



The State Bar of California

OPEN SESSION

AGENDA ITEM

NOVEMBER 2022

LEGAL SERVICES TRUST FUND COMMISSION 7.1

DATE: November 16, 2022

TO: Members, Legal Services Trust Fund Commission

FROM: Eric Isken, Chair, Legal Service Trust Fund Commission

SUBJECT: Proposed Revisions to Request for Proposal and Scoring Rubric for 2024 Partnership Grants

EXECUTIVE SUMMARY

For the past three grant administration cycles, the Partnerships Grants Committee (PG Committee) has used a scoring rubric during its review of Partnership Grant applications and determination of funding recommendations. The rubric was developed at the direction of the Board of Trustees (Board) and was based on existing grant requirements, approved policies, and office practices. Based on feedback from the 2023 cycle and in efforts to better streamline the review process and provide transparency, the PG Committee recommends that the Legal Services Trust Fund Commission (LSTFC) approve, the proposed revisions to the Request for Proposal and corresponding scoring rubric for review and evaluation of the 2024 Partnership Grant applications.

BACKGROUND

The Partnership Grants program is established by the State Budget Act, which annually provides that “[t]en percent of the [Equal Access Fund] ... shall be for joint projects of courts and legal services programs to make legal assistance available to pro per litigants.” Funding is allocated through the Budget Act to the Judicial Council, and the Judicial Council has authority for final approval of grants. The State Bar administers the grant selection and distribution process through a contract with the Judicial Council. The Legal Services Trust Fund Commission (LSTFC) oversees the administration of these grants, delegating primary responsibility for review and recommendations to the Partnership Grants (PG) Committee.

The State Bar and Judicial Council have approved criteria limiting eligibility for Partnership Grant funding. Applicants must be Qualified Legal Services Projects, proposals must be for joint

projects with a California court, and funding is restricted to providing assistance to self-represented civil litigants. While all projects must meet threshold eligibility requirements, the Judicial Council and LSTFC have provided general guidance to help organizations identify projects that best fulfill the goals and intention of the Partnership Grants program.

The 2024 Partnership Grants term is from January 1, 2024, to December 31, 2024. Staff anticipates that 2024 grant applications will be released in January and due in March 2023, with the review cycle commencing in April 2023.

DISCUSSION

The PG Committee first used a formal scoring rubric during review of the 2022 Partnership Grant applications and continued use this tool to review new and supplemental grants for additional funding received in 2022 (Partnership Grants 2.0) and the 2023 Partnership Grants. The rubric assigned point values to defined categories, based on existing selection criteria outlined in the Partnership Grants Request for Proposal (RFP) (see Attachment A). Point values were also assigned based on policies approved by the LSTFC in 2017 and 2018 in the following areas: 1) self-representation and attorney-client relationships; 2) duration of Partnership Grant funding; 3) overhead, administration, and audit; and 4) use of Partnership Grant funding as a subgrant covering wages of court staff.

With the implementation of the Partnership Grants scoring rubric, several processes were developed to ensure consistent scoring and interpretation of the rubric categories. First, all PG Committee members participated in an initial calibration session to score and review the same set of applications. The PG Committee members then reviewed the remaining applications in scoring teams in subsequent calibration sessions with staff. All scores were reviewed and discussed by the full PG Committee before developing tentative and final funding recommendations. Following application review for 2023, the PG Committee had a discussion at its July 21, 2022, meeting to provide feedback on the effectiveness of the scoring rubric with the goal to improve the grant review process moving forward. On November 3, 2022, based on this feedback, staff presented its recommended changes to the 2024 scoring rubric for the PG Committee's consideration.

PROPOSED CHANGES TO THE 2024 SCORING RUBRIC

In efforts to better streamline the application review process and provide transparency to all potential applicants, the PG Committee recommends the following changes for the 2024 Partnership Grants RFP and scoring rubric.

Omit Reference that Services Be Delivered At or Near the Courthouse

The intention behind this eligibility requirement is that a project be jointly developed and implemented by the applicant and partner court. However, the additional requirement that the project physically be at or near the courthouse was unintentionally restrictive, and in recent years, the PG Committee has permitted flexible service delivery models like hybrid services to

increase access to services for self-represented litigants. Therefore, the PG Committee recommends deleting this reference in the rubric.

Decrease Points for Innovation Category

During the previous review cycles, the PG Committee did not award organizations more than 5 points out of a potential 10 points for innovation. This was partially due to the trend of more projects offering remote and hybrid services to self-represented litigants in response to the pandemic-related challenges. Because this pivot in service delivery model was necessary to continue providing services, the PG Committee did not award many innovation points for this reason. Additionally, many projects offer a valuable service model without a need to add innovative features. Innovation is still of value but to better reflect the review process, the PG Committee recommends decreasing the available innovation points from 10 points to 5 points. This change would only impact the total number of possible points from 110 points to 105 points.

Remove Project Budget Category from Scoring

Whereas rubric categories such as project impact and court involvement are relatively subjective and appropriate to be evaluated as exceeding, meeting, or being below expectations, project budget is an objective metric. The requirement for project budgets is that all proposed expenses must be directly tied to the Partnership Grant project. During review of past applications, projects that were scored below expectations mainly required administrative follow up from staff to resolve issues and questions. Substantive issues regarding proposed projects were generally found in relation to the other rubric categories. The PG Committee recommends removing project budget as its own category from the 2024 rubric, and instead including reference to it under project impact to ensure appropriate proposed allocation of the requested Partnership Grant funds as follows:

A successful proposal will clearly describe the needs of the targeted population and how anticipated outcomes and related budget of the proposed activity(ies) will have a meaningful impact on this population. Outcomes may include the number of people served, nature of the impact, and other project deliverables that will be achieved with this grant funding during the grant period.

As for the 10 points previously allocated to this category, the PG Committee recommends re-allocating 5 additional points each to administration and evaluation, in hopes that applicants can address these categories more comprehensively.

Update Description for Continuity Planning

The main objective of this rubric category is to determine past and current efforts the applicant has taken to sustain its project with non-Partnership Grants funds. The PG Committee determined that the current description was too vague and did not provide suitable guidance to applicants, and recommends updating it as follows:

A successful proposal will address whether its proposed services can continue with funds other than those provided by Partnership Grants and provide details of past efforts and future plans to secure such alternate funding.

Conform Current Policy Regarding Funding Priorities to Current Practice and Integrate into the RFP

The funding priorities category is derived from LSTFC policy that was approved in 2018 and is also cited in the 2023 RFP. The policy sets forth general parameters regarding funding priorities, specifically for projects seeking funding after the initial five-year period that Partnership Grants are intended to support. That policy provides for the LSTFC to consider project strength, demonstrated success, and funding availability as factors for consideration. After the fifth year, particular consideration is given to projects supporting unmet rural needs, projects that have evolved to respond to a recent emergency or disaster, and high functioning and heavily utilized projects that have been unable to secure alternate funding despite documented efforts.

While initially intended to provide clarity and guidance, the policy has become problematic for the following reasons and recommended revisions described below seek to address these concerns:

Reason #1: Ambiguity regarding seed funding and the initial five-year period

The largest issue with the current policy is the ambiguity regarding “seed funding” for new projects, and the observed practices of some applicants that are not in the spirit of this policy. To creatively meet the seed funding requirements, some grantees take a year off from reapplying in hopes to reset the initial five-year funding period. This is concerning because of the potential disruption of services and its impact on the level of services available to self-represented litigants for an otherwise high-functioning project. Other organizations also request to be considered as a new project in light of substantive changes to an existing project, such as moving to a new courthouse or taking on another area of law. As a result, new projects that have not requested nor received Partnership Grant funding are rated at the same funding priority level of an existing project. This diminishes the priority that should be enjoyed by the genuinely new project. In order to address these issues, the PG Committee should maintain discretion to decide the factors to consider what should be considered a new project. These factors could include whether the project was previously or currently funded by Partnership Grants, or if the project proposes a genuine change to an existing service delivery model.

Reason #2: Unintended overlap with new scoring rubric categories

Another notable change to grants administration is that since 2022, the PG Committee has consistently and successfully used a scoring rubric with clearly defined categories to assist in review of applications. Because there was no scoring rubric in 2018, language in the policy may have been intentionally broad to help provide guidance to the PG

Committee. However, in using that policy in conjunction with the scoring rubric, the language of the policy is now too expansive, and certain categories are at risk of being double-scored with the scoring rubric categories. In order for this category to be distinguished from other categories in the scoring rubric, it must be narrowed to focus on the major priority areas of funding new projects and rural projects.

Reason #3: Policy does not reflect changes in the funding landscape

There have also been significant changes to the funding landscape, which the policy could not have anticipated. Whereas Partnership Grants was one of two competitive discretionary grants in 2018, the State Bar has since received a substantial increase in discretionary grant funding and has administered several new competitive discretionary grants in recent years. With the increase in funding, Partnership Grants are less competitive. For example, in 2023, despite fully funding all approved projects, the total amount requested was less than the funding available. This scenario is inconsistent with current policy that sets forth an expectation that projects would receive decreased funding after its third year of funding. To address unforeseen changes in the funding landscape, the policy should be more flexible regarding expectations about funding award amounts.

Reason #4: Newer competitive grants have flexibility to modify grant requirements

Unlike the newer competitive discretionary grants, Partnership Grants is the only grant with existing policies that must be integrated into the RFP. Newer competitive discretionary grants have flexibility to modify grant needs and requirements through their RFPs, which is then approved by the LSTFC. This process allows respective LSTFC committees to debrief on the application review process and make improvements to the next grant's administration. Revising the current policy regarding funding priorities would enable the PG Committee this same level of flexibility to modify the category if needed, so that it is practicable to all applicants.

Based on PG Committee feedback and current practice of reviewing grant applications, the PG Committee recommends that the LSTFC approve revising and integrating the funding priorities policy into the 2024 Partnership Grants RFP as follows:

In making decisions regarding funding priorities, the commission will consider factors that include, but are not limited to:

- Whether the project is new. A goal of Partnership Grant funding is to provide support for effective projects, which may be renewed for an initial five-year period. The commission maintains discretion to determine what is considered a new project, and may consider factors, that include, but are not limited to, whether the project was previously or currently funded or proposes a substantial change to an existing service delivery model.
- Whether the project supports unmet rural needs, even if operating beyond a fifth year of funding.

This category was previously allocated 20 points. In consideration of the updates, the PG Committee recommends decreasing funding priorities to 15 points and reallocating 5 additional points to continuity planning.

Proposed 2024 Partnership Grants Scoring Rubric

ELIGIBILITY REQUIREMENTS			
Please select “yes” or “no” for each requirement.			
Applicant is a Qualified Legal Services Project	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Proposal is jointly developed and implemented by a California State court.	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
Proposed services will be provided only to indigent persons, as defined under Business and Profession Code §6213(d).	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
If NO, has the project identified non-Partnership Grant funds that will cover this work?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Proposed services will be provided only to self-represented litigants (individuals who are or expect to be engaged in civil litigation without representation by counsel).	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
If NO, has the project identified non-Partnership Grant funds that will cover this work?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A

DEFINITIONS	
Exceeds Expectations	Response is very high quality, addressing all questions in the request for proposal and all elements of the selection criteria. The identified strengths in the category are substantial with no or minimal weaknesses or additional questions identified. Any identified weakness has minimal effect on the overall quality of the response.
Meets Expectations	Response is good, effectively addressing most questions in the request for proposal and the selection criteria. Strengths and weaknesses are identified that may balance each other in significance. Overall quality of response is satisfactory
Below Expectations	Response is weak, neglecting to address questions in the request for proposal and the elements of the criteria. The responses Identified weaknesses hold significant weight, overshadowing the identified strengths. Overall quality of response is inadequate, with significant flaws in key elements.

SELECTION CRITERIA (85 PTS)			
Checkmark the appropriate ranking for each category, and then multiply by the number below.			
CATEGORY & DESCRIPTION	Exceeds Expectations	Meets Expectations	Below Expectations
<u>Court Involvement</u> A successful proposal will indicate: <ul style="list-style-type: none"> significant cooperation between the partner court and legal services organization, integration with other court-based services and if the project's services are to be reserved for 			

only one litigant role, such as petitioners but not respondents, that this has been thoroughly explored with the court, and alternate legal resources that can provide meaningful if not equivalent levels of assistance to the opposing parties have been identified.			
<u>Project Impact</u> A successful proposal will clearly describe the needs of the targeted population and how anticipated outcomes and related budget of the proposed activity(ies) will have a meaningful impact on this population. Outcomes may include the number of people served, nature of the impact, and other project deliverables that will be achieved with this grant funding during the grant period.			
A. Number of Check Marks	X20 =	X15 =	X10 =
Subtotal (A)			
<u>Administration</u> A successful proposal will demonstrate the ability and capacity to implement and manage the proposed activity(ies). Strong administration includes adequate staffing, leadership, and oversight of project monitoring, outreach, and resource development. An applicant's historical demonstration of its ability to meet goals from prior grants and timely reporting of results/outcomes will also be considered under this category.			
<u>Evaluation</u> A successful proposal will incorporate meaningful evaluation plans and metrics that effectively demonstrate whether and how the project's planned goals are being achieved. This may include a clear statement of the project goals, strategies to be used to achieve those goals, evaluation methods to be used to make any mid-course adjustments to the delivery model, and evaluation methods to gauge the success of the project. Returning organizations applying for the same funding opportunity will also need to address prior evaluation outcomes and metrics.			
<u>Continuity Planning</u> A successful proposal will address whether its proposed services can continue with funds other than those provided by Partnership Grants and provide details of past efforts and future plans to secure such alternate funding.			
B. Number of Check Marks	X15 =	X10 =	X5 =
Subtotal (B)			
Selection Criteria Total (A+B)			

FUNDING PRIORITIES (15 PTS)		
Keeping the funding priorities in mind, determine the number points you wish to score this project and then multiply by the number below.		
<p>In making decisions regarding funding priorities, the commission will consider factors that include, but are not limited to:</p> <ul style="list-style-type: none"> • Whether the project is new. A goal of Partnership Grant funding is to provide support for effective projects, which may be renewed for an initial five-year period. The commission maintains discretion to determine what is considered a new project, and may consider factors, that include, but are not limited to, whether the project was previously or currently funded or proposes a substantial change to an existing service delivery model. • Whether the project supports unmet rural needs, even if operating beyond a fifth year of funding. 	<div>3 2 1</div>	
Funding Priority Total Score		X5 =

OPTIONAL - INNOVATION (up to 5 PTS)		
Additional points will be awarded to successful proposals that demonstrate innovation.	YES	NO
Bonus Points Awarded (1-5 pts)		
Reason(s) for awarding bonus points for innovation:		

The rubric will be presented for approval at the November 16, 2022, LSTFC meeting.

RECOMMENDATION

Should the Legal Services Trust Fund Commission concur with the Partnership Grants Committee's recommendation, passage of the following resolution is recommended:

RESOLVED, that the Legal Services Trust Fund Commission, approves the request for proposals (RFP) and scoring rubric for the 2024 Partnership Grants as described in the November 16, 2022, memorandum.

ATTACHMENT(S) LIST

- A. 2023 Partnership Grant Request for Proposals
- B. Proposed 2024 Partnership Grant Request for Proposals