



The State Bar of California

OPEN SESSION AGENDA ITEM 50-3 JULY 2023

DATE: July 20, 2023

TO: Members, Board of Trustees

FROM: Doan Nguyen, Program Director, Office of Access & Inclusion

SUBJECT: Approval of Interest on Lawyers' Trust Accounts Grant Distribution for 2024

EXECUTIVE SUMMARY

Annually, the Board of Trustees sets the grant amount available for distribution from Interest on Lawyers' Trust Accounts (IOLTA) to qualified nonprofit legal aid organizations in California. Interest revenue generated by these accounts is the main source of funding for these grants, referred to as IOLTA grants. Over the years, these funds have been supplemented by Justice Gap Fund donations and optional contributions from State Bar licensees as part of their annual licensing fee payments.

After careful review of the revenue projections and consideration of the needs of low-income Californians and legal aid programs, the Legal Services Trust Fund Commission recommends a calendar year 2024 grant distribution of \$95,226,322, which is an 88 percent increase over the 2023 grant distribution of \$50,684,923. This distribution amount would yield a projected reserve of \$25 million at the end of the 2023 calendar year. All grant funds are exempt from the State Bar's reserve policy.

The Board must approve the commission's recommendation unless it makes a finding in writing that the recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar. The Office of General Counsel has reviewed this recommendation and agrees that the proposed distribution does not conflict with any statutory, fiduciary, or legal obligation of the State Bar.

BACKGROUND

IOLTA STATUTE

In 1981 the Legislature authorized the IOLTA program under Business and Professions Code sections 6210–6228 (IOLTA Act). The purpose of the program was to increase access to justice and improve the administration of justice through expansion of legal services. The IOLTA Act requires lawyers to place nominal client funds, or funds that are on deposit for short periods of time, into interest- or dividend-bearing accounts in which the interest or dividend is paid to the State Bar.¹ Such accounts can only be kept at approved financial institutions certified by the State Bar to ensure compliance with the IOLTA Act.

The interest earned from pooled IOLTA accounts is remitted to the State Bar. The State Bar subtracts its costs in administering the program and then distributes the approved fund amount (based on the IOLTA statutory formula) to organizations that provide free civil legal aid in California to indigent persons,² or legal training, legal technical assistance, and advocacy support to the organizations that directly serve indigent persons. The Office of Access & Inclusion administers the grant program for the State Bar under the oversight of the commission and Board of Trustees.

DISTRIBUTION OF IOLTA FUNDS AND RESERVE POLICY

Each year, the commission recommends for approval to the Board of Trustees the amount of IOLTA grants to be made available for distribution in the following calendar year. In 2021, Senate Bill 211 added section 6210.5 to the Business and Professions Code, effective January 1, 2022, providing the commission with greater autonomy and policy-making power. While the Board previously had the discretion to adopt or reject many commission recommendations (as it does for recommendations from other subentities), now, the Board must approve all recommendations from the commission, including the IOLTA distribution, unless it “makes a finding in writing that a recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar.”³

The commission is currently updating its reserve policy and while the new policy is yet to be codified, the commission is utilizing some of the general principals from the new policy to determine the 2024 distribution. The goals for the new policy would continue the former goals of providing grantees more stability and minimizing large fluctuations in distribution amounts from year to year. Moreover, the Office of General Counsel has reviewed the 2006 reserve

¹ If there is a large sum of money involved, or it will be held for a long time, and thus could yield meaningful interest, attorneys are instructed to hold the client's funds in an individual account, designated as a Client Trust Account, and the interest earned goes to the client.

² Per the IOLTA Act, an “indigent person” is an individual 1) whose income is not higher than 200 percent of the federal poverty threshold, or 2) eligible for Supplemental Security Income or free services under the Older Americans Act (seniors 60+) or Developmentally Disabled Assistance Act (Business & Professions Code section 6213(d)).

³ Business & Professions Code section 6210.5(e)(3).

policy and is of the opinion that no binding policy was adopted through the Board motion that was approved. The crux of the new policy includes the following three principles:

- 1. Discontinue the practice of estimating IOLTA revenue over a period of nearly two years to determine the following year's distribution.** The commission is instead basing the next year's grant distribution on the ending net assets of the prior year, plus the estimate of the revenue for the current year minus expenses and any amount set aside for the reserve (or total ending net assets for funding). Projections would be based on confirmed data from the first quarter and only require nine, rather than 21, months of estimates. This would be more manageable, and hopefully more accurate, without requiring the commission to take a risk by relying on anticipated but unguaranteed revenue to maintain cash flow. It also would free the commission to use more discretion in determining the distribution by adjusting the distribution and reserve amounts.
- 2. For purposes of grant stabilization, the commission will create a separate account to function as a fiscally responsible reserve,** as permitted by Business and Professions Code section 6210.5(e)(2). The reserve can only be accessed under defined circumstances, either to help mitigate major fluctuations in IOLTA grant amounts year-to-year or to provide the necessary cash-on-hand in statewide emergencies. (This would be to supplement the distribution as a whole, not to supplement individual grantees experiencing an emergency.) However, in years with significant revenue increases as we have now, the commission can choose to direct more funds to the reserve without negatively impacting grant distribution.
- 3. Related, the commission will maintain a \$25 million initial maximum reserve amount, with permission to increase over time to account for inflation.**⁴ As discussed above, the ending net assets of the prior year plus the current year's projected revenue minus expenses and, if needed, a contribution to the reserve, would become the planned distribution amount for the following year. This would also allow the commission discretion to increase the maximum allowable reserve amount to plan for more measured increases to the distribution in years where the distribution would otherwise more than double and other interventions, such as multiyear budgeting, would be insufficient to ensure grant funds are spent effectively. Given the very large increase in anticipated revenue this year, the recommendation in the model is to fully fund the reserve with a contribution of \$25 million.

IOLTA Compliance, Recertification Efforts, and Leadership Bank Program

Financial institutions participating in the IOLTA program have three interest rate options for IOLTA accounts:

1. Comparable rates where financial institutions treat IOLTA accounts the same as similarly

⁴ The \$25 million amount is the average of the prior ten years' distributions and administrative expenses. If the average IOLTA grant distribution increases significantly in a sustained way, the LSTFC might want to increase the target reserve in the future to meet potential grant needs.

- situated accounts by offering comparable interest rates;
2. Established Compliance Rate (ECR), which was set by the commission in 2009 and required financial institutions to provide interest rates for IOLTA accounts at 68 percent of the Federal Funds target rate or at 0.68 percent, whichever is higher net of reasonable fees; or
 3. Leadership Bank, which set interest rates at ECR or higher with a waiver of all charges and fees.⁵

In 2019, the State Bar established the Leadership Bank program to help sustain revenue by incentivizing banks to offer a minimum interest rate on IOLTA accounts while also eliminating associated fees. In exchange, the State Bar recognizes these banks on its website for attorneys' consideration when opening a client trust account.

CHANGES TO THE FEDERAL FUNDS RATE AND ONGOING FUNDING CHALLENGES

Through most of 2019, the Federal Funds Rate (FFR) was 2.5 percent, the highest it had been in over 10 years previous. In March 2020, the FFR fell precipitously to 0.25 percent in an attempt to offset the dramatic impact of COVID-19 on the economy.⁶ The FFR remained at 0.25 percent until early 2022.⁷

To combat rising inflation, the Federal Reserve raised interest rates for the first time on March 16, 2022, to 0.50 percent. Interest rates increased a total of seven times in 2022, closing the year with 4.50 percent. Interest rates continue to rise in 2023 and the FFR is now 5.25 percent after increasing twice since the beginning of the year. While the Federal Reserve has hinted that it may pause rate increases amid bank turmoil and fears of a recession, it is difficult to predict whether another rate increase will materialize later this year.

FEE STATEMENTS, JUSTICE GAP FUND, AND OTHER CONTRIBUTIONS

IOLTA funds are supplemented from sources other than trust account interest revenue. For example, when licensed attorneys pay their dues to the State Bar each year, \$45 of that amount is directed to legal services.⁸ There is also a recommended voluntary donation of \$100 to support legal aid, known as the Justice Gap Fund. The State Bar accepts cy pres awards through the Justice Gap Fund as well. These funds are grouped with IOLTA. The combined amount varies from year to year but is usually at least several million dollars (\$5–10 million on

⁵ To develop a stable source of interest revenue and in recognition of banks' commitments to increase funding for legal aid, the State Bar established the Leadership Bank program in 2019. The State Bar's ongoing efforts to maintain enrollment in the Leadership Bank program has successfully mitigated some of the loss in IOLTA revenue that would have otherwise occurred over the past two years.

⁶ The FFR represents a target range of interest rates, in this case zero to 0.25 percent. When negotiating with financial institutions, the industry standard is to use the higher end of the range as the target.

⁷ In the case of the recession starting in 2008, interest rates did not increase for seven years—until December 2015—and then the increase was gradual.

⁸ Attorneys may opt out of paying this amount under Business and Professions Code section 6140.03(b), but it is otherwise included as part of their fee statement.

average). All of these contributions ultimately count toward amounts available for distribution through IOLTA grants.

STATE BAR INVESTMENT POLICY

Currently, the State Bar places its existing IOLTA fund balance, minus the amount needed for grant disbursement, into short-term government bonds and notes. These are considered safe investment products that provide a modest return while guaranteeing no loss of principal. The interest generated by these accounts will go toward future grant distribution. Anticipated investment revenues of \$2.09 million are included in the 2023 revenue projections.

DISCUSSION

RECOMMENDED 2024 IOLTA DISTRIBUTION AND TARGET RESERVE

The commission proposes that the Board of Trustees approve a 2024 grant distribution of \$95,226,322 and a \$25 million restricted reserve at the end of 2023.

Forecasting IOLTA Revenue

Based on the current revenue trends and analysis of bank remittances in the past year, the commission adopted a conservative approach to revenue projections. The projection is based on actual interest revenue remitted through March 2023 and anticipated revenue for the remainder of 2023. The revenue projection assumes a reduction in deposits at the ECR and Leadership Bank level, as well as comparable rate IOLTA banks.⁹ This projection assumes two decreases of the FFR from 5.25 percent currently to 5.00 percent in November of 2023, and another 0.25 percent decrease to 4.75 percent in December. The commission anticipates a steep 45 percent reduction in depository balances for both ECR and Leadership bank level (from \$4.4 billion to \$2.4 billion), and comparable rate IOLTA banks (from \$3.4 billion to \$1.9 billion). The commission also projects a slight decrease to approximately \$6.30 million in voluntary donations from licensing fees, \$1.41 million for Justice Gap Fund donations (which is equivalent to actual revenue collected through 2022), and \$2.09 million in interest income, in 2023. Based on these assumptions, the commission projects 2023 IOLTA interest revenue of \$106.12 million, and total revenue of \$116.92 million.

Recommended 2024 IOLTA Distribution and Projected Reserve

Given the large increase in IOLTA revenue in 2023, the commission recommends fully funding the reserve with a contribution of \$25 million, which would yield a 2024 grant distribution of \$95,226,322.

Multiyear Budgeting

Historically, IOLTA grants have operated on one-year cycles. The requirement to distribute funds on a yearly basis under the IOLTA statute has been previously interpreted to mean that the funds must also be spent within a year. However, the statute does not contain this

⁹ Currently, 56 percent of the aggregate assets in IOLTA certified banks resides with ECR or Leadership Banks (compared to 76 percent in the prior year).

restriction, and the commission can choose to be more flexible when determining the grant period. Given the large increase in IOLTA funding now, the commission plans to provide a two-year IOLTA grant that begins in January 2024 and ends in December 2025. The commission is also looking into the possibility of allowing programs an additional year or two to spend the funds. The commission will still issue a separate 2025 distribution this time next year, but the two-year grant now would provide more stability for grantees, who could use the flexibility to plan for anticipated cuts elsewhere in 2025. The flexibility will also help programs address challenges in recruitment and retention.

Recommendation to the Board of Trustees

In summary, the commission recommends a calendar year 2024 IOLTA distribution of \$95,226,322, leaving a projected reserve of \$25 million at the end of 2023. At a time when the need for free legal services is more critical than ever, this sizable increase from 2023 will enable grantees to increase services and help more indigent Californians. Moreover, the reserve will provide grantees with some funding stability beyond 2025, which will encourage grantees to adopt long-term strategies for recruitment and retention as well as expanded services.

FISCAL/PERSONNEL IMPACT

Administration of the IOLTA program is fully funded through IOLTA revenue. The recommended distribution is net of the \$2.46 million projected cost to administer the program; the actual amount distributed to grantees in 2024 will be the same as the distribution amount stated herein. Should staff determine that the amount is insufficient to cover the share of staff salaries and other expenses necessary to administer this program, staff will return to the commission and Board to request approval to allocate additional amounts from the reserve. This recommendation does not affect the State Bar's general fund budget. No additional staff or other expenses will be incurred as a result of this recommendation.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees approve the 2024 IOLTA distribution in the amount of \$95,226,322, with a projected reserve of \$25 million at the end of 2023.

ATTACHMENTS LIST

- A.** State Bar 2006 Cash-On-Hand Policy/Reserve Policy
- B.** Distribution Spreadsheet of Revenue and Expenses Since 2008
- C.** IOLTA 2022 Revenue Projections vs. Actual Detail
- D.** IOLTA 2023 Revenue Projections and Grant Distribution Detail
- E.** History of Legal Aid Grants

AGENDA ITEM

MARCH 54-166

Legal Services Trust Fund Program:
Set Amount for Distribution for
2006-2007 IOLTA Grants

BCSR

03/17/06

Open / Action
Item III.B.

DATE: February 28, 2006

TO: Members of the Board of Committee on Stakeholder Relations
Members of the Board of Governors

FROM: Judy Garlow, Director, Legal Services Trust Fund Program

SUBJECT: Legal Services Trust Fund Program:
Set Amount for Distribution for 2006-2007 IOLTA Grants

Executive Summary

Each year, the Board of Governors sets an amount for distribution in Legal Services Trust Fund Program grants from interest on lawyer trust accounts ("IOLTA"). Since 1992, the method for setting the amount has been to allocate for the grants the amount of prior year revenue less administrative costs, adjusted by an amount by which cash on hand as of June 30 is projected to be more or less than a specific percent of the prior year's net revenue. Most recently, this cash-on-hand target has been 30 percent. After consultation with the Legal Aid Association of California, the Legal Services Trust Fund Commission is recommending adjusting this target for this year upward to approximately 50 percent, so as to take advantage of increased IOLTA revenue to put us in a position to cushion the effects of lower interests rates as needed in the future. Using this system will result in 2006-2007 grants of \$12.7 million, up about 6 percent from the \$12 million distributed in the 2005-2006 grant year.

BACKGROUND

The Board of Governors each year sets an amount for distribution in IOLTA grants to be administered by the Legal Services Trust Fund Program. That amount is distributed for the grant year beginning July 1. The amount is set in March or April, depending on the board meeting schedule, so that the Trust Fund Commission can notify each recipient program of a grant amount, give them 30 days to prepare proposed budgets, review the budgets and still get grant agreements signed and the checks mailed in July.

For each of the first eight grant periods (fiscal years 1984-1985 through 1991-1992), the amount approved for distribution was the total money projected to be on hand June 30. This amounted to the total revenue of the program in the year preceding the grant period, less administrative costs during the same period. In other words, the program collected money for a year and then gave it out in the following year.

At the beginning of the grant year, 100 percent of the money for grants was on hand. Grants were disbursed in quarterly payments. At the same time, money came in that would become the next year's grants, so the program always had on hand about one full year's revenue.

In 1992, the Board of Governors changed that system on the recommendation of the Legal Aid Association of California and the Trust Fund Commission. We moved away from a system where grants were made up only of money already in hand, and to a system of paying part of the grant out of income as it came in. The motivation for this change was the view that the program did not need to keep such a large amount of cash on hand, especially in times of low interest rates and correspondingly lower revenue.

The basic distribution method remained, as before, to allocate for grants the amount of prior year revenue less administrative costs. To determine the amount for distribution, this net prior year revenue amount was adjusted by the amount by which cash on hand as of June 30 was projected to be more or less than a set percentage of the prior year's revenue amount. When the original change was made in 1992, interest rates had begun to drop and the target was set at 75 percent, in order to increase grants by 6 percent over the previous year even though revenue was down about 7 percent. Subsequently, interest rates fell dramatically. The cash-on-hand target was reduced to 60 percent and then to 30 percent, where it has remained for the last 12 grant years.

In years when revenue is increasing, the money coming in exceeds the grant amount going out, and cash on hand builds up above 30 percent. That "extra" amount is added onto the grants for the next year, resulting in a larger increase. In years when revenue is decreasing, the money coming in is less than the grant amount going out, and cash on hand drops below 30 percent. We make up for that by holding back money to increase the cash on hand for the next year, resulting in a greater decrease in grants.

This system has had the desired effect of putting the money in the hands of grant recipients quickly, and has minimized the amount of the program's cash on hand. Because of the swings in interest rates in the last several years, however, it has also meant there were somewhat unpredictable swings in the amount of grants from year to year. As just one example, the total grant amount went up 22 percent in 2001 and then back down 38 percent the following year. Although the grants on average represent a small share of each recipient's total income, in many cases, the ups and downs have been significant. In a time of increasing revenue, the Trust Fund Commission decided to explore whether there might be a better approach.

PROPOSED CHANGE

The Commission has now discussed its proposed change with the Legal Aid Association of California, which consulted with all of the recipients of Trust Fund Program grants. LAAC came back to the Commission in support of the proposal, with a few relatively small suggestions that the Commission has incorporated into this recommendation.

The proposal is to increase cash on hand above 30 percent with the goal of decreasing the fluctuation in grants caused by sizable increases and decreases in interest rates. In years of increasing revenue, grants would be held to a smaller increase than is currently provided for, so as to increase cash on hand. Then in years of decreasing revenue, the cash on hand will be spent down again, to keep grants larger than they would otherwise have been.

The recommendation of the Commission and the legal services community involves a three-step calculation for years in which income is increasing:

- The amount for distribution will be allowed to increase by 5 percent before increasing cash on hand above the current 30 percent. For 2006-2007, this means an increase from \$12 million to \$12.7 million in total grants.
- The funds that would represent the next 10 percent increase—in this case, \$1.2 million—will go to increasing the cash on hand.
- In years when revenue increases more than that, the additional amount will be divided equally between increased grants and increased cash on hand, up to a cap of 75 percent of the previous year's available funds. For this year, there is \$229,520 to be shared equally between grants and increased cash on hand.

Two elements of this change will require ongoing discussion between the Legal Services Trust Fund Commission and the Legal Aid Association, to arrive at further recommendations as needed by this time next year. The first of these two elements is the system for distributing the funds held back when we come upon years of declining income. It is much more difficult to come up with an automatic formula for that. It is likely that a policy will be developed after consultation with the Legal Aid Association.

A second issue for ongoing discussion is the cap on the amount held back to increase cash on hand. LAAC suggested limiting the cash on hand to a specific target, in the range of 50 to 75 percent. The Trust Fund Commission has agreed to a 75 percent cap, and also agreed to discuss whether it should be smaller (or larger) than that. The amount for this year will be 53 percent. Between now and the next time the board goes through this process, a year from now, we can explore the most effective cap. This is a decision that must in any case be made annually, based on the particular income in that year.

CURRENT AND PROJECT REVENUE AND CASH ON HAND

Using this revised system for determining the grant amount will result in setting the grant amount for 2006-2007 at \$12.7 million. This grant amount is larger than the 2005-2006 distribution, due primarily to increased income from substantial increases in the balance on deposit in attorney-client trust accounts and also to small increases in the interest rates on checking accounts.

We currently expect net IOLTA revenue (income less expenses) for the period July 1, 2005 through June 30, 2006 to be \$14 million. At this income level, the program expects to have on hand as of June 30, 2006 about \$7.5 million, which is 53 percent of last year's net revenue. To calculate the grant amount for the coming year, we have added to last year's grant amount a 5 percent increase, plus half of the amount by which net revenue is greater than 15 percent of last year's grants.

RECOMMENDATION

The attached schedule shows the calculation, based on actual experience to date and projections through the rest of the grant year.

Because money will continue to be disbursed as it is received, the Trust Fund Commission will continue to monitor revenue closely and will return with recommendations if there are significant variances from the projections. The agreements signed with grant recipients will continue to include language to make clear that payment of these grants is contingent upon the Legal Services Trust Fund Program having sufficient money on hand from IOLTA revenue to make the scheduled payments. In addition, the Trust Fund Commission will meet with LAAC over the coming months to evaluate the effectiveness of the procedures used this year and what changes should be made for the future.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT: None.

PROPOSED RESOLUTION

The Board Committee on Stakeholder Relations will have a recommendation at the time of your meeting. If you agree with this proposal, the following resolution would be appropriate:

RESOLVED, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2006 through June 30, 2007 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$12,720,721 calculated as follows

(1) The amount projected to be received by the Legal Services Trust Fund Program and the interest earned thereon from July 1, 2005 through June 30, 2006, totaling \$15,256,329, shall be allocated for the grant period July 1, 2006 through June 30, 2007.

(2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2005 through June 30, 2006, totaling \$1,220,280.

(3) To be subtracted from the total amount prior to distribution shall be \$1,200,563, 10 percent of prior year net revenue reserved for cash on hand.

(4) Also to be subtracted from the total amount prior to distribution shall be \$114,760, one-half of the amount over 15 percent of prior year net revenue reserved for cash on hand, and it is

FURTHER RESOLVED that grant payments are to be made from funds received pursuant to Business and Professions Code Section 6212 and the income earned from investment of such funds, and that payment of grants is contingent upon the State Bar having sufficient money on hand from such sources to make the scheduled payments; and it is

FURTHER RESOLVED that the Legal Services Trust Fund Commission is directed to monitor program revenue during the grant year and to recommend action to change the total grant amount for the year if needed in the event of significant variances from projections.

STATE BAR OF CALIFORNIA
Legal Services Trust Fund Distribution
Available Funds for Grant Period 2006-2007

DATE: FEBRUARY 21, 2006

AMOUNT

A. Revenue: 7/1/05 – 6/30/06

2005:	3rd Quarter	\$	3,726,984
	4th Quarter		3,679,345
2006:	1st Quarter (Projected)		3,900,000
	2nd Quarter (Projected)		<u>3,950,000</u>
Total Revenue		\$	15,256,329

B. Administrative Costs: 7/1/05 – 6/30/06

7/1/05 – 12/31/05	\$	734,972
1/1/06 – 6/30/06 (Budgeted)		815,308
Less Projected Equal Access Fund Reimbursements		<u>(330,000)</u>
Total Administrative Costs	\$	1,220,280

C. Cash-on-Hand Calculation

Cash on Hand 6/30/05	\$	5,547,400
Add: Net Revenue 7/1/05 – 6/30/06		14,036,049
Less: 2005-2006 Grants (Net of amounts from past years redistributed)		<u>(12,005,677)</u>
Projected Cash on Hand – 6/30/06 (53 percent of prior year net revenue)	\$	7,577,772

Grant Amount Calculation

2005-2006 Net Revenue	\$	14,036,049
Less 10 percent reserved for cash on hand		(1,200,568)
Less one-half of amount over 15 percent reserved for cash on hand	\$	<u>(114,760)</u>
Total Grant Amount for 2006-2007	\$	12,720,721
Prior Year Distribution (2005-2006)	\$	12,005,677
Percent Increase from Prior Year Distribution		6%

ATTACHMENT

Selection Guidelines for State Bar Appointments to the ABA House of Delegates

The State Bar will strive to appoint members from its applicant pool meeting the following guidelines:

- One (1) delegate who qualifies as the young lawyer representative;
- Up to two (2) delegates to include the most immediate past member of the ABA Board of Governors and any immediate past officer of the ABA from the California ABA Delegation;
- Two (2) members who have not had substantial volunteer experience but do possess the leadership and other skills to be successful delegation members; and
- Six (6) delegates who have substantial bar experience, especially with the ABA, and are typical of other State Bar appointments.

Unless otherwise authorized by the Board of Governors, Each member of the State Bar's ABA delegation would be eligible for reappointment to no more than three (3) consecutive two-year appointments or a maximum of six (6) consecutive years of service with the delegation. Delegates who have completed such service may apply in the future after a period of not less than two years from the date of the expiration of the delegate's last term of service with the State Bar.

All members will be encouraged to become broadly participant in ABA activities in order to fully represent the interests of California attorneys.

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RESOLVED, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves that the distribution of IOLTA grants from the Legal Services Trust Fund Program for the grant period July 1, 2006 through June 30, 2007 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$12,720,721 calculated as follows:

(1) The amount projected to be received by the Legal Services Trust Fund Program and the interest earned thereon from July 1, 2005 through June 30, 2006 totaling \$15,256,329, shall be allocated for the grant period July 1, 2006 through June 30, 2007.

(2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2005 through June 30, 2006, totaling \$1,220,280.

(3) To be subtracted from the total amount prior to distribution shall be \$1,200,560, 10 percent of prior year net revenue reserved for cash on hand.

(4) Also to be subtracted from the total amount prior to distribution shall be \$114,760, one-half of the amount over 15 percent of prior year net revenue reserved for cash on hand, and it is

FURTHER RESOLVED that grant payments are to be made from funds received pursuant to Business and Professions Code Section 6212 and the income earned from investment of such funds, and that payment of grants is contingent upon the State Bar having sufficient money on hand from such sources to make the scheduled payments; and it is

FURTHER RESOLVED that the Legal Services Trust Fund Commission is directed to monitor program revenue during the grant year and to recommend action to change the total grant amount for the year if needed in the event of significant variances from projections.

RESOLVED, upon recommendation of the Committee on Group Insurance Programs, that the Board Committee on Operations, acting on behalf of the Board between regularly scheduled meetings, hereby approves the formal acknowledgment of Raphael Cotkin's 25 years of service to the State Bar of California; and it is

FURTHER RESOLVED, that that Board Committee on Operations, acting on behalf of the Board between regularly scheduled meetings, hereby authorizes the Committee on Group Insurance Programs to formally present this Board Resolution to Raphael Cotkin at it's Planning Session dinner on Monday, March 13, 2006.

[The above is a report of emergency fax-poll action taken by the Board Committee on Operations on behalf of the Board, March 3 - 6, 2006, between regularly scheduled Board meetings.]

RESOLVED, upon the recommendation of the Los Angeles County Bar Association, that the Board Committee on Operations, acting on behalf of the Board between meetings, approves the resolution adopted by the Los Angeles County Bar Association; and it is

FURTHER RESOLVED, that the Board Committee on Operations, acting on behalf of the Board between meetings, authorizes participation in this resolution in the Tribute Book by March 15, 2006, to be presented to the Chief Justice at the dinner in his honor on April 4, 2006.

[The above is a report of emergency fax-poll action taken by the Board Committee on Operations on behalf of the Board, March 3 - 6, 2006, between regularly scheduled Board meetings.]

Upon motion made, seconded and adopted, it was

RESOLVED, upon recommendation of the Board Committee on Operations, that the Board hereby rejects the Foundation's proposed change to the at-will termination clause, accepts the Foundation's change to the revenue, and modifies Article 2.3 of the MOU along the lines discussed, and delegate to the Executive Director the authority to communicate a final proposal to the Foundation; and it is

The STATE BAR OF CALIFORNIA - OFFICE OF ACCESS & INCLUSION

5/30/2023

Bank Settlement, Equal Access, Justice Gap, Homlessness Prevention II & III, CalHFA, & Legal Services Trust Funds

Average FFR Interest Rate	1.92%	0.16%	0.18%	0.10%	0.14%	0.11%	0.09%	0.13%	0.39%	1.00%	1.79%	2.16%	0.38%	0.08%	1.94%
Income	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Bank Trust Account Revenue	\$ 22,268,850	\$ 6,540,851	\$ 6,793,426	\$ 6,077,611	\$ 5,007,709	\$ 4,992,897	\$ 5,225,763	\$ 5,584,435	\$ 6,439,199	\$ 7,036,095	\$ 20,910,031	\$ 46,454,116	\$ 26,276,804	\$ 22,526,029	\$ 54,073,155
Licensor Fee Statement-Opt out	-	-	-	1,670,370	3,304,600	3,280,250	4,843,352	6,347,184	6,332,929	6,863,038	6,030,730	6,255,553	6,417,677	6,158,012	6,348,718
Voluntary Fees/Donations - PLL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	800,355
Justice Gap Donations	-	609,392	1,040,068	868,382	2,214,528	1,041,706	969,523	1,022,211	1,161,470	1,409,276	980,045	1,537,668	1,820,706	1,175,151	1,405,822
Transfer from Affinity & Insurance	-	-	-	-	2,000,000	-	-	400,000	-	-	463,845	-	-	-	-
Transfer from Legislative Activities	-	-	-	-	-	2,000,000	-	-	-	-	-	-	-	-	-
Transfer from Justice Gap	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax-Intercept Funds	-	-	-	-	-	-	-	-	-	-	-	-	1,000,000	1,500,000	1,000,000
Grants & Grant Repayments	6,128	13,993	5,417	7,353	5,867	-	178,289	99,134	75,822	119,584	154,868	177,141	914	-	-
Investment Income	634,273	177,417	51,655	18,128	14,242	14,648	13,594	14,193	56,941	77,687	143,834	661,740	696,142	(21,590)	89,223
IOLTA Sub-Total	24,718,174	7,341,653	7,890,566	8,641,844	12,546,946	11,329,501	11,230,521	13,467,157	14,066,361	15,552,433	28,688,353	55,086,218	36,212,243	31,337,602	63,717,273
Equal Access-CA General Funds	12,215,898	10,979,325	10,605,450	10,070,700	10,002,050	10,392,000	10,392,000	10,392,000	12,642,000	17,642,000	20,392,000	35,242,000	16,215,600	20,392,000	63,640,440
Equal Access-AB145 Filing Fees	6,104,395	5,696,068	6,323,433	5,818,791	5,706,445	5,617,106	3,806,328	3,701,281	3,800,000	4,433,556	4,926,673	4,864,180	3,138,445	5,482,000	5,207,901
Equal Access-State Bar Admin	514,575	566,446	526,379	528,451	527,199	525,120	498,910	442,413	457,500	550,626	487,904	593,540	228,880	486,000	1,431,416
Grant Repayments	15,682	5,866	4,321	7,737	57,735	8,123	-	-	-	-	116,876	134,591	168,263	-	-
Investment Income	80,673	18,861	12,802	3,355	(1,514)	(7,332)	(4,429)	(1,324)	2,392	10,073	(45,597)	52,697	226,708	(7,018)	29,003
EAF Sub-Total	18,931,223	17,266,566	17,472,385	16,429,034	16,291,915	16,535,017	14,692,809	14,534,370	16,901,892	22,636,255	25,877,856	40,887,008	19,977,896	26,352,982	70,308,760
Bank Settlement Awards	-	-	-	-	-	-	-	6,085,197	44,778,670	-	-	-	-	-	-
Grants & Grant Repayments	-	-	-	-	-	-	-	-	-	15,976	11,928	601	-	-	-
Investment Income	-	-	-	-	-	-	-	-	155,347	287,025	658,219	497,098	321,855	(9,955)	41,140
Bank Settlement Sub-Total	-	-	-	-	-	-	-	6,085,197	44,934,017	303,001	670,147	497,699	321,855	(9,955)	41,140
Homlessness Prevention II ²	-	-	-	-	-	-	-	-	-	-	-	-	-	9,923,704	9,865,671
Homlessness Prevention II State Bar Admin	-	-	-	-	-	-	-	-	-	-	-	-	-	107,037	336,940
Homlessness Prevention II Sub-Total	-	-	-	-	-	-	-	-	-	-	-	-	-	10,030,741	10,202,611
Homlessness Prevention III	-	-	-	-	-	-	-	-	-	-	-	-	-	-	26,000,000
Homlessness Prevention III State Bar Admin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	346,449
Homlessness Prevention III Sub-Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-	26,346,449
CalHFA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,680,001
CalHFA State Bar Admin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	70,201
CalHFA Sub-Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,750,202
Total Income	\$ 43,649,397	\$ 24,608,219	\$ 25,362,951	\$ 25,070,878	\$ 28,838,861	\$ 27,864,518	\$ 25,923,330	\$ 34,086,724	\$ 75,902,270	\$ 38,491,689	\$ 55,236,356	\$ 96,470,925	\$ 56,511,994	\$ 67,711,370	\$ 174,366,435
General & Administration Expenses	10	10	10	10	10	10	9	8	10	10	9	15	14	12	18
Employees as of December	\$ 902,007	\$ 1,034,490	\$ 970,071	\$ 1,037,705	\$ 1,042,168	\$ 1,092,472	\$ 1,077,398	\$ 1,094,524	\$ 1,111,466	\$ 1,225,475	\$ 1,447,230	\$ 1,532,509	\$ 1,380,131	\$ 1,378,256	\$ 1,945,368
Personnel	217,838	84,046	101,381	115,291	105,593	105,135	148,573	130,371	47,013	85,894	113,241	153,741	108,774	145,595	153,755
Equal Access-OneJustice/LAAC	193,205	202,867	192,888	174,548	169,748	226,699	154,222	229,296	198,865	197,740	178,615	212,910	199,573	284,367	196,338
Indirect Costs	327,116	312,876	354,496	462,773	493,622	469,861	398,910	578,654	663,120	806,376	829,804	901,200	810,034	1,072,578	1,330,197
General & Administration Sub-Total	1,640,166	1,634,279	1,618,836	1,790,317	1,811,131	1,894,167	1,779,103	2,032,845	2,020,464	2,315,485	2,568,890	2,800,360	2,498,512	2,880,796	3,625,657
Grant Expense Sub-Total	15,543,372	13,952,109	11,866,435	10,685,785	10,685,783	9,617,213	4,808,577	10,064,288	11,088,089	11,035,486	13,849,656	27,463,024	55,294,144	23,951,697	35,414,534
Legal Services Trust (IOLTA)	16,158,761	16,158,554	17,831,833	18,245,360	16,142,680	16,264,319	12,020,468	17,610,257	14,837,423	20,804,644	25,677,762	34,567,326	25,006,696	24,396,022	69,778,965
Equal Access	-	-	-	-	-	-	-	-	-	-	-	-	-	-	646,198
PLL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bank Settlement	-	-	-	-	-	-	-	-	4,872,790	7,089,925	9,891,289	9,452,789	11,111,629	2,272,758	2,272,084
Homlessness Prevention II ²	-	-	-	-	-	-	-	-	-	-	-	-	-	9,865,683	9,865,671
Homlessness Prevention III	-	-	-	-	-	-	-	-	-	-	-	-	-	-	26,000,000
CalHFA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,680,001
Grant Expense Sub-Total	31,702,133	30,110,663	29,698,268	28,931,145	26,828,463	25,881,532	16,829,045	27,674,545	30,798,302	38,930,055	49,418,707	71,483,139	91,412,469	60,486,160	147,657,453
Total Expenses	\$ 33,342,299	\$ 31,744,942	\$ 31,317,104	\$ 30,721,462	\$ 28,639,594	\$ 27,775,699	\$ 18,608,148	\$ 29,707,390	\$ 32,818,766	\$ 41,245,540	\$ 51,987,597	\$ 74,283,499	\$ 93,910,981	\$ 63,366,956	\$ 151,283,110
General & Admin Exp/Total Expenses	4.92%	5.15%	5.17%	5.83%	6.32%	6.82%	9.56%	6.84%	6.16%	5.61%	4.94%	3.77%	2.66%	4.55%	2.40%
Year-End Net Position (Net Assets)															
Legal Services Trust (IOLTA)¹	\$ 16,048,383	\$ 8,401,696	\$ 3,269,770	\$ (49,922)	\$ 500,717	\$ 922,462	\$ 4,914,889	\$ 6,787,029	\$ 10,260,650	\$ 11,171,340	\$ 24,082,586	\$ 49,842,538	\$ 28,397,036	\$ 32,594,905	\$ 57,456,947
Percentage Net Assets to prior year revenue		34%	45%	-1%	6%	7%	43%	60%	76%	79%	155%	174%	52%	90%	183%

¹ Legal Services Trust (IOLTA) Net Position includes Justice Gap Fund balance.

² Accounting segregation by Fund for Homlessness Prevention did not begin until 2012, thus financial activity for Homelessnee Prevention I (HPI) is included in Equal Access. Financial activity for Homlessness Prevention III (HPiii) began in 2022.

IOLTA 2022 Revenue Projections vs. Actual Detail

	BOT Approved Amounts (Projected)	2022 Actual	Amount Difference	% Difference
Jan – March 2022 (Actual)	3,173,158			
April – Dec 2022 (Projected)	21,126,842			
Jan – December 2022 (Actual)		54,073,155		
Total YTD IOLTA Revenue	24,300,000	54,073,155		
Justice Gap, Legal Services Donations, and other revenue(Projected):	8,590,000			
Justice Gap, Legal Services Donations, and other revenue(Actual):		9,650,532		
2022 YTD TOTAL REVENUE(Actual + Projected)	32,890,000	63,723,687	30,833,687	93.75%
Expenses				
(Grant Distribution, Admin, and transfers) Projected	38,587,856			
(Grant Distribution, Admin, and transfers) Actual		38,861,645	273,789	0.71%
Ending Net Fund Assets	30,973,572	57,456,947	26,483,375	85.50%

IOLTA 2023 Revenue Projections and Grant Distribution Detail

Revenue, Expenses, and Assets		2023
A. Revenue		
Jan-Mar IOLTA Revenue (Remittance)	\$	34,469,441
Apr-Dec IOLTA Revenue (Projected)	\$	71,653,450
IOLTA Revenue	\$	106,122,891
Justice Gap, Legal Services Donations, and other revenue:		
Justice Gap Fund Donations (Projected)	\$	1,405,822
Legal Services Voluntary Fee Donations (Projected)	\$	6,300,000
Justice Fund Gap (JGF Transfer - Projected)	\$	1,000,000
Combined LSTF & JGF Interest & Tax Intercept Funds	\$	2,088,030
Total Revenue:	\$	116,916,743
B. Expenses		
IOLTA Grant Distributions (Actual)	\$	50,684,923
IOLTA and Justice Gap Administration (Projected)	\$	2,462,445
Justice Gap Fund (Transfer Out)	\$	1,000,000
Transfer to Restricted Reserve		25,000,000
Total Expenses:	\$	79,147,368
C. Net Revenue (Total Revenue less Total Expenses)	\$	37,769,375
D. Net Assets		
Net Position for Prior Year (Both JGF and LSTF)	\$	57,456,947
Net Revenue less Expenses	\$	37,769,375
Total Ending Net Assets for Funding:	\$	95,226,322
Restricted Reserve		25,000,000
Total Ending Net Assets with Restricted Reserve	\$	120,226,322

The State Bar of California
 April 2023
 History of Legal Aid Grants by Year

Grant Year	GRANTS														
	IOLTA	EAF Formula	EAF Partnership	Partnership 2.0	EAF Homelessness Prevention	HP II	HP III	HP 4	CalHFA	Consumer Debt	CARE Court Planning	Bank Settlement	PLL	Law Fellowship	Totals
1984-85	\$ 6,881,000														\$ 6,881,000
1985-86	10,425,942														10,425,942
1986-87	12,360,011														12,360,011
1987-88	14,894,864														14,894,864
1988-89	15,648,532														15,648,532
1989-90	18,384,261														18,384,261
1990-91	21,581,165														21,581,165
1991-92	21,428,612														21,428,612
1992-93	22,729,133														22,729,133
1993-94	15,200,001														15,200,001
1994-95	5,756,477														5,756,477
1995-96	6,611,789														6,611,789
1996-97	9,275,796														9,275,796
1997-98	10,322,491														10,322,491
1998-99	12,062,740														12,062,740
1999-00	11,316,009	8,550,000	950,000												20,816,009
2000-01	11,048,167	8,550,000	950,000												20,548,167
2001-02	13,502,192	8,550,000	950,000												23,002,192
2002-03	8,334,637	8,550,000	950,000												17,834,637
2003-04	7,540,236	8,550,000	950,000												17,040,236
2004-05	8,355,983	8,707,820	950,000												18,013,803
2005-06	12,005,677	8,563,521	950,000												21,519,198
2006-07	12,720,721	12,574,041	1,397,120												26,691,882
2007-08	13,827,156	14,399,980	1,600,000												29,827,136
2008-09	15,543,372	14,399,971	1,600,000												31,543,343
2009-10	13,952,109	14,400,000	1,625,000												29,977,109
2010-11	11,866,435	18,000,000	2,000,000												31,866,435
2011-12	10,685,785	14,580,000	1,570,000												26,835,785
2012-13	10,685,783	14,665,872	1,624,000												26,975,655
2013-14	14,425,869	14,462,200	1,518,000												30,406,069
2015	10,098,108	16,263,394	1,441,604												27,803,106
2016	11,088,089	12,750,000	1,419,000									4,872,790			30,129,879
2017	11,035,486	17,199,506	1,702,000									7,089,925			37,026,917
2018	13,849,656	22,889,072	2,845,710									9,891,289			49,475,727
2019	27,463,024	22,923,100	2,575,000		14,800,001							9,452,789			77,213,914
2020	55,294,144	23,520,554	2,666,000		5,049,999					5,049,999		11,111,629			97,642,326
2021	23,951,697	21,163,881	2,423,413			9,865,671						2,272,758	647,000		60,324,420
2022	35,487,856	58,147,328	2,580,574	3,880,237		9,865,671	25,999,994		3,680,001			2,272,084	617,000		142,530,745
2023	50,684,923	31,626,571	2,786,000			9,634,914	25,999,994	16,819,538	3,680,001	4,749,999	250,000			760,000	146,991,940
Totals	\$ 618,325,928	\$ 403,986,811	\$ 40,023,421	\$ 3,880,237	\$ 19,850,000	\$ 29,366,256	\$ 51,999,988	\$ 16,819,538	\$ 7,360,002	\$ 4,749,999	\$ 250,000	\$ 46,963,264	\$ 1,264,000	\$ 760,000	\$ 1,245,599,444

Notes: 1) 2013-14 IOLTA grants include 18 month period from July 2013 to Dec 2014.
 2) 2015 EAF grants include 15 month period from Oct 2014 to Dec 2015.
 3) 2023 Law Fellowship Grant amount is a preliminary estimate