



# The State Bar of California

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## **OPEN SESSION**

## **AGENDA ITEM**

**JUNE 2024**

## **LEGAL SERVICES TRUST FUND COMMISSION 3.2**

**DATE:** June 21, 2024

**TO:** Members, Legal Services Trust Fund Commission

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

**SUBJECT:** Approve Legal Aid Society of San Diego 2023 Carryover Request

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## **EXECUTIVE SUMMARY**

Interest on Lawyers Trust Accounts (IOLTA) and Equal Access Fund (EAF) formula grants operate on an annual cycle. Funds awarded in a given year are typically intended to be spent in that year, and grant recipients produce budget proposals detailing their planned use of the funds in accordance with the requirements of the Legal Service Trust Fund Commission (the Commission).<sup>1</sup> After the Commission approves grantee budget proposals, any material deviation from the budget's planned activities requires approval for the change in spending. Moreover, if a grantee does not spend all its awarded funds in a given grant period, it often needs approval to retain those funds to spend in the next year. Budget revision and carryover requests above 25 percent of the grant award require Commission approval. The Eligibility & Budget Review (EBR Committee) and Commission reviewed and approved or denied most 2022 EAF and 2023 IOLTA and EAF budget revision and carryover requests in March; however, an administrative error resulted in staff failing to bring one 2023 EAF carryover request in March that requires Commission approval. Given its size and explanation, staff recommends approval

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<sup>1</sup> Because of unprecedented increases to EAF in 2022 and IOLTA 2024, the LSTFC has allowed for flexibility in how quickly grantees spend down IOLTA and EAF grants in recent years. The LSTFC allowed grantees to propose a two-year 2022 EAF budget, with the second year acting as a pre-approved carryover. The LSTFC also voted last year to allow grantees four years to spend down their 2024 IOLTA allocations.

of the carryover request. EBR members present at the April 26, 2024, committee meeting also recommend approval.<sup>2</sup>

## BACKGROUND

Pursuant to the Functional Matrix approved by the State Bar's Board of Trustees, a grantee must request and receive approval for any budget deviation and/or carryover of funds that amounts to more than 10 percent of its grant award. Requests between 10 and 25 percent of the grant amount may be approved by the Director of the Office of Access & Inclusion; any request above 25 percent must be reviewed and approved by the Commission.

Last November, the Commission voted to release revisions to the State Bar Rules regarding carryovers and budget revisions for public comment, but the rule changes have not yet gone into effect. The new rules would

- maintain the current thresholds such that carryovers and budget revisions of up to 10 percent of the grant amount would not require review and approval, and staff could approve requests up to 25 percent of the grant amount;
- grant committees, rather than the full Commission, authority to approve budget revision requests greater than 25 percent of the grant amount to allow for timelier responses;
- disincentivize large carryovers by only allowing approval of carryovers equal to or greater than 50 percent of the grant amount in extraordinary circumstances; and
- introduce factors for staff the commission to consider when evaluating carryover and budget revision requests.

These rules are pending State Bar Board of Trustees approval.

At its March 1 meeting, the EBR committee reviewed and discussed grantee carryover and budget revision requests pertaining to 2022 EAF, 2023 IOLTA, and 2023 EAF grants. In preparing these materials, staff inadvertently excluded a 2023 carryover request from Legal Aid Society of San Diego (LASSD) that requires Commission approval. The request was submitted timely by the grantee.

## DISCUSSION

LASSD submitted a timely 2023 EAF carryover request totaling \$370,458, which is 45 percent of LASSD's 2023 EAF grant award amount (\$822,990).<sup>3</sup> LASSD is requesting to carryover funds because the organization's Supplemental Security Income (SSI) benefits team that was originally funded by EAF needed to be shifted to a different funding source for the last six months of 2023

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<sup>2</sup> The Eligibility and Budget Review Committee did not have a quorum at its April 26, 2024, meeting. The members present discussed the items on the agenda and unanimously recommended approval of Legal Aid Society of San Diego (LASSD)'s carryover request.

<sup>3</sup> LASSD also submitted a timely IOLTA carryover request of \$171,085 which is 13 percent of the grant award amount (\$1,321,350). The Director of OA&I has the authority to approve this carryover request.

(presumably to spend down an alternate funding source that was expiring). As of January 2024, the SSI staff team is no longer being funded by that alternate funding source and all staff time will be charged to EAF. Staff find the organization's explanation for the carryover and plan to spend down the carryover funds to be reasonable. Other grantees received carryover approvals for similar reasons. Given the explanations provided by LASSD and the carryover's size (as a percentage) in comparison to others that were approved in March, staff recommends approval. EBR members present at the April 26, 2024, committee meeting also recommend approval.

## **RECOMMENDATION**

Should the Commission concur with the recommendations, passage of the following resolution is recommended:

**RESOLVED**, that the Legal Services Trust Fund Commission approves Legal Services of San Diego's 2023 EAF carryover as described in staff's June 12, 2024, memorandum to the commission.

## **ATTACHMENTS**

None