

## **Grant Payment Acknowledgments and Assurances**

Prior to grant year 2015-16, grant commitments were made based on an estimated projection of the amount of IOLTA revenue that would be collected during the grant year. Relying on projected revenue during years when interest rates were declining had a detrimental effect on the Board's capacity to fulfill its mission as a grant-making organization. Beginning in grant year 2015-16, grant commitments made exclusively with IOLTA funds are financed with net assets. However, the IOLTA Board's grant to Pennsylvania Legal Aid Network, Inc. ("PLAN, Inc.") includes Access to Justice Act ("AJA") revenue, which continues to be projected.

By policy, in 2005, the Board stabilized the IOLTA grants to law schools at \$200,000 for each of Pennsylvania's eight law schools. In 2016, the stabilized amount was reduced to \$177,800 to accommodate a newly accredited, ninth Pennsylvania law school. In establishing the grant stabilization policy for law schools, the Board also wanted to assure that its priority of funding legal services organizations was not diminished. As a result, the Board will maintain a \$177,800 grant to each law school so long as IOLTA funds available for grants do not fall below \$4.7 million. When available IOLTA grant funds fall below \$4.7 million, both the law school grants and the legal services grants will be reduced according to a formula established by the Board. Additionally, if the eight-year rolling average of IOLTA funds falls below \$6.1 million, the Board may recommend a new, lower stabilized grant amount for the law schools.

In 2005, the Board explored whether a similar stabilizing policy could be adopted for the grants to legal services organizations. While the Board's interests are in assuring reasonably predictable and level grants from year to year, the grantee organizations favored grants based on the amount of available funds each year. The Board adopted this method even though the Board's objectives might be met more fully by awarding stabilized grants based on a rolling average of IOLTA revenue.

In order to assure that the legal services grantee organizations are fully aware of the implications of this policy, and to diminish any potential objections to the policy or its implications, the Board wishes to have a signed acknowledgement of the risks related to the policy, and assurances that such objections, should they arise, are appropriately directed.

### **Risks**

The Board will continue to use projected revenue for the AJA revenue source. Projections may vary significantly from actual AJA revenues. The Board does not maintain a reserve of AJA funds to offset variances.

Grant agreements are awarded based on actual IOLTA revenue and projected AJA revenue. Should projections vary from actual AJA revenue, the current grant commitment would not be fully paid.

Grants made with projected AJA revenue and IOLTA net assets could vary significantly from year to year. PLAN, Inc. and its subgrantees are presumptively refunded yearly and will have to factor in the variability of the grants from year to year.

IOLTA Grant Provisions allow PLAN, Inc. and its subgrantees to under spend their current year IOLTA grant up to 10%, or with cause and appropriate authorization, up to 25% of the current year's IOLTA grant revenues. This flexibility may from time to time be insufficient alone to finance the grant variability.

Since grants to law schools have been stabilized, there will be years when the grants to legal services organizations may decrease significantly, but the grants to law schools will remain unchanged from the prior year's grant.

### **Acknowledgements and Assurances**

IOLTA revenues and resulting available grant funds are subject to changing interest rates, the general health of the economy, and other factors. These factors will result in varying IOLTA grant amounts yearly. In some years, this variability could be quite substantial.

Legal services organizations must plan internally to finance the IOLTA grant variability, and should make reasonable efforts not to scale back their services in years of reduced IOLTA grants that might otherwise result from the amount of the IOLTA grant reduction.

Because of the use of projections for AJA revenue, there is a risk that grant commitments may be higher than the actual funds available. Grant commitments would not be fully paid if AJA projections are not realized.

Should concerns subsequently develop regarding the stabilizing of grants to the law schools or the use of projected AJA revenue, grantee organization representatives are encouraged to express the concerns to the Executive Director or Chairperson of the IOLTA Board, and are expected to do so and to allow a reasonable period of time for the IOLTA Board to consider the concerns, prior to raising them with the Supreme Court Justices, legislators, the governor, and/or their staffs and others.