



The State Bar of California

OPEN SESSION

AGENDA ITEM 8.2

JUNE 2023

LEGAL SERVICES TRUST FUND COMMISSION

DATE: June 23, 2023

TO: Members, Legal Services Trust Fund Commission

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

SUBJECT: Approve 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. The LSTFC Homelessness Prevention Funds Committee (Committee) recommends reallocating AJ-ALC's award to other HP 2 formula grantees. This would promote the full use of these funds for homelessness prevention legal aid by the end of the grant period. To that same end, State Bar staff (staff) and the Committee Chair invited all HP 2 formula grantees to voluntarily return funds that might otherwise go unspent by the end of the grant

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

period. This memo describes the Committee's recommendations for HP 2 formula grant reallocations for the LSTFC meeting on June 23, 2023.

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 the fall of 2022, staff learned that AJ-ALC had yet to spend any funds from or start 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 be able to 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 noted that AJ-ALC declined to submit a

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-

spend 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 grantees. That would ensure that these funds can still be used for homelessness prevention legal services pursuant to Government Code section 12531.

Because of reported difficulties with hiring and other delays, as well as informal feedback from grantees, staff anticipated that additional HP 2 grantees might have underspent in years one and two of the award. Accordingly, staff invited all HP 2 formula grant recipients to voluntarily return some HP 2 funds if they were concerned about being able to spend down by the end of the grant period December 31, 2023. Staff also reviewed the second annual HP 2 formula reports and emailed 14 organizations who reported spending 60% or less of their three-year HP 2 formula grant as of the end of 2022. Staff individually invited them to share any concerns about spend down. 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 AJ-ALC's award, there is \$331,271 in HP 2 formula funds for reallocation to HP 2 formula grantees that have elected to receive additional funding.

DISCUSSION

After confirming the amount of funds available, staff notified HP 2 formula grantees that the LSTFC would have the opportunity to reallocate some HP 2 formula funds. Staff reran the HP 2 funding formula in Government Code section 12531. In doing so, staff left out AJ-ALC, GBLA, and LASSD because they were returning some or all of their HP 2 formula award. AIDS Legal Referral Panel was ineligible because it received a two-year HP 2 formula grant that ended on December 31, 2022. Staff informed grantees that, pending LSTFC approval, they may opt in to receive additional funds to spend by December 31, 2023. An opt-in—rather than an opt-out—

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 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).

protected spend down by requiring programs to attest that they would be able to spend the additional dollars.

Staff also informed grantees that, pending Committee and LSTFC approval, they might be able to use reallocated funds to cover spending retroactive to January 1, 2023. This too would promote spend down by December 31, 2023. Otherwise, since the LSTFC meets on June 23, 2023, grantees would have only about six months to spend the extra funding.

The Committee recommends that the LSTFC reallocate this \$331,271 in HP 2 formula funding.⁶ Some grantees have asked about when additional homelessness prevention legal aid funds will become available and have expressed the continued need to perform this work. Reallocating these funds ensures that programs may still use them for homelessness prevention legal aid. This is even more important as eviction moratoria expire and amidst uncertainty about when future homelessness prevention grants might become available.

Ultimately, 32 organizations opted in to receive reallocated HP 2 formula funds. Staff reran the formula to include only those providers (see Attachment A). The smallest reallocation would be \$1,769 in additional funds and the largest would be \$88,012. On average, organizations who opted in would receive about \$10,352 in additional HP 2 formula funding.

Staff notified the grantees who opted in to receive more funds of their potential reallocation amount. Those organizations have since confirmed that they would accept the additional funding, if made available. After the Committee voted to recommend the proposed reallocations, staff worked with programs to revise their HP 2 formula grant budgets.

According to the LSTFC's Functional Matrix, budget revisions that are at or below 10 percent of the total award are self-approving. State Bar staff may review and approve requests that have a deviation between 10 and 25 percent of the total award. If the deviation is equal to or greater than 25 percent, the Committee and LSTFC review the request and determine approval.

Each of the 32 reallocations that the Committee recommends would result in a 3.5 percent increase to the original grant award. These budget revisions are therefore self-approving. Nonetheless, staff reviewed all budgets to ensure they match the proposed award amount and any previously approved budget revisions. Staff also assessed the personnel and administrative

⁶ On May 12, 2023, the Committee passed the following resolution:

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.

ratios, reasonableness in movement of dollars, and whether budget modifications included spending on capital additions.

CONCLUSION

Reallocating AJ-ALC's HP 2 formula award, as well as the amounts that GBLA and LASSD have volunteered to return, would ensure that these funds can still support homelessness prevention legal services. Permitting other HP 2 formula grantees to use these additional funds retroactively to January 1, 2023, further supports their use by the end of the grant period.

RECOMMENDATIONS

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

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) approves 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 LSTFC approves allowing grantees to use these reallocated HP 2 formula funds retroactively to January 1, 2023.

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