

AGENDA ITEM

MARCH 54-163

Legal Services Trust Fund Program:
Set Amount for Distribution for
2007-2008 IOLTA Grants

DATE: February 20, 2007

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

FROM: Lorna Choy, Acting Director, Legal Services Trust Fund Program

SUBJECT: Legal Services Trust Fund Program:
Set Amount for Distribution for 2007-2008 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 lawyers trust accounts ("IOLTA"). Since 1992, the amount for distribution has been calculated by using a process that determines the amount of prior year's revenue, subtracts administrative costs, then adjusts the net revenue figure 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. Last year, upon recommendation of the Legal Aid Association of California, the Board of Governors approved a change to the cash on hand policy which allows the Trust Fund Program to build a stabilization reserve with increased IOLTA revenue that will help to cushion the impact of lower interest rates in the future. Using this system, a total of \$13.8 million will be available for 2007-08 grants, representing an increase of approximately 8.7% from the \$12.7 million distributed in the 2006-07 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, fully execute grant agreements, and begin to distribute funds 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 as of 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% of the money for grants was available. While grants were disbursed in quarterly payments, 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, the target was set at 75 percent. In response to subsequent and dramatic interest rate declines, the target was reduced to 60 percent and then to 30 percent, where it remained for a 12-year period.

Although IOLTA grants on average represent a small share of each recipient's total income, recipient programs rely on the Trust Fund Program for a stable source of funding. Last year, in a time of increasing revenue, the Trust Fund Commission recommended a proposal to increase cash on hand above 30%, with the goal of establishing a reserve to help stabilize grant awards that will otherwise decline with 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 would be spent down in an attempt to maintain grant levels.

The following three-step calculation is to be applied for years in which revenue is increasing:

- The amount for distribution will be allowed to increase by 5% before increasing cash on hand above the current 30% maximum.
- Funds representing the next 10% increase will go to building a stabilization reserve.

- In years when revenue increases more than 15%, the additional amount will be divided equally between increased grants and increased reserve, up to a cap of 75 percent of the previous year's available funds.

CURRENT AND PROJECT REVENUE AND CASH ON HAND

Using this modified system, the amount available for 2007-2008 grants will be set at \$13.8 million. This grant amount is approximately 8% larger than the 2006-2007 distribution, due primarily to increases in the balance on deposit in attorney-client trust accounts and also to small increases in the rates being paid on interest bearing checking accounts.

We currently expect net IOLTA revenue (income less expenses) for the period July 1, 2006 through June 30, 2007 to be \$15,569,678. At this income level, the program expects to have on hand as of June 30, 2007 about \$8,396,357, which is approximately 53% 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% increase, plus half of the amount by which net revenue is greater than 15% 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 includes language to make clear that distribution of grant funds 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 continue to evaluate the effectiveness of the procedures used this year and determine what changes should be made in the future.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT: None.

FISCAL/STAFF 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, 2007

through June 30, 2008 shall be made in the order and manner provided by Business and Professions Code Section 6216, and the funds to be distributed shall be \$13,827,181 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, 2006 through June 30, 2007, totaling \$16,514,308, shall be allocated for the grant period July 1, 2007 through June 30, 2008.

(2) The administrative costs to be deducted prior to distribution shall be the costs projected for the period July 1, 2006 through June 30, 2007, totaling \$944,630.

(3) To be subtracted from the total amount prior to distribution shall be \$1,272,072, 10% of prior year net revenue for the stabilization reserve.

(4) Also to be subtracted from the total amount prior to distribution shall be \$470,424, one-half of the amount over 15% of prior year net revenue for the stabilization reserve, 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 2007-2008

DATE: FEBRUARY 14, 2007

AMOUNT

A. Revenue: 7/1/06 - 6/30/07

2006: 3rd Quarter (Actual)	\$	4,064,208
4th Quarter (Actual)		4,125,100
2007: 1st Quarter (Projected)		4,150,000
2nd Quarter (Projected)		4,175,000
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Total Revenue	\$	16,514,308

B. Administrative Costs: 7/1/06 - 6/30/07

7/01/06 - 12/31/06 (Actual)	\$	504,906
1/01/07 - 6/30/07 (Projected)		769,724
Less: Projected Equal Access Fund Reimbursements		(330,000)
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Total Administrative Costs	\$	944,630

C. Cash on Hand Calculation

Cash on Hand as of 6/30/06	\$	5,547,400
Add: Net Revenue for the period 7/1/06 - 6/30/07		15,569,678
Less: 2006-2007 Grants		(12,720,721)
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Projected Cash on Hand as of 6/30/07 (53 percent of prior year net revenue)	\$	8,396,357

D. Grant Amount Calculation

2006-2007 Net Revenue	\$	15,569,678
Less: 10% allocated to Stabilization Reserve		(1,272,072)
Less: One-half of amount over 15% allocated to Stabilization Reserve		(470,424)
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Total Funds Available for 2007-08 Grants	\$	13,827,181

Prior Year Distribution (2006 - 2007)	\$	12,720,721
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% Increase/(Decrease) from Prior Year Distribution 8.70%