



Audit of the
California Court of Appeal,
5th Appellate District

FEBRUARY 2019



JUDICIAL COUNCIL
OF CALIFORNIA

AUDIT SERVICES

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California Court of Appeal, 5th Appellate District

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EXECUTIVE SUMMARY

Introduction

In accordance with the Judicial Branch Annual Audit Plan approved by the Advisory Committee on Audits and Financial Accountability for the Judicial Branch, the Judicial Council of California's (Judicial Council) Office of Audit Services (Audit Services) performs audits of appellate court operations. Audit Services conducts performance audits of the appellate courts in order to verify their compliance with the Judicial Council's policies and applicable state law. These audits are primarily focused on assisting the courts identify which of their practices, if any, can be improved upon to better promote sound business practices and to demonstrate accountability for their spending of the public's funds.

State law authorizes the Judicial Council to establish each appellate court's annual budget and to adopt rules for court administration, practice, and procedure. Most of the criteria used by Audit Services to conduct appellate court audits stems from the policies promulgated by the Judicial Council, such as those contained within the *Judicial Branch Contracting Manual*. These policies establish both mandatory requirements that all appellate courts must follow, as well as suggestive guidance. California's courts vary widely in terms of their caseloads, budget, and staffing levels, thus requiring the Judicial Council to adopt rules that at times provide the courts with flexibility given their varying resources and constraints.

Audit Services' annual audit plan for the Judicial Branch establishes the scope of each audit and provides a tentative schedule for the appellate and superior courts being audited during the fiscal year. The audit plan explains those scope areas deemed to be of higher risk based on Audit Services' professional judgment and recognizes that other state audit agencies may, at times, perform reviews that may overlap with Audit Services work. In those instances, Audit Services may curtail its planned procedures as noted in the scope and methodology section of this report.

Summary of Audit Results

Our review found that the California Court of Appeal, 5th Appellate District (Court), should be commended for demonstrating material compliance with most of the Judicial Council's requirements evaluated during the audit, as well as for following sound internal controls and business practices for those areas for which appellate courts have not yet established applicable requirements or guidance. Table 1 below presents a summary of the audit's results.

Table 1 Audit Results – At a Glance – California Court of Appeal, 5th Appellate District

Areas and Sub-Areas Subject to Review		Tested	Reportable Audit Findings		
			# of Findings	Finding Reference(s)	Court's View
Cash Handling					
1	Daily Opening Process	N/A	-		
2	Voided Transactions	Yes	1	2018-2-01	Agree
3	Handwritten Receipts	N/A	-		
4	Mail Payments	Yes	✓		
5	Internet Payments	Yes	✓		
6	Change Fund	Yes	✓		
7	End-Of-Day Balancing and Closeout	N/A	-		
8	Bank Deposits	Yes	✓		
9	Other Internal Controls	Yes	✓		
Procurement and Contracts					
10	Procurement Initiation	Yes	✓		
11	Authorization & Authority Levels	Yes	✓		
12	Competitive Procurements	Yes	✓		
13	Non-Competitive Procurements	Yes	✓		
14	Leveraged Purchase Agreements	Yes	✓		
15	Contract Terms	Yes	✓		
16	Other Internal Controls	Yes	✓		
Payment Processing					
17	3-Point Match Process	Yes	✓		
18	Payment Approval & Authority Levels	Yes	✓		
19	Other Items of Expense	N/A	-		
20	Allowable Costs	Yes	✓		
21	Other Internal Controls	Yes	✓		
Other Areas					
22	[None]	N/A	-		

Source: Auditor generated table based on testing results.

Note: Areas subjected to testing are generally based on requirements in the Judicial Branch Contracting Manual, but may also include other Judicial Council policies and directives. Areas not tested are based on audit determinations—such as area not applicable, recently reviewed by others, or no transactions selected to review—which are described more fully in the Audit Scope and Methodology section of the report. When there are findings, applicable criteria are cited in each audit finding in the body of our report. The Judicial Council's audit staff determine the scope of each audit based on their professional judgment and the needs of the Judicial Council, while also providing the Court with an opportunity to highlight additional areas for potential review depending on available audit resources.

Overall, the Court demonstrated a sound system of internal control and business practices that resulted in consistent material adherence to most requirements evaluated during the audit, as shown in Table 1. In particular, the Court demonstrated strong compliance in the areas of procurement and payment processing. For example, our review of its procurement practices found that the Court followed sound management practices in requesting and approving purchase requests, and in soliciting competitive procurements. In addition, with regards to payment processing, the Court demonstrated sound management practices in the areas of matching invoices to procurement documents, ensuring the receipt of acceptable goods or services, and paying reasonable and allowable costs.

Our review did identify one reportable audit finding where we believe the Court would benefit from taking corrective action to improve its operations. Specifically, the Court does not require designated supervisory staff to approve void payment collection transactions before or after clerks enter them in its case management system. Additionally, its case management system is not configured to restrict clerks from voiding their own transactions without first obtaining supervisor approval. This lack of supervisor review and approval leaves the Court susceptible to clerks potentially stealing payments and voiding the associated payment transaction. The finding is identified in Table 1 under the column “Reportable Audit Findings” and includes the reference number indicating where the reader can view in further detail the specific finding and the Court’s perspective. Our audit also noted and communicated to the Court some instances of minor or isolated non-compliance which we did not consider significant and, therefore, did not include in this report.

Summary Perspective of Court Officials

Audit Services initiated its audit of the Court on September 26, 2018, and completed its audit fieldwork on October 26, 2018. Audit Services shared a summary of minor or isolated non-compliance items with the Court on December 12, 2018. The Court agreed with the overall audit results.

BACKGROUND ON THE COURT’S OPERATIONS

The California Court of Appeal, 5th Appellate District’s (Court) jurisdiction covers nine of the State’s 58 counties. All nine counties are in the central valley between Tuolumne County in the North to Kern County in the South. The Court operates under the authority and direction of the Administrative Presiding Justice, who is responsible for ensuring the effective management and administration of the Court, consistent with any rules, policies, strategic plan, and the funding provided by the Judicial Council.

California’s six appellate districts each have differing workloads, staffing levels, and financial resources. They operate under a decentralized system of governance and are each responsible for their own local court operations and business decisions. The Administrative Presiding Justice has the authority to: develop a local budget and allocate the funding provided by the Judicial Council; approve procurements and contracts; and authorize the Court’s expenditures. The information in Table 2 is intended to provide the reader with context and perspective on the Court’s relative size and workload compared to the other five appellate districts.

Table 2 – Statistical Data for California’s Six Appellate Districts

Statistic	5th Appellate District	1st Appellate District	2nd Appellate District	3rd Appellate District	4th Appellate District	6th Appellate District	Statewide
Financial Highlights (Fiscal Year 2017-18)							
Total Expenditures	\$ 22,912,626	\$ 35,015,048	\$ 71,909,993	\$ 31,079,851	\$ 60,967,545	\$ 16,065,888	\$ 215,038,325
Staff Salaries & Benefits As a % of Total Expenditures	\$ 12,924,418 56.4%	\$ 21,331,829 60.9%	\$ 43,503,094 60.5%	\$ 15,406,873 49.6%	\$ 34,760,591 57.0%	\$ 9,482,126 59.0%	\$ 124,484,513 57.9%
Judicial Officers and Staff (Fiscal Year 2016-17)							
Justices	9	20	29	11	22	6	88
Non-Judicial Staff (approx.)	67	95	228	80	170	47	620
Total	76	115	257	91	192	53	708
Notices of Appeal (Fiscal Year 2016-17)							
Filings:							
Civil	284	935	2,368	497	1,562	329	5,691
Criminal	649	631	1,577	1,029	1,364	343	4,944
Juvenile	256	380	1,189	330	778	96	2,773
Total	1,189	1,946	5,134	1,856	3,704	768	13,408
Dispositions:							
Civil	252	867	2,118	437	1,552	288	5,262
Criminal	822	664	1,948	1,115	1,658	468	5,853
Juvenile	235	465	1,215	336	806	97	2,919
Total	1,309	1,996	5,281	1,888	4,016	853	14,034

Source: Financial and appeal filings and dispositions data maintained by the Judicial Council. The date ranges differ for the above information due to the different sources of available data. The financial data is from the Judicial Council’s financial system and the appeal filings and dispositions counts are from the Judicial Council’s 2018 Court Statistics Report, which was the most recent version available when this audit report was prepared and included data through fiscal year 2016-17. The judicial officer and staff counts are the fiscal year 2016-17 filled positions (rounded) from the salaries and wages supplement information that supports the Judicial Branch budget figures reflected in the fiscal year 2018-19 Governor’s Budget.

AUDIT SCOPE AND METHODOLOGY

Audit Services initiated an audit of the California Court of Appeal, 5th Appellate District (Court) in order to determine whether it complied with certain key provisions of statute and the policies and procedures adopted by the Judicial Council of California. Our audit was limited to evaluating compliance with those requirements that, in our professional judgment, were necessary to answer the audit's objectives. The period covered by this audit was generally limited to fiscal year 2017-18, but certain compliance areas noted below required that we review later periods or current practices. Table 3 lists the specific audit objectives and the methods we used to address them.

Table 3 – Audit Objectives and the Methods Used to Address Them

	Audit Objective	Method
1	Through inquiry, auditor observation, and review of local court policies and procedures, identify areas of high risk to evaluate the Court's compliance.	Audit Services developed an annual audit plan generally identifying areas of high risk at the appellate courts. At the Court, we made inquiries and reviewed any local procedures to further understand its unique processes associated with each compliance area.
2	<p>Determine whether the Court implemented adequate internal controls over its handling of cash receipts and other payments. Such a review will include, at a minimum, the following:</p> <ul style="list-style-type: none"> ▪ Determine whether the Court complied with generally accepted internal controls over cash (payment) handling. ▪ Assess the quality of the Court's system of internal controls to minimize the potential for theft, such as controls over voided transactions and the use of manual receipts. 	<p>We obtained information regarding the types and average volume of collections at its one and only payment collection location. We observed the Court's practice for safeguarding and accounting for cash and other forms of payments from the public. For example, we reviewed and observed the Court's practice for appropriately segregating incompatible duties, reviewing and approving void transactions, opening and processing mail payments, and preparing and accounting for the bank deposits.</p> <p>Note: This review revealed that the 5th Appellate District primarily receives checks in the mail or online payments from other courts and appellants. So, it did not have and assign beginning "cash" drawers, thus it had no opening process for counting and disbursing cash bags. In addition, it does not use manual receipts. As a result, testing for these areas were not applicable.</p>
3	Determine whether the Court demonstrated appropriate internal controls over its non-personal services	We reviewed the Court's assignment of purchasing and payment roles to assess whether it appropriately segregated staff roles for authorizing and approving purchases, procuring

<p>spending activities. Specifically, our review included the following:</p> <ul style="list-style-type: none"> ▪ Determine whether the Court’s procurement transactions demonstrated a sound system of internal controls and complied with the applicable requirements in the Judicial Branch Contracting Manual. ▪ Determine whether the Court’s payment transactions—including but not limited to vendor payments and claim payments – demonstrated a sound system of internal controls, were reasonable, and in compliance with applicable Judicial Council policies and rules. 	<p>the goods or services, receiving acceptable goods or services, and paying for the goods or services.</p> <p>We also judgmentally selected a sample of 25 procurement transactions and assessed whether each transaction:</p> <ul style="list-style-type: none"> • Was properly authorized and approved by authorized court management. • Adhered to competitive bidding requirements, when applicable. • Had contracts, when applicable, that contained certain terms required to protect the Court’s interests. <p>We selected a sample of 40 payment transactions pertaining to various purchase orders or contracts and determined whether:</p> <ul style="list-style-type: none"> • The Court had a process in place to ensure goods and services are received and accepted, and in accordance with contract terms prior to payment. • Appropriate court staff authorized payment based on the Court’s payment controls and authorization matrix. • Whether the payment reasonably represented an allowable cost.
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Assessment of Data Reliability

The U.S. Government Accountability Office requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. In performing this audit, we obtained and reviewed financial transaction data from the Judicial Council’s Oracle financial system—the statewide automated accounting system used by appellate courts—for the limited purpose of selecting Court transactions to test compliance of its procurement and related payment activities with applicable policies and procedures. Prior to making our selections, we independently queried the Oracle financial system to isolate distinct types of fiscal year 2017-18 non-personal service expenditure

transactions relevant to our testing—such as by object code—and reconciled the resulting extract with the Court’s total fiscal year 2017-18 expenditures noted in the fiscal year 2018-19 Governor’s Budget. Our analysis noted no material differences leading us to conclude that use of the Court’s financial transaction data was sufficiently reliable for the limited purpose of selecting transactions for testing.

Report Distribution

The Judicial Council’s *Advisory Committee on Audits and Financial Accountability for the Judicial Branch* reviewed this report on February 8, 2019, and approved it for public release.

California Rules of Court, Rule 10.500 provides for the public access to non-deliberative or non-adjudicative court records. Final audit reports are among the judicial administrative records that are subject to public access unless an exemption from disclosure is applicable. The exemptions under rule 10.500 (f) include records whose disclosure would compromise the security of a judicial branch entity or the safety of judicial branch personnel. As a result, any information meeting the nondisclosure requirements of rule 10.500(f) have been omitted from this audit report.

Audit Staff

This audit was completed by the following staff under the general supervision of Robert Cabral, Manager:

Dawn Tomita, Audit Supervisor
Jerry Lewis, Senior Auditor (auditor in charge)
Veronica Perez, Auditor, CFE
Diana Farias, Auditor

SCHEDULE OF AUDIT RESULTS AND PLANNED CORRECTIVE ACTION

CASH HANDLING

The Court Has Sound Internal Controls Over Payment Collections, But Can Strengthen Its Controls Over Void Transactions

Courts of Appeal (appellate courts) must collect and process customer payments in a manner that protects the integrity of the courts and their employees, and promotes public confidence. Thus, appellate courts should institute a system of internal control procedures that assure the safe and secure collection, and accurate accounting of all payments. A court's handling of collections is inherently a high-risk activity given the potential incentives for court employees to act inappropriately when generally accepted internal controls are compromised or not in operation.

With this important function and responsibility in mind and the fact that the appellate courts do not currently have formal policies and procedures similar to the cash handling policies and procedures found in the Trial Court Financial Policies and Procedures Manual for superior courts, the appellate courts are in the process of creating such policies and procedures.

Overall, our review determined that the 5th Appellate District (Court) demonstrated material compliance with generally accepted internal controls applicable to most of the cash handling areas we evaluated during the audit. Specifically, the Court demonstrated sound management practices and controls over its internet payments, change fund, and bank deposits.

Nevertheless, we identified one audit finding that we believe requires the Court's attention and corrective action. The finding pertained to the following specific area of cash handling:

Finding Reference	Subject Area
2018-2-01	Void Transactions – Supervisor Approvals

FINDING REFERENCE: 2018-2-01

VOID TRANSACTIONS – SUPERVISOR APPROVALS

CRITERIA

GENERALLY ACCEPTED INTERNAL CONTROLS FOR VOID PAYMENT COLLECTION TRANSACTIONS:

A supervisor or designee must review and approve all voided transactions. Where possible, the security access levels to the court's case management system should be adjusted so that a supervisor or designee must review and approve a voided transaction before it takes effect in the system.

CONDITION

The Court does not require a supervisor to review and approve void payment collection transactions before or after entry into the case management system (CMS). Specifically, for all 10 void payment collection transactions reviewed, a supervisor did not review and approve the void payment transactions before deputy clerks entered them in the CMS. In addition, its CMS is

not configured to restrict deputy clerks from voiding their own transactions. Although a deputy clerk reconciles the void transactions to the CMS during the deposit preparation process at the end of the month, this deputy clerk is not a supervisor nor responsible for "reviewing and approving" the void transactions. Moreover, this reconciliation is performed once a month and may occur several days or weeks after the transactions, making it less effective in detecting potentially inappropriate void transactions.

According to the Court, clerks typically notify the supervisor when they occasionally need to void a transaction. Further, it is unsure whether the CMS can be configured to restrict staff from voiding their own transactions and instead require a supervisor to either enter or approve the void transactions. Nonetheless, not requiring a supervisor to review and approve void payment collection transactions and not configuring the CMS to prevent staff from voiding their own transactions leaves the Court at risk of clerks potentially voiding transactions and stealing payments.

RECOMMENDATION

To ensure that its void transactions are appropriate, and their associated payments are properly accounted for, the Court should consider establishing local cash handling policies and procedures that, at a minimum, require a supervisor or designee to review and approve all void and adjustment payment collection transactions before they are entered in the CMS. The Court should also consider exploring the feasibility of configuring its CMS to restrict staff from voiding their own payment collection transactions and instead require a supervisor or designee to enter or approve these void transactions.

COURT'S VIEW AND CORRECTIVE ACTION PLAN

The Court agrees with this finding and recommendation. The Court put a procedure in place that requires approval by a senior deputy clerk or the supervisor for voided receipts. In cases when a senior deputy clerk needs to void a receipt, another senior deputy clerk or the supervisor must approve the void.

The Court has initiated a request to the ACCMS liaisons (Assistant CEO Brandon Henson, 4th District Court of Appeal/Division 1, and Assistant CEO Colette Bruggman, 3rd District Court of Appeal) to request the courts consider configuring the appellate courts' CMS to restrict staff from voiding their own payment collection transactions.

Response provided on 12/19/2018 by:

Brian Cotta, Acting Clerk/Executive Officer, Court of Appeal, Fifth Appellate District

Charlene Ynson, Clerk/Executive Officer, Court of Appeal, Fifth Appellate District

Date of Corrective Action: See below.

Responsible Person(s):

Shandra Santana, Supervising Deputy Clerk (creation and implementation of procedure within the clerk's office). Completed October 17, 2018.

Charlene Ynson, CEO (add the request to modify ACCMS onto the ACCMS roadmap).

Completed December 14, 2018.

Brian Cotta, Acting CEO and Mariana Cordova, Assistant CEO (facilitate a discussion at the next quarterly Appellate CEO/ACEO meeting to further convey the importance of this necessary improvement to ACCMS). JCC will then prioritize the work of the ACCMS developers. This issue is on the meeting agenda for January 2019, as of December 14, 2018.

PROCUREMENT AND CONTRACTS

The Court Follows Sound Procurement Practices and Controls that Ensure Each Procurement is Appropriate

Courts of Appeal (appellate courts) are expected to procure goods and services in a manner that promotes competition and ensures best value. To guide courts in this pursuit, the Judicial Branch Contracting Manual (JBCM) provides uniform guidelines for appellate courts to use in procuring necessary goods and services and in documenting their procurement practices. Appellate courts must demonstrate that their procurement of goods and services are conducted economically and expeditiously, under fair and open competition, and in accordance with sound procurement practice. Typically, a purchase requisition is used to initiate all procurement actions and to document approval of the procurement by an authorized individual. The requestor identifies the goods or services, verifies that budgeted funds are available for the purchase, completes the requisition form, and forwards it to the court manager authorized to approve purchase requests. The court manager is responsible for assessing the appropriateness and necessity of the requested items, assuring that sufficient funds are available, and verifying that the correct account codes are specified before approving and forwarding the requisition form to the staff responsible for procuring goods and services. Depending on the type, cost, and frequency of the goods or services to be procured, staff responsible for procuring goods and services may need to perform varying degrees of procurement research to generate an appropriate level of competition and obtain the best value. Procurement staff may need to also prepare and enter the agreed terms and conditions into purchase orders, service agreements, or contracts to document the terms and conditions of the procurement transaction, and maintain a procurement file that fully documents the procurement transaction.

Our review determined that the 5th Appellate District (Court) should be commended for demonstrating strong compliance in the various procurement areas we evaluated during our audit, including demonstrating sound management practices in initiating and authorizing procurements and soliciting competitive and non-competitive procurements.

PAYMENT PROCESSING

The Court's Payment Review and Approval Practices Ensure Proper Payments

Courts of Appeal (appellate courts) must institute procedures and internal controls to ensure they pay for appropriate goods and services in an economical and responsible manner, while ensuring that they receive acceptable goods and services prior to payment. For example, generally accepted payment processing practices suggest all invoices and claims received from appellate court vendors, suppliers, consultants and other contractors be routed to the appellate court accounts payable department for processing. The accounts payable staff must process the invoices in a timely fashion and in accordance with the terms and conditions of the purchase agreements or contracts. Staff must match and verify all invoices to the proper supporting procurement agreement and goods or services receipt documentation, and must ensure payment approval is authorized by court management acting within the scope of their authority.

The 5th Appellate District (Court) demonstrated material compliance in all of the payment processing areas that we evaluated during our audit. For example, the Court demonstrated sound management practices in matching and verifying invoices to applicable procurement agreements, obtaining proof of receiving the goods or services billed, and ensuring costs are reasonable and allowable.

Although we identified no reportable audit findings in this area, we nevertheless identified and communicated to the Court some instances of minor non-compliance related to its review and approval of payments.

OTHER AREAS

We did not identify any other significant areas during the initial audit planning process that, based on our professional judgement, warranted any additional audit work. Therefore, we did not review any other areas.
