



The State Bar of California

OPEN SESSION

AGENDA ITEM 3.3

MARCH 2024

LEGAL SERVICES TRUST FUND COMMISSION

DATE: March 29, 2024

TO: Members, Legal Services Trust Fund Commission (LSTFC)

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

SUBJECT: Approve the 2021–2023 Homelessness Prevention (HP 2) Deliverable Revisions, the 2022–2024 Homelessness Prevention (HP 3) Deliverable Revisions, and the 2023–2024 Homelessness Prevention (HP 4) Budget Revisions

EXECUTIVE SUMMARY

Organizations that receive HP 2, HP 3, and HP 4 grant funding have the opportunity to request a modification of their approved grant budget and/or deliverables. During the grant period, organizations may submit requests to modify approved grant budgets and deliverables on a rolling basis. Budget revision requests equal to or exceeding 25 percent of the total grant award require LSTFC review and approval. The Homelessness Prevention Funds Committee (Committee) reviews these requests to develop recommendations for the LSTFC. State Bar staff (staff) also elevate to the Committee and LSTFC deliverable revision requests that would significantly change or reduce services. This memo describes the Committee's recommendations to the LSTFC for its March 29, 2024, meeting about one HP 2 deliverable revision request, one HP 3 deliverable revision request, and one HP 4 budget revision request.

BACKGROUND

Legal Services Trust Fund Program General Grant Provision 7.01 states that recipients shall not materially deviate from their approved budget without first obtaining prior written approval. Additionally, grantees seeking to modify their budgets must do so in writing, including the reasons for the budget deviation. Budget modification requests must fully delineate the reason for the revision and any effect on the recipient. According to the LSTFC's Functional Matrix,

changes that are less than or equal to 10 percent of the total award are permissible deviations. Staff may approve requests between 10 and 25 percent of the total award, while those equal to or greater than 25 percent require LSTFC approval.

Grantees seeking to modify their deliverables must also submit a written request for revision. When grantees propose to substantively change and/or reduce their deliverables, staff present those requests to the Committee for review. The Committee then presents its recommendations to the LSTFC for approval.

DISCUSSION

Staff received six HP 4 budget revision requests. Staff reviewed each request and calculated the percent of the total award that the request represents to determine if it requires LSTFC approval. For the five budget revisions equal to or greater than ten percent of the total award, staff reviewed the stated reasons for a modification and assessed the budget narratives to determine whether the proposal is reasonable (e.g., would continue to fund qualifying work, would conform to the recommended personnel and program ratios, would not put an unexplained amount into capital additions, etc.). Staff has approved the requests between 10 and 25 percent.

One budget revision request, submitted by Child Care Law Center (CCLC), requires Committee and LSTFC approval. CCLC requested a 26.2 percent budget modification to its HP 4 grant. CCLC's budget modifications would eliminate funds for a paralegal and contract services to clients, as those positions were never filled. CCLC proposes to move those funds into other staff positions and increase employee benefits. Other staff funds would support a senior project manager/evaluator and communications staff who implement the project alongside staff attorneys. CCLC would also put additional funds into administrative personnel and non-personnel to better support the project.

On February 26, 2024, the Committee passed the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Homelessness Prevention Funds Committee recommends to the LSTFC that it approve Child Care Law Center's 2023–2024 Homelessness Prevention (HP 4) Grant Budget revision request as described in staff's memo and Attachment A dated February 26, 2024.

Staff received one HP 2 Formula and one HP 3 Competitive deliverable revision request, both submitted by Eviction Defense Collaborative (EDC). After reviewing these requests, staff elevated them to the Committee for review because they include requests to reduce services.

EDC requested to reduce its HP 2 formula deliverables from 15,000 clients to 27 total cases for the entire grant period. EDC explained:

As this was one of our first HP grants, we erroneously expected to report on this grant in the same fashion we do on the IOLTA EAF LSP grants – reporting on all

our services, agency wide. We need to correct this since the HP grant funding for deliverables is FTE based.

The grant partially funds salary and fringe costs for an attorney...[for] \$16,667 per year or 18% of their annual payroll cost. According to the City of San Francisco's Tenant Right to Counsel [(TRC)] Program's prescribed case volume, a TRC attorney manages 50 full scope representation cases per year.

By this standard, the HP2 grant funds the attorney's salary portion for 9 full scope representation cases per year, or 27 total cases for the entire grant period. We would like to propose this number as the deliverable target for this grant.

We would also like to highlight that the cost here does not include all the additional expenses incurred to actually deliver these cases, including salaries for paralegals, legal assistants, intake and case management staff, supervising attorneys, as well as the direct costs associated with...the cases such as office rent, utilities, litigation and program supplies etc. The prescribed total cost to fund 27 full scope representation as per San Francisco's Tenant Right to Counsel program is nearly three and a half times the \$50,000 HP 2 grant [EDC received].

Although EDC's HP 2 Formula deliverable revision request significantly reduces the amount of work EDC planned to complete for the grant, this reduction effectively corrects EDC's original grant application, which proposed an unreasonable amount of work for a small award amount.

On August 31, 2023, the Committee passed the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Homelessness Prevention Funds Committee (Committee) recommends that the LSTFC approve Eviction Defense Collaborative's 2021–2023 Homelessness Prevention (HP 2) formula grant deliverables modification as described during the Committee's meeting on August 31, 2023.

EDC also proposed reducing its HP 3 Competitive deliverables from 50 full-scope representation cases to 25 full-scope representation cases and 60 limited services cases per year. EDC also proposed including motion to vacate cases and expanding their service area. EDC's original HP 3 Competitive grant deliverables were limited to clients with Bayview zip codes. EDC proposed expanding their services to other San Francisco zip codes to meet client needs. EDC provided the following explanation about their requested deliverable modification:

The majority of contact with tenants served by this project have their eviction matters resolved with limited services or advice. This approach increases the return of investment for the grant funding and deepens the impact for the funding. Additionally, for many of the tenants that seek more extensive services, often full-scope representation is not the best fit, because it causes a contentious engagement with the landlord, who then retains their own counsel. It is often in the best interest of the

tenants to receive arbitration and advisory services, along with referrals to our rental assistance program, as needed, to stabilize their housing and prevent needless litigation.

We've received referrals from community partnerships developed through the Bayview clinic's community outreach efforts for clients who may not be residing in the Bayview zip. Especially for Motion to Vacate cases, because these are typically not funded by San Francisco's Tenant Right to Counsel program, and are often at the highest risk of imminent eviction.

On August 31, 2023, the Committee passed the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Homelessness Prevention Funds Committee (Committee) recommends that the LSTFC approve Eviction Defense Collaborative's 2022–2024 Homelessness Prevention (HP 3) competitive grant deliverables modification as described during the Committee's meeting on August 31, 2023.

EDC's HP 2 Formula and HP 3 Competitive deliverable modification requests were inadvertently left off the LSTFC's November 9, 2023, agenda. Staff communicated the error to EDC and the Committee Chair.

RECOMMENDATIONS

Should the LSTFC concur with staff's proposals, passage of the following resolution is recommended:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) approves Child Care Law Center's 2023–2024 Homelessness Prevention (HP 4) Grant budget revision request as described in staff's memo and Attachment A dated March 29, 2024; and it is

FURTHER RESOLVED, that the LSTFC approves Eviction Defense Collaborative's (EDC's) 2021–2023 Homelessness Prevention (HP 2) Formula Grant deliverable modification request as described in staff's memo and Attachment B dated March 29, 2024; and it is

FURTHER RESOLVED, that the LSTFC approves EDC's 2022–2024 Homelessness Prevention (HP 3) Competitive Grant deliverable modification request as described in staff's memo and Attachment B dated March 29, 2024.

ATTACHMENTS LIST

- A. Child Care Law Center's 2023–2024 Homeless Prevention (HP 4) Grant Budget Revision Request
- B. Eviction Defense Collaborative's 2021–2023 Homelessness Prevention (HP 2) Formula

and 2022–2024 Homelessness Prevention (HP 3) Competitive Grant Deliverables
Revision Requests

Organization	Project Name	Grant Award	Revision Amount	Revision Percentage	Staff Recommendation
Child Care Law Center	CCLC-Project Sentinel Partnership Grant	\$361,283	\$94,580	26.2%	Recommend approval.

**Eviction Defense Collaborative's 2021–2023 Homelessness Prevention (HP 2) Formula and
2022–2024 Homelessness Prevention (HP 3) Competitive Grant Deliverables Revision
Requests**

HP 2

The current deliverables for this grant in Smart Simple are 5,000 clients served per year, which was our service volume across all programs (Litigation, legal clinic, rental assistance, and shelter client advocacy) pre-pandemic. This grant was submitted in the fall of 2020 and we based the deliverables on our pre-COVID service numbers, which dropped significantly during COVID due to the eviction moratorium. Additionally, as this was one of our first HP grants, we erroneously expected to report on this grant in the same fashion we do on the IOLTA EAF LSP grants - reporting on all our services, agency wide. We need to correct this since the HP grant funding for deliverables is FTE based.

The grant partially funds salary and fringe costs for an attorney in the amount of \$16,667 per year, or 18% of their annual payroll cost. According to the City of San Francisco's Tenant Right to Counsel Program's prescribed case volume, a TRC attorney manages 50 full scope representation cases per year.

By this standard, the HP2 grant funds the attorney's salary portion for 9 full scope representation cases per year, or 27 total cases for the entire grant period. We would like to propose this number as the deliverable target for this grant.

We would also like to highlight that the cost here does not include all the additional expenses incurred to actually deliver these cases, including salaries for paralegals, legal assistants, intake and case management staff, supervising attorneys, as well as the direct costs associated with with the cases such as office rent, utilities, litigation and program supplies etc. The prescribed total cost to fund 27 full scope representation as per San Francisco's Tenant Right to Counsel program is nearly three and a half times the \$50,000 HP2 grant. Therefore the proposed deliverables are more than fair for the funding level.

HP 3

We submitted the deliverables with the original contract application in 2021, and since then, with the eviction moratorium lifting and the pandemic restrictions easing, we've noticed that the nature of services needed and sought by the residents in the Bayview are very different from what we proposed in our original application.

This is to be expected, since this was a pilot project, and the first year of operations (2022) was a year of learning and tailoring the services to fit the needs of the community. Some of our observations are as follows -

1. The majority of contact with tenants served by this project have their eviction matters resolved with limited services or advice. This approach increases the return of investment for the grant funding and deepens the impact for the funding.
2. Additionally, for many of the tenants that seek more extensive services, often full-scope representation is not the best fit, because it causes a contentious engagement with the landlord, who then retains their own counsel. It is often in the best interest of the tenants to receive arbitration and advisory services, along with referrals to our rental assistance program, as needed, to stabilize their housing and prevent needless litigation.
3. We've received referrals from community partnerships developed through the Bayview clinic's community outreach efforts for clients who may not be residing in the Bayview zip. Especially for Motion to Vacate cases, because these are typically not funded by San Francisco's Tenant Right to Counsel program, and are often at the highest risk of imminent eviction.

To that end, we propose the following -

1. The City of San Francisco's Tenant Right to Counsel program, our largest funder, has quantified the deliverable value of Full Scope Representation at \$6,300 per household and for other limited services, including counsel and advice at \$2,700 per household.
2. This equates to roughly the same number of full scope rep cases as our current deliverables. However, at the moment the contract does not recognize the significant time and effort put into the majority of services provided by the clinic, which are non-full scope representation.
3. Revising the deliverables to a mix of full scope representation and limited legal services and counseling will provide a more accurate representation of the current services at the clinic.
4. We propose 25 full scope rep cases and 60 households receiving limited services, advice and counsel per year, to replace the 50 full scope rep cases per year.
5. We also propose allowing the inclusion of Motion to Vacate cases that are currently not funded through any other source of funding towards this contract's deliverables, irrespective of the zip the case originates from.

Please let us know what the next steps would be to take this request forward, and if committee approval is needed.

For additional information, here's a short blurb about MTV cases and the need for these services:

Background - What is a Motion to Vacate?

When a landlord files an eviction lawsuit against a tenant, the tenant has five court days from the date of service to file a response with the court. If the tenant does not respond within that time period, they have "defaulted", meaning they have lost their right to respond to the lawsuit, and the landlord can seek a default judgment with the tenant. This means that the

landlord wins the eviction case without the tenant ever having the opportunity to present a defense. The landlord can begin eviction proceedings with the sheriff in a matter of weeks.

A "Motion to Vacate" is the process through which the tenant can ask the court to essentially forgive their failure to respond to the lawsuit, and give them a second chance to defend against the eviction and keep their housing.

Why is there a need for additional funding to do motions to vacate at the EDC?

EDC's litigation department is primarily funded by San Francisco's tenant right to counsel program. Under this program, attorneys are mandated to represent 50 tenants per year. However, the right to counsel program specifically excludes motions to vacate from its funding, and currently, if an attorney takes on a motion to vacate, that case will only count towards their deliverables under right to counsel if they are successful. Attorneys are taking these cases on top of their already full caseloads, meaning that the assignment of attorneys to these cases can be random and not systematized. MTVs move quickly, have urgent deadlines, and involve multiple, simultaneous court filings and hearings.

For tenants who do not receive an attorney at the EDC, their only option is to represent themselves with the assistance of the court's ACCESS center. The success rate of pro per motions to vacate is low. With an attorney's assistance, the tenant is more easily able to meet the demands of the motion to vacate process, which involves overlapping and complicated court filings, trips to the sheriff, and, often times, negotiations with opposing counsel to reach the most beneficial and positive outcome for the tenant.

Who would benefit by increased access to attorney assistance for motions to vacate?

Disabled tenants, BIPOC tenants, and tenants who do not speak English as a primary language are at the highest risk of failing to respond to eviction lawsuits and, as a result, need assistance with motions to vacate. The zip codes with the highest rates of defaults are 94102 and 94103 - SOMA and the Tenderloin. These communities are disproportionately impacted by the lack of attorney resources available for motions to vacate, and have the hardest time when they are shuffled around to different organizations for assistance.