



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM AUGUST 2021 LEGAL SERVICES TRUST FUND COMMISSION V.E**

**DATE:** August 13, 2021

**TO:** Members, Legal Services Trust Fund Commission

**FROM:** Members, Homelessness Prevention Committee

**SUBJECT:** Recommended Timelines and Delegations of Authority for Distribution of the 2021 and 2022 Homelessness Prevention Grants

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### **EXECUTIVE SUMMARY**

Recognizing the continued impacts of the COVID-19 pandemic on housing instability in California, Governor Newsom signed Assembly Bill 164 (AB 164) on July 16, 2021. AB 164 (a clean up to two prior budget bills containing similar language) allocates \$40 million in Coronavirus Fiscal Recovery Funds for grants to organizations providing homelessness prevention law services. Approximately \$29,250,000 (75 percent, after up to \$1 million in administrative costs) will be distributed by a modified formula to qualified legal services projects (QLSPs) and support centers that qualified for 2021 Interest on Lawyers' Trust Accounts (IOLTA) funding and that perform any of the array of housing-related services specified by AB 164. AB 164 requires that formula grants be distributed "as soon as practicable." The remaining \$9,750,000 will be administered as competitive grants.

The Homelessness Prevention Fund Committee (committee) recommends a formula grant distribution date of December 1, 2021 and a competitive grant distribution date of January 1, 2022. This memo proposes both distribution timelines as approved by the committee on July 30, 2021. To facilitate a timely disbursement of formula grant funds, this memo asks the Legal Services Trust Fund Commission (commission) to delegate authority i) to the committee to approve formula grant eligibility and allocations, and ii) to staff to approve budgets. To ensure that staff can release a Request for Proposal (RFP) application for the competitive awards on or shortly after October 1 and disperse funds on and shortly after January 1, the committee also recommends that the commission delegate authority i) to the committee to approve the

competitive grant RFP and scoring rubric, and ii) to staff to score RFP applications in consultation with the committee. The commission will retain authority to approve competitive grant awards and budgets.

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## **BACKGROUND**

Using virtually identical language and concepts that related to the homelessness prevention grants awarded by the LSTFC for the last two years, AB 164 allocates \$40 million from the Coronavirus Fiscal Recovery Fund of 2021 to the Equal Access Fund (EAF), to be distributed to QLSPs and support centers as grants to support homelessness prevention services. AB 164 specifies that grants may be used to provide “eviction defense, other tenant defense assistance in landlord-tenant rental disputes, or services to prevent foreclosure for homeowners, including pre-eviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, and representation, and legal services to improve habitability, increasing affordable housing, ensuring receipt of eligible income or benefits to improve housing stability, legal help for persons displaced because of domestic violence, and homelessness prevention.” (All relevant portions of AB 164 are attached to this memo for your review.)

Of the \$40 million, up to 2.5 percent (\$1 million) is available for administrative costs. Of the remaining funds, 75 percent (\$29,250,000) will be distributed, upon application, as formula grants to QLSPs and support centers that already provide “eviction defense or other tenant defense assistance in landlord-tenant rental disputes” and were found eligible for 2021 IOLTA funding. Staff will calculate each eligible program’s award based on the proportion of funds that the program received in the 2021 IOLTA allocation in comparison to the allocation for all legal services programs eligible for this homelessness prevention grant.<sup>1</sup> AB 164 requires that formula grants be distributed “as soon as practicable.”

The remaining 25 percent (\$9,750,000) will be allocated through a competitive grant process, in accordance with AB 164. Office of Access and Inclusion (OA&I) staff, with guidance from the committee, is drafting an RFP and scoring rubric to evaluate proposed projects. Staff anticipates providing the RFP and scoring rubric to the committee for review and approval in late August (if the commission delegates authority to the committee to approve these materials).

The funds are available for encumbrance or expenditure until December 31, 2024 and may not be used to supplant existing resources.<sup>2</sup>

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<sup>1</sup> AB 164 reads “[e]ach eligible program shall receive a percentage equal to that legal services project’s 2021 IOLTA allocation divided by the total 2021 IOLTA allocation for all legal services projects eligible for this funding, except that to ensure meaningful funding is provided, a minimum amount of \$50,000 shall be allocated to each eligible program unless the program requests a lesser amount, in which case the additional funds shall be distributed proportionally to the other qualified legal services projects.”

<sup>2</sup> The Department of Finance (DOF) confirmed that the program will be receiving an additional \$20 million for 2023 and an additional \$20 million for 2024. OA&I staff is still confirming with DOF and the legislature whether the Judicial Council and Commission have flexibility to issue funds as multi-year grants. We hope to provide an update at the Commission’s August 13 meeting.

## DISCUSSION

The committee recommends a 2021 HP formula grant distribution date of December 1, 2021. The committee finds this meets the statutory requirements that the funds be distributed “as soon as practicable,” while balancing the need to provide applicants with sufficient time to complete the application and also ensure program eligibility, accuracy in allocation calculations, and sufficient review of program materials by OA&I staff and the committee. The proposed timeline would provide 2021 IOLTA-eligible organizations four weeks to complete and return formula grant applications, and three weeks to complete and return formula budgets. The committee considered a November 1 distribution timeline, but determined it was untenable because of how little time it afforded for programs to prepare and submit formula applications and budgets (two weeks and one week, respectively). The Governor also signed the budget language allocating these funds several weeks later than in past budget cycles when budgets were finalized by July 1.

In order to disburse funds by December 1, the committee will need to meet in early October to consider eligibility and allocations and again in mid-November to approve formula budgets. This timeline likely is insufficient for both the committee and the commission to meet to approve eligibility, allocations, and budgets. Therefore, the committee recommends that the commission delegate authority to staff to determine and the committee to approve i) program eligibility and ii) formula allocations for the 2021 HP formula grants. The committee also recommends that the commission delegate authority to staff to approve formula budgets.

### Proposed Timeline for 2021 Homelessness Prevention Formula Grants

Date(s)	Activity
July 16, 2021	Governor signs revised budget bill
August 13, 2021	<b>Commission</b> meets to consider distribution timeline and authority delegation
August 16, 2021	Release formula application
September 10, 2021	Formula applications due (about four weeks later)
September 13-24, 2021	Staff reviews applications for eligibility
October 1, 2021	<b>Committee</b> meets to vote on eligibility
October 4-8, 2021	Staff runs allocations
October 11, 2021	Staff releases formula budgets forms
October 29, 2021	Formula budgets due (about three weeks later)
November 1-5, 2021	Staff reviews/ approves formula budgets
November 18-30, 2021	Staff sends agreements and processes invoices
December 1, 2021	Grant period begins

The committee recommends the following proposed timeline for the 2022 HP competitive grants, with a distribution date in January 2022. OA&I staff are currently drafting an RFP and

scoring rubric for the committee's or commission's approval. This timeline provides organizations one month to complete and return the RFP and provides staff nearly three weeks to review and score applications in consultation with the committee.

At its July 30, 2021 meeting, the committee approved an RFP scoring process in which staff would score competitive grant applications in consultation with the committee. Committee members would score approximately five applications and meet in early October to discuss and calibrate their scoring. Staff would then score all applications based on the committee's calibration and implementation of the rubric. At a committee meeting in late October, the committee would then discuss the full set of applications (as scored by staff), decide any determinations that were undecided or in conflict among staff, and finalize award recommendations to the commission. Because of the compressed timeline, the committee believed that allowing staff to score applications subject to committee review will ensure a more efficient and timely processing of the applications. The initial calibration meeting will enable the committee to provide feedback and ensure that staff apply the scoring rubric in accordance with the committee's intentions and expectations.

#### **Proposed Timelines for 2022 Homelessness Prevention Competitive Grants**

<b>Date(s)</b>	<b>Activity</b>
July 16, 2021	Governor signs revised budget bill
August 13, 2021	<b>Commission</b> meets to consider distribution timeline and authority delegation
August 31, 2021	<b>Committee</b> approves RFP and scoring rubric
September 1, 2021	Staff releases RFP
October 1, 2021	RFPs due
October 4-29, 2021	<b>Committee and staff</b> score applications
October 4-8, 2021	<b>Committee</b> calibrates to the rubric (3-5 applications)
October 11-22, 2021	Staff scores applications
October 25-29, 2021	<b>Committee</b> discusses all applications and finalizes award recommendations
November 17, 2021	<b>Commission</b> approves awards
January 1, 2022	Grant period begins

## **RECOMMENDATIONS**

Should the commission concur with the committee's proposal, passage of the following resolutions is recommended.

**RESOLVED**, that the **Legal Services Trust Fund Commission (commission)** approves the December 1, 2021 timeline for 2022 Homelessness Prevention formula grants and January 1, 2022 timeline for 2022 Homelessness Prevention competitive grants, as

presented in the Homelessness Prevention Funds Committee's August 13, 2021 memo; and it is

**FURTHER RESOLVED**, that the commission delegates authority to staff to review and the committee to approve eligibility and allocations for 2021 Homelessness Prevention formula grants; and it is

**FURTHER RESOLVED**, that the commission delegates authority to staff to approve budgets for 2021 Homelessness Prevention formula grants; and it is

**FURTHER RESOLVED**, that the commission delegates authority to the committee to approve the Request for Proposals, including scoring rubric, for the 2022 Homelessness Prevention competitive grants and to staff to score applications in consultation with the committee.

## **ATTACHMENT(S) LIST**

- A.** Assembly Bill 164, Budget Act of 2021, Item 0250-162-8506 of Section 2.00

**Assembly Bill 164 (Excerpt)**

SECTION 1. Item 0250-162-8506 of Section 2.00 of the Budget Act of 2021 is amended to read:

0250-162-8506—For local assistance, Judicial Branch, payable from the Coronavirus Fiscal Recovery Fund of 2021 .....40,000,000

Schedule:

(2) 0150083-Equal Access Fund ..... 40,000,000

Provisions:

2. The funding in Schedule (2) shall be distributed by the Judicial Council through the Legal Service Trust Fund Commission of the State Bar pursuant to Provision 1 to qualified legal services projects and support centers to provide eviction defense, other tenant defense assistance in landlord-tenant rental disputes, or services to prevent foreclosure for homeowners, including pre-eviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, and representation, and legal services to improve habitability, increasing affordable housing, ensuring receipt of eligible income or benefits to improve housing stability, legal help for persons displaced because of domestic violence, and homelessness prevention. Of this amount, no more than 2.5 percent shall be available, upon order of the Department of Finance, for administrative costs of the Judicial Council and the State Bar. The remaining funds shall be allocated as follows:

(a) 75 percent shall be distributed to qualified legal services projects and support centers that currently provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, as set forth in this provision. To expedite the distribution of this percentage of the \$40,000,000 in Schedule (2), eligible programs shall be limited to those found eligible for 2021 Interest on Lawyer Trust Accounts (IOLTA) funding. Each eligible program shall receive a percentage equal to that legal services project's 2021 IOLTA allocation divided by the total 2021 IOLTA allocation for all legal services projects eligible for this funding, except that to ensure meaningful funding is provided, a minimum amount of \$50,000 shall be allocated to each eligible program unless the program requests a lesser amount, in which case the additional funds shall be distributed proportionally to the other qualified legal services projects. These funds shall be distributed as soon as practicable after the effective date of this act and shall not supplant existing resources.

(b) 25 percent shall be allocated through a competitive grant process developed by the Legal Services Trust Fund Commission of the State Bar to award grants to qualified legal service projects and support centers to provide eviction defense, other tenant defense assistance in landlord-tenant rental disputes, or services to prevent foreclosures for homeowners, as set forth in this provision, to meet the needs of tenants not addressed by the formula provided in subdivision (a). The grant process shall ensure that any qualified legal service project or support center that received funding pursuant to subdivision (a) may only receive funding pursuant to this subdivision if that qualified legal service project or support center demonstrates that funds received under this subdivision will be not be used to supplant existing resources, and will be used to provide services to tenants not otherwise served by that qualified legal service project or support center. The commission shall make the grant award determinations. In awarding these grants, preference shall be given to qualified legal aid agencies that serve rural or underserved communities. Any funding not allocated pursuant to this competitive grant

process shall be distributed pursuant to subdivision (a), except that there shall be no minimum funding amount for these funds.

3. Funds appropriated in Schedule (2) are available for encumbrance or expenditure until December 31, 2024.

4. The State Bar shall annually provide to the Judicial Council a report that includes funding allocations, annual expenditures, and program outcomes by service area, and service provider for all Equal Access Fund and federal funding. Data shall be reported using the established reporting framework in the Equal Access Program including applicable outcome measures reported in Legal Services standardized reporting, state level performance measures, and main benefits scores. The Judicial Council shall provide the report to the Department of Finance by January 1 of each year for the prior fiscal year.