



Winter 2009 IOLTA Workshops Gear Up While Rates Are Down

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The Resource for Great Programs





Why We Are Doing This Work

Every \$100,000 we raise means...

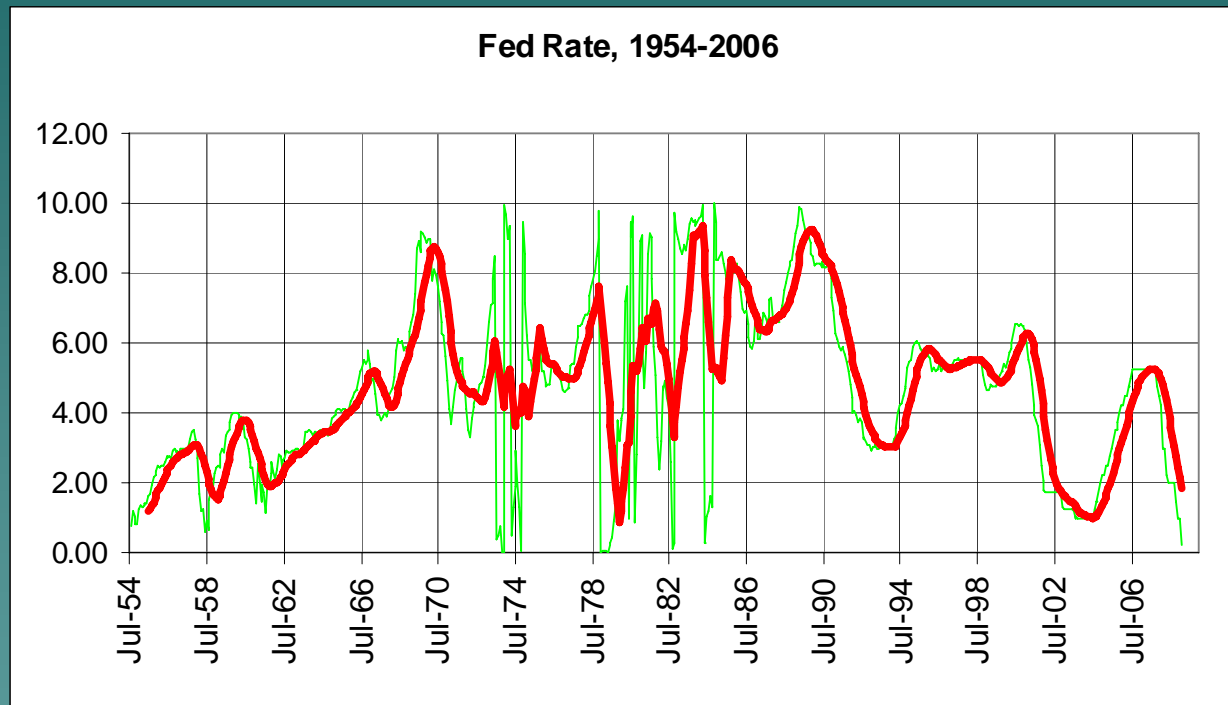
- **194** more families provided with legal aid who otherwise could not be helped.
- **380** vulnerable people provided with direct benefits of legal aid – for example,
 - ◆ Avoided eviction or foreclosure
 - ◆ Obtained protection from domestic violence
 - ◆ Kept families intact and safe
- **\$320,000** in direct economic benefits, including
 - ◆ Income to pay for food, rent, heat and transportation to work
 - ◆ Savings to taxpayers... For example, fewer homeless people needing emergency shelter
 - ◆ Economic activity for businesses and jobs for working families

Topics

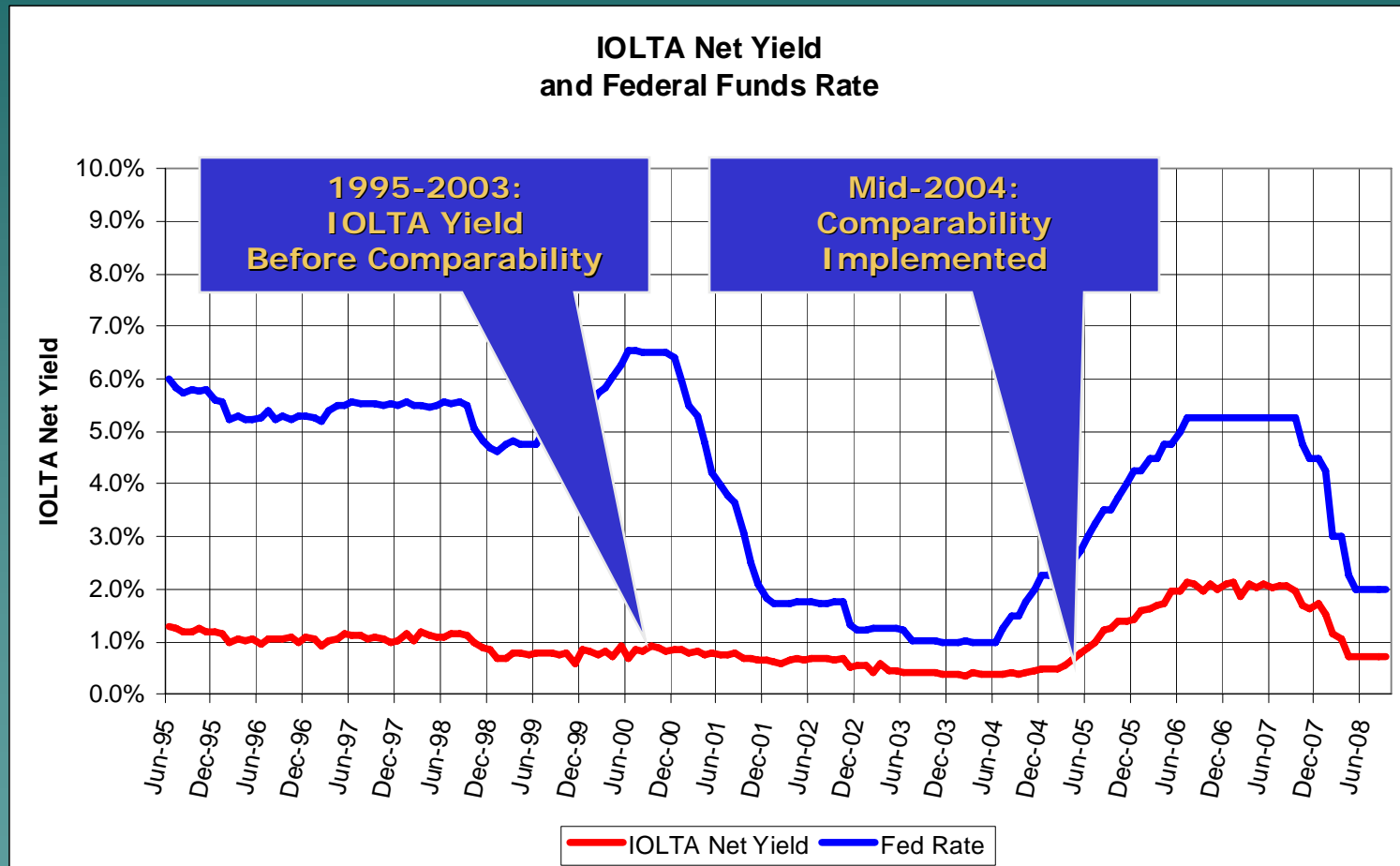
- ◆ Where we've been
- ◆ Where we are
- ◆ Where we're going

1. Where We've Been

Historical Fact #1: Interest rates (including IOLTA) are cyclic.



Comparability is a structural change That links IOLTA rates more strongly with short term interest rates in the economy.



Historical Fact #2

IOLTA balances are the second piece of the IOLTA revenue puzzle.

Experience shows balances are linked with your state's economy.

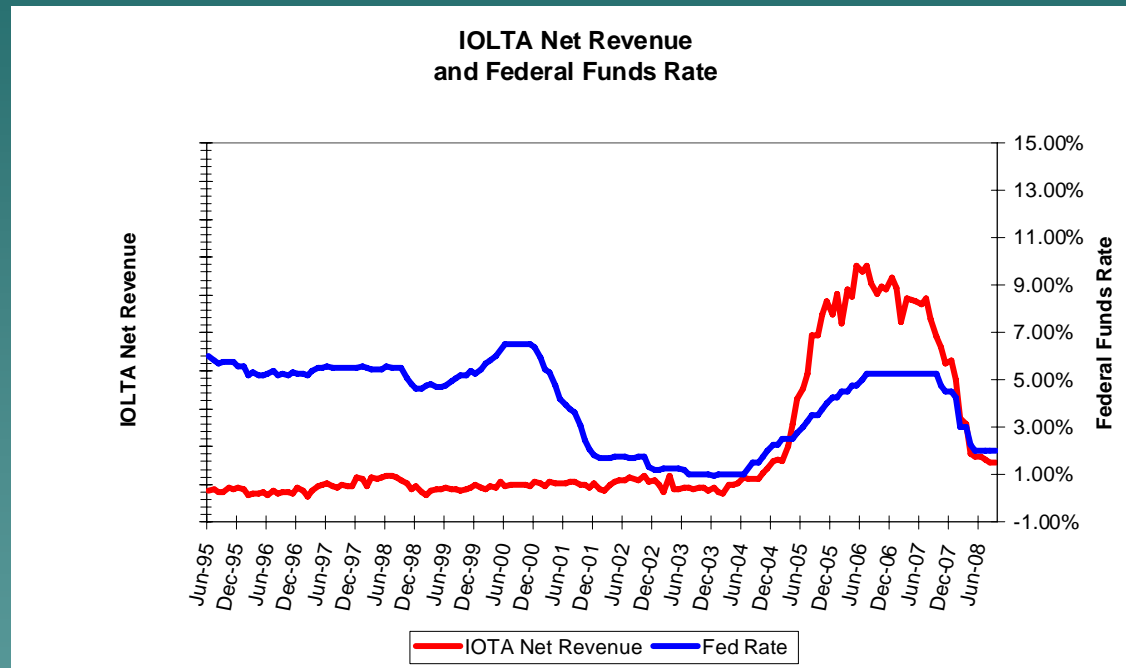
A. Impact of Real estate

In states where lawyers handle most real estate transactions, balances are highly correlated with the amount of real estate activity.

B. Impact of other factors

The overall health of your state's economy (GDP) may be a good indicator of IOLTA balances.

Historical Fact #3: In the 2004-2007 up-cycle, “comparability” states had a rich harvest.



- ◆ IOLTA rates rose with the Fed Rate and stayed high.
- ◆ IOLTA balances swelled from the real estate and economic boom.
- ◆ Revenue surge created opportunity to build reserves.

Historical Fact #4:
Legal aid programs in states with diversified income streams have been less impacted by the down-cycles of IOLTA.

Supplemental income streams include...

- ◆ **Filing fee surcharge programs**
 - E.g., OH, TX, MI, PA, MA...
- ◆ **Interest on trust accounts maintained by...**
 - Title companies – e.g., OH, MD (for housing programs)
 - Minor judiciaries – e.g., WA, PA...
- ◆ **Other – e.g.,**
 - Cy Pres programs (IL, ...)

Bottom line: What the Past Tells Us

- ◆ **Interest rates are cyclic... They WILL go back up, but they WILL fall again as well.**
- ◆ **Principal balances are high when the economy is strong** – That is...
 - Real estate is healthy.
 - The general state economy is strong.
- ◆ **Comparability and Mandatory are important structural changes in IOLTA.**
 - States reap three to five times their pre-comparability revenues.
 - These changes re-align IOLTA rules with changes in the banking product landscape and what the IOLTA community has learned over 25 years.

2. Where We're At

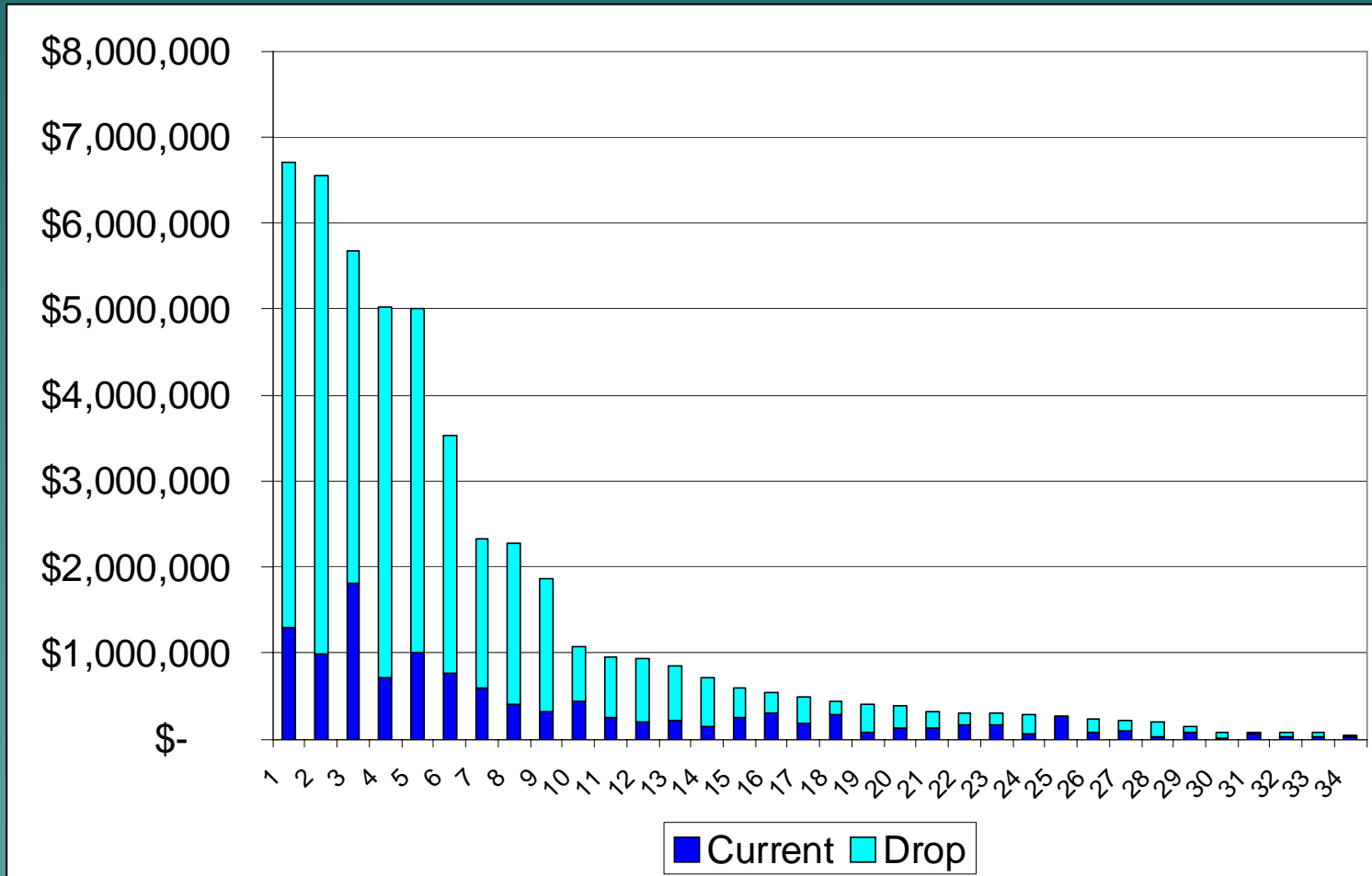
People are feeling a crisis.

A confluence of three bad things:

- ◆ **Falling interest rates**
- ◆ **Falling IOLTA balances** due to...
 - Real estate crash
 - General economic crash.
- ◆ **Increasing demand for legal aid**
 - Low-income people are hurting just when IOLTA is least able to help.



Monthly Net IOLTA Revenue Now versus 18 months ago (34 Programs)

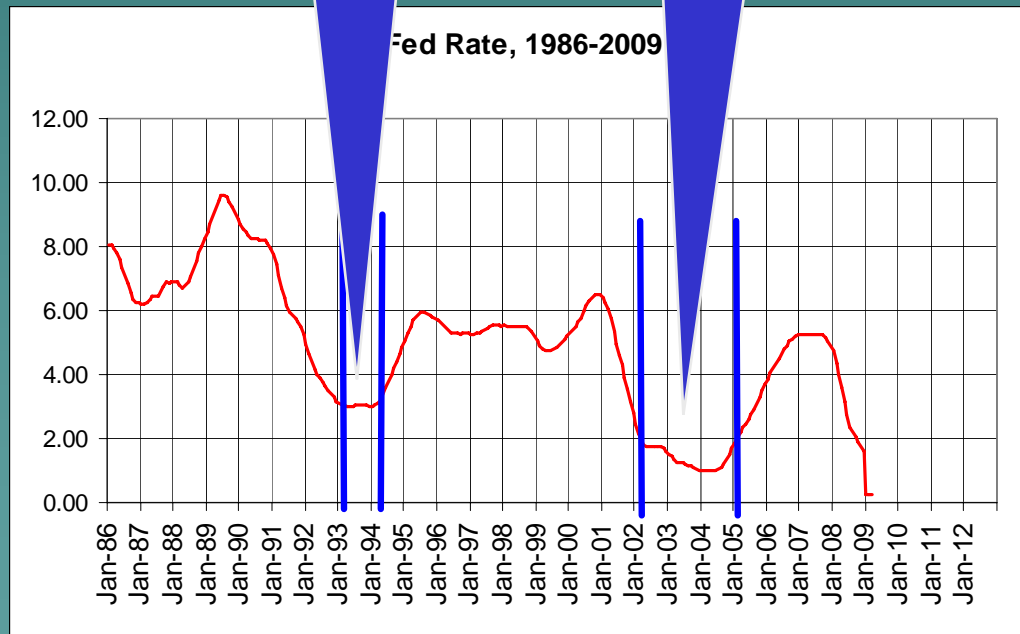


3. Where We're Going

Historically, the “ebbs” in rates have lasted 12-36 months.

**1993-94:
The Clinton
dip
12 months**

**2001-2004:
The Bush
trough
36 months**



The “ebb” in rates, continued...

- ◆ **Outlook:** Most believe the Fed will keep rates low for the next 12-24 months (moderate u-shaped curve).
 - Watch for signs the economy is improving.
 - Fed will be concerned at any sign of rising inflation.
- ◆ **Opportunity:** Getting ready for upturn in rates by strengthening bank monitoring systems & policies.

Principal balances
will be flat
until the economy turns upward.

- ◆ **Our data:** IOLTA principal balances have flattened out.
- ◆ **Real estate activity and the general economy** both are linked to success of the economic stimulus efforts now getting underway.
- ◆ **Outlook:** Most say **12 to 24** months before the economy (and IOLTA balances) will turn upward.

4. Implications for Going Forward

Implication 1: The promise of developing and preserving strong relationships with banks

- ◆ Relationship building
- ◆ Partnership programs and other incentives for bank cooperation
- ◆ Remittance tracking and bank monitoring
- ◆ Strong policies and rules... Active enforcement

Implication 2: The promise of mandatory IOLTA

- ◆ **“Mandatory IOLTA” states will do better than “Opt-out” states.**
 - Net revenue **1.9** times level before conversion.
- ◆ **Mandatory IOLTA is a platform for moving forward with rate comparability.**
- ◆ **Now is an opportunity to get it in place.**
 - The current crisis provides support for your “case.”
 - You can document that the impact will be huge.

Implication 3: The Promise of Rate Comparability

“Comparability” states will prosper in the next upturn.

- Net revenue 3- to 5 times “pre-comparability” levels.
- Stronger tie with Fed Rate – bigger payoff when rates go up.

◆ **There’s an opportunity now to get comparability in place.**

- The crisis in legal aid provides your “case” that the rule or statute change is needed.
- You can document that the impact will be huge.

Implication 4: The promise of mitigating the ebbs and flows of IOLTA revenue.

- ◆ **Now is an opportunity to begin preparing for the NEXT downturn.**
 - The “case” for a strong reserve program will never be more clear.
 - The reserve can be funded with \$\$ from the next upturn.
 - Support is needed from grantees and the legal community.
- ◆ **Now may be an opportunity for getting other (non-IOLTA) revenue streams in place.**
 - There’s a strong case for them.
 - Some don’t drain state budgets – e.g., filing fee surcharges, Cy Pres programs.

Things look dire.
(The glass is nearly empty.)

There are opportunities right now
(Let's fill the glass.)

Fresh words of inspiration – “Necessity to Courage”

“Now, there are some who question the scale of our ambitions - who suggest that our system cannot tolerate too many big plans.

Their memories are short. For they have forgotten what this country has already done; what free men and women can achieve when imagination is joined to common purpose, and necessity to courage.”

– ***President Barack Obama
Inauguration Speech, Jan. 20, 2009***

This is worth our best efforts!

