

**LEGAL SERVICES TRUST FUND COMMISSION**  
**ELIGIBILITY AND BUDGET REVIEW COMMITTEE MEETING**  
**Meeting Summary and Action Items**

Friday, February 26, 2021, 10:00 a.m. – 12:00 p.m.  
State Bar of California (Conference Call via Zoom)

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Roll Call		
<b>Members Present</b>	<b>Advisors</b>	<b>Staff</b>
Chair Erica Connolly	None	Erica Carroll
Louise Bayles-Fightmaster		Christine Holmes
Pamela Bennett	<b>Liaisons</b>	Judi McManigal
Catherine Blakemore	Bonnie Hough	
Herman DeBose	Salena Copeland	<b>Members Absent</b>
Corey Friedman		Banafsheh Akhlaghi
Zahirah Mann	<b>Public Members</b>	Rebecca Delfino
James Meeker	None	Debra Meyers
Kim Savage		Bob Planthold

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**OPEN SESSION**

Chair Erica Connolly called the meeting to order at 10:02 a.m.

**I. ROLL CALL**

Roll call was taken, and quorum was established.

**II. CALL FOR PUBLIC COMMENT**

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

**III. CONSENT**

**A. Approval of Meeting Summary and Action Items from November 13, 2020 Meeting**

The Eligibility and Budget Review Committee (Committee) noted several revisions to the November 13, 2020 meeting summary and action items: Corey Friedman was present and Louise Bayles-Fightmaster abstained from the vote on Law Foundation of Silicon Valley for agenda item V. B. Recommend Approval of Remaining 2021 IOLTA/EAF Budgets to Legal Services Trust Fund Commission. The Committee approved the November 13, 2020 meeting summary and action items with the noted revisions by unanimous roll call vote (Bennett moved, Friedman seconded).

**IV. UPDATES**

**A. Update on Monitoring Visits**

Senior Program Analyst Erica Carroll reported that 40 visits are planned for 2021 including several 2020 visits that were held over. Visits continue to be conducted virtually with four completed and 14 scheduled. The Committee was encouraged to review the visits in SmartSimple and reach out to assigned staff to join a visit. Staff noted in response the

Committee's inquiry that remote visits included the main elements of an in-person visit except for the office tour.

**B. Update on Status of 2021 IOLTA/EAF Grant Agreements**

Carroll reported that 99 out of 100 grant agreements have been signed with the remaining agreement requiring a few edits. This year a grant agreement template was created for law school clinics to address their unique structure within a larger organization.

**V. IOLTA/EAF BUDGET REVISIONS AND CARRYOVER REQUESTS**

**A. Review and Recommend Approval of Late Submitted 2020 IOLTA/EAF Budget Revisions and Carryover Request to Legal Services Trust Fund Commission**

Carroll provided an overview of the requests received between the November 2, 2020 due date and this Committee meeting, including a brief review of the rules governing revisions and carryovers and the 25 percent threshold that requires Committee review.

Carroll reported that due to an oversight, Asian Americans Advancing Justice-Los Angeles' (AAAJ) timely budget revision and carryover request was not processed and included for the November 13, 2020 meeting. A significant portion of the budget revision was due to moving funds into capital additions, a request that triggers the real property purchase guidelines. AAAJ provided documentation of work estimates and quotes from contractors to justify the use of the funds. Staff had no concerns with AAAJ's request or documentation.

Carroll also reported a late carryover request was made by Legal Aid of Marin (LAM) that was not included in the meeting materials. LAM submitted a timely carryover request but underestimated the carryover and was requesting to carryover additional funds. Staff recommended approval of the request.

The main themes for the late requests were avoiding layoffs, unfilled vacancies, underspent funds due to Paycheck Protection Program (PPP) or other emergency funds, and preparation for the 2021 drop in IOLTA funding. The Committee discussed the complexities of round one and two of the PPP loans in terms of organizational planning for programs. PPP round one loans have not been forgiven and the rules continue to change with staggering time periods for forgiveness. Each organization will have different and complex circumstances and it is clear from the explanations that they are trying to prepare with the information available. The Committee determined to revisit the issue of PPP loans.

The Committee moved to recommend to the Legal Services Trust Fund Commission approval of all the budget revisions and carryover requests in excess of 25 percent of the grant award that were listed in the spreadsheet provided as part of the meeting materials. The Committee included the oral updates regarding Legal Aid of Marin's carryover request and Asian Americans Advancing Justice-Los Angeles' capital additions as part of the motion. The motion passed by unanimous roll call vote (Bennett moved, Savage seconded).

**B. Discuss Approach to 2021 IOLTA/EAF Budget Revisions and Carryover Requests**

Carroll reported that though it is still early in the year, programs have inquired about continued flexibility for budget revisions and carryover requests for 2021 IOLTA and EAF funding. Over 50 programs made 86 requests for 2020 funding which is above the typical number for a given year. Forty-two of the requests were over 25 percent requiring Committee and Commission review. The intent of the statute is that funds are spent within the grant year they are awarded, otherwise funds are returned and redistributed. More flexibility was permitted in 2020 due to the extenuating circumstances of the pandemic, which is still ongoing. Staff also reported that while the projections for IOLTA funding are better than expected, they are still low. The staff recommendation was to continue to be flexible with more analysis done for the larger requests.

The Committee discussed the various circumstances that led to the flexibility measures for 2020 requests. The 2020 funding was larger than 2021, but there are still a lot of unknowns currently regarding the pandemic and continued emergency funding. Another difference is that organizations now have some ability to plan ahead rather than needing to react to an immediate crisis, as was the case in 2020. The Committee discussed whether it was premature to make a motion on this issue or if there would be an opportunity to revisit this later in the year if circumstances change, particularly in the context of seeking additional funding for legal aid in future years. The Committee will continue to monitor the situation over time and will make changes accordingly.

Grantee deliverables were also briefly discussed, with Committee members and staff noting that there are other mechanisms than budget revisions and carryover requests to review and track that clients are being served efficiently and effectively.

The Committee approved a motion by unanimous roll call vote (Bennett moved, Friedman seconded) to recommend to the Legal Services Trust Fund Commission that, in recognition of the ongoing challenges posed by the COVID-19 pandemic, significant 2021 IOLTA and EAF budget revisions and/or carryover requests will be considered on a case-by-case basis, with special attention paid to the stated need for the change, including the direct and indirect effects of the pandemic, related funding, and any increased client need.

**VI. 2022 IOLTA/EAF APPLICATION CYCLE**

**A. Review Pro Bono Allocation Survey Results and Adopt Policy for Treatment of 2022 Test C Applications**

Senior Program Analyst Judi McManigal provided an overview of the memorandum included in meeting materials regarding possible flexibility in the process to determine if qualified legal services projects meet the requirements to receive an additional pro bono allocation in response to grantee concerns. McManigal reported that grantees expressed concern over the potential impact of COVID-19 on their ability to meet the pro bono allocation threshold test and Tests A/B/C to demonstrate their principal means of service delivery for grant year 2022, which is based on data from calendar year 2020. In response, staff sent a formal survey to grantees, and McManigal reported the results which reflected and verified the expressed

concerns. The staff recommendation was to utilize the flexibility of Test C, which allows applicants to provide a narrative explanation of how they meet the pro bono allocation requirements, and take an expansive view when considering pro bono allocation applications for the grant year 2022.

McManigal noted that considerations under Test C may include: (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. Specifically, 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. McManigal also reported that the Rules Committee will consider any long-term solutions for future years during the codification process.

The Committee approved a motion by unanimous roll call vote (Connolly moved, Friedman seconded) to advise 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 a flexible view when considering pro bono allocation applications. Consideration under Test C will be given in particular to organizations with a history of pro bono allocation approvals.

**B. Review 2022 IOLTA/EAF Application Timeline**

Carroll provided an overview of the Committee's upcoming meetings with the next meeting scheduled for May 7, 2021 to discuss Impact Litigation and Advocacy Work matters elevated for Committee review. Carroll also presented the anticipated timeline for IOLTA/EAF application preparation and review for grant year 2022 including Support Center deeming in June and July and Eligibility Review Conferences in July and August.

**C. Discuss Expectations for Scheduling Eligibility Review Conferences**

Due to a lack of sufficient time to address this item and the fact that it was for discussion only, Carroll indicated that it could be moved to the next meeting's agenda, and no one objected. As a starting point for future discussion, Carroll asked Committee members who participated in Eligibility Review Conferences in 2020 to reflect on their experience and consider what worked well and where there might be room for improvement.

**VII. ADJOURN**

There being no other business, the meeting was adjourned at 12:00 p.m.