



The State Bar of California

OPEN SESSION

AGENDA ITEM 4.1

NOVEMBER 2023

LEGAL SERVICES TRUST FUND COMMISSION

DATE: November 9, 2023

TO: Members, Legal Services Trust Fund Commission

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

SUBJECT: Approve Recommendations for 2024 IOLTA and EAF Budget Submissions

EXECUTIVE SUMMARY

Each year the State Bar, through the Legal Services Trust Fund Commission (LSTFC), administers the Interest on Lawyers' Trust Accounts (IOLTA) and Equal Access Fund (EAF) grants. As part of the grant administration process, the LSTFC reviews and approves budget proposals submitted by organizations found eligible for funding in the next grant cycle. In 2024 the State Bar will distribute approximately \$95.3 million in IOLTA funds and \$31.7 million in EAF formula funds.

After completing the IOLTA/EAF eligibility review process, the LSTFC approved 110 organizations for tentative award allocations on August 10, 2023. The State Bar's Office of Access & Inclusion (OA&I) calculated proposed award allocations as prescribed by statute and notified programs of the amount of their allocation on August 23, 2023. Qualified legal service providers (QLSPs) and support centers (SCs) had 30 days to submit their proposed budgets detailing how they would spend the allocated amount.

After discussion and resolution of issues raised, the Eligibility and Budget Review Committee recommends that the LSTFC approve all proposed budgets.

BACKGROUND

GOVERNING AUTHORITIES AND OFFICE PRACTICE

Section 6216 of the Business and Professions Code prescribes the method for allocating IOLTA funds to QLSPs and SCs. EAF was created by the State Budget Act, and that act further specifies

that 90 percent of the funds will be distributed by the State Bar in the same manner as the IOLTA funds. Though the process is the same for determining award allocations and distribution, IOLTA and EAF remain distinct funding sources. QLSPs and SCs must submit separate budgets for each grant. Moreover, EAF requires funding to be tied to an identified set of activities with discrete deliverables and outcomes for evaluation purposes, as explained in the budget instructions for both types of grantees.

Once the State Bar releases tentative allocations, State Bar Rule 3.680(E)(3) requires that QLSPs and SCs prepare and submit a proposed budget and budget narrative within 30 days. This timeline is essential to ensure review and approval prior to circulation of grant agreements before the end of the year. This, in turn, allows for the timely execution of grant agreements and first quarter disbursement of funds in January. Staff has some discretion to accept late submissions within one business day of the deadline, but any submissions later than that—or that are substantially incomplete—are referred to the committee.

Longstanding office practice requires grant recipients to allocate at least 75 percent of funds to programs and 25 percent or less to administrative expenses. Grant recipients are also required to allocate 75 percent or more of the budget to personnel and 25 percent or less to nonpersonnel expenses. This has been the practice for at least the past eight years. There is a similar requirement that employee benefits amount to no more than 40 percent as compared to compensation. Deviation from any of these amounts requires committee approval.

Business and Professions Code section 6218 requires QLSPs to budget IOLTA/EAF funds “solely to defray the costs of providing legal services to indigent persons or for such other purposes” as permitted by statute (e.g., to fund a loan repayment assistance program administered by the California Access to Justice Commission). That same code section requires support centers to ensure that IOLTA/EAF “only be used to provide services to qualified legal services projects as defined” by statute. Budgeting for activities that may not qualify as legal services or legal support services under the Business and Professions Code and Rules of the State Bar requires committee approval, as do purchases of real property or significant property-related capital additions, which are controlled by the Legal Services Trust Fund Program Guidelines for Purchases of Real Property.

2024 BUDGETING CHANGES

In addition to the standard budgeting requirements above, several new aspects to the 2024 IOLTA/EAF budget proposals are highlighted below:

IOLTA Multiyear Spending

Compared to the current year distribution, the 2024 IOLTA distribution has almost doubled. With approximately \$95.3 million in IOLTA funds scheduled for disbursement in 2024, the LSTFC voted in August 2023 to allow grantees a period of up to four years to spend their 2024 IOLTA allocation (if they elect to do so). This represented a significant shift; historically, grant funds had to be spent in the year awarded or receive approval to carry forward into the next grant

cycle, typically for a maximum of six months.¹ In order to facilitate reporting and monitor spending over this extended period, grantees were required to complete a budget form with their anticipated spending on a yearly basis.

Loan Repayment Assistance Program (LRAP) Expenditures

LRAPs are designed to cover all or a portion of a person's outstanding educational loans to lessen the financial burden of repayment. They take many forms (e.g., some are taxable, some are not; some are sponsored by educational institutions and others by employers, etc.). Many legal aid organizations either already administer, or are interested in starting, an LRAP due to their utility as a recruitment and retention tool.

Historically, IOLTA and EAF funds have been available to support LRAPs for grantee staff, as long as those funds are proportionate to the amount of qualifying work performed by benefitted staff under the statute and rules. A recent statutory change amended Business and Professions Code section 6219(b) to create a separate LRAP administered by the California Access to Justice Commission. This provision limits the LRAP to attorneys and requires those receiving LRAP funds to perform some, but not necessarily all, qualifying work.

Due to the differences between this program and the use of IOLTA and/or EAF for other LRAPs, the LSTFC formalized a set of guidelines in August 2023 to provide appropriate guidance to staff and grantees with this set of budget proposals. Separate line items specific to LRAP were also added to the budget forms this year. Finally, questions were added to the forms to collect data regarding the types of LRAPs funded with IOLTA and EAF monies, as well as the number of employees receiving these benefits and their staffing classifications. This will allow for greater analysis of the impact of this use of funds over time.

Change to Definition of "Civil Legal Services"

On July 1, 2023, changes to the Rules of the State Bar went into effect as a result of the LSTFC's ongoing codification process. This included a revision and expansion of the definitions of "civil" and "legal services." (Amended State Bar Rule 3.672.) For many years, the LSTFC has considered activities that were supportive of a legal outcome, even if not performed by an attorney, to be within the scope of legal services. However, as this was not formally codified, each instance of budgeting for this work (e.g., funding social work staff activities) was previously elevated to the committee for review. Staff and grantees now have specific guidance pursuant to the rule change. As such, only proposals that appeared to deviate from the new definition would be raised for committee discussion.

STAFF BUDGET REVIEW PROCESS AND LSTFC REVIEW

Budget proposals for the 2024 IOLTA/EAF grant allocations were due on Friday, September 22, 2023, at 5:00 p.m. Staff reviewed proposed budgets to confirm compliance with the governing authorities. Budget review involved, but was not limited to, checking proper calculation of full-

¹ The only other example of multiyear spending was the 2022 EAF distribution where grantees were permitted two years to spend the award. However, a four-year spending period for IOLTA is unprecedented.

time staff equivalents and salaries; use of funds for qualifying activities only; proper allocations by county for programs that operate in multiple counties; compliance with the recommended ratio of programmatic to administrative expenses and personnel to nonpersonnel expenses; any purchases of real property or capital additions; and ensuring that EAF expenditures are tied to anticipated activities and outcomes. If questions arose during review, staff contacted the organizations for clarification or correction and provided the opportunity to revise the budgets where necessary.

DISCUSSION

The following questions arose in one or more budget proposals and required committee review and approval:

DEVIATIONS FROM RECOMMENDED EXPENSE RATIOS

Budget proposal instructions recommend that grantees devote 75 percent or more of the allocated funds to program expenses and no more than 25 percent to administrative expenses (similarly, 75 percent or more to personnel expenses and 25 percent or less to nonpersonnel), which has been the standard target allocation for the past several years. Staff also flags any budgets that allocate more than 40 percent of their IOLTA/EAF funds dedicated to employee benefits over salaries. Staff elevates all budgets that deviate from these allocations to the committee for review and approval or revision.²

Knowing that the large increase to 2024 IOLTA funds might present a challenge to spending the entirety of the grant award, the LSTFC discussed the possibility that grantees may need or want to utilize funds in a way that diverges from these outlined norms. While the committee did not formally revise the recommended expense ratios, staff was mindful of examples previously discussed as reasonable, such as infrastructure spending and staffing challenges (e.g., hiring temporary staff to fill gaps left by vacant permanent roles) when reviewing the budgets.

Three organizations deviated from the recommended budget allocation of at least 75 percent to personnel in their budget proposals, and one organization deviated from the same recommended allocation for program expenditures. After review and discussion, the Eligibility and Budget Review Committee approved all these deviations.

LATE AND/OR SUBSTANTIALLY INCOMPLETE BUDGET PROPOSALS

Staff released budget forms to 110 organization, and 101 organizations submitted their budgets by the deadline. Due to a recent rule change, State Bar staff had discretion to accept budget materials submitted within one business day of the deadline. (Amended State Bar Rule 3.680(F).) Staff accepted six of the late submissions and referred three for committee review. After discussion, the committee accepted all late budget submissions but imposed conditions

² There were no budget proposals that deviated from the recommended expense ratios regarding benefits as compared to compensation this year.

on two grantees (Asian Pacific Islander Legal Outreach and Coalition of California Welfare Rights Organizations). Staff will follow up with those organizations regarding next steps.

CAPITAL ADDITIONS

One organization submitted a request to make capital additions using IOLTA funds in an amount that exceeded \$5,000. This triggered application of the Guidelines for Purchases of Real Property, which the committee reviewed and approved.

NONQUALIFYING ACTIVITIES

Staff also reviewed the budget proposals for possible nonqualifying activities (i.e., activities that would not constitute free civil legal services to indigent persons or legal support services to QLSPs). With the recent rule change to the definition of civil legal services, activities that staff would formerly have presented to the committee (e.g., social work positions that are part of the legal team and contribute to a legal outcome) were not elevated for individual review as they now squarely fit within the revised definition. (Amended State Bar Rule 3.672.)

APPROVAL OF 2024 IOLTA/EAF BUDGET PROPOSALS

The Eligibility and Budget Review Committee discussed and resolved any significant budget-related issues at its November 3 meeting. Staff has also worked with organizations to finalize any necessary changes and corrections to their budgets. Consequently, the committee recommends approval of all 110 IOLTA and EAF budgets to the LSTFC. (See Attachment A for list of organizations and their respective allocations.)

FISCAL/PERSONNEL IMPACT

None

RECOMMENDATIONS

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

RESOLVED, that the Legal Services Trust Fund Commission approves all 2024 IOLTA/EAF budgets from organizations listed in the November 9, 2023, meeting materials.

ATTACHMENT(S) LIST

- A. Organizations and 2024 IOLTA/EAF allocations recommended for budget approval

2024 IOLTA/EAF Grantees and Allocations

ATTACHMENT A

#	Funding Opportunity	Organization	IOLTA Grant Allocation	EAF Grant Allocation
1	IOLTA/EAF LSP	Advancing Justice - Asian Law Caucus	\$1,459,810	\$483,374
2	IOLTA/EAF LSP	Affordable Housing Advocates	\$23,410	\$7,785
3	IOLTA/EAF LSP	Aids Legal Referral Panel	\$53,631	\$17,793
4	IOLTA/EAF LSP	Al Otro Lado, Inc.	\$702,659	\$234,273
5	IOLTA/EAF LSP	Alameda County Homeless Action Center	\$405,553	\$135,864
6	IOLTA/EAF LSP	Alliance for Children's Rights	\$1,261,663	\$417,491
7	IOLTA/EAF LSP	Asian Americans Advancing Justice Southern California	\$1,278,226	\$422,967
8	IOLTA/EAF LSP	Asian Pacific Islander Legal Outreach	\$308,244	\$102,062
9	IOLTA/EAF LSP	Bay Area Legal Aid	\$1,468,318	\$487,984
10	IOLTA/EAF LSP	Bet Tzedek Legal Services	\$2,814,720	\$931,409
11	IOLTA/EAF SC	California Advocates for Nursing Home Reform	\$680,188	\$225,046
12	IOLTA/EAF LSP	California Collaborative for Immigrant Justice	\$337,210	\$111,570
13	IOLTA/EAF LSP	California Indian Legal Services	\$573,494	\$190,006
14	IOLTA/EAF SC	California Rural Legal Assistance Foundation	\$680,188	\$225,046
15	IOLTA/EAF LSP	California Rural Legal Assistance, Inc.	\$6,839,138	\$2,277,591
16	IOLTA/EAF SC	California Women's Law Center	\$680,188	\$225,046
17	IOLTA/EAF LSP	Capital Pro Bono Inc.	\$249,002	\$82,406
18	IOLTA/EAF LSP	Casa Cornelia Law Center	\$771,850	\$256,537
19	IOLTA/EAF SC	Center for Gender and Refugee Studies - California	\$680,188	\$225,046
20	IOLTA/EAF SC	Center for Human Rights and Constitutional Law	\$680,188	\$225,046
21	IOLTA/EAF LSP	Center for Immigrant Protection dba The LGBT Asylum Project	\$17,809	\$5,911
22	IOLTA/EAF LSP	Center for Workers' Rights	\$148,296	\$49,086
23	IOLTA/EAF LSP	Central California Legal Services	\$2,820,210	\$916,507
24	IOLTA/EAF LSP	Centro Legal de la Raza	\$478,322	\$159,428
25	IOLTA/EAF SC	Child Care Law Center	\$680,188	\$225,046
26	IOLTA/EAF SC	Coalition of California Welfare Rights Organizations	\$680,188	\$225,046
27	IOLTA/EAF LSP	Community Lawyers Inc.	\$19,703	\$6,522
28	IOLTA/EAF LSP	Community Legal Aid SoCal	\$2,450,352	\$810,747
29	IOLTA/EAF LSP	Community Legal Services in East Palo Alto	\$547,800	\$181,780
30	IOLTA/EAF LSP	Contra Costa Senior Legal Services	\$135,490	\$44,830
31	IOLTA/EAF LSP	Dependency Advocacy Center	\$223,964	\$74,102
32	IOLTA/EAF LSP	Disability Rights California	\$7,128,453	\$2,372,187
33	IOLTA/EAF SC	Disability Rights Education and Defense Fund	\$680,188	\$225,046
34	IOLTA/EAF LSP	Disability Rights Legal Center	\$352,505	\$118,949
35	IOLTA/EAF LSP	East Bay Community Law Center	\$406,173	\$136,067

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36	IOLTA/EAF LSP	Elder Law & Advocacy	\$335,270	\$111,316
37	IOLTA/EAF LSP	Elder Law and Disability Rights Center	\$92,180	\$30,500
38	IOLTA/EAF LSP	Eviction Defense Collaborative	\$266,920	\$88,531
39	IOLTA/EAF SC	Family Violence Appellate Project	\$680,188	\$225,046
40	IOLTA/EAF LSP	Family Violence Law Center	\$86,181	\$28,868
41	IOLTA/EAF LSP	Greater Bakersfield Legal Assistance	\$1,432,340	\$473,900
42	IOLTA/EAF LSP	Harriett Buhai Center for Family Law	\$398,831	\$131,978
43	IOLTA/EAF LSP	Housing and Economic Rights Advocates	\$383,154	\$127,124
44	IOLTA/EAF LSP	Immigrant Defenders Law Center	\$2,797,192	\$938,336
45	IOLTA/EAF LSP	Immigrant Legal Defense	\$1,102,901	\$362,206
46	IOLTA/EAF SC	Immigrant Legal Resource Center	\$680,188	\$225,046
47	IOLTA/EAF SC	Impact Fund	\$680,188	\$225,046
48	IOLTA/EAF LSP	Inland Counties Legal Services	\$5,089,880	\$1,757,962
49	IOLTA/EAF LSP	Inland Empire Latino Lawyers Association, Inc.	\$171,290	\$59,563
50	IOLTA/EAF LSP	Inner City Law Center	\$1,956,639	\$647,457
51	IOLTA/EAF LSP	Justice & Diversity Center of the Bar Association of San Francisco	\$306,470	\$101,649
52	IOLTA/EAF SC	Justice in Aging	\$680,188	\$225,046
53	IOLTA/EAF LSP	La Raza Centro Legal	\$51,682	\$17,141
54	IOLTA/EAF LSP	LACBA Counsel for Justice	\$265,601	\$87,895
55	IOLTA/EAF LSP	Law Foundation of Silicon Valley	\$882,826	\$292,098
56	IOLTA/EAF LSP	Lawyers' Committee for Civil Rights	\$882,535	\$292,838
57	IOLTA/EAF LSP	Learning Rights Law Center	\$325,447	\$108,395
58	IOLTA/EAF LSP	Legal Access Alameda	\$155,651	\$52,147
59	IOLTA/EAF LSP	Legal Aid at Work	\$1,339,192	\$441,614
60	IOLTA/EAF LSP	Legal Aid Foundation of Los Angeles	\$4,621,755	\$1,529,362
61	IOLTA/EAF LSP	Legal Aid Foundation of Santa Barbara County	\$363,985	\$120,030
62	IOLTA/EAF LSP	Legal Aid of Marin	\$176,640	\$58,440
63	IOLTA/EAF LSP	Legal Aid of Sonoma County	\$430,670	\$142,490
64	IOLTA/EAF LSP	Legal Aid Society of San Bernardino	\$1,126,210	\$385,814
65	IOLTA/EAF LSP	Legal Aid Society of San Diego	\$2,481,770	\$824,871
66	IOLTA/EAF LSP	Legal Aid Society of San Mateo County	\$287,559	\$95,703
67	IOLTA/EAF LSP	Legal Assistance for Seniors	\$92,111	\$30,863
68	IOLTA/EAF LSP	Legal Assistance to the Elderly	\$96,939	\$32,157
69	IOLTA/EAF LSP	Legal Services for Children	\$151,578	\$50,321
70	IOLTA/EAF SC	Legal Services for Prisoners with Children	\$680,188	\$225,046

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#	Funding Opportunity	Organization	IOLTA Grant Allocation	EAF Grant Allocation
71	IOLTA/EAF LSP	Legal Services for Seniors	\$216,630	\$71,670
72	IOLTA/EAF LSP	Legal Services of Northern California	\$3,295,324	\$1,090,372
73	IOLTA/EAF LSP	Los Angeles Center for Law and Justice	\$326,580	\$108,071
74	IOLTA/EAF LSP	Loyola Marymount University	\$652,190	\$215,812
75	IOLTA/EAF LSP	McGeorge Community Legal Services	\$197,651	\$65,408
76	IOLTA/EAF LSP	Mental Health Advocacy Services	\$292,615	\$96,828
77	IOLTA/EAF SC	National Center for Youth Law	\$680,188	\$225,046
78	IOLTA/EAF SC	National Health Law Program	\$680,188	\$225,046
79	IOLTA/EAF SC	National Housing Law Project	\$680,188	\$225,046
80	IOLTA/EAF LSP	Neighborhood Legal Services	\$2,629,781	\$870,201
81	IOLTA/EAF SC	OneJustice	\$680,188	\$225,046
82	IOLTA/EAF LSP	Open Door Legal	\$117,205	\$38,872
83	IOLTA/EAF LSP	Prison Law Office	\$810,546	\$270,757
84	IOLTA/EAF LSP	Public Advocates Inc.	\$1,081,333	\$360,862
85	IOLTA/EAF LSP	Public Counsel	\$2,998,378	\$992,177
86	IOLTA/EAF SC	Public Interest Law Project	\$680,188	\$225,046
87	IOLTA/EAF LSP	Public Law Center	\$1,646,666	\$544,813
88	IOLTA/EAF LSP	Q.Me Place, Inc.	\$13,771	\$4,560
89	IOLTA/EAF LSP	Riverside Legal Aid	\$736,690	\$257,028
90	IOLTA/EAF LSP	San Diego Volunteer Lawyer Program	\$748,690	\$248,841
91	IOLTA/EAF LSP	San Joaquin College of Law	\$115,497	\$37,523
92	IOLTA/EAF LSP	San Luis Obispo Legal Assistance Foundation	\$148,639	\$50,175
93	IOLTA/EAF LSP	Santa Barbara County Immigrant Legal Defense Center	\$171,892	\$57,066
94	IOLTA/EAF LSP	Santa Clara County Asian Law Alliance	\$173,343	\$57,352
95	IOLTA/EAF LSP	Santa Clara University Alexander Law Center	\$97,082	\$32,121
96	IOLTA/EAF LSP	Senior Adults Legal Assistance	\$64,781	\$21,431
97	IOLTA/EAF LSP	Senior Advocacy Network	\$163,791	\$55,449
98	IOLTA/EAF LSP	Senior Citizens Legal Services	\$156,878	\$54,892
99	IOLTA/EAF LSP	Social Justice Collaborative	\$408,776	\$135,914
100	IOLTA/EAF LSP	Southern California Immigration Project	\$70,900	\$23,497
101	IOLTA/EAF LSP	UC Davis School of Law Legal Clinics	\$483,585	\$160,030
102	IOLTA/EAF LSP	UnCommon Law	\$715,565	\$237,453
103	IOLTA/EAF LSP	USD School of Law Legal Clinics	\$431,620	\$143,462
104	IOLTA/EAF LSP	Veterans Legal Institute	\$344,652	\$114,047
105	IOLTA/EAF LSP	Wage Justice Center	\$66,710	\$22,076

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106	IOLTA/EAF LSP	Watsonville Law Center	\$186,399	\$63,608
107	IOLTA/EAF SC	Western Center on Law and Poverty	\$680,188	\$225,046
108	IOLTA/EAF SC	Worksafe, Inc.	\$680,188	\$225,046
109	IOLTA/EAF SC	Youth Law Center	\$680,188	\$225,046
110	IOLTA/EAF LSP	Yuba-Sutter Legal Center for Seniors	\$63,121	\$20,880