



The State Bar of California

OPEN SESSION

AGENDA ITEM 4.2

MAY 2023

LSTFC HOMELESSNESS PREVENTION FUNDS COMMITTEE

DATE: May 12, 2023

TO: Members, Legal Services Trust Fund Commission Homelessness Prevention Funds Committee

FROM: Jennifer Zelnick, Senior Program Analyst, Office of Access & Inclusion

SUBJECT: Recommend 2021-2023 Homelessness Prevention (HP 2) Formula Grant Reallocations

EXECUTIVE SUMMARY

California Government Code section 12531 allocated \$31 million from the National Mortgage Special Deposit Fund for grants to provide homelessness prevention legal services. After administrative costs, 75 percent was for formula grants and 25 percent was for competitive grants to qualified legal services projects (QLSPs) and support centers.¹ In 2020, the Legal Services Trust Fund Commission (LSTFC) made 71 formula (HP 2 formula) grants and 12 competitive (HP 2 competitive) grants. The grants started on January 1, 2021, and end on December 31, 2023.

On December 13, 2022, the LSTFC required Asian Americans Advancing Justice-Asian Law Caucus (AJ-ALC) to return the first two installments of its HP 2 formula award due to failure to begin spending the grant. AJ-ALC subsequently declined its third and final payment due to a change in staffing. Before reallocating AJ-ALC's award to other HP 2 grantees, State Bar staff (staff) and the Homelessness Prevention Funds Committee (Committee) Chair invited all HP 2 grantees to return funds that might otherwise go unspent by the end of the grant period. This memo describes staff's recommendations for HP 2 formula grant reallocations for the Committee meeting on May 12, 2023.

¹ See Government Code section 12531, available at https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12531&lawCode=GOV.

BACKGROUND

Government Code section 12531 allocated \$31 million from the National Mortgage Special Deposit Fund for grants to provide homelessness prevention legal services. Up to five percent of that amount (\$1,550,000) is available to cover Judicial Council and State Bar of California administrative costs. After administrative costs, approximately 75 percent (\$22,087,515) was allocated for formula grants and 25 percent (\$7,362,500) was allocated for competitive grants to QLSPs and support centers.² In 2020, the LSTFC made 71 HP 2 formula and 12 HP 2 competitive grants. Those grants began on January 1, 2021, and will end on December 31, 2023.

HP 2 awards must fund:

[E]viction defense or other tenant defense assistance in landlord-tenant disputes, including preeviction and eviction legal services, counseling, advice, and consultation, mediation, training, renter education, and representation, and legal services to improve habitability, increase affordable housing, ensure receipt of eligible income or benefits to improve housing stability, and prevent homelessness.

Government Code section 12531(e)(1)(B).

In fall 2022, staff learned that AJ-ALC had not yet spent any funds from or begun work on its HP 2 formula grant. Although AJ-ALC had previously reported performing work with HP 2 funds in 2021, it later clarified that was an error. On December 1, 2022, the Committee recommended to the LSTFC that AJ-ALC return the first two installments (\$167,514) of its HP 2 formula award and that it not receive its third installment (\$83,757).³

On December 13, 2022, the LSTFC required AJ-ALC to return the first two installments but keep the third pending the Committee's approval of a spend down plan for the third year of funding.⁴ On January 23, 2023, the Committee found that AJ-ALC declined to submit a spend

² See footnote 1, *supra*.

³ On December 1, 2022, the Committee passed the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission (Commission) Homelessness Prevention Funds Committee recommends to the Commission that Asian Americans Advancing Justice—Asian Law Caucus return the first two installments of its 2021-2023 Homelessness Prevention (HP 2) Formula award (\$167,514 of \$251,271) and that it not receive its third installment due to failure to begin spending its grant as of December 1, 2022.

⁴ On December 13, 2022, the Commission passed the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission (Commission) requires Asian Americans Advancing Justice-Asian Law Caucus to return the first two installments of its 2021-2023 Homelessness Prevention (HP 2) Formula award (\$167,514 of \$251,271) due to failure to begin spending its grant as of December 1, 2022. The third year of funding is contingent upon the submission of a spend down plan by January 10, 2023, submitted to the Homelessness

down plan for year three. As a result, the Committee directed staff to withhold AJ-ALC's third and final HP 2 formula payment.⁵ The Committee also discussed redistributing AJ-ALC's HP 2 formula award to other HP 2 formula grant recipients. That would ensure that these funds can still be used for homelessness prevention legal services in keeping with the statutory parameters outlined in Government Code section 12531.

Because of the reported difficulties related to hiring and other delays, as well as informal feedback from grantees, staff anticipated that some organizations may have underspent in years one and two of the award. Accordingly, on March 23, 2023, staff emailed all HP 2 formula grant recipients and invited organizations to voluntarily reallocate some HP 2 funds if they were concerned about being able to spend down by December 31, 2023.

Following review of the second annual HP 2 reports which were due on April 3, 2023, staff confirmed that some HP 2 formula grantees reported underspending across years one and two. To be good stewards of these public dollars, staff noted organizations that have spent 60% or less of their total funds, and therefore may be at risk of underspending.

On April 6, 2023, staff emailed organizations who reported spending 60% or less of their HP 2 formula to date, to individually invite them to share any concerns about spend down. Staff then invited organizations with spend down concerns to voluntarily reallocate some HP 2 funds. Staff emailed 14 HP 2 formula grantees. Ultimately, two organizations volunteered to return some HP 2 formula dollars: Greater Bakersfield Legal Assistance (GBLA) volunteered to return \$30,000 from their award of \$449,757, and Legal Aid Society of San Diego (LASSD) volunteered to return \$50,000 from their award of \$739,260. Together with the entire sum of AJ-ALC's award, there is \$331,271 in HP 2 formula funds for redistribution to HP 2 formula grantees that elect to receive additional funding.

DISCUSSION

On April 13, 2023, staff notified all 67 eligible HP 2 formula grant recipients that the LSTFC will be reallocating some HP 2 formula funds by re-running the formula. Staff re-ran the formula pursuant to California Government Code section 12531. AJ-ALC, GBLA, and LASSD were ineligible because they were reallocating some or all of their HP 2 formula funds. AIDS Legal

Prevention Funds Committee, to which the Commission has delegated authority to determine its adequacy.

⁵ On January 23, 2023, the Committee passed the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission (Commission) Homelessness Prevention Funds Committee (Committee), acting on behalf of the Commission under its delegated authority, finds that Asian Americans Advancing Justice—Asian Law Caucus (AJ-ALC) declined to submit a spend down plan for its 2021-2023 Homelessness Prevention (HP 2) Formula grant. In keeping with the Commission's December 13, 2022, resolution about AJ-ALC, the State Bar will withhold the third and final payment on AJ-ALC's HP 2 Formula award (\$83,757).

Referral Panel was ineligible because it had a two-year HP 2 formula grant that ended on December 31, 2022. The email informed grantees that they may opt-in to receive additional funds to spend by December 31, 2023. An opt-in—rather than opt-out—also helps protect spend down because it required organizations to attest that they would be able to spend the additional funds.

The email also informed grantees that they may be allowed to use these additional funds retroactively to January 1, 2023, pending Committee and LSTFC approval. Because reallocations would require Commission approval on June 23, 2023, restricting organizations to spend down additional funds to the final six months of the grant would potentially pose a hardship for these organizations. While projects began in January 2021, grantees have already filed spending reports for 2021 and 2022. Permitting grantees to spend reallocated dollars retroactively to January 1, 2023, therefore balances maintaining the integrity of submitted spending reports, with ensuring projects can best use these funds within the final year of the grant.

Staff recommend that the LSTFC reallocate these funds to promote their use for homelessness prevention legal aid. Some grantees have inquired about when additional homelessness prevention legal aid funds will become available and have expressed the need for this work. Reallocating these funds ensures that they may be used for homelessness prevention legal aid as eviction moratoria expire and amidst uncertainty about whether and when additional homelessness prevention funds might become available.

Ultimately, 32 organizations opted-in to receive additional HP 2 formula. Staff then re-ran the formula to include only those organizations who opted-in to receive additional HP 2 formula funds (see Attachment A). The updated formula divides the \$331,271 in available funds among the 32 organizations, resulting in the smallest reallocation of \$1,769, and the largest reallocation of \$88,012. On average, organizations who opted-in would receive approximately \$10,352 in additional HP 2 formula dollars.

Grantees who opted-in to receive additional funds have been notified of the updated reallocation amounts, and those organizations have confirmed they would accept the updated amount. If the Committee recommends the proposed reallocation, staff will work with the organizations who opted-in to receive additional funds to revise their budgets ahead of the June 23, 2023, Commission meeting.

CONCLUSION

Redistributing AJ-ALC's HP 2 formula award, as well as \$30,000 voluntarily reallocated from GBLA and \$50,000 voluntarily reallocated from LASSD, would ensure that these funds can be spent to provide homelessness prevention civil legal services within the parameters of Government Code section 12531. Permitting organizations to use these additional funds retroactively to January 1, 2023, further ensures that organizations who opted-in will be able to put them to good use.

RECOMMENDATIONS

Should the Committee concur with staff's proposal, passage of the following resolution is recommended:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Homelessness Prevention Funds Committee (Committee) recommends the 2021-2023 homelessness prevention (HP 2) formula grant reallocation amounts as described herein and listed in Attachment A; and it is

FURTHER RESOLVED, that the Committee recommends allowing grantees to use these reallocated HP 2 formula funds retroactively to January 1, 2023; and it is

FURTHER RESOLVED, that the Committee recommends that State Bar staff have authority to recommend HP 2 formula budget revisions that grantees submit to reflect these reallocated funds.

ATTACHMENT LIST

- A. Proposed HP 2 Formula Reallocation Amounts

Proposed HP 2 Formula Reallocation Amounts

#	Organization	Current HP 2 Grant Award	Additional HP 2 Allocation	Proposed HP 2 Grant Award
1	Alliance for Children's Rights	\$ 413,778.00	\$ 14,640.00	\$ 428,418.00
2	Asian Americans Advancing Justice Southern California	\$ 865,542.00	\$ 30,623.00	\$ 896,165.00
3	Bay Area Legal Aid	\$ 394,764.00	\$ 13,967.00	\$ 408,731.00
4	California Advocates for Nursing Home Reform	\$ 172,545.00	\$ 6,105.00	\$ 178,650.00
5	Community Legal Aid SoCal	\$ 707,100.00	\$ 25,018.00	\$ 732,118.00
6	Community Legal Services in East Palo Alto	\$ 173,913.00	\$ 6,153.00	\$ 180,066.00
7	Disability Rights California	\$ 2,487,573.00	\$ 88,012.00	\$ 2,575,585.00
8	Disability Rights Education and Defense Fund	\$ 172,545.00	\$ 6,105.00	\$ 178,650.00
9	East Bay Community Law Center	\$ 139,191.00	\$ 4,925.00	\$ 144,116.00
10	Family Violence Law Center	\$ 50,001.00	\$ 1,769.00	\$ 51,770.00
11	Housing and Economic Rights Advocates	\$ 96,561.00	\$ 3,416.00	\$ 99,977.00
12	Inner City Law Center	\$ 408,420.00	\$ 14,450.00	\$ 422,870.00
13	Justice & Diversity Center of the Bar Association of San Francisco	\$ 119,601.00	\$ 4,231.00	\$ 123,832.00
14	Justice in Aging	\$ 172,545.00	\$ 6,105.00	\$ 178,650.00
15	Lawyers' Committee for Civil Rights	\$ 130,524.00	\$ 4,618.00	\$ 135,142.00
16	Legal Aid at Work	\$ 328,485.00	\$ 11,622.00	\$ 340,107.00
17	Legal Aid Foundation of Santa Barbara County	\$ 76,782.00	\$ 2,717.00	\$ 79,499.00
18	Legal Aid of Sonoma County	\$ 111,057.00	\$ 3,929.00	\$ 114,986.00
19	Legal Aid Society of San Mateo County	\$ 56,967.00	\$ 2,015.00	\$ 58,982.00
20	Legal Assistance to the Elderly	\$ 50,001.00	\$ 1,769.00	\$ 51,770.00
21	Legal Services for Children	\$ 62,601.00	\$ 2,215.00	\$ 64,816.00
22	Legal Services for Seniors	\$ 98,436.00	\$ 3,483.00	\$ 101,919.00
23	Legal Services of Northern California	\$ 1,015,743.00	\$ 35,938.00	\$ 1,051,681.00
24	Mental Health Advocacy Services	\$ 51,708.00	\$ 1,829.00	\$ 53,537.00
25	National Housing Law Project	\$ 172,545.00	\$ 6,105.00	\$ 178,650.00
26	OneJustice	\$ 172,545.00	\$ 6,105.00	\$ 178,650.00
27	Public Advocates Inc.	\$ 228,570.00	\$ 8,087.00	\$ 236,657.00
28	San Luis Obispo Legal Assistance Foundation	\$ 50,001.00	\$ 1,769.00	\$ 51,770.00
29	Santa Clara County Asian Law Alliance	\$ 60,264.00	\$ 2,132.00	\$ 62,396.00

30	USD School of Law Legal Clinics	\$ 100,209.00	\$ 3,545.00	\$ 103,754.00
31	Veterans Legal Institute	\$ 50,001.00	\$ 1,769.00	\$ 51,770.00
32	Youth Law Center	\$ 172,545.00	\$ 6,105.00	\$ 178,650.00
Total		\$ 9,363,063.00	\$ 331,271.00	\$ 9,694,334.00