

**LEGAL SERVICES TRUST FUND COMMISSION
ELIGIBILITY AND BUDGET REVIEW COMMITTEE MEETING**

Meeting Summary and Action Items

Wednesday, November 17, 2021, 10:00 a.m.–12:00 p.m.

State Bar of California (Conference Call via Zoom)

Roll Call

Members Present

Chair Erica Connolly
Banafsheh Akhlaghi
Louise Bayles-Fightmaster
Pamela Bennett
Catherine Blakemore
Zahirah Mann
James Meeker
Bob Planthold

Liaisons

Salena Copeland

Public Members

Jane Byun, Los Angeles
Center for Law and Justice
Christian Abasto, Disability
Rights California (DRC)
Timothy Denari, Greater
Bakersfield Legal Assistance
(GBLA)
Andrew Imparato, DRC
Karen Keene, DRC
David Korsak, California Rural
Legal Assistance Inc. (CRLA)
Danita Melton, GBLA
Susan Podesta, CRLA

Staff

Erica Carroll
Danielle MacRae
Deborah McReynolds
Doan Nguyen
Dan Passamaneck

Members Absent

Corey Friedman

OPEN SESSION

Chair Erica Connolly called the meeting to order at 10:00 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. The following comments were made:

Salena Copeland, liaison from Legal Aid Association of California spoke in favor of approving staff's recommendations regarding carryover requests. She affirmed that grantees would be able to spend the funds within six months. She suggested messaging the community to acknowledge that IOLTA and EAF funding have been historically fairly stable funding sources even though recent years have seen some unusual variances from the norm.

There was discussion among the committee about the nature and timing of public comment. A member suggested that the commission might wish to explore alternative practices going forward but pending any such review recommended that committees continue current practices regarding public comments.

III. IOLTA AND EAF BUDGETS FOR GRANT YEAR 2022

A. Discuss and Act on Remaining Budget-Related Issues

As a follow-up to an issue raised at the last meeting, Acting Program Supervisor Erica Carroll reported that grantee Social Justice Collaborative had in fact not been receiving emails from the staff through SmartSimple due to a technical issue which has now been resolved. Staff noted that grantees are expected to refer to and rely on the administrative calendar posted to SmartSimple.

B. Recommend Approval or Revision of Remaining 2022 IOLTA/EAF Budgets to Legal Services Trust Fund Commission

Acting Program Supervisor Carroll reported that staff has completed review of all 2022 IOLTA/EAF budgets and recommends approval of all 103 2022 IOLTA/EAF budget proposals as listed in the meeting materials.

The committee approved a motion to recommend approval of the 2022 IOLTA/EAF budgets by unanimous roll call vote (Blakemore moved; Planthold seconded), with the following abstentions:

Connolly: Community Legal Services of East Palo Alto

Fightmaster: Law Foundation of Silicon Valley, Sonoma County Legal Aid

Blakemore: Disability Rights California

Mann: Los Angeles County Bar Association, Disability Rights California

Meeker: Public Law Center

Planthold: Bay Area Legal Aid

IV. 2021 IOLTA/EAF BUDGET REVISIONS AND CARRYOVER REQUESTS

A. Discuss and Recommend Approval or Revision of 2021 Budget Revisions and Carryover Requests in Excess of 25 Percent of 2020 Grant Award to Legal Services Trust Fund Commission

Acting Program Supervisor Carroll reported that carryover and budget revision forms were released at the end of September and were due back on October 29. Under the Functional Matrix, no approval is needed for any revision or carryover of less than ten percent; staff must approve any such request of between 10 and 25 percent of the total grant; and the commission must approve any requests exceeding 25 percent of the total grant amount, as well as any revision requests that would drop the share of personnel or program costs below the recommended 75 percent minimum. Thirty-four organizations submitted budget revision and/or

carryover requests related to one or both of their 2021 IOLTA/EAF grants, but only about half required review and approval and even fewer require committee approval.

Eighteen requests required committee approval. Staff recommended approval of most but deferred to the committee regarding six 2022 IOLTA and EAF carryover and revision requests, representing five grant recipient programs (one program having two requests). The committee discussed the criteria for assessing these requests. Factors considered included the share of a grant being carried over, the share of an organization's total budget represented by the carried over funds, and how these factors relate to the committee's confidence that funds will be fully spent down as proposed.

Program Manager Doan Nguyen noted that the commission approved a flexible approach toward carryovers into 2021, but looking toward 2022, the commission should be mindful of preserving legislative confidence in the State Bar's oversight and its grantees' utilization of allocated funding. The commission can approve carryover requests, deny them, or approve them in part, and might want to take this opportunity to message programs that 2021's flexibility regarding carryover and budget revision requests will not likely continue into 2022.

Committee members discussed how and when the State Bar will return to a policy of more limited carryovers and agreed to bring the question to the commission. Members agreed that carryovers should not be granted consecutively as a type of rolling reserve. It was noted that carryover request forms currently ask why funds were unspent but not how grantees will ensure that those funds get spent during the carryover period.

The committee then discussed each of the requests for carryovers and budget revisions that had been deferred for their consideration, as follows:

Asian Americans Advancing Justice – Los Angeles: Staff, having completed review of this request, recommended that it be approved. No comments were offered regarding this request; the committee asked no questions.

California Rural Legal Assistance: CRLA has requested to carry over 49 percent of its \$1.6 million IOLTA grant. CRLA's Chief Financial Officer, David Korsak, and Director of Grants and Contracts, Susan Podesta, explained in oral comments and by chat that staff resignations in 2021 delayed expenditure of this grant. They reported that several one-time, non-renewable, pandemic-responsive funding opportunities had contributed to excess carryforward, and that their carryover request supports

continuity of staffing and the ability to meet community needs in 2022. They asked for understanding in the face of extraordinary circumstances, offering assurance that CRLA could spend both the carryover and its 2022 grant, and stating that CRLA considers carryovers to be a critical tool to stabilize funding in a rapidly changing funding environment.

Disability Rights California: DRC has requested to carry over 71 percent of its IOLTA funding, representing about four percent of DRC's total budget. DRC's Executive Director Andrew Imparato, Legal Director Christian Abasto, and Finance Director Karen Keene, stated in oral comments that DRC's board had approved a very conservative budget for 2021 to ensure against possible staff layoffs, but that DRC is now ready to hire new staff to run new programs and meet new needs. Plans also include more human resources and communications staff, as well as an expanded legislative team, litigation team, and more community advocates. They reported having a three-year plan and being able to ramp up quickly to expand both remote and in-person services. They stated that this carryover is part of a larger fiscal plan and being denied it would be disastrous.

Greater Bakersfield Legal Assistance: GBLA requested a carryover of 29 percent of their IOLTA funds and 76 percent of their EAF funds. The organization also requested a 29 percent revision of their IOLTA budget, which would result in 52 percent of that grant being allocated to personnel and 48 percent to non-personnel. This would deviate from the recommended 75 percent minimum/25 percent maximum ratio of personnel to non-personnel costs. GBLA's Director of Finance Timothy Denari and Administrator Danita Melton explained in written and oral comments that much of GBLA's unspent funding was due to staff leaves and turnover, which impacted personnel spending as well as associated non-personnel costs. GBLA has hired a full-time recruiter and revised its salary schedules by six percent; GBLA also has new EAF projects. They assured the committee that the organization will be able to absorb and expend the carried-over funding in conjunction with 2022 funding.

Los Angeles Center for Law and Justice: LACLJ has requested to carry over 59 percent of their 2021 IOLTA funds. LACLJ's Director of Finance Jane Byun explained that LACLJ's 2021 carryover had been based on conservative estimates, and that resolution of some hiring issues will enable them to spend down the requested carryover by June, if not before. Staff recommended approval of this request; the committee had no questions.

Committee members discussed initiating messaging about a return to the historical practice of being more selective in approving carryover requests and expressed interest in understanding not only the reason for under-expenditures, but also the

plans for spending the funds down within the carryover period. Members agreed that any firm upper limit for carryovers should be based on research and analysis and should be messaged well in advance.

Program Manager Nguyen reported that available records do not reflect the source of the 10 percent and 25 percent cut-offs used in the Functional Matrix to distinguish automatically approved, staff-approved, and commission-approved carryover and revision requests. The commission may wish to ask the Rules Committee to review these standards. Pending such review, the committee agreed that grantees with carryover and revision requests under consideration should be advised that criteria for approving carryovers in 2022 will be stricter than they were in 2021, consistent with pre-pandemic practices.

The committee made a motion to delegate authority to a working group, to get more information from those organizations with budgets that had been deferred to the committee, regarding their plans to absorb those funds in conjunction with their 2022 funding; and to make recommendations to the commission at its December meeting regarding the carryover policy for 2022 and future years (Bennett moved; Blakemore seconded).

After discussion, the committee agreed to have staff pursue this approach with its own working group rather than forming such a group as an act of the committee, and the motion and second were withdrawn. Staff will explore whether to schedule another committee meeting before the commission's December meeting so the working group can report to the committee and confirm consensus before making its report to the commission.

The committee approved a motion to recommend approval of all requests for 2021 IOLTA/EAF budget revisions and carryovers that were recommended for approval by staff in the meeting materials; they excluded those deferred for consideration by the committee as reflected in the meeting materials, by unanimous roll call vote (Blakemore moved, Planthold seconded).

IV. ADJOURN

There being no other business, the meeting was adjourned at 11:55 a.m.