



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
December 5, 2016	Approve FY 2017-2018 Judicial Council Budget Change Proposal Concept
To	Date of Report
Member of the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	December 13, 2016
From	Contact
Zlatko Theodorovic, Budget Services Director	Madelynn McClain Budget Services 916-263-1752 phone madelynn.mcclain@jud.ca.gov
Subject	
FY 2017-2018 Judicial Council Budget Change Proposal Concept	

Executive Summary

California Rule of Court 10.63 requires the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (Committee) to make recommendations annually to the Judicial Council concerning any budget change proposals (BCPs) for funding of the Judicial Council of California. Such funding changes include additional staffing costs as well as increased costs associated with operating expenses and equipment.

At the July 25, 2016 meeting, the Committee approved the six of the seven BCP proposals (see Attachment A) as submitted. BCP #5, Technology Improvement for Facilities, and Trial Court Facility Modifications & Operations Cost Adjustments was modified based on direction/discussion by the Committee. The Judicial Council approved the requests at its August 26, 2016 meeting and the BCPs were submitted to the Department of Finance on September 2, 2016 for inclusion in the Governor's Budget. At the time of both the Judicial Council and Committee meetings, one Information Technology (IT) proposal for Statewide Electronic Filing Technology was identified as a placeholder BCP as the details behind the proposal had not been

completed. This request was not presented to the Committee for approval and prioritization because the initial proposal did not impact Judicial Council funding or staffing levels; however, the Judicial Council approved and prioritized the placeholder request. As IT began to finalize the proposal, it was determined that the statewide e-filing model includes establishing statewide standards which requires operational support to assist the superior courts in using this environment.

This BCP includes a two-year funding request for staffing to support the initial creation and maintenance of the environment necessary to support the needs of e-filing statewide, including the integration of a branch identity management system, incorporation of preferred financial gateways, establishment of standards management, certification and support services, and assistance with superior court implementations leveraging this environment. These staffing needs were not known at the time the BCP placeholder was submitted earlier this year, and has only become apparent through the procurement process. Finally, this BCP includes a plan to implement an e-filing/digital court cost recovery fee to support the costs for the positions after the two-year period.

Due to the significant changes made to the original proposal, this BCP will also be re-submitted to the Judicial Council in January 2017.

Budget Change Proposal Information

A programmatic summary of the proposal is detailed below by dollar amount, funding source, associated staffing, and general programmatic or workload need.

1. Statewide Electronic Filing Implementation and Operational Support (Attachment B)

Information Technology proposes an augmentation of \$551,000 General Fund in 2017-18 and \$410,000 General Fund in 2018-19 to support 3.0 positions to develop and maintain a standards-based statewide e-filing environment that will promote, enable, and assist full court participation in e-filing. The three dedicated, centralized positions requested will include a program manager, application developer/technical analyst, and business analyst. Funding will support the following key areas:

- (a) Integration with an Identity and Access Management system.
- (b) Integration with the preferred financial gateway where the Judicial Council has secured favorable rates.
- (c) Establishment and initial (2 year) operations of standards management, certification, and support services for statewide e-filing managers (estimated to be two providers) and e-filing service providers (estimated to be more than twenty).

- (d) Support for superior court e-filing implementations in leveraging these aspects of e-filing.

Following the initial two year period, it is anticipated that an e-filing/digital court cost recovery fee will be implemented to support the costs for the positions ongoing.

Recommendation

Approve the Statewide Electronic Filing Implementation and Operational Support budget change proposal concept to be submitted to the Judicial Council for approval.

Row #	Title	FY 2017-18	Outcome
		Whole Dollars	
1	Judicial Branch Litigation Management Program	\$5,600,000	Approved
2	Language Access Plan Implementation	\$8,091,000	Approved
3	General Fund Augmentation to Fund Improvement and Modernization Fund FTEs	\$7,208,000	Approved
4	Judicial Officer Orientation Program	\$785,000	Approved
5	Technology Improvement for Facilities, and Trial Court Facility Modifications & Operations Cost Adjustments	\$48,666,000	Modified
6	Judicial Branch Program Consolidation	\$0	Approved
7	Court Interpreters Fund Government Code Amendment	\$590,000	Approved
8	Appellate Court Document Management System	Information Only	
9	Appellate Court Security - California Highway Patrol	Information Only	

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JCC Office: Information Services
Contact: Jamel Jones

Date: 11/19/16

Proposal Title: *Statewide Electronic Filing Implementation and Operational Support*

Fiscal Summary:

Fund Source	Proposed JCC Positions	Total Personal Services*	Operating Expenses & Equipment	Proposal Total 2017-18	Proposal Total 2018-19
General Fund	3.0	\$ 500,000	\$ 51,000	\$ 551,000	\$ 410,000

*Includes one-time contractor services of \$100,000. Ongoing personal services costs are anticipated to be funded by an e-filing/digital court cost recovery fee.

Proposal Summary:

The Judicial Council proposes an augmentation of \$551,000 General Fund in 2017-18 and \$410,000 General Fund in 2018-19 to establish 3.0 positions to develop and maintain a standards-based statewide e-filing environment that will promote, enable, and assist full court participation in e-filing. The costs will include consulting assistance to design the capabilities and build integration points, and staffing to provide integration guidance to courts and vendors, costs to establish and certify the Electronic Filing Managers (EFM) and Electronic Filing Service Provider (EFSP) solutions – whether hosted/operated by the branch or outsourced to a third party; and staffing to manage and monitor this e-filing environment. Cost recovery for the Identity Management service/software will be funded via fees to vendors. Also, following the initial two year period, it is anticipated that funding to support the positions will be funded via court e-filing/digital court cost recovery fees that will increase as more courts adopt the statewide e-filing model.

Background Information:

California law authorizes both direct e-filing and e-filing through an EFSP (See Code Civ. Proc., § 1010.6(d)(1)(B); Cal. Rules of Court, rule 2.253(a).) In most instances, parties or their attorneys file through an EFSP. A party or attorney sends the documents through a user interface to the EFSP for filing. The EFSP handles the actual filing, including compliance with any technical requirements. After filing, the EFSPs also provide feedback to the parties about the case. EFSPs can provide their clients with additional services, such as providing for the service of documents on all parties in the case. Under current law, a court can institute mandatory e-filing only if it has more than one EFSP or direct e-filing. This requirement fosters competition and provides the public with a choice.

When the documents and other information are ready to be electronically filed, the EFSP transmits the filing in the proper format to the court's E-Filing Manager (EFM). The EFM is a holding queue for electronically stored documents. The documents reside there temporarily so that the clerk can review them (for validity, completion of fee payment, etc.) Once the clerk has completed the review process, the documents are sent to the case management system (CMS), where the filed documents are permanently retained.

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Currently, courts that have implemented e-filing have an EFM provided by the same vendor as their CMS and are deploying e-filing as a local county event. While this model satisfies many of the needs of the individual court, it creates challenges for attorneys that file in multiple counties and creates uneven services from county to county.

Further, the majority of courts do not have any e-filing capability. Those courts that do have e-filing rely on either the EFSP or EFM to provide identity management and financial gateway integration. The risk inherent in allowing the EFSPs to manage identities is that they want to “own” their customers and make it difficult for customers to switch to another provider. The risk inherent in allowing the EFMs to manage identities is that the introduction of a second EFM (to ensure competition and improve services) will increase cost/complexity across multiple vendors. A similar challenge exists with financial gateways. By pulling these two capabilities out of the vendor and into the branch, customers will have greater choice and lower overall costs.

Justification:

On June 24, 2016, the Judicial Council directed ITAC to develop and implement a statewide electronic filing solution. Through a series of approved high-level requirements, the expectation is that the solution will improve access to litigants in a cost-effective manner. To ensure a competitive landscape the approach in part relies on multiple EFMs (required to provide e-filing for four core CMSs and e-delivery or another solution to courts without e-filing capability) and a requirement that all EFSPs work with all EFMs to ensure that even the smallest of counties enjoys a full array of choice.

Fundamental to the multiple EFM-EFSP model is a statewide identity management capability. The filer ultimately has their relationship with the court in which their case is heard, but may want to interact with the court (or multiple courts) through different EFSPs on the same or different cases. To ensure seamless access to their case, the branch should manage filer identities across courts, EFMs and EFSPs. To improve access and ensure the filer has choices, we are seeking funds to implement a statewide identity management capability that will be used by all EFMs, EFSPs and courts in support of e-filing.

Another key capability of e-filing is the management and handling of court fees. Traditionally these costs are determined by the vendors (EFSP and/or EFM) and are passed on to the filer. It is not uncommon for these fees to add 2 to 3 percent to the cost of court fees, which can be substantial. The judicial branch, however, can and has already negotiated more favorable terms than the vendors can achieve.

As the state begins to implement a statewide e-filing solution, identity management and financial gateway integration will be required. Allowing the EFSP to control identities will limit movement of customers from one provider to another, and will not allow the branch to create a holistic view of the customer across services and courts. Allowing the EFM to control identities will create additional work for EFSPs and courts as they seek to leverage a common identity for their customers. Likewise, an EFSP or EFM controlled Financial Gateway will lead to greater costs to the filer as they lack the volume to obtain the greatest discounts. Additionally, establishing an EFSP-EFM certification process, providing ombudsman support, and facilitating issue resolution are necessary to ensure the statewide model is operational. In this role, the Judicial Council will have responsibilities in relation to EFMs, payment processors, identity management authority, and a certification authority.

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Fiscal Impact:

Information Technology proposes an augmentation of \$551,000 General Fund in 2017-18 and \$410,000 General Fund in 2018-19 to support 3.0 positions to develop and maintain standards-based statewide e-filing environment that will promote, enable, and assist full court participation in e-filing. The three dedicated, centralized positions requested will include a program manager, application developer/technical analyst, and business analyst. Funding will support the following key areas:

- (a) Integration with an Identity & Access Management (IAM) system.
- (b) Integration with the preferred financial gateway where the Judicial Council has secured favorable rates.
- (c) Establishment and initial (2 year) operations of standards management, certification, and support services for statewide e-filing managers (EFMs) (estimated to be two providers) and e-filing service providers (EFSPs) (estimated to be more than twenty).
- (d) Support for superior court e-filing implementations in leveraging these aspects of e-filing.

Following the initial two year period, it is anticipated that an e-filing/digital court cost recovery fee will be implemented to support the costs for the positions ongoing.

Outcomes and Accountability:

Upon implementation of a statewide e-filing solution, courts and court users will experience lower/more transparent e-filing costs and streamlined e-filing services. The Judicial Council positions will promote, enable, and assist full court participation in e-filing.

Other Alternatives Considered: *Include a minimum of three alternatives, provide cost estimates and briefly describe why the alternative is not the recommended option.*

Alternative #1: No statewide management, each court operates on their own. There are no managed identities and/or financial gateways. Currently, each superior court is solely responsible for implementing e-filing in their jurisdiction. It is evident that some courts have the financial and personnel resources, along with the filing volume to implement e-filing. However, other courts may not have the resources nor the filing volume to implement e-filing. To continue with the status quo will lead to disparate e-filing solutions for some superior courts and no e-filing in others.

PRO: No additional General Fund costs.

CONS:

1. Higher overall cost to the judicial branch with each superior court initiating their own solution.
2. No statewide Identity Management, thus filers have separate credentials for each court; and for the court versus the EFSP.
3. Smaller courts may never be able to offer e-filing.
4. More customization, less standardization.
5. Lack of EFSP willingness to participate at smaller courts due to a low return on investment (ROI).
6. Lack of EFSP choices in smaller courts.

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7. Large courts with an existing e-filing solution in place may not switch to the statewide EFMs.
8. Low (no) adoption of the statewide e-filing program as courts lack the required resources.

Cost Estimate for each court: \$51,000 for one-time Data Center Services.

Alternative #2: EFM's manage environment with assistance from individual court staff. This option would require the EFM's to be responsible for all ongoing operational tasks and issues. With each implementation, the local court staff would be required to assist with their specific implementation. The court and EFMs would be collectively responsible for ongoing operational issues.

PRO: No additional General Fund costs.

CONS:

1. Pilot court(s) will be required to resolve differing agendas of EFM, EFSP, local court and statewide interests.
2. Pilot court(s) set the statewide standards based on their local needs.
3. Large courts may adopt the program and coordinate efforts with their CMS vendors.
4. Adopting courts will use cost-recovery mechanisms to offset local implementation costs.
5. Statewide e-filing program adoption will be slow as smaller courts lack the resources to implement.
6. EFM's and EFSP's will not be aggressive to implement at small courts. EFM primary business objectives not necessarily aligned with the objectives of the judicial branch.
7. EFMs would have a conflict of interest in many situations.
8. Potentially higher EFM/EFSP convenience fees charged by the EFM to cover their operational costs.
9. Lack of cohesion between implementations.
10. More problematic around the area of governance.

Cost Estimate for each court: \$151,000. \$100,000 for one-time Contract Services for software customization and \$51,000 for Data Center Services.

This model was opposed by a coalition of EFSPs and Process Servers named the Coalition for Improving Court Access (CICA). CICA companies claim an EFM controlled environment leads to an unfair market if the EFM is also an EFSP.