

IOLA Fund of the State of New York
Meeting of the Board of Trustees – New York, NY
June 5, 2024
DRAFT

Present: Chair Davis, Trustees Dunham, Ross, and Lindenauer
Public
Videoconference: Trustees Cirando, Galowitz, Lopez-Soto, Madigan, and Villaverde
Staff: Agard, Fecko, and O'Malley

1. Call to Order.

The meeting was called to order by Chair Davis at approximately 12:40 p.m.

2. Approval of the minutes of the meetings of the Board of Trustees held on March 13, 2024.

The minutes of the above meetings were reviewed. Trustee Lindenauer moved to approve the minutes, seconded by Trustee Madigan, and the Board approved the motion unanimously.

3. Executive Report

Mr. O'Malley reported on the Justice Infrastructure Project, noting that listening sessions had been conducted across New York State, which included grantees and community based organizations. In addition, focus group discussions were held with clients from the Hudson Valley, Syracuse, Albany, and Buffalo. Ms. Fecko added that IOLA planned to issue a survey to New Yorkers with legal problems who did not work with IOLA grantees, conduct outreach to NYC based community-based organizations, and hold listening sessions focused on certain legal subject matters. Mr. O'Malley next reported on the 2023 Technology Grants, research efforts, and the RFP for a FY25 technology consultant who will assist IOLA grantees with cybersecurity.

As detailed in the report, Mr. O'Malley described the events leading to his notification on April 15, 2024 that the FY 25 Budget included a transfer of \$55 million from IOLA to other government programs (\$40 million to fund the Attorney General's homeowner protection program ("HOPP") and \$15 million for an OTADA eviction prevention program). He further described IOLA's initial response to oppose this transfer and to notify allies and encourage their opposition to the transfer. When this opposition failed due to the timing of the budget process, IOLA turned to an effort to amend its statute with the goal of preventing this type of transfer in future budgets. The current, amended, version of the bill is attached to Mr. O'Malley's report. As an update to his written report, Mr. O'Malley reported that, on Monday, June 3rd, he learned that the bill was likely to pass the Senate but not the Assembly due to some sentiment that IOLA revenue should be remain accessible for funding future government projects. Mr. Malley asserted that this development would put IOLA's existence in question and requested the opportunity to speak with the Board in Executive Session about potential legal responses.

4. Executive Session

Chair Davis made a motion to enter into Executive Session to consider matters relating to potential litigation, which was seconded by Trustee Ross and approved without objection.

5. Executive Report (con't)

Ms. Fecko introduced an updated recommendation for the IOLA Fund's next grant RFP, which would distribute \$600 million over a five-year period (FY26-FY30). First, Ms. Fecko noted that the proposed plan is consistent with the IOLA Fund's statutory directive to provide stable funding to civil legal services for low-income New Yorkers and that a five-year RFP from IOLA would be the same as what the Office of Court Administration has managed successfully for two cycles with its Judiciary Civil Legal Services grant program. Mr. O'Malley added that, historically, IOLA had issued one and then two-year grants based on revenue on hand. In light of our current revenue and conservative projections, a five-year grant of \$600 million would be a longer time period than past grants but in fact consistent with our practice of issuing grants based on available revenue. Second, Ms. Fecko noted that the recommendation provided for stepped up increases across the five years, which would increase grantees' ability to meet pressing recruitment and retention issues. Third, the proposed plan allocates funding for the Justice Infrastructure Project and contains flexibility to support adding new grantees during the five-year period. Finally, Ms. Fecko noted that the IOLA Fund would retain the ability to modify grant amounts within the five-year period based on any revenue changes or grantee performance issues. After further Board discussion, Trustee Galowitz moved and Trustee Lopez-Soto seconded, that the Board pass a resolution approving the proposed plan and authorizing IOLA staff to issue RFPs consistent with the plan. The Board passed the attached Resolution unanimously.

Ms. Fecko reviewed the Executive Director transition, including the activity of the Transition Committee. Ms. Fecko provided additional detail respecting the Executive Director salary issue. The Board's March 2024 Resolution was delivered to the Office of the State Comptroller, which recently referred the matter back to the Division of Budget. Chair then Davis issued a letter in late May 2024 to the Director of the Division of Budget; a response is pending. Finally, Ms. Fecko reviewed the quarterly goals listed in the Executive Director Report, amending that the timeline for the next RFP may be adjusted in light of the changes to the next RFP authorized by the Board at this meeting.

6. Administrative and Financial Report

Ms. Agard reported that the cash on hand as of April 1 was approximately \$413 million with interest earnings in April of \$22.2 million, grant expenses of nearly \$1.2 million, and administrative expenses of \$95k, leaving over \$434 million on hand as of May 1.

Turning to the interest data, Ms. Agard reported that 170 banks reported in April with a net yield of 2.62%. The \$22.2 million in earnings reflected a 36.88%

increase over the same period last year. The average daily balances have been holding steady for the last year.

Reporting on administrative expenses, Ms. Agard noted that the total for April was \$95k, out of a total FY25 budget of \$2.83 million. Ms. Agard explained that IOLA's administrative budget had been increased by \$500,000 to allow for expenses related to the Justice Infrastructure Project. Ms. Fecko added that the travel budget was increased from \$10,000 to \$25,000 to allow for greater travel across New York State, including the opportunity for the Executive Director and new General Counsel to meet with grantees.

7. Mr. O'Malley's Retirement

Chair Davis recognized the retirement of Mr. O'Malley after 15 years of service to the IOLA Fund and thanked him for his incredible leadership including through many difficult times. The entire Board joined in thanking Mr. O'Malley and congratulating him on his retirement. Mr. O'Malley observed it had been his great privilege to work at the IOLA Fund and to support the outstanding work of its grantees in serving the legal needs of New Yorkers. He reflected that his first year at IOLA was after the recession and that the grant awards were only \$18 million. He was incredibly proud to be leaving at a time when the IOLA Fund was committing to grants of \$600 million five-years.

8. Next Meeting

The next meeting of the IOLA Board of Trustees will be Friday, September 27 at noon in the IOLA Fund offices.

There being no further business before the Board, the meeting was adjourned at approximately 2:00 p.m.

Respectfully submitted,
Christine Fecko
Executive Director