

JUDICIAL COUNCIL

AGENDA

July 30, 2021

Meeting held through Webex

Chief Justice Matthew B. Durrant, Presiding

- | | | |
|---------------|--|-------------------------------|
| 1. 12:30 p.m. | Grant Application Proposal
(Action) | Karl Sweeney
Jordan Murray |
|---------------|--|-------------------------------|

TAB A

Judicial Council Grant Application Proposal Code of Judicial Administration 3-411

NON-FEDERAL GRANTS

Contact Person/Phone: Jordan Murray (801) 578-3847 Date: 7/29/2021

Judicial District or Location: Third Judicial District / Supreme Court

Grant Title: Legal Services Regulatory Sandbox Tools for Sustaining & Scaling Innovation Grantor: State Justice Institute

Grant type (check one): New Renewal Revision

Grant Level (check one): Low (\$10,000 to \$50,001) Med. (\$50,000 to \$1,000,000) High. (Over \$1,000,000)

Issues to be addressed by the Project: The objective of this project is to contribute to the successful and sustainable development, implementation, and nationwide scalability of a regulatory system designed to promote new legal business models and services while simultaneously protecting consumers from harm. This project will promote institutional memory and ensure success of the regulatory function of the Utah Office of Legal Services Innovation ("Office"), in addition to increasing the likelihood of success of legal sandboxes across other states by creating tools meant to increase adoptability and efficiency of the Utah model.

Explanation of how the grant funds will contribute toward resolving the issues identified: Grant funds will contribute in the following ways: [1] development of a regulatory management (data) system to facilitate the intake, integration, analysis, and reporting of sandbox entity data - an important and necessary technological upgrade for the Office which also allows the Office to test and configure a data system tool that other states can implement without significant expense to efficiently perform ex-ante and ex-post regulatory activities; [2] creation of a best practices handbook to support the sustainability of the Office of Legal Services Innovation/Utah sandbox and for use by other states, and [3] creation of a "lessons learned" monograph on the Utah model for legal services regulation and the legal sandbox. Deliverables 2 and 3 will formally serve as the record of analysis and studied work product with the intent of educating current and future members of the Utah Supreme Court and the Office, informing and guiding Office policy and development, and informing other jurisdictions how to best initiate, scale, and sustain legal sandboxes. Together, these three deliverables will advance the Utah Supreme Court's goal of developing a fully functional and mature system of empirical risk-based regulation for an open, competitive, and affordable legal services market in the state. They will also significantly contribute to the potential national impact of the Utah model by establishing tools, processes, and procedures enabling other state courts to more quickly, effectively, and inexpensively implement regulatory reform.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

NO CASH/IN-KIND MATCH REQUIRED	
State Fiscal Year	Grant Amount
FY 2022	\$ 35,020
FY 2023	\$ 30,000
Total Award	\$ 65,020

(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION) MATCHING STATE DOLLARS

State Fiscal Year	Grant Amount	Other Matching Funds from Non-State Entities	MATCHING STATE DOLLARS					Total Funds
			General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	
FY 2022	\$35,020	\$0	\$0	\$0	\$0	\$0	\$0	\$35,020
FY 2023	\$30,000	\$0	\$0	\$0	\$0	\$0	\$0	\$30,000
FY								\$0

(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION) MATCHING STATE DOLLARS

State Fiscal Year	Grant Amount	Other Matching Funds from Non-State Entities	MATCHING STATE DOLLARS					Total Funds
			General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	
FY 2022	\$35,020	\$20,200	\$0	\$0	\$0	\$0	\$0	\$55,220
FY 2023	\$30,000	\$11,075	\$0	\$0	\$0	\$0	\$0	\$41,075
FY								\$0

Comments: A typical Project Grant awarded by SJI requires a 50% cash match. SJI Executive Director, Mr. Jonathan Mattiello, has suggested the Court submit their proposal with a request to **waive** the 50% cash match requirement. If approved, the Courts would receive full project funding from SJI with no match requirements imposed. While not required by SJI, an in-kind match of \$31,275 over 18 months will be contributed with non-state funds by Stanford University, Arizona State University, or National Center for State Courts staff time. Ultimately, the decision to waive the cash match requirement will be subject to approval by the SJI Board of Directors. If the cash match waiver is not approved by the Board, this application request will be retracted, updated with matching requirements as stipulated by the Board, and recirculated to BFMC and the Judicial Council for review.

Q1. Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes No Why?:
The Utah Supreme Court voted unanimously to extend the term of the Legal Regulatory Sandbox to seven years, concluding at the end of August 2027. Operation of the sandbox will continue to be supported by grant funding and possibly through generation of a future operating budget comprised of fees paid by entities enrolled in the sandbox.

Q2. Will the funds to continue this program come from within your existing budget: Yes No N/A

Q3. How many additional permanent FTEs are required for the grant? 0 Temp FTEs? 0.15

Q4. Has this proposal has been reviewed and approved by the following?:

- N/A The court executives and judges in the affected district(s).
- Y The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.
- N/A The affected Board(s) of Judges.
- Y The Utah Supreme Court

Approved by the Judicial Council _____ by _____
Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst _____
date

State Justice Institute Grant – Office of Legal Services Innovation (Sandbox)

This request would permit the Utah Supreme Court to submit application for a Project Grant (\$65,020) to the State Justice Institute (SJI) in support of the Utah Office of Legal Services Innovation (“Office”). Application materials must be submitted to SJI by August 1, 2021. Please see pgs. 5-7 for a “Question/Answer” style briefing on the proposed grant.

Date: July 29, 2021

Grantee: Utah Supreme Court
Grantor: State Justice Institute (SJI)
Grant request: \$65,020
Courts matching: None (pending approval by SJI Board of Directors)
Employees to be hired: None – contractors/consultants only
Grant reporting: Quarterly progress and financial status reports
Grant term: 18 months from award date
Moratorium exemption category: Time-sensitive funds for a priority project as stipulated by the Judicial Council
Incremental Impacts: See AOC Resource Impact Assessment

Re: *Request to apply for State Justice Institute Project Grant supporting a Utah Office of Legal Services Innovation project: “Legal Services Regulatory Sandbox Tools for Sustaining & Scaling Innovation.”*

- I. **Background:** The Utah Supreme Court respectfully requests support from SJI for the development of a set of practical tools to facilitate an empirical and risk-based regulatory framework for legal services. In August 2020, with grant support from SJI (Award No. 20P046), the Court launched a regulatory sandbox overseen by a new legal services regulator, the Office of Legal Services Innovation. The regulatory sandbox provides a mechanism through which new (i.e. not permitted under traditional legal practice rules) legal entities can offer legal services to the Utah public. The Office of Legal Services Innovation has developed and begun to implement a new regulatory framework for legal services offered by entities in the sandbox. This regulatory framework functions through gathering and analysis of data from the regulated entity and is entirely new in the United States legal services market. The Utah model is the subject of study by multiple other states considering similar reforms to legal services regulation.

- II. **Proposed utilization of grant funds:** The Court specifically requests support from the State Justice Institute for the following three deliverables: (1) development of a regulatory management system to facilitate the intake, integration, analysis, and reporting of sandbox entity data - an important and necessary technological upgrade which also allows the Office to test and configure a data system tool that other states can implement without significant expense to efficiently perform ex-ante and ex-post regulatory activities; (2) creation of a best practices handbook to support the sustainability of the Office and Utah sandbox and for use by other states, and (3) creation of a “lessons learned” monograph on the Utah model for legal services regulation and the legal sandbox. Deliverables 2 and 3 will formally serve as the record of analysis and studied work product with the intent of educating current and future members of the Utah Supreme Court and the Office, informing and guiding Office policy and development, and informing other jurisdictions how to best initiate, scale, and sustain legal sandboxes. Together, these three deliverables will advance the Utah Supreme Court’s goal of developing a fully functional and mature system of empirical risk-based regulation for an open, competitive, and affordable legal services market in the state. They will also significantly contribute to the potential national impact of the Utah model by establishing tools, processes, and procedures enabling other state courts to more quickly, effectively, and inexpensively implement regulatory reform.
- III. **If this grant is not funded at this time, what are the consequences or is there an alternative strategy?** If these grant funds are not pursued, the Office would need to seek other sources of external funding to support the three project objectives/deliverables outlined above, and/or modify the existing budget with the Hewlett Foundation grant.

State Justice Institute Grant – Office of Legal Services Innovation (Sandbox)

AOC RESOURCE IMPACT ASSESSMENT

Grantor: State Justice Institute

Supporting: Utah Office of Legal Services Innovation

Recommendation: This award provides funding for three deliverables (sandbox tools) benefitting the Utah Office of Legal Services Innovation and provides potential resources for other jurisdictions seeking to establish and operate regulatory sandboxes. Supported with grant funds that require no cash or in-kind match, this project would not impose any new unfunded costs for the Courts. No incremental impacts to the Courts are expected to result if this grant is awarded (*see impact chart below*). ***This assessment concludes that current resources are adequate to support the project should grant funding be awarded.***

	IMPACT TYPE	GRANT COORDINATOR ASSESSMENT
1	<p>Incremental Costs</p> <p><i>Defined as new costs (other than costs covered by this grant) incurred by the Courts as a result of accepting this grant that would not otherwise be incurred if the grant were not to be accepted. Incremental costs include costs covered by this grant that will persist after grant resources are expended.</i></p>	<p>No incremental costs are expected to result if this funding is awarded. The staffing of the Innovation Office is comprised of independent contractors and consultants. The purchase of a one-year license for the QuickBase platform, or QuickBase equivalent, does not obligate the Innovation Office to purchase a renewal after year 1.</p>
2	<p>Incremental Resources</p> <p><i>Defined as the additional resources to be provided by the grant.</i></p>	
3	<p>Incremental Capacity</p> <p><i>Defined as suitability of current staffing levels to support additional work or output generated by the grant.</i></p>	<p>This grant funds compensation for independent contractors and consultants supporting the Innovation Office.</p> <ul style="list-style-type: none"> a. Development of a regulatory/data management system will be accomplished with an existing vendor and outside the Courts environment. The low-to-no code database platform (QuickBase, or equivalent software) already has established safety standards/protocols and has been reviewed and approved for the Innovation Office as a viable tool by the Chief Information Officer (Ms. Heidi Anderson). Ms. Anderson confirms no IT impacts resulting from this project are anticipated. b. The Grant Coordinator (Mr. Jordan Murray) has adequate capacity to continue supporting administrative tasks associated with monitoring the award.

State Justice Institute Grant – Office of Legal Services Innovation (Sandbox)

4	Cash Match Required?	No – pending approval from SJI Board of Directors
5	In-Kind Match Required?	No
6	State Court employees funded with this grant?	No
7	Consultants & Contractors (non-employees) funded with this grant?	<ol style="list-style-type: none"> 1. Head of Data – <i>Dr. James Teufel</i> (.12 FTE) 2. Executive Director – <i>Ms. Lucy Ricca</i> (.07 FTE) 3. Relational Database Development Assistant – <i>to be hired</i> (.15 FTE)

State Justice Institute Project Grant
Utah Office of Legal Services Innovation

RE: Briefing on Proposed State Justice Institute (SJI) Project Grant

1. Why is this grant time-sensitive?

In a positive response to a draft concept paper provided by the Innovation Office to the Executive Director (ED) of the State Justice Institute, the ED promptly encouraged the Utah Supreme Court to apply for a Project Grant with a request to *waive* the required 50% cash-match requirement with an application received by Sunday, August 1. This is an extremely generous and uncommon offer from a potential funder, and it signals a better prospect of obtaining an award. The ED's recommendation that the Court request a waiver for the 50% cash-match is likely time-sensitive, and suggests that the funders have money now to strategically invest, but that may not be the case in the near future. By waiting, the Courts are in a position of compounding disadvantage and forestalling an application until a future quarterly submission jeopardizes the opportunity to obtain this benefit.

2. Why is a new system needed at this time? How are data currently being collected and managed now?

The regulatory management system deliverable proposed in the grant represents the actual regulatory function of the office. The Court's regulatory reform project functions through the intake, assessment, and reaction to data reported by the regulated entities in order to protect consumers from harm.

Data are currently being managed with Excel spreadsheets and .csv files. From launch, the Office always intended to purchase or develop a regulatory management system; the Office staff has spent months working to find the most cost-effective solution that also provides us the functionality we need to uphold our regulatory duties. This solution is, if anything, overdue. Our Data Analyst, Dr. James Teufel, has been piecing together a regulatory management system using Excel and .csv and his own time and labor. As more entities come online, this becomes a more difficult and complex task and risks of error increase.

QuickBase, or a QuickBase equivalent, allows for increased efficiency and accuracy of sandbox entity reporting. The software allows for machine learning to reduce data correction time. It also creates opportunities for easier data reporting, splitting, and aggregating. Due to QuickBase, and QuickBase equivalents, being low-to-no code software, it will minimize maintenance needs and allows for easier updating. QuickBase is a program used by similar legal organizations, such as IAALS, that focus on data management of legal services/policy. Developing a functional database prior

to potentially multiplicative service growth is important. Human error checking alone, as opposed to human-plus-machine, could become problematic as the number of entities and services scale. Preventing a scaling problem is a better path than intervening in one – prevention is less costly than intervention. Additionally, QuickBase "forces" entities to report higher quality data and enables data feedback, whereas Excel or .csv files allow for write-overs and creation of self-generated code that causes more error and costs time. Innovation Office staff anticipate a minimum of 6 (and up to 12) months before the new system would be live. As more moderate and high-risk entities begin participating in the sandbox, investing in this system now is the prudent choice given the anticipated time to launch.

3. Will the AOC IT Department host the platform or need to provide support, and will there be ongoing costs associated with the software?

The AOC IT Department will not host the platform and will not be involved in its maintenance. The license also covers the cost of the platform and database hosting thereby negating an impact on the Court's IT division. IT has, however, approved of the platform's viability and use. According to Heidi Anderson, Chief Information Officer, she "has reviewed QuickBase for the Innovations Office and it meets [IT's] assessment as a viable tool." Ms. Anderson further noted that the platform "will not impact the IT team." Two additional, important notes. First, to emphasize, this is not an ongoing *obligation*. In other words, if the platform does not deliver on a cost-benefit basis, the Innovation Office may switch to another platform. Second, and perhaps more importantly, this is not a pay vs. no-pay situation. The Innovation Office is either paying a licensing fee associated with the technology, which is currently estimated to be from \$17,000 to \$25,000, or, on an hourly basis, for its staff to input and evaluate the data in an analog fashion. The cost of the database licensing fee is in part offset by reduced staff time dedicated to data cleaning and error correction. In the short term, this is estimated to translate, conservatively, into cost savings of between \$5,000 and \$10,000 each year.

The Innovation Office has communicated with Court IT to receive approval, which has been received. Since QuickBase is a low-to-no code platform, after relatively brief training and the creation of handbooks (in case of turnover), the ongoing maintenance cost is minimal beyond the licensing fee. Minimizing maintenance needs and improving automated functions supports staff retention. Also, QuickBase includes a software platform as well as a secure database (some vendors offer one but not the other, which causes linkage problems). QuickBase specializes in top-notch data security which imposes no direct, significant impact on the Court's IT network. The Innovation Office retains the rights to any data even if the license is not renewed. Additionally, after speaking to platform developers, the cost of QuickBase, given its utility and low maintenance is a reasonable cost for current aims of the Innovation Office. QuickBase allows for 1, 2, or 3-year contracts. A one-year contract in this case

minimizes any risk. If no funds are available for year 2, then the license would not be renewed.

4. Why can't the Hewlett grant funds be used to improve the existing management system?

The Hewlett Foundation grant funds are presently obligated to support the wages of contractors and consultants staffing the Innovation Office. It is true that these foundation funds are significantly unrestricted, meaning there is flexibility for how these dollars may be used. However, this scenario would not be advantageous because dollars intended to support staff over the next two years would require replacement from a non-existent source to cover the full reallocation to this present project. Also, it is unlikely that future funds would come in an unrestricted form as the Hewlett funds.

5. How does this project benefit patrons of the Utah Courts?

For the reasons described above, the QuickBase, or equivalent software, is important to the continued successful operation of the Innovation Office. And the documentation will serve to memorialize the lessons of the Innovation Office in a manner that serves to inform, educate, and guide future members of the Office, the Office's oversight board, and the Supreme Court.

In addition, and as described in the Project Grant proposal, the database and documentation will generate benefits for other jurisdictions. This is not a case, however, of elevating those interests over Utah's; rather, this is a win-win. Furthermore, the Innovation Office is currently an example of visionary leadership, not only in the state but also the nation. This state and national leadership role assists Utah directly by including typical Utah stakeholders in the rule of law differently to improve access to justice for the people of Utah. The national recognition potentially leads to the inclusion of new stakeholders who could further bridge the access to justice gap in the state. Those states that best address the supply and demand issue in justice will likely be in a better position of productivity in years to come. Utah is in a unique national leadership position that could both directly and indirectly benefit the state. Utah's approach to the Sandbox is not only a first-mover effect but an exemplary example of vision and will. That vision and will is bringing more stakeholders to the table in Utah (from inside and outside) with the aim of improving the legal experience of Utahns and small businesses.