



The State Bar *of California*

**OPEN SESSION
AGENDA ITEM
MARCH 2022
LEGAL SERVICES TRUST FUND COMMISSION V.E**

DATE: March 11, 2022

TO: Members, Legal Services Trust Fund Commission

FROM: Members, Executive Committee

SUBJECT: Recommended Timelines and Delegations of Authority for Distribution of CalHFA Foreclosure Prevention Legal Assistance Funds via Competitive Grants

EXECUTIVE SUMMARY

To help low-income homeowners avoid home loss, the California Housing Finance Agency (CalHFA) is interested in contracting with the State Bar of California to administer \$12 million to 2022 IOLTA-funded organizations to provide legal assistance related to foreclosure prevention and/or home retention legal services. CalHFA and the State Bar are currently negotiating the terms of the contract, including finalizing the list of permissible activities that qualified legal services projects (QLSPs) and support centers can undertake with these grant funds.

CalHFA plans to distribute the funds as two and half year competitive grants and wants to begin providing assistance to California homeowners as quickly as possible. The Executive Committee (committee) recommends a grant distribution date of July 1, 2022; this memorandum proposes a distribution timeline as approved by the committee on February 15, 2022. To ensure that staff can release an application for the competitive awards on or shortly after March 30 and disburse funds on July 1, the committee recommends that the commission delegate authority i) to the committee to approve the Request for Proposal (RFP) and scoring rubric, and ii) to staff to score applications in consultation with commission Co-Chair Kim Savage.

BACKGROUND

The California Housing Finance Agency (CalHFA) received \$945 million through President Biden's 2021 American Rescue Plan Act to launch a California Mortgage Relief Program. The

program was designed to provide financial assistance to qualified homeowners who have fallen behind on their housing payments due to COVID-19 pandemic-related financial hardships. Past due housing payments will be covered in full up to a maximum of \$80,000 per household, and it is estimated that between 20,000 to 40,000 struggling homeowners will be assisted.

CalHFA created a public benefit not for profit corporation to administer the program. The entity is called the California Homeowner Relief Corporation (CalHRC). The United States Treasury provides guidance to the mortgage relief program participants, California being one of them. In the Treasury guidance, legal aid services are specifically referenced as authorized activities to reach out to homeowners and provide assistance. CalHFA is interested in selecting the State Bar to be a sub-recipient of the grant funds and serve as the primary grant administrator, which it refers to as “intermediary.”

CalHFA and CalHRC have conducted initial meetings with the State Bar to discuss the participation of the Legal Services Trust Fund Commission and define potential scope of work that the commission would perform in managing the grants to accomplish the provision of legal aid services, outreach, and training.

Recognizing the importance of legal assistance, CalHFA has reserved and plans to distribute \$12 million (of the \$945 million it received) for grants to QLSPs and support centers to provide foreclosure prevention and/or home retention legal services. The State Bar is working diligently to finalize the contract terms. If the contract is complete before the commission’s March 11 meeting, State Bar staff will share a copy with the commission. We have also requested that at least one commission co-chair be included as a signatory in addition to State Bar executive staff.

Of the \$12 million, at least 5 percent (\$600,000) will be available for administrative costs. Remaining funds would be distributed to QLSPs and support centers found eligible for IOLTA funding in 2022. CalHFA and State Bar staff are finalizing the list of permissible activities that grantees may undertake with these funds. Permissible activities will likely include but are not limited to:

- Outreach and education on the grant application process, arrearage payment, foreclosure process and homeowners’ legal options;
- Review of loan documents and counseling regarding the viability of loan modifications;
- Loan modification assistance and loan modification denial appeals;
- Negotiation, mediation, and litigation to address service violations;
- Protecting home equity from judgment liens on non-mortgage consumer debts through debt collection lawsuit defense, and addressing existing judgment liens through set aside litigation or Chapter 7 bankruptcy (using the recently increased automatic homestead exemptions that apply to California bankruptcies);
- Assisting with homestead declarations to protect equity against future judgments;
- Pursuing affirmative actions to restore homeowner titles; and
- Utilizing additional technology to facilitate mortgage relief applications with clients.

The funds are to be distributed as two and half year competitive grants beginning July 1, 2022 and ending December 31, 2024. CalHFA would like the funds to be distributed as soon as possible. State Bar staff, with guidance from the committee, are drafting a Request for Proposal (RFP) and scoring rubric to evaluate proposed projects. The rubric will be modeled after the previous homelessness prevention rubric with additional guidance and input from CalHFA. Staff anticipate providing the RFP and scoring rubric to the committee for review and approval on March 23 (if the commission delegates authority to committee to approve these materials).

DISCUSSION

The committee recommends that the grant period commence on July 1, 2022. The committee finds this meets CalHFA's goals to distribute the funds as soon as possible, while balancing the need to provide applicants sufficient time to complete the application and State Bar staff sufficient time to review eligibility and score application materials, in consultation with commission Co-Chair Kim Savage. The proposed timeline requires that the committee meet in late March to approve the RFP and scoring rubric.

Proposed Timeline for 2022 CalHFA Competitive Grants

Date(s)*	Activity
February 15, 2022	Preview grant opportunity to Executive Committee
February 14 – March 30	Staff draft Request for Proposal and scoring rubric
Approximately March 9, 2022	CalHFA selects intermediary and finalizes contract
March 2022	Informational webinar for grantees
March 11, 2022	Commission meets to approve distribution timeline and delegation of authority
March 23, 2022	Executive Committee meets to approve Request for Proposal and scoring rubric
March 30, 2022	Staff releases RFP on SmartSimple
May 2, 2022	Proposals due
May 2-31, 2022	Staff score applications in consultation with Commission Co-Chair Kim Savage
June 20-30, 2022	Staff sends grant agreements and processes invoices
July 1, 2022	Grant period begins

* All dates are approximate; staff may need to delay certain activities by a few days if challenges arise. However, the grant period will not change from July 1, 2022 unless there are significant delays in executing the contract with CalHFA.

This four-month timeline is insufficient for both the committee and the commission to meet to approve the Request for Proposal and scoring rubric. Therefore, the committee recommends

that the commission delegate authority to the committee to approve the RFP and scoring rubric. CalHFA would also review and approve the RFP, scoring rubric, and grant application before the application is released.

The timeline also does not afford time for both the committee and commission to approve grant awards and amounts. The committee recommends the commission delegate authority to staff to score proposals in consultation with commission Co-Chair Kim Savage, based on the scoring rubric approved by the committee. Should State Bar staff and Co-Chair Kim Savage disagree on grant decisions and award amounts or otherwise request additional commissioner input, the committee would be available to meet in early June to review and discuss grant awards. If the commission is unable to delegate authority to staff and the co-chair, we will be unable to meet our contractual obligations with CalHFA.

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 timeline for the 2022-2024 CalHFA foreclosure prevention legal assistance grants, as outlined in the March 11, 2022, memorandum; and it is

FURTHER RESOLVED, that the commission delegates authority to the Executive Committee to approve the Request for Proposals, including scoring rubric, for the 2022-24 CalHFA foreclosure prevention legal assistance grants and delegates authority to staff to score the proposals in consultation with commission Co-Chair Kim Savage.