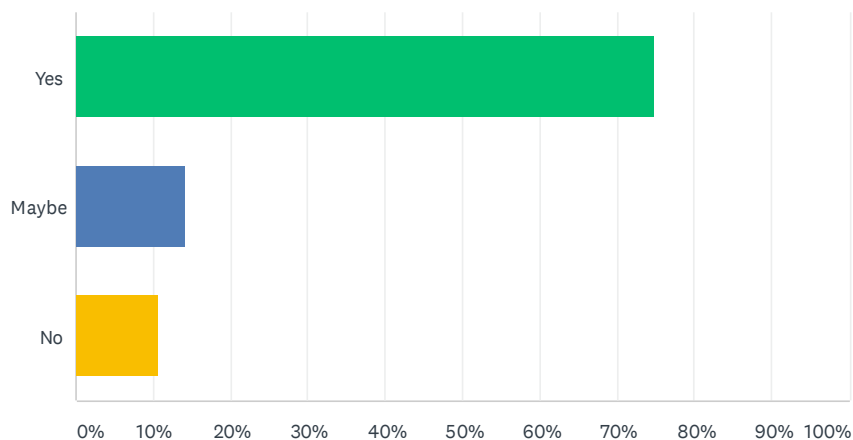


ANSWER CHOICES	RESPONSES	
Urban	32.14%	9
Rural	7.14%	2
Mix of urban and rural	60.71%	17
TOTAL		28



### Q3 Do you plan on applying for the Pro Bono Allocation for the 2022 grant year?

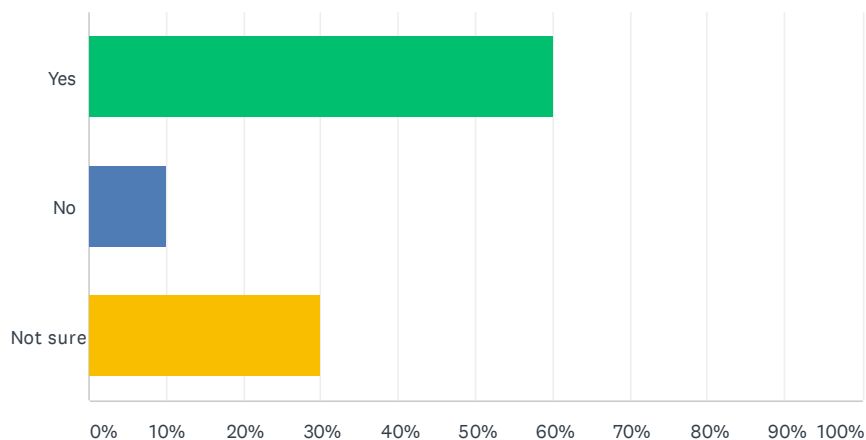
Answered: 28 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	75.00%	21
Maybe	14.29%	4
No	10.71%	3
TOTAL		28

## Q4 Do you anticipate that your organization may have difficulty meeting the Pro Bono Allocation requirements?

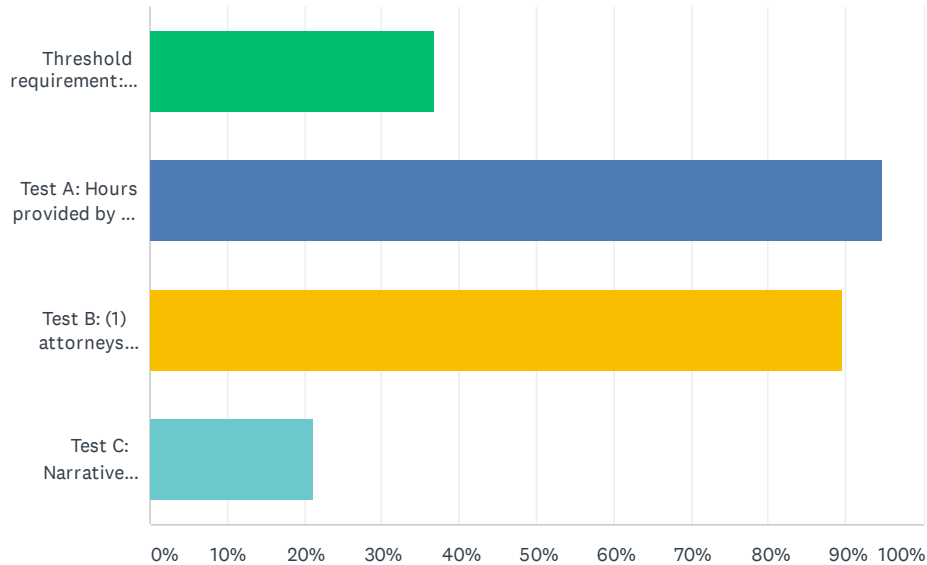
Answered: 20 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	60.00%	12
No	10.00%	2
Not sure	30.00%	6
TOTAL		20

**Q5 If you anticipate potential difficulty meeting the Pro Bono Allocation requirements, which of the following do you think that you will have difficulty with? (Check all that apply.)**

Answered: 19 Skipped: 9

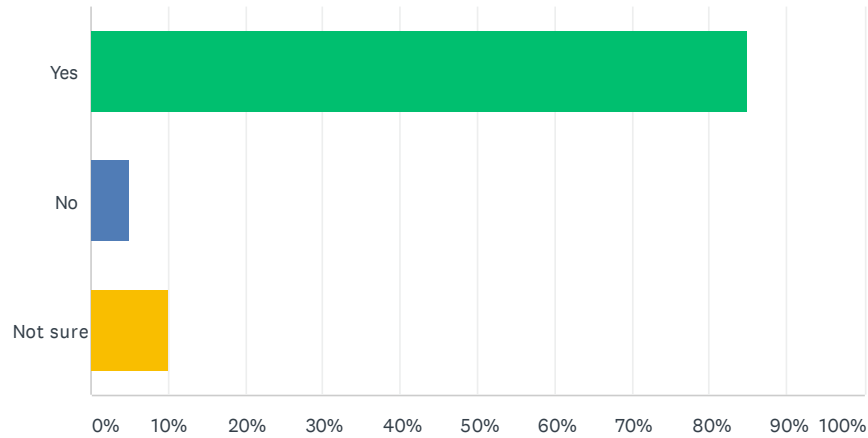


ANSWER CHOICES	RESPONSES	
Threshold requirement: Recruited 30 pro bono attorneys or recruited 5% of county's attorneys or 1000 pro bono attorney hours	36.84%	7
Test A: Hours provided by pro bono attorneys greater than hours worked by staff attorneys	94.74%	18
Test B: (1) attorneys recruited provided substantial free civil legal services; (2) hours by volunteers, both attorneys and paralegals, exceeds the hours by staff attorneys and paralegals; and (3) hours by volunteer attorneys is more than half of hours by staff attorneys and paralegals	89.47%	17
Test C: Narrative explanation for your method of calculating the delivery of services through pro bono attorneys	21.05%	4
Total Respondents: 19		

#	ANY ADDITIONAL INFORMATION YOU WOULD LIKE TO SHARE:	DATE
1	While our organization was able to place more individual matters with law firm attorneys for pro bono representation, the number of community volunteers we engaged this year dropped as compared the past years. Community volunteers are the individuals who, pre-COVID-19, would volunteer at our office and at our clinics. Remote work structures impacted the ability of volunteers to come to our office and volunteer with our staff. In addition, we had to take time to switch our in-person clinics, all of which were supported by volunteers, to a remote clinic model. During this time period, we were not able to use volunteers. Once the clinics were back up and running on a virtual model, it took time to recruit and retrain the volunteers. Not all volunteers were able to participate, sometimes because of technology issues. For those volunteers that would work side-by-side with our attorneys, and it took some time to facilitate their ability to volunteer remotely. Even after we were able to transition and more easily facilitate their remote volunteer experience, it remained difficult to recruit and integrate these volunteers.	1/22/2021 6:29 PM
2	Because we are currently collecting 2020 hours from volunteers, this survey question is a little bit premature. We'll know better in a few weeks.	1/22/2021 5:01 PM
3	We incorporate pro bono services into all of our work. Our program "feels" like a pro bono program. We also are adjacent to, but not in, a county where major law firms are located. Smaller firms in our county donate time, but do not have the resources to give away the type of hours that large firms often do.	1/20/2021 4:12 PM
4	COVID-19 demands on the lives of our volunteers, in combination with shelter in place orders, greatly hindered volunteer availability (and continues to), making it impossible for our small, purely pro bono organization, to meet the Pro Bono Allocation requirements for 2020. We are hopeful that the State Bar will take this into account when determining our eligibility. We are actively seeking all possible means to encourage and facilitate continued volunteer involvement with our organization while the vaccine is distributed and the situation improves.	1/20/2021 3:40 PM
5	The tests established long favored urban areas and are always difficult to meet in areas where there are mostly solo practitioners. Now, COVID is making volunteer attorney participation exceptionally difficult.	1/11/2021 4:33 PM
6	Our normal volunteer activities have been severely impacted by the remote work required by the pandemic. Historically our volunteers provide in office volunteer services directly to clients. This has been impossible given the current pandemic. It has been very difficult to replicate that system of volunteering in a remote setting due to security/ confidentiality concerns.	1/8/2021 6:20 PM

**Q6 Did you have any current pro bono volunteers who were not able to take cases/provide services March-December 2020 because of COVID-19 (for any reason)?**

Answered: 20 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	85.00%	17
No	5.00%	1
Not sure	10.00%	2
TOTAL		20

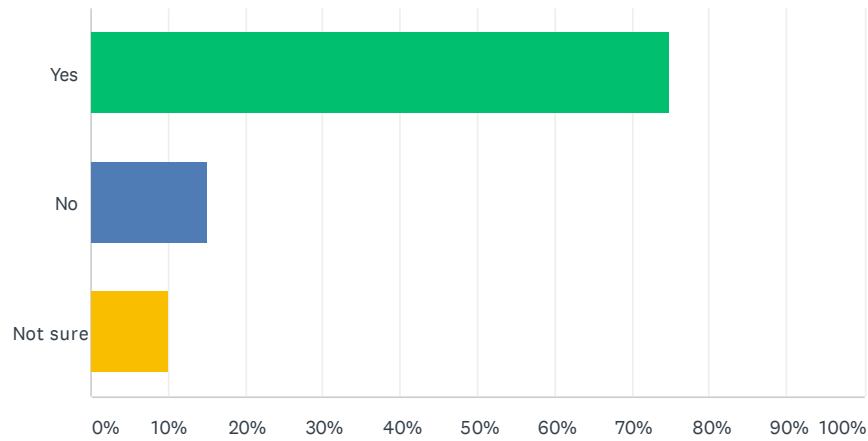
## Q7 If yes, approximately how many?

Answered: 17 Skipped: 11

#	RESPONSES	DATE
1	We estimate that there were nearly 60 volunteers a week that were not able to volunteer with our agency as a result of COVID	1/22/2021 6:29 PM
2	10	1/22/2021 5:04 PM
3	Not certain	1/22/2021 5:01 PM
4	Dozens	1/22/2021 4:09 PM
5	40-50	1/22/2021 3:10 PM
6	20	1/22/2021 2:08 PM
7	3 firms minimum, possibly more	1/22/2021 11:11 AM
8	That is difficult to estimate - given the size of our pro bono program and fluidity of the situation with the pandemic. I would estimate a 30% to 40% drop in pro bono availability during certain heightened portions of the pandemic.	1/22/2021 10:51 AM
9	10	1/21/2021 7:53 AM
10	roughly 40	1/20/2021 4:12 PM
11	Approximately 30, which is a large number of our active volunteers.	1/20/2021 3:40 PM
12	10 or so? One firm.	1/20/2021 12:06 PM
13	30	1/17/2021 5:46 PM
14	5	1/12/2021 6:13 PM
15	3 to 4	1/11/2021 4:33 PM
16	6	1/10/2021 1:10 PM
17	We had 116 less volunteers provide services during Mar-Dec than the same period in 2109. The average number of hours per volunteer were also down from 25 to 19.	1/8/2021 6:20 PM

## Q8 Did your organization have difficulty recruiting new pro bono volunteers in 2020 due to the impact of COVID-19?

Answered: 20 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	75.00%	15
No	15.00%	3
Not sure	10.00%	2
TOTAL		20

## Q9 If yes, approximately how many new volunteers were unable to join your organization?

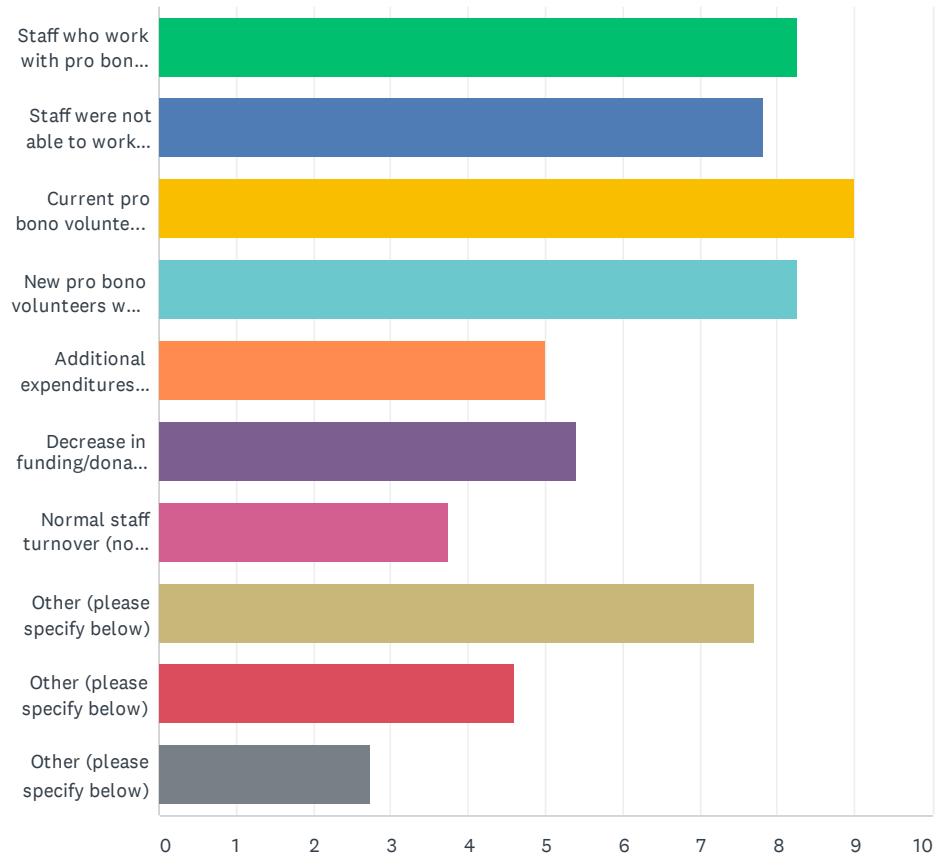
Answered: 16 Skipped: 12

#	RESPONSES	DATE
1	We estimate there were approximately 3 to 5 new volunteers a week that we were not able to recruit.	1/22/2021 6:29 PM
2	25	1/22/2021 5:04 PM
3	Not certain	1/22/2021 5:01 PM
4	See 14 for answer.	1/22/2021 3:25 PM
5	20-30	1/22/2021 3:10 PM
6	5	1/22/2021 2:08 PM
7	at least 5 firms (with an unknown number of associates)	1/22/2021 11:11 AM
8	See response to question 7.	1/22/2021 10:51 AM
9	we reached new volunteers who would not otherwise be available	1/20/2021 4:12 PM
10	Unknown, as we were unable to recruit new volunteers at all. We cannot provide adequate supervision for new and inexperienced volunteers using remote technology.	1/20/2021 3:40 PM
11	40	1/17/2021 5:46 PM
12	can't determine that number	1/15/2021 6:56 PM
13	5	1/12/2021 6:13 PM
14	6	1/11/2021 4:33 PM
15	unknown	1/10/2021 1:10 PM
16	We skipped 4 new volunteer onboarding cycles that would have normally been scheduled. Resulting in a loss of an estimated 40 new volunteers during the time period.	1/8/2021 6:20 PM



**Q10 If your organization may not meet the Pro Bono Allocation requirements, what are the top 3 reasons why? (Please rank 1-3, with 1 being the primary reason.)**

Answered: 19 Skipped: 9



## Pro Bono Allocation for Grant Year 2022

ATTACHMENT: B

	1	2	3	4	5	6	7	8	9	10	TOTAL	\$
Staff who work with pro bono volunteers/programs had to focus on transitioning services to a remote environment	26.67% 4	13.33% 2	46.67% 7	6.67% 1	0.00% 0	0.00% 0	0.00% 0	6.67% 1	0.00% 0	0.00% 0	15	
Staff were not able to work, or had to work fewer hours, because of COVID-related issues	16.67% 1	33.33% 2	0.00% 0	33.33% 2	0.00% 0	16.67% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	6	
Current pro bono volunteers were not able to perform the duties they would normally perform due to COVID shelter-in-place orders	38.89% 7	44.44% 8	5.56% 1	0.00% 0	11.11% 2	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	18	
New pro bono volunteers were not able to join our organization due to COVID shelter-in-place orders	26.67% 4	20.00% 3	40.00% 6	0.00% 0	0.00% 0	6.67% 1	6.67% 1	0.00% 0	0.00% 0	0.00% 0	15	
Additional expenditures due to COVID led to layoffs	0.00% 0	0.00% 0	0.00% 0	20.00% 1	40.00% 2	20.00% 1	0.00% 0	0.00% 0	0.00% 0	20.00% 1	5	
Decrease in funding/donations led to layoffs	0.00% 0	20.00% 1	0.00% 0	0.00% 0	20.00% 1	40.00% 2	0.00% 0	0.00% 0	20.00% 1	0.00% 0	5	
Normal staff turnover (not due to COVID)	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	75.00% 3	25.00% 1	0.00% 0	0.00% 0	4	
Other (please specify below)	30.00% 3	20.00% 2	20.00% 2	10.00% 1	0.00% 0	0.00% 0	0.00% 0	20.00% 2	0.00% 0	0.00% 0	10	
Other (please specify below)	0.00% 0	20.00% 1	20.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	60.00% 3	0.00% 0	5	
Other (please specify below)	0.00% 0	0.00% 0	25.00% 1	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	0.00% 0	75.00% 3	4	

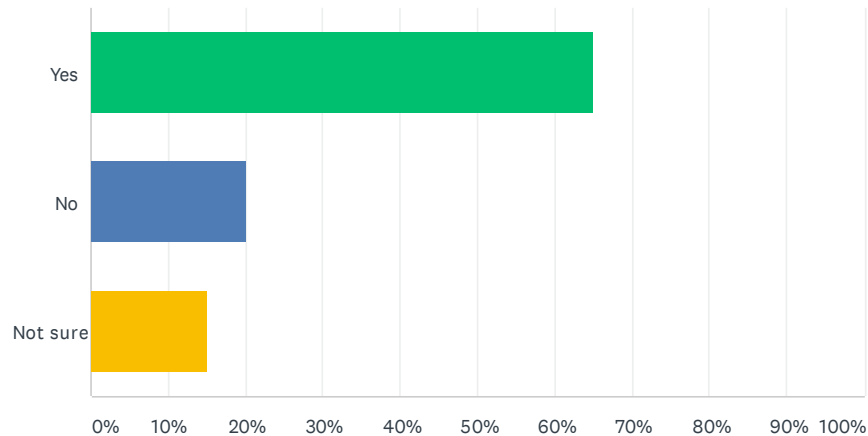
## Q11 If you answered "Other" above, please specify here:

Answered: 8 Skipped: 20

#	RESPONSES	DATE
1	Some volunteers expressed difficult in being able to work remotely. Some of these difficulties were technology based. In other instances, our ability to utilize volunteers were impacted by the fact that it took a significant amount of time for our clinics, which were staffed by volunteers, to get back up and running on a virtual platform. In some instances, it took months of planning for these clinics to go virtual. After this, it took a great deal of time to get volunteers reconnected and retrained for these new clinic versions.	1/22/2021 6:29 PM
2	The pandemic created an immediate shift in legal needs. It took time to assess and create pro bono opportunities around these needs. Some of those needs (e.g., commercial lease re-negotiations) created conflicts for the usual pro bono supporters like the big firms. The pandemic also resulted in courts being closed and cases being continued. Many of our pro bono hours relate to litigation and court-related matters that require the courts to be open and processing cases in order for the work to be done.	1/22/2021 10:51 AM
3	Staff attys spend more hours than pro bono in aggregate	1/20/2021 5:59 PM
4	Potentially, application of the "C" test; lack of strong access to large firm markets	1/20/2021 4:12 PM
5	Virtually none of our volunteers were interested in or willing to provide legal services remotely. They lost a major benefit to them of the volunteer experience.	1/20/2021 3:40 PM
6	Big volunteer events are prohibitive now. We can't accommodate everyone who wants to volunteer. Our clients have a hard time accessing digital media for appointments. We also were told that some attorneys wanted to wait for the election to know what administration they would be against before taking cases. Services have changed - less housing cases because of moratorium. The courts run our zoom link for some events and they limit access. For reentry - we require fingerprints and the pandemic limited that - so we needed fewer volunteers.	1/20/2021 12:06 PM
7	Several Pro Bono Attorney Panel Members contracted COVID-19 and became too ill to volunteer.	1/17/2021 5:46 PM
8	Our typical volunteer model does not easy convert to a remote environment.	1/8/2021 6:20 PM

**Q12 If your organization does not meet the Pro Bono Allocation requirements for grant year 2022, will this be the first time your organization has not met the requirements since you have been approved for a Pro Bono Allocation?**

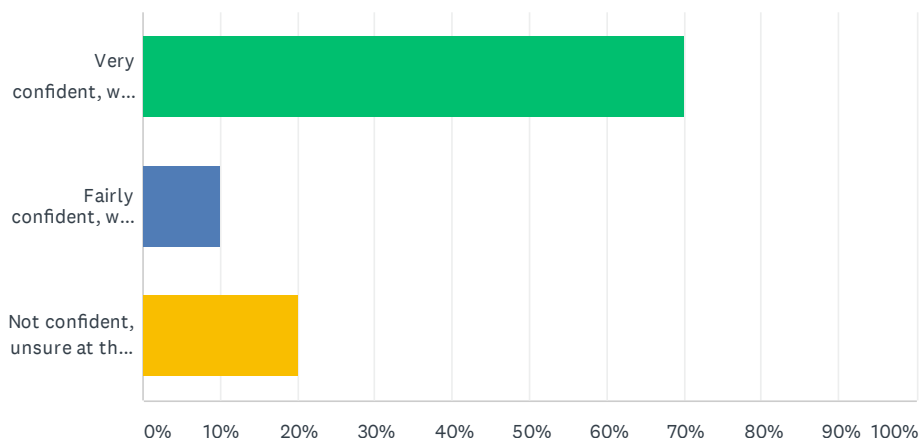
Answered: 20 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	65.00%	13
No	20.00%	4
Not sure	15.00%	3
TOTAL		20

### Q13 If not for COVID-19, how confident are you that your organization would otherwise meet the Pro Bono Allocation requirements?

Answered: 20 Skipped: 8



ANSWER CHOICES	RESPONSES	
Very confident, we have met it for many years	70.00%	14
Fairly confident, we have met it for a few years now	10.00%	2
Not confident, unsure at this time	20.00%	4
TOTAL		20

#	PLEASE SHARE ADDITIONAL COMMENTS, IF APPLICABLE	DATE
1	The biggest impact on volunteerism was in mid-March through April. Once we had remote clinics set up and the bugs worked out and once volunteers had come to grips with their own remote work capabilities and limitations we had better success in recruiting volunteers.	1/22/2021 5:01 PM
2	If not for COVID-19, as in past years, all of our in-person clinics and in-office opportunities would have had ample volunteers participating. However, the challenges of overseeing the work of remote volunteers, particularly new volunteer attorneys, greatly limited the number who could participate. It also limited the type of work they were willing to take on. In-person mentorship and supervision is often needed with new volunteers, and this was not possible. Consequently, far fewer volunteers were involved.	1/22/2021 4:09 PM
3	We were very confident that we would have met the pro bono this year because we came really close in 2019 to meeting the 1000 per county hours and we were implementing new strategies and ideas.	1/22/2021 3:10 PM
4	We are in conversation with the State Bar to learn more how we might qualify. This is so that our Board may assess how much effort to invest in qualifying as a pro bono program, and the realistic possibilities for doing so. Using the A and B tests, we are unlikely to qualify as a pro bono program at this time.	1/20/2021 4:12 PM
5	We do hope that the State Bar is able to come up with another way of evaluating the Pro Bono applicants this year.	1/8/2021 6:20 PM

## Q14 Please share any additional general comments

Answered: 7 Skipped: 21

#	RESPONSES	DATE
1	You might consider doing this survey again in a month or so. Law firms typically report their pro bono hours annually and we don't have them all in yet.	1/22/2021 5:01 PM
2	Answer to question 9. This is hard to quantify how many new volunteers were unable to join the organization. However, our Volunteer Attorney Information sessions may provide some guidance. Pre-pandemic, these sessions were in-person, hour-long introductions to Casa Cornelia's work where volunteers could ask all manner of questions to attorneys and discuss their hope and goals for doing pro bono. These sessions (non-MCLE), served to route volunteer attorney recruits into the appropriate trainings. In 2018, approximately 55 new attorneys attended these introductory sessions, and approximately 40 in 2019, for a total of approximately 95 attorneys who were new to CCLC. However, in 2020 only 13 attended in-person Volunteer Attorney Information sessions. After the pandemic, we arranged individual Zooms to meet and assess new attorneys but it is not as effective a recruiting tool as an in-person session. For the full-representation services we offer for which many volunteers must commit months and perhaps years, it is very important to get a sense of a volunteer's level of commitment and suitability for a case, and that is still best done in person.	1/22/2021 3:25 PM
3	The firms' uncertainty (in particular with respect to summer programs and new associate classes) in the environment of the pandemic contributed to their hesitancy to take on pro bono work.	1/22/2021 11:11 AM
4	We'd like to get the pro bono allocation if it could be a bit more flexible	1/20/2021 5:59 PM
5	We would like to be able to pay law students if the funding is available, but we don't because of the impact it would have on the pro bono allocation. Volunteer hours would decrease and staff hours would increase.	1/20/2021 12:06 PM
6	We had to expend substantial time and funding in order to transition into a cloud-based delivery system. Some elderly pro bono attorneys are not tech savvy, and it took some time to get them acclimated and able to perform pro bono services remotely. COVID-19 has hit Riverside and San Bernardino County very hard. We had several volunteers who contracted COVID-19 and became too ill to volunteer. A few reported that they could no longer volunteer because they had to become a caregiver to a spouse or child who contracted COVID-19. We've also had volunteers report that they are coping with grief and loss due to losing a family member to COVID which exhausted them mentally from being able to volunteer. Needless to say, 2020 was a very difficult year to recruit volunteers, retain volunteers, and meet pro bono goals due to the pandemic.	1/17/2021 5:46 PM
7	Thank you for your continued support of our efforts to serve the most needy residents of California, who live in San Bernardino and Riverside County.	1/12/2021 6:13 PM