



The State Bar of California

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Date: November 17, 2021

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

From: Deborah McReynolds, Senior Program Analyst
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Subject: 2021 IOLTA/EAF Budget Revisions and Carryovers

EXECUTIVE SUMMARY

Each year organizations that receive Interest on Lawyers' Trust Accounts (IOLTA) and Equal Access Fund (EAF) funding are afforded the opportunity to revise their annual budgets and request carryover funds from the previous year to spend down in the first two quarters of the second year. Budget revision and carryover request forms for 2021 were released by staff on October 1, 2021, and due back October 29, 2021. Revisions and/or carryovers in excess of 25 percent of the grant award require Legal Services Trust Fund Commission review and approval.

BACKGROUND

In the Legal Services Trust Fund Program General Grant Provisions, provision 7.01 states recipients shall not materially deviate from the approved budget without first obtaining prior written approval.

Material Deviation

A material deviation occurs when the anticipated or actual expenditures of grant funds differs from the approved budget by 10 percent or more. There are two tests for a material deviation: First, an individual line item deviation that is more than 10 percent of the recipient's total grant award for that grant period. Second, an accumulated total of all budget deviations since the beginning of the grant period that exceeds 10 percent of the recipient's grant for that period. Material deviations, whether increases or decreases in the approved budget line items, must be reported in the quarterly financial reports submitted pursuant to grant provision 5.01.

Budget Revisions

Grantees seeking to revise their budgets must submit a written request for revision. A budget revision request must fully delineate the reason for the revision and any effect on the recipient. Under the Functional Matrix, which was approved by the Board of Trustees as part of the Appendix I review process, staff reviews and approves requests that have a material deviation between 10 percent and 25 percent of the total award. If the deviation is greater than 25 percent, the commission reviews the request and determines approval.

Carryover Requests

Under the Functional Matrix, carryover requests must also be reviewed by staff. Staff can approve requests between 10 percent and 25 percent of the total award. The commission is tasked with reviewing and approving carryover fund requests in excess of 25 percent of the total award. Historically, grantees have been required to spend all carryover funds within the first two quarters of the following grant period (Qs 5 and 6) because the funds are intended to be spent in the year awarded on services, not to provide a reserve for organizations.

DISCUSSION

In November 2020, the commission voted to approve the budget revisions and carryover requests for the 2020 IOLTA and EAF grants. Due to the pandemic, the Eligibility and Budget Review Committee and the commission had resolved to be flexible regarding revision and carryover requests for 2020 grants. Considerations included the impact of the pandemic on operations; the fact that IOLTA awards in 2020 were the largest they had ever been; and many organizations received Paycheck Protection Program (PPP) loans and prioritized spending of the PPP loans and other short-term funding. The commission also allowed 2020 carryovers to be spent down over quarters five through eight—the entirety of 2021—rather than quarters five and six.

At the Legal Services Trust Fund Commission and committee meetings held on February 26, 2021, the committee and commission discussed the anticipated approach to revisions and carryover of 2021 IOLTA/EAF funds later in the year. Ultimately, the decision was to retain some flexibility, though not as expansive an approach as 2020. The committee passed, and the commission adopted, the following resolution: “In recognition of the ongoing challenges posed by the pandemic, significant budget revision and carryover requests will be considered on a case-by-case basis with special attention to the stated need for the change, including the direct and indirect effects of the pandemic, related funding, and any increased client need.”

Staff’s understanding is that there will be a gradual return to standard practice regarding these requests as grantees resume normal operations, including onsite work and serving clients in

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November 17, 2021

Page 3

person. Consequently, unless directed otherwise, staff will inform grantees that approved carryover requests from 2021 must be spent in quarters five and six of 2022.

CONCLUSION

As of the due date for the budget revision and carryover requests, staff received 34 requests. Staff is reviewing the requests to determine the number that must be elevated for committee approval. Staff's recommendations will be based in part on the extent to which the requests address the considerations raised in the commission's resolution, quoted above. The committee will receive a spreadsheet with request summaries and staff recommendations shortly before the meeting.

ATTACHMENTS

- A. [Legal Services Trust Fund Program General Grant Provisions](#) (link)
- B. [Functional Matrix](#) (link)