



The State Bar *of California*

OPEN SESSION

AGENDA ITEMS 5.1–5.6

AUGUST 2023

LSTFC ELIGIBILITY AND BUDGET REVIEW COMMITTEE

DATE: August 10, 2023

TO: Members, Legal Services Trust Fund Commission Eligibility and Budget Review Committee

FROM: Erica Carroll, Lead Program Analyst, Office of Access & Inclusion

SUBJECT: 2024 IOLTA/EAF Grant Eligibility

EXECUTIVE SUMMARY

Interest on Lawyers' Trust Accounts (IOLTA) and Equal Access Fund (EAF) formula grants are awarded to approximately 100 qualified legal services projects (QLSP) or support centers (SC) each year to support the provision of free civil legal services in California to indigent persons, or in the case of SCs, the provision of legal training, technical assistance, and advocacy support to QLSPs. These grants must comply with criteria set forth in Business & Professions Code sections 6210-6228 (referred to as the "IOLTA statute"), State Bar Rules, and Eligibility Guidelines for Legal Services Projects and Support Centers.

This memorandum will describe any remaining eligibility issues and provide the relevant governing authorities to aid the Eligibility and Budget Review Committee (Committee) in its deliberations. Except where authority has been delegated, recommendations made by the Committee must be approved by the Legal Services Trust Fund Commission (LSTFC). The Committee will be asked to vote on final recommendations regarding all 2024 IOLTA/EAF applicants to the LSTFC.

BACKGROUND

IOLTA and EAF grants are awarded to approximately 100 QLSPs and SCs each year. QLSPs provide free civil legal services in California to indigent persons, and SCs provide legal training,

legal technical assistance, and advocacy support to the organizations that directly serve indigent persons. An organization may apply for IOLTA and EAF funding as either a QLSP or SC. Although IOLTA and EAF grants are separate sources of funding, there is one combined application for both IOLTA and EAF grants, and they are administered on the same basis.

IOLTA funds are mainly generated from interest accrued on lawyers' trust accounts while EAF funds are provided through the annual State Budget Act as part of the Judicial Branch's budget. IOLTA and EAF grants are both governed by the IOLTA statute, State Bar Rules, and Eligibility Guidelines for LSPs and SCs.

The IOLTA statute is the primary governing authority that defines how IOLTA funds are generated and distributed, utilizing a formula to calculate individual award amounts. The vast majority of EAF funds are also distributed using the IOLTA formula. The Rules of the State Bar and Eligibility Guidelines for Legal Services Projects and Support Centers further refine the statutory requirements.

Each IOLTA/EAF grant cycle, this Committee works with State Bar staff during the application review process to consider and resolve issues internal to the application. The Committee then makes final eligibility recommendations to the LSTFC based on the outcome of the application review process.

DISCUSSION

Each section below will address remaining updates and decision points for the Committee prior to making a final recommendation to the LSTFC:

SUPPORT CENTER DEEMING RESULTS

This item is informational only. Under Business and Professions Code section 6215(b), SCs not in existence prior to December 31, 1980, must be deemed "of special need" by a majority of QLSPs to qualify for continued funding. The Office of Access and Inclusion (OA&I) implements this voting process yearly, with individual SCs required to participate on a rotating three-year basis. For grant year 2024, three SCs were subject to the deeming process: Family Violence Appellate Project, Impact Fund, and Legal Services for Prisoners with Children.

Ballots were released to 79 QLSPs on July 5 and due back August 2. OA&I sent several reminders while ballots were open, with 60 ballots returned and 19 outstanding. Unreturned ballots were counted as no votes, whereas abstentions did not count for or against the organization. (See table below for voting breakdown.) All three organizations exceeded the majority vote required. As these SCs have been deemed of special need, they are recommended as eligible for IOLTA/EAF grants, barring any other major eligibility concerns.

| Is the organization of special need? | Family Violence Appellate Project | Impact Fund | Legal Services for Prisoners with Children |
|--------------------------------------|-----------------------------------|-------------|--|
| Yes | 57 | 53 | 54 |
| No (including unreturned ballots) | 20 | 23 | 22 |
| Abstain | 2 | 3 | 3 |

NEW APPLICANT 2022 IMPACT LITIGATION AND ADVOCACY WORK REPORTS

OA&I received 10 new applications for grant year 2024. All new applicants are seeking funding as QLSPs. Earlier this year, the Committee reviewed impact litigation and advocacy work (ILAW) reports from existing grantees which described the ILAW activities those organizations undertook last year (which is the review period for 2024 grants). New applicants did not have the opportunity to prepare these reports in advance and instead submitted their ILAW reports as part of their applications.

The LSTFC has delegated responsibility to the Committee for determining qualifying ILAW activities. Of the 10 new applicants, 7 reported a cumulative total of 45 activities (23 impact litigation, 22 advocacy activities). Four of the activities were voluntarily marked as nonqualifying and related expenditures deducted on those organizations' respective applications. Of the remaining 41 activities, staff recommends all activities be approved. Most were clearly qualifying by serving a majority indigent population.

Three from the Center for Workers' Rights were marked as disproportionate impact but demonstrated a particular need being met among indigent workers. The organization advocates with state agencies, among others, to share the legal issues its clients are encountering and to advocate for improvements that will benefit those clients. By ensuring access to benefits like unemployment insurance and paid family leave, and helping with the wage recovery process when a worker experiences wage theft, these are all activities that could potentially assist any worker but will particularly help already indigent and vulnerable workers.

Staff recommends that the Committee approve all 38 activities that clearly met the criteria and the three that demonstrated disproportionate impact as qualifying work.

ELIGIBILITY REVIEW CONFERENCES

One organization, Coalition of California Welfare Rights Organizations, participated in an eligibility review conference during the application review period. More detailed information regarding the outcome of that conference and recommendations for next steps can be found in the memorandum attached to item 5.3 on this meeting's agenda.

ADDRESSING POSSIBLE NONQUALIFYING ACTIVITIES

Staff conducts monitoring visits throughout the year. Each grantee organization participates every three years on a rotating basis, meaning staff visits with approximately one third of grantees each year. During two recent visits with Youth Law Center and Legal Services for Prisoners with Children, staff determined that some of the work of these organizations is likely nonqualifying but requires additional information from the organizations to determine the extent of the nonqualifying activities.

Because these organizations are both SCs, the only question this might raise is the calculation of the organizations' primary purpose percentages.¹ Both organizations are currently presumed eligible because they exceed the 75 percent qualified expenditures threshold, though additional deductions may impact that percentage. Given the need to finalize eligibility determinations, staff recommends finding these two organizations eligible for 2024 funding contingent upon their continued collaboration with staff to identify and deduct nonqualifying work for future applications. Staff will report back if any of the activities were significant enough to impact primary purpose. Moreover, next year the LSTFC's Rules Committee will address support center activities, which will provide staff, grantees, and the LSTFC with even greater guidance regarding the determination of qualifying and nonqualifying support center work.

ELIGIBILITY RECOMMENDATIONS TO THE LSTFC FOR 2024 IOLTA/EAF FUNDING

Attachment A lists all 2024 IOLTA/EAF applicants and staff recommendations to the Committee regarding eligibility. Staff recommends finding 110 applicants eligible for funding. This includes all 100 existing grantees, as well as 10 new applicants. Staff will provide a brief profile of each new applicant at the Committee meeting. All new applicants found eligible for funding will have a monitoring visit within their first year as grantees.

Staff recommends adopting the eligibility recommendations as reflected in Attachment A and conveying those recommendations to the LSTFC.

NEXT STEPS

The LSTFC will meet the same day as the Committee to finalize eligibility determinations for 2024 IOLTA/EAF funding. Staff will run the IOLTA funding formula the following week in order to release tentative allocation amounts and budget proposal forms on or around August 23.

FISCAL/PERSONNEL IMPACT

None

¹ Under the IOLTA funding formula, all eligible SCs receive the same grant award regardless of their organizational size or the amount of nonqualifying expenditures. This is one major difference between QLSPs and SCs.

RECOMMENDATIONS

For Eligibility and Budget Review:

RESOLVED, that the Eligibility and Budget Review Committee approves all ILAW activities reported by new applicants as qualifying activities, except for those already acknowledged and deducted as nonqualifying.

For the LSTFC:

RESOLVED, that the Eligibility and Budget Review Committee recommends to the **Legal Services Trust Fund Commission** 110 applicants as eligible for 2024 IOLTA/EAF funding as reflected in Attachment A to the August 10, 2023, meeting memorandum; and it is

FURTHER RESOLVED, that the Eligibility and Budget Review Committee recommends California Coalition of Welfare Rights Organizations, Legal Services for Prisoners with Children, and Youth Law Center, as eligible contingent upon their continued work with staff to resolve issues raised during this year's application and eligibility review process prior to next year's application.

ATTACHMENT(S) LIST

- A. Applicants Recommended as Eligible for Ineligible for IOLTA and EAF Funding for 2024 Grant Year

2024 IOLTA/EAF Applicant Eligibility Recommendations

| # | Organization | Funding Opportunity | | New? | Pro Bono Applicant | Recommendation for 2024 IOLTA/EAF Grants |
|----|--|------------------------------|---------------------|------|--------------------|---|
| | | LSP = Legal Services Project | SC = Support Center | | | |
| 1 | Advancing Justice - Asian Law Caucus | IOLTA/EAF LSP | | | | Eligible |
| 2 | Affordable Housing Advocates | IOLTA/EAF LSP | | | | Eligible |
| 3 | Aids Legal Referral Panel | IOLTA/EAF LSP | | | | Eligible |
| 4 | Al Otro Lado, Inc. | IOLTA/EAF LSP | | New | | Eligible |
| 5 | Alameda County Homeless Action Center | IOLTA/EAF LSP | | | | Eligible |
| 6 | Alliance for Children's Rights | IOLTA/EAF LSP | | | Yes | Eligible |
| 7 | Asian Americans Advancing Justice Southern California | IOLTA/EAF LSP | | | | Eligible |
| 8 | Asian Pacific Islander Legal Outreach | IOLTA/EAF LSP | | | | Eligible |
| 9 | Bay Area Legal Aid | IOLTA/EAF LSP | | | | Eligible |
| 10 | Bet Tzedek Legal Services | IOLTA/EAF LSP | | | Yes | Eligible |
| 11 | California Advocates for Nursing Home Reform | IOLTA/EAF SC | | | | Eligible |
| 12 | California Collaborative for Immigrant Justice | IOLTA/EAF LSP | | New | | Eligible |
| 13 | California Indian Legal Services | IOLTA/EAF LSP | | | | Eligible |
| 14 | California Rural Legal Assistance Foundation | IOLTA/EAF SC | | | | Eligible |
| 15 | California Rural Legal Assistance, Inc. | IOLTA/EAF LSP | | | | Eligible |
| 16 | California Women's Law Center | IOLTA/EAF SC | | | | Eligible |
| 17 | Capital Pro Bono Inc. | IOLTA/EAF LSP | | | Yes | Eligible |
| 18 | Casa Cornelia Law Center | IOLTA/EAF LSP | | | Yes | Eligible |
| 19 | Center for Gender and Refugee Studies - California | IOLTA/EAF SC | | | | Eligible |
| 20 | Center for Human Rights and Constitutional Law | IOLTA/EAF SC | | | | Eligible |
| 21 | Center for Immigrant Protection dba The LGBT Asylum Project | IOLTA/EAF LSP | | New | | Eligible |
| 22 | Center for Workers' Rights | IOLTA/EAF LSP | | New | | Eligible |
| 23 | Central California Legal Services | IOLTA/EAF LSP | | | | Eligible |
| 24 | Centro Legal de la Raza | IOLTA/EAF LSP | | | | Eligible |
| 25 | Child Care Law Center | IOLTA/EAF SC | | | | Eligible |
| 26 | Coalition of California Welfare Rights Organizations | IOLTA/EAF SC | | | | Eligible |
| 27 | Community Lawyers Inc. | IOLTA/EAF LSP | | | | Eligible |
| 28 | Community Legal Aid SoCal | IOLTA/EAF LSP | | | | Eligible |

ATTACHMENT A

| | | | | |
|----|---|---------------|---|----------|
| 29 | Community Legal Services in East Palo Alto | IOLTA/EAF LSP | Yes | Eligible |
| 30 | Contra Costa Senior Legal Services | IOLTA/EAF LSP | | Eligible |
| 31 | Dependency Advocacy Center | IOLTA/EAF LSP | | Eligible |
| 32 | Disability Rights California | IOLTA/EAF LSP | | Eligible |
| 33 | Disability Rights Education and Defense Fund | IOLTA/EAF SC | | Eligible |
| 34 | Disability Rights Legal Center | IOLTA/EAF LSP | Yes | Eligible |
| 35 | East Bay Community Law Center | IOLTA/EAF LSP | | Eligible |
| 36 | Elder Law & Advocacy | IOLTA/EAF LSP | | Eligible |
| 37 | Elder Law and Disability Rights Center | IOLTA/EAF LSP | New | Eligible |
| 38 | Eviction Defense Collaborative | IOLTA/EAF LSP | | Eligible |
| 39 | Family Violence Appellate Project | IOLTA/EAF SC | | Eligible |
| 40 | Family Violence Law Center | IOLTA/EAF LSP | | Eligible |
| 41 | Greater Bakersfield Legal Assistance | IOLTA/EAF LSP | | Eligible |
| 42 | Harriett Buhai Center for Family Law | IOLTA/EAF LSP | Yes | Eligible |
| 43 | Housing and Economic Rights Advocates | IOLTA/EAF LSP | | Eligible |
| 44 | Immigrant Defenders Law Center | IOLTA/EAF LSP | New | Eligible |
| 45 | Immigrant Legal Defense | IOLTA/EAF LSP | New | Eligible |
| 46 | Immigrant Legal Resource Center | IOLTA/EAF SC | | Eligible |
| 47 | Impact Fund | IOLTA/EAF SC | | Eligible |
| 48 | Inland Counties Legal Services | IOLTA/EAF LSP | | Eligible |
| 49 | Inland Empire Latino Lawyers Association, Inc. | IOLTA/EAF LSP | Yes | Eligible |
| 50 | Inner City Law Center | IOLTA/EAF LSP | | Eligible |
| 51 | Justice & Diversity Center of the Bar Association of San Francisco | IOLTA/EAF LSP | Yes | Eligible |
| 52 | Justice in Aging | IOLTA/EAF SC | | Eligible |
| 53 | La Raza Centro Legal | IOLTA/EAF LSP | | Eligible |
| 54 | LACBA Counsel for Justice | IOLTA/EAF LSP | Yes | Eligible |
| 55 | Law Foundation of Silicon Valley | IOLTA/EAF LSP | Yes, but not recommended for allocation | Eligible |
| 56 | Lawyers' Committee for Civil Rights | IOLTA/EAF LSP | Yes | Eligible |
| 57 | Learning Rights Law Center | IOLTA/EAF LSP | | Eligible |
| 58 | Legal Access Alameda | IOLTA/EAF LSP | Yes | Eligible |
| 59 | Legal Aid at Work | IOLTA/EAF LSP | | Eligible |
| 60 | Legal Aid Foundation of Los Angeles | IOLTA/EAF LSP | | Eligible |
| 61 | Legal Aid Foundation of Santa Barbara County | IOLTA/EAF LSP | | Eligible |
| 62 | Legal Aid of Marin | IOLTA/EAF LSP | | Eligible |
| 63 | Legal Aid of Sonoma County | IOLTA/EAF LSP | | Eligible |

ATTACHMENT A

| | | | Yes, but not recommended for allocation in Riverside County | |
|----|--|---------------|--|----------|
| 64 | Legal Aid Society of San Bernardino | IOLTA/EOF LSP | | Eligible |
| 65 | Legal Aid Society of San Diego | IOLTA/EOF LSP | | Eligible |
| 66 | Legal Aid Society of San Mateo County | IOLTA/EOF LSP | | Eligible |
| 67 | Legal Assistance for Seniors | IOLTA/EOF LSP | | Eligible |
| 68 | Legal Assistance to the Elderly | IOLTA/EOF LSP | | Eligible |
| 69 | Legal Services for Children | IOLTA/EOF LSP | | Eligible |
| 70 | Legal Services for Prisoners with Children | IOLTA/EOF SC | | Eligible |
| 71 | Legal Services for Seniors | IOLTA/EOF LSP | | Eligible |
| 72 | Legal Services of Northern California | IOLTA/EOF LSP | | Eligible |
| 73 | Los Angeles Center for Law and Justice | IOLTA/EOF LSP | | Eligible |
| 74 | Loyola Marymount University | IOLTA/EOF LSP | | Eligible |
| 75 | McGeorge Community Legal Services | IOLTA/EOF LSP | | Eligible |
| 76 | Mental Health Advocacy Services | IOLTA/EOF LSP | | Eligible |
| 77 | National Center for Youth Law | IOLTA/EOF SC | | Eligible |
| 78 | National Health Law Program | IOLTA/EOF SC | | Eligible |
| 79 | National Housing Law Project | IOLTA/EOF SC | | Eligible |
| 80 | Neighborhood Legal Services | IOLTA/EOF LSP | | Eligible |
| 81 | OneJustice | IOLTA/EOF SC | | Eligible |
| 82 | Open Door Legal | IOLTA/EOF LSP | | Eligible |
| 83 | Prison Law Office | IOLTA/EOF LSP | | Eligible |
| 84 | Public Advocates Inc. | IOLTA/EOF LSP | | Eligible |
| 85 | Public Counsel | IOLTA/EOF LSP | Yes | Eligible |
| 86 | Public Interest Law Project | IOLTA/EOF SC | | Eligible |
| 87 | Public Law Center | IOLTA/EOF LSP | Yes | Eligible |
| 88 | Q.Me Place, Inc. | IOLTA/EOF LSP | New | Eligible |
| 89 | Riverside Legal Aid | IOLTA/EOF LSP | Yes | Eligible |
| 90 | San Diego Volunteer Lawyer Program | IOLTA/EOF LSP | Yes | Eligible |
| 91 | San Joaquin College of Law | IOLTA/EOF LSP | | Eligible |
| 92 | San Luis Obispo Legal Assistance Foundation | IOLTA/EOF LSP | | Eligible |
| 93 | Santa Barbara County Immigrant Legal Defense Center | IOLTA/EOF LSP | New | Eligible |
| 94 | Santa Clara County Asian Law Alliance | IOLTA/EOF LSP | | Eligible |
| 95 | Santa Clara University Alexander Law Center | IOLTA/EOF LSP | | Eligible |
| 96 | Senior Adults Legal Assistance | IOLTA/EOF LSP | | Eligible |
| 97 | Senior Advocacy Network | IOLTA/EOF LSP | | Eligible |
| 98 | Senior Citizens Legal Services | IOLTA/EOF LSP | | Eligible |
| 99 | Social Justice Collaborative | IOLTA/EOF LSP | | Eligible |

ATTACHMENT A

| | | | | |
|-----|---|---------------|-----|----------|
| 100 | Southern California Immigration Project | IOLTA/EAF LSP | New | Eligible |
| 101 | UC Davis School of Law Legal Clinics | IOLTA/EAF LSP | | Eligible |
| 102 | UnCommon Law | IOLTA/EAF LSP | | Eligible |
| 103 | USD School of Law Legal Clinics | IOLTA/EAF LSP | | Eligible |
| 104 | Veterans Legal Institute | IOLTA/EAF LSP | Yes | Eligible |
| 105 | Wage Justice Center | IOLTA/EAF LSP | | Eligible |
| 106 | Watsonville Law Center | IOLTA/EAF LSP | | Eligible |
| 107 | Western Center on Law and Poverty | IOLTA/EAF SC | | Eligible |
| 108 | Worksafe, Inc. | IOLTA/EAF SC | | Eligible |
| 109 | Youth Law Center | IOLTA/EAF SC | | Eligible |
| 110 | Yuba-Sutter Legal Center for Seniors | IOLTA/EAF LSP | | Eligible |