



Audit of the  
Superior Court of California,  
County of Calaveras

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JUNE 2018



JUDICIAL COUNCIL  
OF CALIFORNIA

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AUDIT SERVICES

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**Superior Court of California, County of Calaveras**

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## EXECUTIVE SUMMARY

### Introduction

Government Code, sections 77206(g) and 77009(h) provide the Judicial Council of California (Judicial Council) with the authority to inspect and review superior court records and to perform audits, reviews, and investigations of superior court operations. The Judicial Council's Office of Audit Services (Audit Services) periodically conducts performance audits of the superior courts in order to verify their compliance with the Judicial Council's policies and with state law. These audits, as well as similar audits of the appellate courts, 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 superior court's annual budget and to adopt rules for court administration, practice, and procedure. Most of the criteria used by Audit Services stems from the policies promulgated by the Judicial Council, such as those contained within the *Trial Court Financial Policies and Procedures Manual* (FIN Manual) and the *Judicial Branch Contracting Manual* (JBCM). These policies establish both mandatory requirements that all superior courts must follow, as well as suggestive guidance. California's courts drastically vary 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. State law also requires the superior courts to operate under a decentralized system of management, and the Judicial Council's policies establish the boundaries within which courts exercise their discretion when managing their day-to-day operations.

Audit Services' annual audit plan for the Judicial Branch establishes the scope of each audit and provides a tentative schedule for the 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 audit found that the Superior Court of California, County of Calaveras (Court) demonstrated compliance with many of the Judicial Council's requirements evaluated during the audit, and should be commended for its receptiveness to suggestions for further improvements. Table 1 below presents a summary of the audit's results, including references to any audit findings discussed in the body and a summary of the Court's agreement or disagreement with the noted findings. Other matters such as isolated or minor non-compliance—which in our professional judgement do not rise to the level of a reportable finding—were communicated separately to the Court's management in written form.

Table 1 Audit Results – At A Glance – California Superior Court, County of Calaveras

| Areas and Sub-Areas Subject to Review |  | Tested | Reportable Audit Findings |                      |              |
|---------------------------------------|--|--------|---------------------------|----------------------|--------------|
|                                       |  |        | # of Findings             | Finding Reference(s) | Court's View |
| <b>Cash Handling</b>                  |  |        |                           |                      |              |
| 1                                     | Daily Opening Process                      | Yes    | ✓                         |                      |              |
| 2                                     | Voided Transactions                        | Yes    | 1                         | 2017-2-01            | Agree        |
| 3                                     | Handwritten Receipts                       | Yes    | 1                         | 2017-3-01            | Agree        |
| 4                                     | Mail Payments                              | Yes    | 1                         | 2017-4-01            | Agree        |
| 5                                     | Internet Payments                          | Yes    | ✓                         |                      |              |
| 6                                     | Change Fund                                | Yes    | 1                         | 2017-6-01            | Agree        |
| 7                                     | End-Of-Day Balancing and Closeout          | Yes    | ✓                         |                      |              |
| 8                                     | Bank Deposits                              | Yes    | ✓                         |                      |              |
| 9                                     | Other Internal Controls                    | Yes    | ✓                         |                      |              |
| <b>Procurement and Contracts</b>      |  |        |                           |                      |              |
| 10                                    | Procurement Initiation                     | Yes    | 1                         | 2017-10-01           | Agree        |
| 11                                    | Authorization & Authority Levels           | Yes    | ✓                         |                      |              |
| 12                                    | Competitive Procurements                   | Yes    | 1                         | 2017-12-01           | Agree        |
| 13                                    | Non-Competitive Procurements               | Yes    | ✓                         |                      |              |
| 14                                    | Leveraged Purchase Agreements              | Yes    | ✓                         |                      |              |
| 15                                    | Contract Terms                             | Yes    | 1                         | 2017-15-01           | Agree        |
| 16                                    | Purchase Cards                             | Yes    | 1                         | 2017-16-01           | Agree        |
| 17                                    | Other Internal Controls                    | Yes    | ✓                         |                      |              |
| <b>Payment Processing</b>             |  |        |                           |                      |              |
| 18                                    | 3-Point Match Process                      | Yes    | ✓                         |                      |              |
| 19                                    | Payment Approval & Authority Levels        | Yes    | ✓                         |                      |              |
| 20                                    | Special Rules - In-Court Service Providers | Yes    | ✓                         |                      |              |
| 21                                    | Special Rules - Court Interpreters         | Yes    | ✓                         |                      |              |
| 22                                    | Other Items of Expense                     | Yes    | ✓                         |                      |              |
| 23                                    | Jury Expenses                              | Yes    | ✓                         |                      |              |
| 24                                    | Travel Expense Claims                      | Yes    | 1                         | 2017-24-01           | Agree        |
| 25                                    | Business-Related Meals                     | N/A    | -                         |                      |              |
| 26                                    | Petty Cash                                 | Yes    | ✓                         |                      |              |
| 27                                    | Allowable Costs                            | Yes    | ✓                         |                      |              |
| 28                                    | Other Internal Controls                    | Yes    | ✓                         |                      |              |
| <b>Fine &amp; Fee Distribution</b>    |  |        |                           |                      |              |
| 29                                    | CMS-Calculated Distributions               | No     | -                         |                      |              |
| 30                                    | Manually-Calculated Distributions          | N/A    | -                         |                      |              |
| <b>1% Fund Balance Cap</b>            |  |        |                           |                      |              |
| 31                                    | Calculation of the 1% Cap                  | Yes    | ✓                         |                      |              |
| 32                                    | Use of "Held on Behalf" Funds              | N/A    | -                         |                      |              |
| <b>JBSIS Case Filing Data</b>         |  |        |                           |                      |              |
| 33                                    | Validity of JBSIS Data                     | Yes    | 1                         | 2017-33-01           | Agree        |
| <b>Grant Award Compliance</b>         |  |        |                           |                      |              |
| 34                                    | AB 1058 Program                            | Yes    | 2                         | 2017-34-01; 02       | Agree        |
| <b>Other Areas</b>                    |  |        |                           |                      |              |
| 35                                    | [None]                                     | N/A    | -                         |                      |              |

Source: Auditor generated table based on testing results and court management's perspective.

Note: Areas subjected to testing are generally based on requirements in the Trial Court Financial Policies and Procedures Manual, the Judicial Branch Contracting Manual, or California Rules of Court, 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. Applicable criteria are cited in each audit finding (as referenced above) 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.

The Court demonstrated consistent adherence to several different compliance requirements evaluated during the audit, as shown in Table 1. In particular, the Court demonstrated good compliance in the areas of payment processing and reporting on limits to its fund balance (1% fund balance cap). For example, our review of the Court's payment processing practices found that its policies and procedures ensure the Court matches invoices and claims to the corresponding approved procurement documents and verifies that the goods or services billed agree with the goods or services listed in the procurement documents prior to payment processing. In addition, the Court properly supports the expenditure amounts used in calculating its 1% fund balance cap.

Our audit did identify 12 reportable audit findings where we believe the Court should consider taking corrective action to improve its operations and more fully comply with the Judicial Council's policies. These 12 findings are identified in Table 1 under the column "Reportable Findings" and include reference numbers indicating where the reader can view in further detail the specific findings and the Court's perspective. One particular area of focus for the Court as it considers opportunities for improvement should include strengthening its controls over its use of manual receipts. Specifically, our review of its controls over manual receipt books found that the Court had more than 100 unused receipts and two missing receipts in three of the four manual receipt books we reviewed that were returned and no longer in use. This happened because the Court does not have written policies and procedures that address the overall monitoring and accounting of its manual receipt books. By not maintaining an accounting of issued and returned books—and by not monitoring to determine whether all receipts are accounted for with reasonable explanations for when a receipt is missing—the Court is at increased risk that its employees may use manual receipts inappropriately.

The Court should also focus on ensuring that it can demonstrate following competitive procurement practices, or why a non-competitive procurement process was followed. Specifically, for all three procurement transactions reviewed for which a competitive procurement process was applicable—goods and services costing from \$5,850 to \$24,050—the Court could not demonstrate that it competitively procured or justified sole-source procurements for the goods or services it procured. This happened because the Court does not currently maintain procurement files with documentation showing that it either followed a competitive bidding process or properly justified and approved a sole-source procurement for each of its procurement transactions. By not retaining solicitations, bids, or other procurement-related documents in a procurement file, the Court risks the appearance that it is not awarding its procurements fairly.

### **Summary Perspective of Court Officials**

Audit Services initiated its audit of the Court on December 6, 2017, and completed fieldwork on April 3, 2018. Audit Services shared the draft audit findings with the Court's officials on May 2, 2018, and received the Court's final official responses on May 17, 2018. The Court generally agreed with the findings and its specific responses for each are included in the body of the report.

## BACKGROUND ON THE COURT'S OPERATIONS

The Superior Court of California, County of Calaveras (Court) operates one court facility in the county seat of San Andreas. The Court operates under the authority and direction of the Presiding Judge, 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 58 superior courts 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 Presiding Judge 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 averages of all 58 superior courts.

Table 2 – Statistical Data for Calaveras Superior Court and Average of all Superior Courts

| Statistic   | Calaveras Superior Court | Average of All Superior Courts |                       |                        |                        |                        |
|---|--------------------------|--------------------------------|-----------------------|------------------------|------------------------|------------------------|
|   |                          | Cluster 1 Courts               | Cluster 2 Courts      | Cluster 3 Courts       | Cluster 4 Courts       | All 58 Courts          |
| <b>Financial Highlights (Fiscal Year 2016-17)</b>                 |                          |                                |                       |                        |                        |                        |
| Total Revenue   | \$ 2,817,109             | \$ 2,250,083                   | \$ 10,582,305         | \$ 41,232,247          | \$194,113,750          | \$ 43,247,805          |
| Total Expenditures  | \$ 2,692,753             | \$ 2,214,461                   | \$ 10,478,487         | \$ 41,316,417          | \$194,616,764          | \$ 43,294,681          |
| Staff Salaries & Benefits<br>As a % of Total Expenditures         | \$ 2,109,657<br>78.3%    | \$ 1,481,300<br>66.9%          | \$ 7,931,905<br>75.7% | \$ 31,481,920<br>76.2% | \$157,192,180<br>80.8% | \$ 34,297,139<br>79.2% |
| <b>Judicial Officers and Staff (2017 Court Statistics Report)</b> |                          |                                |                       |                        |                        |                        |
| Judges  | 2                        | 2                              | 8                     | 27                     | 128                    | 29                     |
| Commissioners/Referees  | -                        | -                              | 1                     | 4                      | 22                     | 5                      |
| Non-Judicial Staff (approx.)                                      | 25                       | 17                             | 84                    | 276                    | 1,253                  | 288                    |
| Total   | 27                       | 19                             | 93                    | 307                    | 1,403                  | 322                    |
| <b>New Case Filings (Fiscal Year 2015-16)</b>                     |                          |                                |                       |                        |                        |                        |
| <b>Appeal Filings</b>   | 7                        | 11                             | 63                    | 141                    | 391                    | 116                    |
| <b>Civil Filings</b>  |                          |                                |                       |                        |                        |                        |
| Civil   | 779                      | 289                            | 1,927                 | 8,063                  | 57,178                 | 11,346                 |
| Family Law  | 513                      | 270                            | 1,808                 | 6,952                  | 28,299                 | 6,585                  |
| Juvenile Delinquency  | 74                       | 36                             | 251                   | 1,260                  | 2,449                  | 745                    |
| Juvenile Dependency   | 75                       | 40                             | 212                   | 669                    | 4,060                  | 859                    |
| Mental Health   | 6                        | 20                             | 122                   | 616                    | 2,485                  | 564                    |
| Probate   | 112                      | 46                             | 252                   | 918                    | 3,299                  | 809                    |
| Small Claims  | 87                       | 65                             | 391                   | 1,871                  | 13,998                 | 2,724                  |
| <b>Criminal Filings</b>   |                          |                                |                       |                        |                        |                        |
| Felonies  | 904                      | 474                            | 2,228                 | 4,960                  | 33,795                 | 7,238                  |
| Misdemeanors / Infractions  | 4,612                    | 5,164                          | 24,006                | 86,524                 | 375,819                | 86,660                 |
| <b>Total</b>  | 7,169                    | 6,415                          | 31,260                | 111,974                | 521,773                | 117,646                |

Source: Financial and case filings data maintained by the Judicial Council. The date ranges differ for the above information due to the different sources of data. The financial data is from the Judicial Council's Phoenix financial system, the judicial officer and staff counts information is from the most recent Court Statistics Report, and the case filing counts are from the Judicial Branch Statistical Information System data as of April 18, 2018, and may not agree with other reports as this data is subject to continuous updates.

Note: The Judicial Council generally groups superior courts into four clusters and uses these clusters, for example, when analyzing workload and allocating funding to courts. According to past Judicial Council documents, the cluster 1 courts are those superior courts with between 1.1 and 4 judicial position equivalents (JPEs), cluster 2 courts are those with between 4.1 and 20 JPEs, cluster 3 courts are those with between 20.1 and 59.9 JPEs, and cluster 4 courts are those with 60 or more JPEs. Calaveras Superior Court is a cluster 1 court.

## AUDIT SCOPE AND METHODOLOGY

Audit Services initiated an audit of the Superior Court of California, County of Calaveras (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 2016-17, but certain compliance areas noted below required that we review earlier 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

|   | <b>Audit Objective</b>   | <b>Method</b>   |
|---|--|---|
| 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 superior courts. At the Court, we made inquiries and reviewed any local procedures to further understand its unique processes in 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"> <li>▪ Determine whether the Court complied with the mandatory requirements in the FIN manual for internal controls over cash (payment) handling.</li> <li>▪ Assess the quality of the Court's internal controls to minimize the potential for theft, such as controls over the use of manual receipts and voided transactions.</li> </ul> | We obtained information from the Court regarding the types and average volume of collections at each of its payment collection locations. For selected locations, 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, assigning cash drawers to cashiers at the beginning of the day, reviewing and approving void transactions, safeguarding and accounting for handwritten receipts, opening and processing mail payments, controlling access to change funds, overseeing the end-of-day balancing and closeout process, and preparing and accounting for the daily bank deposits. |
| 3 | Determine whether the Court demonstrated appropriate control over its non-personal services spending   | We reviewed the Court's assignment of purchasing and payment roles to assess whether it appropriately segregated staff roles for approving purchases, procuring the goods or services,  |

|  |  |
|--|--|
| <p>activities. Specifically, our review included the following:</p> <ul style="list-style-type: none"> <li>▪ Determine whether the Court’s procurement transactions, including purchase card transactions, complied with the applicable requirements in the Judicial Branch Contracting Manual or the Trial Court Financial Policies and Procedures Manual.</li> <br/> <li>▪ Determine whether the Court’s payment transactions—including but not limited to vendor payments, claim payments, travel expense claim reimbursements—were reasonable and in compliance with the Trial Court Financial Policies and Procedures Manual and applicable Judicial Council policies and rules.</li> </ul> | <p>receiving the goods, and paying for the goods or services.</p> <p>We also judgmentally selected a sample of 25 procurement transactions, including 10 purchase card transactions, and assessed whether each transaction:</p> <ul style="list-style-type: none"> <li>• Was properly authorized and approved by authorized court management.</li> <li>• Adhered to competitive bidding requirements, when applicable.</li> <li>• Had contracts, when applicable, that contained certain terms required to protect the Court’s interests.</li> </ul> <p>We selected a sample of 40 payments pertaining to various purchase orders, contracts, or in-court services, and 10 travel expense claims, and determined whether:</p> <ul style="list-style-type: none"> <li>• The Court followed the 3-point match process as described in the FIN Manual to ensure goods and services are received and accepted, and in accordance with contract terms prior to payment.</li> <li>• Appropriate court staff authorized payment based on the Court’s payment controls and authorization matrix.</li> <li>• Whether the payment reasonably represented an allowable “court operations” cost per Rule of Court, Rule 10.810.</li> <li>• Whether the payments for in-court service providers, travel expense claims, and business meals adhered to applicable Judicial Council policies.</li> </ul> <p>Note: The Court did not have business-related meal expenditures. Therefore, testing of business-related meal transactions was not applicable.</p> |
|--|--|

|   |   |  |
|---|---|--|
| 4 | Determine whether the Court properly calculates fine and fee distributions for certain selected case types.   | During the planning phase for the audit, the Court informed us that the State Controller's Office (SCO) recently completed a revenue audit of the Court's fine and fee distributions, and found one fine and fee calculation or distribution error which the Court indicates was corrected when it implemented its current CMS. Therefore, we did not review any Court fine and fee calculations or distributions.   |
| 5 | <p>Determine whether the Court properly calculates its one percent fund balance cap for the most recent completed fiscal year.</p> <p>Determine whether the Court spent any funds the Judicial Council approved the Court to hold from prior year excess fund balance funds only for the purposes approved by the Judicial Council.</p> | <p>We obtained the Court's final <i>1% Fund Balance Cap Calculation Form</i> for the most recently completed fiscal year at the time of our testing (fiscal year 2016-2017), and performed the following:</p> <ul style="list-style-type: none"> <li>• Verified significant calculations and balance amounts.</li> <li>• Traced and verified significant inputs on the form (such as year-end encumbrances) to supporting records and the Phoenix accounting system.</li> </ul> <p>During the planning phase for the audit, the Court informed us that it did not request approval to hold any excess funds on its behalf.</p> |
| 6 | Determine whether the Court accurately reports case filings data to the Judicial Council through the Judicial Branch Statistics Information System (JBSIS).   | <p>We obtained an understanding of the Court's process for reporting case filings data to the Judicial Council through JBSIS. For the most recent fiscal year for which the Judicial Council froze and used JBSIS data for funding allocations (fiscal year 2015-2016), we performed the following:</p> <ul style="list-style-type: none"> <li>• Obtained the relevant JBSIS case filings data the Court reported to the Judicial Council and reconciled the case filings counts it reported to its underlying records of cases supporting each reported case filing count, by case type, to validate that</li> </ul>          |

|   |  |   |
|---|--|---|
|   |  | <p>the Court accurately reported its case filings count data.</p> <ul style="list-style-type: none"> <li>• We selected 10 cases from five case types, and all five cases for the year from a sixth case type, for a total of 55 reported cases, and reviewed the relevant case file records to verify that the Court correctly applied the JBSIS definitions for reporting each case filing.</li> </ul>   |
| 7 | <p>Determine whether the Court spent significant grant awards from the Judicial Council in compliance with the grant award requirements.</p> | <p>We determined whether the Court had any significant grant activity during the fiscal year 2016-17. We inquired court management about its process for tracking and reporting grant award costs. We selected certain grant awards to review, such as AB 1058 program grants, and identified the applicable grant award requirements, such as allowable activities and costs, period of availability, matching requirements, and reporting requirements.</p> <p>We then selected grant award expenditures and determined whether the Court had sufficient records to support the expenditures charged to the grant. For example, for personal service costs charged to the grant award, we reviewed the payroll records and employee timesheets to verify the costs and time charged to the grant. We interviewed selected employees to determine how they track and report the time they charged to the grant award. We also reviewed other operating costs and expenditures charged to the grant award to determine whether the costs were supported, allowable, and allocable to the grant award.</p> |

**Assessment of Data Reliability**

The U.S. Government Accountability Office (GAO) 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 Phoenix financial system—the statewide accounting system used by the superior courts—for the limited purpose of selecting transactions to test the Court’s compliance with its procurement and related payment activities. Prior to making our selections, we

independently queried the Phoenix financial system to isolate distinct types of non-personal service expenditure transactions relevant to our testing—such as by general ledger code—and reconciled the resulting extract with the Court’s total expenditures as noted on its trial balance report for the same period. Our analysis noted no material differences leading us to conclude that use of the Phoenix 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 June 19, 2018, 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, Senior Auditor (auditor in charge)

Diana Farias, Auditor

Joe Meyer, Auditor, CPA, CIA

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**SCHEDULE OF AUDIT FINDINGS AND PLANNED CORRECTIVE ACTION**

## CASH HANDLING

### The Court Generally Followed Required Cash Handling Procedures, But Can Strengthen Its Controls Over Certain Payment Collection Processes

#### Background

Trial courts must collect and process customer payments in a manner that protects the integrity of the court and its employees, and promotes public confidence. Thus, trial 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 mandatory internal controls per the Trial Court Financial Policies and Procedures Manual (FIN Manual) are compromised or not in operation.

Overall, the Court demonstrated compliance in many of the areas we evaluated during the audit. Specifically, the Court demonstrated sound management practices in the areas of its daily opening process, end-of-day balancing and closeout processing, and deposits process.

Nevertheless, we identified four audit findings that we believe require the Court's attention and corrective action. These findings pertained to the following specific areas of cash handling:

| Finding Reference | Subject Area   |
|-------------------|--|
| 2017-2-01         | Void Transactions                                    |
| 2017-3-01         | Handwritten Receipts – Payment Receipts Log          |
| 2017-4-01         | Mail Payments – Endorsement and Separation of Duties |
| 2017-6-01         | Change Fund – Accountability                         |

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#### **FINDING REFERENCE: 2017-2-01**

##### *VOID TRANSACTIONS*

#### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.8 VOID TRANSACTIONS:

1. A supervisor or designee must review and approve all voided transactions. Where possible, the security access levels to the trial court's case management system should be adjusted so that supervisor or designee must review and approve a voided transaction before it takes effect in the system. The trial court will retain all void receipts, including the details of any re-receipting of the original voided transaction for five years.
2. The trial court's case management system should keep an appropriate audit trail of voided transactions by maintaining a record of both the original transactions entered into the case management system as well as the subtraction caused by the void. The original transactions entered into the case management system should be voided, not deleted.

**CONDITION**

The Court does not require supervisors to review and approve void or adjustment transactions before clerks enter them into the CMS. It also does not require supervisors to further review voids or adjustments entered in the CMS later during the closeout process. The Court follows this practice because it does not have written local cash handling policies and procedures that, in accordance with the FIN Manual, require supervisors to review and approve void or adjustment transactions before they are entered in the CMS. As a result, because adjustments are also sometimes used to void transactions, the Court is at higher risk of theft without someone reviewing and approving voids and adjustments before or after entry into the CMS each day.

For example, although not indicative of impropriety without further investigation, a clerk erroneously reversed a \$1,000 December 2016 payment on a case in March 2017. This reversal left an incorrect balance on the case for over nine months until the Court noticed and corrected the error in January 2018 when we requested information related to the adjustment. Had the Court required supervisory review and approval of adjustments before entry in the CMS, it might have prevented the erroneous entry. Further, had it also required supervisory review of adjustments at the end of each day, the supervisor may have more promptly questioned and corrected the error.

**RECOMMENDATION**

To ensure that all payments are properly accounted for and documented, the Court should consider establishing local cash handling policies and procedures that, at a minimum, require supervisors to review and approve all void and adjustment transactions before they are entered in the CMS. Further, the Court should ensure that void transaction approvers log the details and final disposition of all void and adjustment transactions, such as in the void transaction comments field of the CMS. The Court should also consider providing refresher training to supervisors and staff regarding the necessary documentation that must be retained when voiding or adjusting payment transactions.

**COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree, however, currently a manager is required to review and approve next day voids. The manager must input their password in order for the clerk to continue with the void. No receipt is printed for the void as our CMS system does provide this option. The court will be requesting CMS programming be changed so that all voids and reversals require a manager's password/approval and the manager will input the reason in the comments in CMS with their initials. At the end of the day the clerk will print their Till Balance Transaction Report and a manager will approve the voids/reversals on this report if any.

**Response provided on 5/3/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** 7/2018

**Responsible Person(s):** Glenda Mart, Court Program Manager, Request CMS Vendor change all voids/reversals to require Manager approval and provide refresher training to managers and staff. Pamela James, Administrative Services Manager, Develop Local Cash Handling Policy and Procedures.

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**FINDING REFERENCE: 2017-3-01****HANDWRITTEN RECEIPTS – RECEIPTS LOG****CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.9 MANUAL RECEIPTS:

4. Manual receipt book acquisition and control.
  - c. When acquired, the trial court will inspect the books to ensure all receipts are complete and in numerical sequence. The trial court Fiscal Office will log the books in a Manual Receipt Book log that will contain information on each book that includes:
    - i. The book number
    - ii. The numerical sequence of receipts (from and to receipt numbers) for each book
    - iii. The date issued to a court facility location supervisor
    - iv. The court facility and supervisor the book was issued to, and
    - v. The date the book was returned from the court facility location supervisor.
6. Court facility supervisor or designee issuance of manual receipt book to cashiers
  - b. The supervisor or designee issuing the pre-numbered manual receipt books must monitor and maintain an accounting of the receipt books including:
    - the receipt book(s) issued;
    - to whom the receipt book(s) was issued;
    - the date issued;
    - the person returning the book(s);
    - the date the books are returned (should be end of same day); and
    - the receipt numbers used within each book.

**CONDITION**

The Court does not maintain logs of its manual receipts books. Specifically, the Fiscal Office distributes the manual receipt books, but does not maintain a log of the book number, numerical sequence of the receipts within each book, the date issued to the payment collection location supervisor, the name of the location and supervisor, and the date the supervisor returned the manual receipt book. In addition, the location supervisor also does not maintain a log that includes information such as the receipt book issued, to whom it was issued, the date issued, the person returning the book, and the receipt numbers used within the book.

Since the Court does not track and monitor the use of its manual receipts, our review found 117 unused receipts and two missing receipts in three of the four manual receipt books that were no longer in use and returned to the Fiscal Office. The Court follows this practice because it does not have written local cash handling policies and procedures that, consistent with the FIN Manual, address the required overall monitoring and accounting of the manual receipt books. By not maintaining an accounting of issued and returned books— and by not monitoring to determine whether all receipts are accounted for with reasonable explanations for when a receipt is missing—the Court is at increased risk that its employees may use manual receipts

inappropriately. The FIN manual establishes this monitoring requirement so that courts can mitigate the potential for misuse and fraud by maintaining control and accountability over its manual receipting process.

### **RECOMMENDATION**

The Court should develop and maintain both a manual receipt book log that the Fiscal Office can use and a log that the supervisor can use to monitor and account for the manual receipt books, and that include all the information required by the FIN Manual in order to better control and track its use of manual receipts.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court has developed and will maintain a receipt book log that the Fiscal Office will use and a log the Court Manager will use to monitor and account for the manual receipt books. The court is developing a Local Cash Handling Policy and Procedure.

**Response provided on 5/9/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** 5/8/2018, Policy and Procedures estimated completion date is 7/1/2018

**Responsible Person(s):** Pamela James, Administrative Services Manager, Susan Serra, Court Manager

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### **FINDING REFERENCE: 2017-4-01**

#### *MAIL PAYMENTS – ENDORSEMENT AND SEPARATION OF DUTIES*

### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.4 CHECK/MONEY ORDER/CASHIER CHECK HANDLING PROCEDURES:

3[9]. The trial court must restrictively endorse all checks, warrants, money orders, and other negotiable instruments immediately upon receipt and acceptance.

FIN MANUAL, FIN 10.02, 6.4 PAYMENTS RECEIVED THROUGH THE MAIL:

2. To provide for the strongest protection of trial court assets and to protect the integrity and reputation of the trial court, a team approach should be used to maintain accountability for payments received through the mail. When processing mail payments, the court should adhere to the following procedures:
  - d. To maintain separation of duties, team members opening and logging mail payments should not also enter the mail payments in the court's cashiering system and/or automated case management system, if possible.

FIN MANUAL, FIN 1.01, 6.4 TRIAL COURT OPERATING STANDARDS:

4. A presiding judge or his/her designee who wants to establish an alternative procedure will submit a signed and dated Request for Alternative Procedure Form (copy provided in 7.0, Associated Documents) to:

Judicial Council of California Branch Accounting and Procurement Director  
Attn.: Trial Court Alternative Financial Policies and Procedures  
455 Golden Gate Avenue, 8<sup>th</sup> Floor  
San Francisco, CA 94102-3688

A written response to the submission of alternative procedures will be returned to the submitting court within 60 business days of receipt of the document. When a Request for Alternative Procedure has been received by Judicial Council of California Staff, an acknowledgement of receipt will be returned to the submitting court. The 60 business-day response time will begin once the court receives that acknowledgement of receipt. Absent a response from Judicial Council of California Staff within 60 business-days, the alternative procedure will be in effect, subject to further review and consideration by Judicial Council of California Staff.

Undocumented procedures or those not approved by Judicial Council of California Staff will not be considered valid for audit purposes.

Once approved, alternative procedures must be documented by the trial court, incorporated into the local trial court manual, and distributed to court personnel. Any alternative procedure that is different from what is included in the Trial Court Financial Policies and Procedures Manual or the county's policy document must first be approved by Judicial Council of California Staff.

#### **CONDITION**

The Court does not immediately restrictively endorse checks and money orders received through the mail. Instead, it endorses mail checks and money orders later once the payments have been entered into its CMS. The Court follows this practice because it does not have written local cash handling policies and procedures that, consistent with the FIN Manual, requires staff to restrictively endorse negotiable instruments immediately upon receipt in the mail. Endorsing checks and money orders "for deposit only" immediately upon receipt protects courts' interests by limiting the potential for further negotiation. When courts do not immediately restrictively endorse checks or money orders, they risk that unendorsed checks and money orders may be lost or stolen and cashed or deposited in a non-court bank account.

In addition, we found that the Court allows the person who opens and logs the mail and drop box payments to also accept payments over the counter. According to the Court, it follows this practice due to limited staffing. However, to maintain separation of duties, the FIN Manual suggests that persons opening and logging mail payments should not also enter the mail payments in the CMS. As a result, the Court exposes itself to the risk for a type of fraud known as "lapping."

#### **RECOMMENDATION**

To ensure the safe, secure collection, and accurate accounting of all payments received through the mail, the Court should take steps, such as periodic staff training, to ensure that all staff restrictively endorse checks immediately upon receipt. Further, the Court should ensure the same employees do not both log payments received by mail and accept over-the-counter payment transactions. If the Court cannot implement the suggested separation of duties, it should prepare and submit to the Judicial Council a request for approval of an alternate procedure for mitigating the risks associated with processing the payments it receives in the mail.

**COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court will ensure that all staff restrictively endorse checks and money orders immediately upon receipt. The court has made changes to ensure the same employees opening and logging payments will not also enter the mail payments in CMS and will not accept over-the-counter payment transactions. The court is developing a Local Cash Handling Policy and Procedure

**Response provided on 5/9/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** 5/8/18, Policy and Procedures estimated completion date is 7/1/2018

**Responsible Person(s):** Pamela James, Administrative Services Manager, Susan Serra, Court Manager

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**FINDING REFERENCE: 2017-6-01**

*CHANGE FUND – ACCOUNTABILITY*

**CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.1 CASH CHANGE FUND PROCEDURE:

7. At the end of each business day, individuals responsible for making change from the Cash Change Fund must— in the presence of a Court Manager, Supervisor, or designee—count, verify, and reconcile the Change Fund monies to the day's beginning balance, and initial and date the verification/reconciliation.
8. A trial court employee, other than the individuals responsible for making change from the Cash Change Fund, should count the Cash Change Fund in accordance with the following schedule and report the count to the Fiscal Officer.

| Size of Cash Change Fund | Frequency of Count |
|--------------------------|--------------------|
| • Less than \$200        | Annually           |
| • \$200 to \$499.99      | Quarterly          |
| • \$500 or more          | Monthly            |

**CONDITION**

The Court does not require its change fund custodians to count and verify their respective change funds while in the presence of another manager or supervisor. Specifically, the Court uses a primary change fund of \$250 that a court manager counts at her desk each day, and a secondary change fund of \$100 that the fiscal technician counts at her desk once a month. The manager and fiscal technician are both custodians of their respective change funds, which contain currency and coin in denominations and amounts necessary to make change for cashiers when needed throughout the day. However, contrary to FIN Manual requirements, neither person counts and verifies their respective change funds while in the presence of another manager or supervisor, and the fiscal technician does not count the secondary change fund on a daily basis. The Court follows this practice because it does not have written local cash handling policies and procedures that could help the Court align its cash handling practices closer to the FIN Manual requirements. As a result, the Court's current practice potentially allows a change fund shortage to occur without clear accountability of when the shortage may have occurred.

In addition, the Court does not require individuals who are not the change fund custodians to periodically count the change funds. The Court follows this practice because it does not have written local cash handling policies and procedures requiring someone other than the change fund custodians to count the change funds periodically. However, the FIN Manual requires courts to have individuals other than the change fund custodians count change funds at least quarterly for change funds of \$200 or more and at least annually for change funds less than \$200. As a result, the Court may not know for an extended period of time if one of its change funds is short funds.

### **RECOMMENDATION**

To reduce the risk of prolonged unaccountable change fund shortages and overages, the Court should create local cash handling policies and procedures that align with the FIN manual requirement to count, verify, and reconcile the change fund monies to the day's beginning balance at the end of each business day. In addition to verifying the change fund at the end of each business day, the Court should ensure that the daily verification is done in the presence of a court manager, supervisor, or designee. Lastly, the Court should ensure that an individual other than the custodian counts and verifies its change funds at the frequency specified in the FIN Manual, such as quarterly for its \$250 change fund and annually for its \$100 change fund.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. Since we have limited staff, the court will combine the two change funds into one so that only one change fund needs to be counted, verified and reconciled to the day's beginning balance at the end of each business day and the verification will be done in the presence of a court manager. The court will ensure that an individual other than the custodian counts and verifies the change fund quarterly.

**Response provided on 5/17/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** May/June 2018

**Responsible Person(s):** Pamela James, Administrative Services Manager

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## PROCUREMENT AND CONTRACTS

### The Court Should Ensure Its Procurement Practices Are Closer Aligned with the JBCM Requirements

#### Background

Trial courts are expected to procure goods and services in a manner that promotes competition and ensures best value. To achieve this expectation, the Judicial Branch Contracting Manual (JBCM) and the Trial Court Financial Policies and Procedures Manual provide uniform guidelines for trial courts to use in procuring necessary goods and services and in documenting their procurement practices. Trial 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 verifying the necessity and appropriateness of the requested items, that the correct account codes are specified and assuring that funds are available 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, court 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. Court procurement staff may need to also prepare and enter the agreed-upon 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.

The Court demonstrated compliance in various of the procurement areas we evaluated during our audit, including demonstrating sound management practices in the areas of authorization and authority levels, in soliciting non-competitive procurements, and in entering into leveraged purchase agreements.

Nevertheless, we identified four audit findings that we believe require the Court's corrective action. The findings pertained to the following specific areas of procurement:

| <b>Finding Reference</b> | <b>Subject</b>                         |
|--------------------------|--|
| 2017-10-01               | Procurement – Procurement Initiation   |
| 2017-12-01               | Procurement – Competitive Procurements |
| 2017-15-01               | Procurement – Contract Terms           |
| 2017-16-01               | Procurement – Purchase Cards           |

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**FINDING REFERENCE: 2017-10-01****PROCUREMENT – PROCUREMENT INITIATION****CRITERIA****JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 2, 2.1 FORMULATING THE PROCUREMENT APPROACH, C:**

The Buyer's first step in the planning and scheduling of a procurement effort is the initial review of a purchase request. Reviewing the request in terms of the following information will assist the Buyer in determining any impact to the procurement planning and scheduling activities.

1. Internal review and approvals: Consider the following:
  - Have the proper approval signatures been obtained to conduct the procurement in conformance with the Judicial Branch Entity's Local Contracting Manual?
  - Is the request in compliance with applicable equipment standards?
  - Is there documentation in sufficient detail to support and justify conducting the procurement?

**FIN MANUAL, FIN 6.01, 6.1 STANDARD PROCUREMENT PROCESS:**

1. The procurement process begins with the completion and submittal of a written or electronic purchase requisition to the trial court employee who has been given the responsibility for approving the requisition. This is a separate and distinct process from approving the purchase order or executing the contract. Requisition approval authority may be delegated by organizational structure (e.g., manager of a unit) or by the type of goods or services requested (e.g., equipment or services under \$5,000). The individual who approves the requisition is responsible for assessing the need for the requested good or services and assuring that funds are available in the court's budget and that appropriate account codes are provided for the proposed purchase. See Section 6.3, Purchase Requisition Preparation and Approval for suggested requisition approval.

**FIN MANUAL, FIN 6.01, 6.3 PURCHASE REQUISITION PREPARATION AND APPROVAL:**

1. A written or electronic purchase requisition is used to initiate all procurement actions. The requestor identifies the correct account code(s) and verifies that budgeted funds are available for the purchase, completes the requisition form, and forwards it to the trial court employee responsible for approving the requisition. After performing an assessment of the need verifying that the correct account code(s) are specified, and assuring that funding is available, the *requisition* is forwarded to the trial court's buyer.

**FIN MANUAL, FIN 6.01, 6.10 ADMINISTRATION AND DOCUMENTATION:**

2. A properly documented procurement file for purchase orders and/or contracts provides an audit trail from the initiation of the requirement to the delivery of goods. The file provides a complete basis for informed decisions at each step of the acquisition process. A well-documented file also supports the actions taken, provides information for later review and

facts in the event of litigation or an investigation. Depending on the nature and value of the procurement, procurement files must contain:

- a. Approved purchase requisition.

### **CONDITION**

The Court does not consistently create purchase requisitions for its procurements. Specifically, for 17 of the 24 procurement transactions reviewed, the Court did not create a purchase requisition on which the requestor identifies the needed goods or services, and the approver verifies the necessity and that budgeted funds are available for the purchase. According to the Court, it did not always create a purchase requisition because it was unaware of this requirement. However, without purchase requisitions, courts cannot demonstrate following a consistent process for considering and approving purchase requests before staff commence the procurement process. As a result, the Court is at risk of making unauthorized purchases or over committing its available financial resources.

### **RECOMMENDATION**

To ensure its purchases are appropriately justified, funded, and approved, the Court should take steps to ensure it obtains and documents in its procurement files the approval of purchase requisitions prior to the start of the purchasing activity, regardless of whether the activity is a competitive or non-competitive procurement.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court will adopt the recommendation above and will provide necessary training to appropriate staff on the procurement process, requisition preparation and approval, and administration and documentation.

**Response provided on 5/17/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** May/June 2018

**Responsible Person(s):** Pamela James, Administrative Services Manager

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### **FINDING REFERENCE: 2017-12-01**

*PROCUREMENT – COMPETITIVE PROCUREMENTS*

### **CRITERIA**

JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 2, 2.3 CREATING THE PROCUREMENT FILE:

The Buyer should create a procurement file for each transaction. This section provides guidance on what should be included in the procurement file. Please note that the following list is not exhaustive. A JBE may adopt policies respecting the creation and contents of procurement files in its Local Contracting Manual.

Document decisions: Buyers should develop a strategy of how the procurement activity will be accomplished, and document the rationale for developing that strategy. In simple terms, Buyers should maintain a diary of the events and decisions that lead up to and complete the purchase

transaction, providing a timeline and history of the actions and decisions made throughout the procurement process.

Provide the basis of the decisions: Buyers should also describe how competition will be sought, promoted, and sustained throughout the course of the purchasing activity. If open competition is not the method of choice, document the basis of the decision.

Public record: Buyers should create and maintain their procurement files keeping in mind that most procurement records are subject to disclosure under CRC 10.500.

## JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 4, COMPETITIVE SOLICITATION OVERVIEW:

### 4.1 THE BASICS OF COMPETITION

Competition is one of the basic tenets of procurement under the California Judicial Branch Contract Law. The type of competition will vary depending on the type of goods or services to be procured, as well as the value of the procurement.

#### A. General Requirements

Judicial Branch Entities (JBEs) must conduct competitive procurements in a manner that promotes open, fair, and equal competition among Prospective Bidders. Generally speaking, a procurement must be competitive unless it falls into one of the categories covered in chapter 5 of this Manual.

Buyers conducting competitive procurements must provide qualified Prospective Bidders with a fair opportunity to participate in the competitive solicitation process, stimulating competition in a manner conducive to sound fiscal practices without favoritism, fraud, or corruption.

### 4.7 SUMMARY DOCUMENT

The evaluation and selection process for every procurement effort should be documented and referenced in a procurement summary. The purpose of the procurement summary is to create a single document that provides the history of a particular procurement transaction and explains the significant facts, events, and decisions leading up to the contract execution. The procurement summary should be included in the procurement file.

Procurement summaries should be written clearly and concisely to support the soundness of the purchasing decision.

Procurement summary information includes but is not limited to:

- Document the prices offered by the Bidders;
- Documenting that the selection process occurred in accordance with the Solicitation Document;
- Determining that the selected Bidder is responsible and the Bid is responsive; and
- Attaching the scoring sheets, if applicable.

## JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 5, NON-COMPETITIVELY BID PROCUREMENTS:

### 5.9 SOLE SOURCE

JBEs may purchase non-IT goods, non-IT services, and IT goods and services of any value without conducting a competitive procurement if (i) the goods, services, or goods and services are the only non-IT goods, non-IT services, or IT goods and services that meet the JBE's need, or (ii) a grant application submittal deadline does not permit the time needed for a competitive procurement of services.

A sole source request must be provided to the sole source approver.

The sole source request should include the following information:

- Description of the non-IT goods, non-IT services, or IT goods and services to be procured;
- Explanation of why the non-IT goods, non-IT services, or IT goods and services cannot be procured competitively;
- The effort made to solicit competitive Bids, if any;
- Documentation that the pricing offered is fair and reasonable; and
- Special factors affecting the cost or other aspect of the procurement, if any.

The sole source approver approves or denies the sole source request. If the sole source approver approves the sole source request, the Buyer should conduct the procurement as proposed. If the sole source approver denies the sole source request, the Buyer will either cancel the procurement or conduct a competitive solicitation to acquire the same or equivalent non-IT goods, non-IT services, or IT goods and services.

If no form is specified in the Local Contracting Manual, the sole source request may take the form of a memorandum.

## **CONDITION**

For all three procurement transactions reviewed for which a competitive procurement process was applicable, the Court could not demonstrate that it competitively procured or justified sole-source procurements for the goods or services it procured. Specifically, the Court purchased copier lease services and IT goods and services costing from \$5,850 to \$24,050, but did not retain its solicitation-related documents or other documents, such as approved sole-source requests, to show either a competitive or non-competitive procurement. This happened because the Court does not currently maintain procurement files with documentation showing that it either followed a competitive bidding process or properly justified and approved a sole-source procurement for each of its procurement transactions. The Court believes that it may have followed a competitive process for at least two of the three procurement transactions, but did not retain the documents needed to demonstrate its process.

By not retaining solicitations, bids, or other procurement-related documents in a procurement file, the Court does not adequately satisfy the disclosure requirements of its procurement practices and is unable to demonstrate that it followed and completed a proper competitive solicitation process when required, or that it properly procured goods or services without competitive bidding, including the basis for those decisions. As a result, when the Court does not properly document its competitive procurements or justification and approval of its sole-source procurements, it risks the appearance that it is not awarding its procurements fairly.

**RECOMMENDATION**

To increase transparency to the public and to reduce the risk of not being able to show it performed its due diligence to procure goods and services fairly, the Court should ensure it uses the solicitation appropriate for the type of procurement, documents its procurement summary, and retains appropriate procurement documents in a procurement file to substantiate its compliance with all applicable JBCM requirements.

**COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court will adopt the recommendation above and will provide training to staff on the creating the procurement file and competitive procurement solicitation practices.

**Response provided on 5/17/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** May/June 2018

**Responsible Person(s):** Pamela James, Administrative Services Manager

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**FINDING REFERENCE: 2017-15-01*****PROCUREMENT – CONTRACT TERMS*****CRITERIA**

JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 8, 8.3 (A) CONTENT OF CONTRACTS:

**1. Statement of Work (SOW)**

The SOW describes the goods to be purchased and/or the services to be performed. The JBE must include a detailed description of the goods to be delivered or the services to be performed, together with any deliverables required and conditions of performance, if applicable. The contract must specify (as applicable): (i) when goods are to be delivered, (ii) when services are to be performed (start date and end date), (iii) when deliverables must be provided to the JBE, and (iv) when other contract milestones must be completed.

**2. Pricing and payment**

The price the JBE will pay for goods and services under a contract must be clearly stated. The contract should clearly specify the basis for compensation and the terms of payment, such as: lump sum (one-time payment), firm fixed price, unit price, labor rate, or other specific basis.

**3. Terms and Conditions**

The contract must include specified rights and obligations of either party that are not included in the SOW or the pricing and payment section, including additional provisions that apply to performance under the contract, as applicable.

- Standard Terms and Conditions. Contracts typically include the following “standard” or “general” terms and conditions:
  - Terms of shipping or packaging requirements;
  - Contract term, including any options to extend the term;
  - Where contract notices must be directed;
  - Identification of the parties’ representatives’

- Dispute resolution; and
- Indemnification.

### **CONDITION**

For four of the 10 procurement transactions reviewed that were based on a contract, purchase order, or other type of agreement, the Court entered into contracts that either did not include pricing or provide end dates. Specifically, the Court entered into one contract that, instead of providing prices, states the reseller of the associated software will establish the pricing.

However, the Court did not have documentation from the reseller establishing the pricing prior to the date it entered the contract. Instead, the Court received a \$5,850 quote from the reseller dated 11 months after the date the contract was executed. According to the Court, it was unaware of this contract term at the time it entered into the contract. As a result, when the Court enters into contracts without first establishing clear pricing terms, it risks being billed more than expected or incurring costs it did not anticipate when it initially entered into the contract.

In addition, the Court entered into three contracts, or other type of agreements, that do not currently provide an end date. These contracts, which amount to more than \$64,000 per year, are for services such as document destruction, collections services, and bank delivery services, and have terms that automatically continue indefinitely until one of the two parties decides to terminate the contract. According to court management and procurement staff, they do not know why the terms of these contracts were written without end dates. As a result, when the Court allows contracts to continue indefinitely without close monitoring, it risks continuing to pay a contract with terms that may no longer be in its best interests.

### **RECOMMENDATION**

To protect its best interests, the Court should institute a practice of ensuring its contracts include clear and complete terms that are in its best interest. Specifically, prior to executing contracts or agreements, it should establish and include clear pricing and end dates in its contracts so that it knows what it will pay and can periodically rebid to ensure it continues to receive best value services.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court will adopt the recommendation above and provide training to staff on content of contracts

**Response provided on 5/17/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** May/June 2018

**Responsible Person(s):** Pamela James, Administrative Services Manager

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**FINDING REFERENCE: 2017-16-01**

*PROCUREMENT – PURCHASE CARDS*

**CRITERIA****JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 9, 9.2 PURCHASE CARD PROGRAMS:****B. Use of Purchase Cards by the Superior Courts**

3. Purchase cards may only be used for purchases with a maximum of \$1,500 per transaction. A suggested daily limit of \$5,000 should also be set for purchase card use. Alternative procedures should be documented, incorporated into the court's Local Contracting Manual, and distributed to court personnel.

**CONDITION**

For two of the 10 purchase card transactions reviewed, the Court exceeded the \$1,500 per-transaction purchase card limit set in the JBCM. Specifically, for one transaction, the CEO initially approved a purchase requisition for a new scanner costing \$880, but later amended the requisition to add two more scanners at the same price, for a new total of \$2,640 before shipping and taxes. Although the amended requisition total now exceeded the JBCM \$1,500 per transaction limit, court staff continued to use the purchase card to execute the purchase. Similarly, court staff used the purchase card to buy various IT goods that totaled over \$5,000, again exceeding the \$1,500 per transaction limit. According to the Court, it was unaware of this JBCM \$1,500 per-transaction purchase card limit. Nonetheless, the JBCM \$1,500 per-transaction purchase card limit applies to the Court since it does not have its own Local Contracting Manual (LCM) that establishes a higher alternative per-transaction purchase card limit. As a result, when courts do not adhere to the applicable JBCM purchase card provisions, they risk potentially using court purchase cards inappropriately.

**RECOMMENDATION**

To reduce the risk that court staff may exceed the applicable purchase card limits, the Court should provide staff with training on the JBCM purchase card program requirements. Also, to ensure that it is using public funds appropriately, the Court should implement a process for court staff to document the justification and authorization for when it is necessary to exceed the per-transaction purchase card limits established in the JBCM, or in any LCM it may decide to implement in the future.

**COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court will provide staff with training on the JBCM purchase card program requirements and will implement a process for court staff to document the justification and authorization for when it is necessary to exceed the per-transaction purchase card limits.

**Response provided on 5/17/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** May/June 2018

**Responsible Person(s):** Pamela James, Administrative Services Manager

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## PAYMENT PROCESSING

### The Court Should Ensure Its Travel Expense Claim Reimbursements are Appropriate

#### Background

Trial courts must institute procedures and internal controls to ensure they pay for appropriate goods and services in an economical and responsible manner, ensuring that they receive acceptable goods and services prior to payment. Thus, the FIN Manual provides courts with various policies on payment processing and provides uniform guidelines for processing vendor invoices and in-court service provider claims. All invoices and claims received from trial court vendors, suppliers, consultants and other contractors are routed to the trial 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 respective agreements. Staff must match all invoices to the proper supporting procurement and receipt documentation, and must ensure approval for payment is authorized by court management acting within the scope of their authority.

In addition, trial court judges and employees may be required to travel as a part of their official duties, and may occasionally conduct official court business during a meal period. Courts may reimburse their judges and employees for their reasonable and necessary travel expenses, within certain maximum limits, incurred while traveling on court business. Courts may also reimburse their judges and employees, or pay vendors, for the actual cost of providing business-related meals when certain rules and limits are met.

The Court demonstrated material compliance in many of the payment processing areas we evaluated during our audit. The Court demonstrated sound management practices in the areas of its payment authorizations, three-point match process, and allowable costs.

Nevertheless, we identified one audit finding in the payment processing area that we believe requires the Court's corrective action. This finding pertained to the following specific area of payment processing:

| Finding Reference | Subject               |
|-------------------|-----------------------|
| 2017-24-01        | Travel Expense Claims |

#### **FINDING REFERENCE: 2017-24-01**

#### *TRAVEL EXPENSE CLAIMS*

#### **CRITERIA**

FIN MANUAL, FIN 8.03, 6.3.2 PERSONAL VEHICLE MILEAGE:

2. Trial court judges and employees submitting claims for reimbursement for personal vehicle use should note the following:

- b. When travel commences from home, and the traveler is authorized to use his/her personal vehicle to travel to a business destination other than the traveler's regular place of work, reimbursed mileage will be calculated from the traveler's designated headquarters or home, whichever results in the lesser distance, to the business destination. If the traveler departs from the last business destination directly to the traveler's home, mileage reimbursement will be calculated from the last business destination to the traveler's designated headquarters or home, whichever results in the lesser distance. If the first or last business destination is closer to home than the regular place of work, no mileage reimbursement will be allowed.

FIN MANUAL, FIN 8.03, 6.4.1 SUBMITTAL OF TRAVEL EXPENSE CLAIMS (TEC):

1. Judges and employees who incur reimbursable business travel costs must submit a completed TEC form

FIN MANUAL, FIN 8.03, 6.4.2 ALLOWABLE EXPENSES:

1. The following types of expenses are allowable and reimbursable for trial court business travel:
  - e. Meals. Trial court judges and employees may be reimbursed for meals consumed during business travel. Meals to be reimbursed should be itemized as breakfast, lunch or dinner. The maximum allowable reimbursement for each meal is established by the Judicial Branch Travel Guidelines.

FIN MANUAL, FIN 8.03, 6.4.3 UNALLOWABLE EXPENSES, (1):

- a. Alcoholic Beverages. The purchase of alcoholic beverages is not allowed as a reimbursable travel expense.
- c. Meal Provided at Meeting/Conference. If a business meal (at a meeting/conference, etc.) is provided and paid for on the traveler's behalf, reimbursement must not be processed for the same meal if claimed by the traveler on a TEC, regardless of whether the traveler chose to forgo the provided meal and eat at another venue.

FIN MANUAL, FIN 8.03, 7.0 ASSOCIATED DOCUMENTS:

JUDICIAL BRANCH TRAVEL GUIDELINES

Meals – Actual costs are reimbursable up to the maximum limits stated below for continuous travel of more than 24 hours.

1. Breakfast – Up to \$8.
2. Lunch – Up to \$12.
3. Dinner – Up to \$20.

Meal reimbursement for one-day trips is taxable and reportable income unless travel included an overnight stay. Lunch may not be claimed on trips of less than 24 hours. For continuous travel of less than 24 hours, actual expenses up to the above limits [may] are reimbursable if:

1. Travel begins one hour before normal work hours – Breakfast may be claimed.

2. Travel ends one hour after normal work hours – Dinner may be claimed.

### CONDITION

Our review found that the Court did not consistently follow applicable Judicial Branch travel expense reimbursement policies and procedures. Specifically, for four of the 10 travel expense reimbursement claim forms reviewed, we found the following exceptions:

- For one of the four travel expense claim (TEC) forms, the Court did not require the traveler to submit a fully completed TEC form. Specifically, the traveler did not include on the TEC form the travel start and end times, and the traveler's normal work hours, which are both necessary for reviewers and approvers to properly assess the appropriateness of the various meal expenses, totaling \$152, that the traveler claimed for reimbursement.
- For all four TEC forms, the Court reimbursed travelers for various unallowable meal expenses. Specifically, for one TEC, the Court reimbursed the traveler for a meal expense even though the training event the traveler attended provided meals. However, travel rules do not allow reimbursement for meals when the traveler chooses to forgo meals from a sponsoring organization.

On two other TEC forms, the Court reimbursed unallowable alcoholic beverage expenses. For one TEC, the traveler claimed \$12 for lunch, but the receipt the traveler submitted to support the meal expense showed that the only cost incurred was for an alcoholic beverage at an airport restaurant. For the other TEC, the Court reimbursed the traveler \$20 for dinner expenses, but the receipt the traveler submitted only supports dinner expenses of \$15 after subtracting the alcoholic beverage expenses.

On a fourth TEC form, the Court reimbursed meal expenses that did not occur within the time frame required for allowable meal expenses. Specifically, based on information on the TEC form, the traveler's regular workday ends at 4:30 p.m., but the traveler claimed dinner expenses of \$20 for travel that ended at 5 p.m. However, travel rules allow reimbursement for dinner expenses only if the travel ends one hour after the traveler's normal work hours.

- For one of the four TEC forms, the Court reimbursed the traveler for personal vehicle use mileage that was not the lesser of the distance between home or headquarters to the business destination. Specifically, the Court reimbursed the traveler for 156 miles each way between the traveler's home and the business destination. However, the distance between the traveler's headquarters and the business destination was 130 miles each way, or 26 miles less each way than from home to the business destination. As a result, the Court reimbursed this claimant \$28 more than allowed on this particular travel event.

According to the Court, court staff did not accurately review the TEC forms to ensure all necessary information was included and that all expenses were allowable. As a result, when the Court does not require travelers to submit key information needed to properly assess the claimed expenses and does not accurately review the expenses claimed, it risks paying more than appropriate for travel meals, mileage, and other allowable travel costs.

**RECOMMENDATION**

To ensure it complies with the required Judicial Branch travel expense reimbursement policies and procedures, and to ensure its travel expenses are an appropriate and necessary use of public funds, the Court should do the following:

- Require all court employees and officials who travel on court business to provide complete TECs that include the information and documentation necessary—such as the assigned headquarters address, residence address, destination address, and times of travel—for reviewers to properly assess and approve allowable travel expenses,
- Consider requiring claimants to attach online maps or other evidence of the distance travelled to clearly support the lesser mileage—home or headquarters to the business destination—claimed on TEC forms,
- Consider providing additional training regarding travel rules for both those who travel on court business and those who are responsible for reviewing and approving TEC forms, and
- Instruct approving supervisors and reviewers, including accounts payable staff, to question travelers about any missing information that is needed to fully evaluate the appropriateness of the claimed expenses. The supervisors and reviewers should annotate the TEC forms, when necessary, with any additional information that is needed to clarify and demonstrate the propriety of the claimed travel expenses.

**COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. The court will adopt the recommendation above and will provide training to staff that travel and that are responsible for reviewing and approving TEC forms.

**Response provided on 5/17/2018 by:** Pamela James, Administrative Services Manager

**Date of Corrective Action:** May/June 2018

**Responsible Person(s):** Pamela James, Administrative Services Manager

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## FINE AND FEE DISTRIBUTIONS

### The Court Corrected Its Fine and Fee Calculation and Distribution Findings

#### Background

Trial courts must accurately calculate and distribute the monies they collect so that State and local funds receive the amounts State law designates for each. State statutes and local ordinances govern the distribution of the fines, penalties, fees, and other assessments that courts collect. In addition, courts rely on the State Controller's Office *Trial Court Revenue Distribution Guidelines* and the Judicial Council *Uniform Bail and Penalty Schedules* to calculate and distribute these court collections to the appropriate State and local funds. Courts may use either an automated system, manual process, or a combination of both to perform the often-complex calculations and distributions required by law.

During the initial audit planning process, the Court informed us that the State Controller's Office (SCO) recently completed a revenue audit of the Court and county. Therefore, to not duplicate audit efforts, Audit Services did not review any Court fine and fee calculations or distributions. According to the Court, the SCO noted one finding regarding a fine and fee calculation or distribution error, which the Court indicated it corrected and resolved when it transitioned to its current case management system.

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## ONE PERCENT FUND BALANCE CAP

### The Court Appropriately Supported Its 1% Fund Balance Cap Calculations

#### Background

State law allows trial courts to retain unexpended fund balance reserves in an amount that does not exceed one percent of its prior fiscal year operating budget. To assist in ensuring compliance with this requirement, the Judicial Council requires courts to prepare and submit a final *1% Fund Balance Cap Calculation Form* (calculation form) approximately six months after the end of the fiscal year, which calculates the amount of fund balance that a court may carry over into the next fiscal year. Courts self-report the inputs on the calculation form, such as year-end expenditures, expenditure accruals, and encumbrances.

In addition, should a court need to retain funds that exceed its one percent fund balance cap, the Judicial Council adopted a process whereby courts that meet certain specified guidelines may request approval from the Judicial Council to hold excess funds “on behalf of the court.” The request specifies how the funds will be used and requires the court to explain why such spending could not occur through its annual operating budget. If the Judicial Council approves the court’s request, the Judicial Council may impose additional terms and conditions that courts must accept, including separately tracking the expenditures associated with these funds held on behalf of the court. As a part of the Judicial Council-approved process for approving funds held on behalf of a court, Audit Service is charged with reviewing funds held on behalf of the courts as a part of its normal court audit cycle to confirm that the courts used the funds for their approved stated purpose.

Our review found that, except for a minor instance of non-compliance that we communicated separately to the Court, it generally complied with the requirements for its 1% fund balance cap calculations. Specifically, we reviewed the inputs on its final FY 2016-17 calculation form and found that the Court used expenditure and accrual amounts that materially agreed to its accounting records. We did not review its use of any excess funds because the Court did not request such funds be held on its behalf.

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## JBSIS CASE FILING DATA

### The Court Should Ensure It Reports Accurate Case Filing Data to JBSIS

#### Background

The Judicial Branch Statistical Information System (JBSIS) is a reporting system that defines and electronically collects summary information from court case management systems for each major case processing area of the court. JBSIS directly supports the technology goals of the Judicial Council’s strategic plan, providing information for judicial branch policy and budgetary decisions, management reports for court administrators, and the Judicial Council’s legislative mandate to report on the business of the courts. Authorization for JBSIS is found in California Rules of Court, rule 10.400: “Consistent with article VI, section 6 of the California Constitution and Government Code section 68505, JBSIS is established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates. Each trial court must collect and report to the Judicial Council information according to its capability and level of automation as prescribed by the JBSIS Manual adopted by the Judicial Council...” The Court Executives Advisory Committee is responsible for oversight of this program.

Our review found that the Court maintained documentation to support the JBSIS case filings data it submitted to Judicial Council Office of Court Research. Nevertheless, our review identified one JBSIS-related audit finding that we believe requires the Court’s continuous monitoring.

| Finding Reference | Subject                                      |
|-------------------|--|
| 2017-33-01        | Validity of JBSIS Data – Case Filings Counts |

#### **FINDING REFERENCE: 2017-33-01**

#### *VALIDITY OF JBSIS DATA – CASE FILINGS COUNTS*

#### **CRITERIA**

CALIFORNIA RULES OF COURT, RULE 10.400, JUDICIAL BRANCH STATISTICAL INFORMATION SYSTEM:

Consistent with article VI, section 6 of the California Constitution and Government Code section 68505, the Judicial Branch Statistical Information System (JBSIS) is established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates. Each trial court must collect and report to the Judicial Council information according to its capability and level of automation as prescribed by the *JBSIS Manual* adopted by the Judicial Council.

#### **CONDITION**

The Court reported JBSIS data that generally matched its internal reports of new case filings, but clerical and system errors caused some miscounts. In fiscal year 2015-16, the Court reported over 6,200 new case filings to JBSIS, using both an electronic and manual entry process through

the JBSIS web portal. Each month, the Court reported every new case filing as a count in one of 44 possible case categories (such as “civil limited” or “felony”). Audit Services reviewed the Court’s underlying records supporting the case counts it reported to JBSIS for fiscal year 2015-16 and found that the Court reported JBSIS data that generally matched its case filings reports and listings of cases. Specifically, in fiscal year 2015-16 the Court reported to JBSIS case filings count data for 528 counts organized by month and case category (44 categories per month x 12 months), and we noted count differences in only 39 of the 528 monthly counts (or over 7 percent of the time). The variances across each of the 39 monthly count differences varied with the counts in the supporting case filings reports or detailed case listings at times being higher or lower than the Court-reported JBSIS case count totals. The sum of all over- and under-counted cases in absolute terms and without regard to case weights was 92 cases (or over 1 percent of the more than 6,200 case filings reported). The cause for these count differences often stemmed from clerical errors in the manual reporting process, such as when court staff manually compiled and reported the case filings, and CMS errors that occurred when staff made changes to the case filing dates.

Our comparison of the Court-reported JBSIS case filing counts to the counts the Court supported with its monthly case filings reports by case type—summary-level case count reports—for fiscal year 2015-16 found 35 count differences. In some instances, the JBSIS case filing counts are higher than the counts in its case filings reports, while in other instances the counts are lower, with the count differences ranging from 10 over-counted to five under-counted case filings. For example, in December 2015 the Court reported 10 case filings to JBSIS for a specific juvenile delinquency case type, while its case filings report indicated this case type had zero filings, resulting in it over-reporting 10 case filing counts. Conversely, in March 2016 the Court reported 14 new felony case filings to JBSIS, but its case filings report indicates that it had 19 new filings of this case type, resulting in it under-reporting five case filing counts. According to the Court, most of the count differences that occurred in fiscal year 2015-16 were due to clerical errors when staff manually compiled and reported the monthly case filing counts through the web portal reporting process.

In addition, our comparison of the Court-reported JBSIS case filings counts to its detailed listings of case filings—reports listing filings by case type and individual case number—found four additional monthly count differences wherein the Court double-counted family law case filings when reporting filing counts to JBSIS. Specifically, the Court double-counted eight of the 222 family law child support case filings in the five months reviewed for fiscal year 2015-16. According to the Court, during fiscal year 2015-16, clerical errors and its CMS not being correctly programmed for reporting in JBSIS contributed to some of the double-counts. For example, after entering a case filing into CMS, the clerk would later manually modify the filing date in CMS so that it matched the date on the hard-copy filing. However, the clerk did not realize that this date change created a duplicate case filing entry in the CMS system. After informing the Court of the eight duplicate filings we identified, it indicated that it deleted the duplicate entries, found approximately 15 additional duplicate entries that it also deleted from its system, and plans to submit amended fiscal year 2015-16 case filing counts to JBSIS.

Although the Court acknowledged the various count differences and indicated that it plans to amend its JBSIS case filings data, this amended data would be at least one year after the April

2017 cutoff date for freezing the fiscal year 2015-16 JBSIS data used in subsequent WAFM budget calculations. Nevertheless, according to the Court, these types of clerical errors should no longer affect the accuracy of its case filing counts subsequent to fiscal year 2015-16 as it began, in fiscal year 2016-17, to perform detailed verifications of its case filings data before submission to JBSIS. Further, in December 2017 the Court obtained re-certification as a full JBSIS court for its new CMS and began submitting case filings data electronically, thus eliminating its reliance on its prior manual processes to compile and report JBSIS data via the web portal.

Although we commend the Court on its relatively low overall error rate, Audit Services raises these JBSIS reporting discrepancies as an audit finding since the Judicial Council has yet to establish data quality standards that (1) define an acceptable error rate for reporting and (2) define what steps each court is expected to take to reasonably ensure accurate and complete reporting. Until such standards exist, the Court should continue to focus on monitoring and further improving its JBSIS reporting practices to ensure case counts are fully supported by its records and are not double-counted.

### **RECOMMENDATION**

To ensure the Court is doing all it reasonably can to ensure accurate and complete JBSIS reporting, it should do the following:

- Seek guidance from the Judicial Council on acceptable error rates when reporting JBSIS case counts, so it can determine when its reports are sufficiently flawed and require an amended report.
- Generate and retain listings of case filings that are both contemporaneous and consistent with the Court's monthly JBSIS reporting.
- Continue to periodically perform its detailed verifications of its case filings data, prior to submission to JBSIS, to identify individual cases that may have been double-counted in the same reporting period or across previous reporting periods or that may have changed case-types.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree, records of documentation of case filings will be retained within court G:drive/State Reporting folder along with the PDF format of the JBSIS monthly reports. Remind clerks that when entering filings into CMS it is imperative to ensure filing date in system is reflected from the filed document. Clerks are not to make any changes to statistical closures without notifying JBSIS reporting clerk, so that reports can be reprocessed and submitted as amended for correct and accurate counts.

**Response provided on 5/16/2018 by:** Glenda Mart, Court Program Manager

**Date of Corrective Action:** Immediately

**Responsible Person(s):** Glenda Mart, Court Program Manager

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## GRANT AWARD COMPLIANCE

### The Court Should Ensure It Follows Appropriate Grant Accounting and Administrative Procedures

#### Background

Grant fund awards may substantially benefit a trial court's ability to serve the public. At the same time, the acceptance of grant funds may also represent an area of risk to the court because the grant money received by the court is provided for specific purposes and under conditions that apply to its use. Noncompliance with the terms of significant grant awards may result in the Court losing access to this grant funding in future years, or may result in the Court repaying funds spent inappropriately.

Courts are responsible for separately accounting for its receipt and spending of grant funds in Phoenix by using the appropriate grant coding. Courts are also responsible for following applicable federal, state, or Judicial Council rules when administering grant funds. These rules may pertain to performance reporting, financial reporting, personnel time tracking, among other areas.

Our review of its grant administration practices found that the Court should improve its grant accounting and administrative procedures. Specifically, we identified two audit findings that we believe require the Court's corrective action. The findings pertained to the following specific area of grant accounting and administration:

| Finding Reference | Subject                      |
|-------------------|------------------------------|
| 2017-34-01        | Grants – Timekeeping         |
| 2017-34-02        | Grants – Contracted Services |

#### **FINDING REFERENCE: 2017-34-01**

#### *GRANTS - TIMEKEEPING*

#### **CRITERIA**

FIN MANUAL, FIN 5.03, GRANT ACCOUNTING AND ADMINISTRATION:

#### 3.0 Policy Statement

The trial court shall comply with all federal, state, Judicial Council of California and grantor regulations, rules and requirements that apply to the administration of grant funds. The use of grant funds for specific trial court activities does not exempt employees from standard trial court policies and procedures. Requirements that apply to grant administration are in addition to those associated with normal trial court operations.

#### 6.4.5 Direct and Indirect Costs

3. Time spent on grant-funded activities must be documented on employee timesheets that indicate the employee's name, the specific grant program time is charged to, the dates on which time is charged, and the number of hours charged to the grant program each day.

**TITLE IV-D (AB 1058) CHILD SUPPORT COMMISSIONER AND FAMILY LAW FACILITATOR PROGRAM, ACCOUNTING AND REPORTING INSTRUCTIONS, REVISED IN JULY 2016**

The Judicial Council allocates funds to each court via standard agreements (contracts) between the Judicial Council and the courts. Separate contracts are executed for the CSC and FLF components of the program. The AB 1058 Child Support Commissioner and Family Law Facilitator Program is a reimbursement grant, which means that all expenses are incurred and paid by the court before submission of a claim for reimbursement to the Judicial Council.

AB 1058 allows reimbursement of salaries, fringe-benefits, operating expenses, and indirect costs as long as those expenditures are directly related to the program. The courts are required to claim expenditures on mandatory reporting forms, each of which has specific instructions for completion. For example, see below instructions for some of the mandatory forms:

**Payroll Summary Sheet** – The payroll summary sheet is set up to report and calculate 100 percent of the hours worked or benefit hours used by each employee. Only time spent working specifically on title IV-D activities is eligible for reimbursement of grant funds. Each employee who does not work exclusively on AB1058 activities must document his or her time spent on other program activities.

**Timesheet** – Any employee whose time is charged to a grant program of the Judicial Council shall complete the mandatory grant timesheet. The Judicial Council Grant Program timesheet is designed to capture 100% of hours worked, otherwise called positive pay reporting. Federal regulations require that all hours worked by an employee must be accounted for, regardless of whether or not it is reimbursable by the grant.

**Contractor Activity Log** – AB 1058 contractor activity log is designed to list 100% of hours worked, including those worked on multiple programs, as contracted by the court. Any contractor whose time is charged to the AB 1058 child Support Commissioner and Family Law Facilitator program (title IV-D) must complete the mandatory program contractor activity log. All hours charged to the grant must be accounted for.

**CONDITION**

The Court did not report and bill the actual time that its staff and the FLF contractor spent working on matters related to the Family Law Facilitator (FLF) grant. Specifically, while reviewing the time court staff charged to the FLF grant during fiscal year 2016-17, court staff stated during interviews that they did not log the actual time spent working on the grant programs. Instead, they reported their hours based on a predetermined 60/40 split because court management instructed staff working on FLF grant matters to charge a predetermined 60% of their time to FLF work and 40% to other work. In addition, even though its fiscal year 2016-17 FLF contract required at least 60% of FLF services and the contractor's timesheets we reviewed support the FLF contractor spent more than 60% of the service hours providing FLF services, the Court claimed reimbursement from the FLF grant for only 60% of the contractor's expenses. The Court acknowledged that it should not have invoiced the grant for the FLF contractor's time

according to the 60/40 split and could have, instead, adjusted the hours billed to reconcile to the actual hours the contractor worked on the FLF program.

According to the Court, since the FLF grant funds are limited, it used a 60/40 split as a general guide for claiming reimbursement of its FLF services against the grant. The Court stated that once it became aware that it needed to report and claim reimbursement for actual time, staff began in December 2017 to track and report their actual time providing FLF grant services. In fact, several court staff now track the specific time spent on FLF matters through a review of their daily log sheets or court calendars. In addition, the Court informed us that they did not renew the FLF contractor's contract for fiscal year 2017-18.

However, although we recognize that the Court has corrected how its staff now charge their time to the FLF grant, the FIN Manual and the AB 1058 program grant instructions require that time spent on grant-funded activities be documented and only actual time spent working specifically on the grant programs is eligible for reimbursement. As a result, the Court did not properly track and claim reimbursement for the actual time its staff and FLF contractor spent working on the FLF grant program, and potentially either under- or over-claimed FLF grant reimbursement funds. Audit Services recognizes that detailed time tracking and recording on a timesheet may be administratively burdensome given the Court's small size, but we are raising this issue so that the Court may consider taking appropriate corrective action prior to an audit by the Department of Child Support Services.

### **RECOMMENDATION**

To ensure it follows existing grant rules for the AB 1058 program, the Court should continue to track and report actual time spent on FLF matters, both by its staff and any FLF contractors, and bill the grant accordingly for the allowable actual time and costs spent on the FLF grant activities. The Court should also consider working with Judicial Council staff from the Center for Families, Children and the Courts to develop any approved alternative grant timekeeping practices that better aligns with the Court's operational realities.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

Agree. When we became aware that we could have issues in our timekeeping, we reached out to the Judicial Council staff and took immediate corrective action. We will continue to communicate with Judicial Council staff in the future.

**Response provided on 5/17/2018 by:** Karen Camper, CEO

**Date of Corrective Action:** Was corrected in December 2017.

**Responsible Person(s):** Karen Camper, CEO

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### **FINDING REFERENCE: 2017-34-02**

*GRANTS – CONTRACTED SERVICES*

### **CRITERIA**

FIN MANUAL, FIN 7.03 CONTRACT ADMINISTRATION:

## 6.1 Introduction

2. In general, trial court employees who perform contract administration activities are responsible for the following:
  - c. Ensuring contractor and trial court compliance with the terms of the contract.
  - d. Safeguarding the trial court's interest in its contractual relationships.

### 6.3.1 Performance and Delivery Control

1. It is essential that the trial court monitor contractor performance to assure that the value of the goods or services it receives is in compliance with the contract price and meets prescribed acceptance criteria and contract milestone dates. The trial court employee responsible for contract administration, with feedback from the employee who requested the goods or services, must ensure that the contractor's delivery or performance meets the court's contract requirements.

## AGREEMENT FOR FAMILY LAW FACILITATOR AND LEGAL SELF-HELP SERVICES:

### EXHIBIT A Scope of Services

#### 2. Summary of Work

##### Services:

[Family Law Facilitator] Services and [Self Help Center] Services will be provided by 1) you personally, 2) a licensed attorney with whom you sub-contracted in accordance with the provisions of this Agreement or, 3) a legal assistant or paralegal working under your direction or the direction of a sub-contracted attorney. Services to be provided include the following:

##### D. Number of Hours/Work Schedule

1. Calaveras:
  - ii.) Annual maximum hours may not exceed 672 hours by attorney and 336 hours by paralegal or legal assistant.
3. Services will be provided primarily by an attorney supplemented by a paralegal or legal assistant.

### EXHIBIT C General Provisions

#### 4.1 Default. A default exists under this Agreement if you:

- (B) fail or are unable to meet or perform any of your duties under this Agreement, and
- (1) are incapable of curing this failure, or
  - (2) do not cure this failure within 30 days following notice.

#### 4.3 Remedies.

(A) Available Remedies. We may do any of the following:

- (1) require you to enter into non-binding mediation;
- (2) terminate this Agreement in accordance with this Exhibit C; and/or
- (3) seek any other available remedy at law or in equity.

#### 5.1 Early Termination.

(A) We may terminate this Agreement immediately “for cause” if you are in default.

### **CONDITION**

The Court did not ensure that the attorney it contracted with to provide grant-related services complied with the terms of the contract. Specifically, the Court entered into a contract with an attorney to provide services as a family law facilitator (FLF), and the contract specified that most of the work would be performed by this attorney, with supplemental services provided by a paralegal. In actual practice, the paralegal provided the majority of the services, raising questions as to whether the Court actually obtained the level of service and expertise it was expecting when contracting for FLF services that are ultimately intended to benefit the public.

Specifically, the Court’s fiscal year 2016-17 FLF agreement specified that a licensed attorney would provide primary FLF services not to exceed 672 hours annually, while a paralegal would provide supplemental services not to exceed 336 hours. In actual practice, the FLF contractor billed the Court only 273 hours (or 40% of the hours expected) and the paralegal charged 566 hours (or 168% of what was expected). As a result, the paralegal appears to have been the one providing the majority of the contracted FLF services to the public on the Court’s behalf.

According to the Court, the paralegal took a larger-than-expected role since the attorney was unable to provide the expected level of contract services at the Court for part of the fiscal year. However, the Court is required to safeguard its interests in contractual relationships and monitor contractor performance to ensure contractor services comply with the terms of contracts. Although we recognize that circumstances may arise during the year that are beyond the Court’s control, we had expected the Court to have attempted to contract with another attorney to provide the same quality and breadth of services to the public as contemplated in its existing agreement. If the Court could not have found an acceptable replacement attorney, then we would have expected the Court to amend its FLF contract clarifying the revised service levels expected from both the attorney and the paralegal. Without clarity in the contract regarding the FLF services to be provided and by whom, it would be difficult for the Court’s staff or external parties to evaluate whether the public ultimately obtained the level of service as the Court intended.

### **RECOMMENDATION**

To ensure the public ultimately obtains the FLF services as intended by the Court, the Court should replace FLF contractors that are unable to provide the services that are expected. If an adequate replacement cannot be found, the Court should promptly amend its FLF contract to ensure there is clarity regarding who is to provide the services and the amount of effort and duration expected.

### **COURT’S VIEW AND CORRECTIVE ACTION PLAN**

Agree, the court should have amended the contract.

**Response provided on 5/17/2018 by:** Karen Camper, CEO

**Date of Corrective Action:** July 1, 2017

**Responsible Person(s):** Karen Camper, CEO

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## **OTHER AREAS**

### **Background**

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 compliance with any other areas.

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