



JUDICIAL COUNCIL OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

www.courts.ca.gov/auditcommittee.htm
auditcommittee@jud.ca.gov

AUDITS AND FINANCIAL ACCOUNTABILITY COMMITTEE

OPEN MEETING WITH CLOSED SESSION AGENDA

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

OPEN PORTION OF THIS MEETING IS BEING RECORDED

Date: February 10, 2020
Time: 12:15 – 1:15 PM
Public Call-In Number: 1-877-820-7831; Public Listening Code 4045700

Meeting materials for open portions of the meeting will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Opening Comments by the Chair and Vice-Chair

Presenter(s)/Facilitator(s): Hon. Judge Rosenberg—Chair; Hon. Presiding Justice
Siggins—Vice Chair

Approval of Minutes

Approve minutes of the October 21, 2019, Audit Committee meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Written Comment

In accordance with California Rules of Court, Rule 10.75(k) (1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to auditcommittee@jud.ca.gov or mailed or delivered to Judicial Council of California, Audit Services, 455 Golden Gate Avenue, 5th Floor, San Francisco, California 94102 attention: Audit Services. Only written comments received by 12:15 pm on February 9, 2020 will be provided to advisory body members prior to the start of the meeting.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1

Report from Audit Services

Overview of Audit Services' work in progress as well as a summary of external audits being performed by other governmental agencies.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

Info 2

General Discussion by Audit Committee Members

Open discussion by committee members regarding any topic within the scope and purview of the Advisory Committee for Audits and Financial Accountability for the Judicial Branch.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

IV. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-3)

Item 1

Annual Audit Plan – Request to Add AB 1058 Program to Audit Scope (Action Required)

Staff from the Judicial Council's Centers for Families, Children, and the Courts (CFCC) request that all standard audits of the trial courts include a component evaluating compliance with the terms and conditions of the AB 1058 program.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services; Anna Maves, Supervising Attorney – Judicial Council's Center for Families, Children, and the Courts.

Item 2

Annual Audit Plan – Discussion to Include Court Interpreter Payments (Possible Action)

Continue discussion of whether to add testing of court interpreter payments back within the scope of work for court audits performed during fiscal year 2019-20.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

Item 3

External Audit Report – State Auditor's Office (Action Required)

Review and approve for public posting the State Auditor's recent audit of the Judicial Council's procurement practices. The Judicial Branch Contract Law (Part 2.5 of Division

2 of the Public Contract Code) requires the State Auditor to evaluate biennially the Judicial Council's implementation of the act.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

V. ADJOURNMENT TO CLOSED SESSION

Adjourn to Closed Session

VI. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(D))

Item 4

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of Los Angeles Superior Court and its various projects funded through the *Court Innovations Grant Program*.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

Item 5

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of Tehama Superior Court, per Rule of Court 10.63(c)(1).

Presenter(s)/Facilitator(s): Dawn Tomita, Supervisor – Judicial Council's Audit Services

Item 6

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of Sierra Superior Court, per Rule of Court 10.63(c)(1).

Presenter(s)/Facilitator(s): Dawn Tomita, Supervisor – Judicial Council's Audit Services

Item 7

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of Lassen Superior Court, per Rule of Court 10.63(c)(1).

Presenter(s)/Facilitator(s): Dawn Tomita, Supervisor – Judicial Council's Audit Services

Item 8

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of San Mateo Superior Court, per Rule of Court 10.63(c)(1).

Presenter(s)/Facilitator(s): Dawn Tomita, Supervisor – Judicial Council's Audit Services

VII. ADJOURNMENT

Adjourn the meeting



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ADVISORY COMMITTEE ON AUDITS AND FINANCIAL ACCOUNTABILITY FOR THE JUDICIAL BRANCH

MINUTES OF OPEN MEETING WITH CLOSED SESSION

October 21, 2019
12:15 p.m. - 1:45 p.m.
Conference Call

Advisory Body Members Present: Hon. David Rosenberg, Hon. Peter Siggins, Hon. Mary Ann O'Malley, Hon. Arthur A. Wick, Ms. Kate Bieker, Ms. Michelle Martinez, Mr. Neal Taniguchi, Mr. Phil Jelcich (non-voting advisory member)

Advisory Body Members Absent: Mr. Kevin Lane

Others Present: Mr. Grant Parks (Lead Committee Staff), Ms. Dawn Tomita (Audit Supervisor), Mr. Joe Meyer (Senior Auditor)

OPEN MEETING

Call to Order and Roll Call

The chair welcomed committee members and called the meeting to order at 12:16 p.m. and took roll call. Newly appointed and re-elected committee members introduced themselves.

Approval of Minutes

Judge O'Malley moved to approve the minutes of July 12, 2019 meeting. Ms. Martinez seconded the motion. There was no further discussion of the minutes. Motion to approve passed by unanimous voice vote of the committee members present.

No public comments were received for this meeting.

DISCUSSION AND ACTION ITEMS

Info Item 1

Report from Audit Services

Mr. Parks provided information on audits progress. Audit Staff conducted site visits to Superior Courts of Tehama and Sierra counties in August and September. Mr. Parks expects to have these audit reports to be available in mid-January. During the week of October 7th, auditors visited San Mateo and Lassen courts to review their cash-handling procedures. They will return to those courts this week to work on other aspects of audit program. Auditors substantially completed work at two Court Innovations Grant Audits at Los Angeles Superior Court. The audit report results will be shared relatively soon.

As for external audits, the State Controller's Office is wrapping up work at Sutter Superior Court, where they examined the court's revenues, expenditures and fund balance (these audits are required under state law). Meanwhile, the State Auditor's Office is currently auditing Judicial Council's procurement practices under Judicial Branch Contract Law. Mr. Parks expects to see this audit report available at the next Audit Committee's meeting. State Auditor's Office was also asked by Legislature to perform a statewide audit of court and county implementation of the Lanterman-Petris-Short Act. This will likely involve various superior courts across the state. Justice Siggins asked what time period the auditors will review during their LPS audit. Mr. Parks informed they will examine the last three years.

Info Item 2

Welcome to New Committee Members & General Overview of Audit Plan

Mr. Parks provided a general overview of audit plan. He also informed there were 18 audits reports performed in fiscal year 2018-2019 that came for the review of this committee. The audit reports included 124 recommendations. The audit reports were posted online and courts agreed with findings in 87% of the time, which is a good result. The more common audit findings tend to be in cash handling.

Info Item 3

General Discussion by Members of the Committee

No items discussed.

Action Item 1

Annual Audit Plan – Court Interpreter Payments (Action Required)

Mr. Parks indicated this topic is a carry-over issue from when the committee considered approval of the audit plan at a prior meeting. One of the scope areas that audits has traditionally examined in the past were payments to court interpreters. The annual budget act appropriates funding for court interpreter payments to the judicial branch. The budget act also requires Judicial Council to establish pay policies for contract court interpreters. In prior years, Audit Services had sought to audit court compliance with the Council's interpreter pay policies. The Audit Committee suspended testing in this area given its understanding that payment policies were under revision. At last meeting the committee agreed to revisit adding the testing back into the audit program. The court interpreters pay policies have not changed since the last audit committee meeting.

Ms. Martinez informed the audit committee she is on a working group to revise the payment policy. The group is meeting on October 31st to discuss the issue. Ms. Martinez informed the committee that she would share the results of this discussion with Audit Committee. Judge O'Malley believes that Judicial Council needs to make a decision on payment policies on statewide level. Due to a lot of legitimate reasons, there are some disparities between the practices of different counties. Mr. Parks indicated he would check with Michael Roddy, the chair of the working group on interpreter pay policies in early November and then possibly schedule special Audit Committee meeting dedicated to this subject sometime in either November or December.

Action: Judge O'Malley moved to approve scheduling a special meeting for this subject—at the discretion of the chair— after committee staff learn the status of the working group's efforts (seconded by Justice Siggins). The motion passed by unanimous voice vote of the committee members present.

A D J O U R N M E N T

There being no further open meeting business, the meeting was adjourned to closed session at 12:45 p.m.

C L O S E D S E S S I O N

Item 1

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Committee members discussed the draft audit report for Modoc Superior Court, per Rule of Court 10.63(c)(1).

Action: Ms. Bieker moved to approve this report for posting (seconded by Mr. Taniguchi). The motion passed by unanimous voice vote of the committee members present.

Item 2

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Committee members discussed the draft audit report for Trinity Superior Court, per Rule of Court 10.63(c)(1).

Action: Justice Siggins moved to approve this report for posting (seconded by Ms. Martinez). The motion passed by unanimous voice vote of the committee members present.

Adjourned closed session at 1:15pm.

Approved by the advisory body on February 10, 2020.



JUDICIAL COUNCIL OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND FINANCIAL ACCOUNTABILITY FOR THE JUDICIAL BRANCH

Meeting Date: 02/10/2020

Informational Item #1 – (No Action Required)

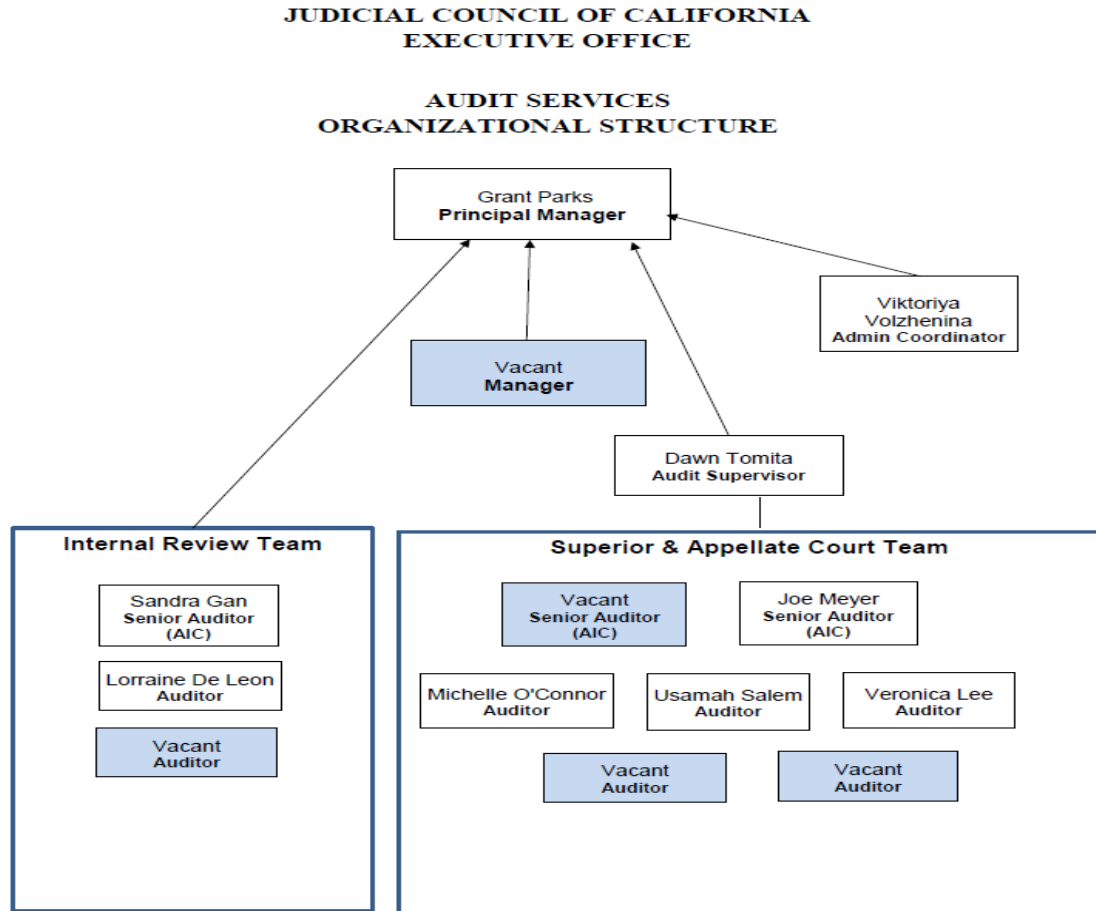
Report from Audit Services

Status Update – Judicial Council’s Audit Services

Workload & Staffing

Audit Services conducted fieldwork site visits at San Diego Superior Court as well as the Court of Appeal (2nd District) during December 2019 and January 2020. We anticipate these audits will be completed by late April or early May 2020 per the audit schedule.

Figure 1 - Audit Services’ Organizational Chart



Our audit staffing has temporarily decreased to six auditors (see org. chart), but we are hopeful to fill two vacancies and get back to 8 full-time-equivalent audit staff. We have certain items on today's agenda that would potentially add to the scope of work performed by our audit staff (action items #1 and #2). Should this work be approved, the audit committee will need to determine whether to remove other areas from our audit program or allow for longer periods for audit staff to complete each audit.

Status of External Audits

State Controller's Office (SCO)

Audit Program of the Trial Courts

In his January budget proposal, the Governor included the audit committee's funding request to address the SCO's projected audit costs. As members may recall, Government Code, Section 77206(h) requires the Judicial Council to contract with the SCO to audit the revenues, expenditures and fund balances of all 58 superior courts, such that each court is audited on a four-year cycle. The costs of these audits are projected to eventually exceed \$1.6 million per year (which would otherwise be paid by the courts directly absent specific spending authority in the budget act.) The audit committee submitted a budget change proposal for fiscal year 2020-21 to ensure the trial courts would not bear the costs of these audits, which were not anticipated as part of trial court funding.

State Auditor's Office (CSA)

Statewide Audit of the Lanterman-Petris-Short Act

No updates since last meeting in October 2019 - The Joint Legislative Audit Committee directed CSA to conduct a statewide performance audit of mental health activities under the Lanterman-Petris-Short Act (LPS Act). The audit will focus primarily on three counties (Los Angeles and two unnamed counties). CSA expects to publish its audit report in April 2020.



JUDICIAL COUNCIL OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
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Meeting Date: 02/10/2020

Action Item #1 – (Action Required)

Annual Audit Plan – AB 1058 Program

Requested Action:

- **Action Item** – Evaluate court compliance with the AB 1058 program’s revised rules as part of the standard audit program.

Supporting Documents:

- ***Attachment A***—Request letter to Judge Rosenberg from the Family and Juvenile Law Advisory Committee

Background:

The Department of Child Support Services (DCSS) provides grant funding to the Judicial Council to support the “AB 1058 Program,” which funds designated child support commissioners and family law facilitators in the courts. A portion of the funding from DCSS comes from the federal government, necessitating the need to follow federal grant requirements. The Judicial Council sub-awards AB 1058 grant funds to each court through individual grant agreements, which specify requirements over how the money can be spent and the documentation required. Judicial Council staff also provide AB 1058 training to court personnel.

Between 2016 and 2018, DCSS conducted audits of the superior courts to determine whether the grant’s federal and state requirements were being followed. DCSS auditors often identified problems with how the courts were supporting the personnel costs charged to their AB 1058 grants because of deficiencies with employee timesheets and other supporting records. Overall, DCSS auditors identified problems with 15 courts and questioned the support for a combined \$2.3 million in court costs charged to the AB 1058 program.

Executive management from the Judicial Council and DCSS agreed to resolve the findings without requiring the repayment of the questioned costs. Among the corrective actions taken was a revision to the rules to provide greater flexibility to the courts on how they must document their time spent on the AB 1058 program.

On January 7th, DCSS auditors informed the Judicial Council that they would be resuming their audits of the AB 1058 program, which will include “only a high-level review of personnel expenses and timekeeping processes.”

Evaluation of the Audit Request:

Committee staff estimate that including audit procedures to address the AB 1058 program would add an additional 60 hours of work, assuming no other existing scope areas are eliminated. This would be a modest 6% - 10% increase in audit work. The table below illustrates our audit budgets (by fieldwork area) for small, medium, and large-sized courts. Audit Services’ largest budget area is “cash handling,” where the number of required audit hours are significantly influenced by the number of payment collection locations utilized by the court. Other compliance tests are generally not dependent on a court’s size.

| Average | | Small Court | Medium Court | Large Court | # of Findings (July 2018 - October 2019) | % |
|---------|-------------------------------------|-------------|--------------|--------------|--|-------------|
| 4% | Planning | 34 | 34 | 34 | | |
| 76% | Fieldwork | | | | | |
| | Cash Handling | 150 | 312 | 474 | 68 | 61% |
| | Procurement | 66 | 66 | 66 | 14 | 13% |
| | Payment Processing | 54 | 54 | 54 | 9 | 8% |
| | Revenue Distribution | 37 | 37 | 37 | 4 | 4% |
| | Fund Balance - 1% Cap | 24 | 24 | 24 | 4 | 4% |
| | JBSIS | 107 | 107 | 107 | 12 | 11% |
| 8% | Report Writing | | | | 111 | 100% |
| | Issue Development | 36 | 36 | 36 | | |
| | Report Writing | 26 | 26 | 26 | | |
| 12% | Leading & Guiding | 88 | 88 | 88 | | |
| 100% | Total Budget (hours) | 622 | 784 | 946 | | |
| | add: AB 1058 | 40 | 40 | 40 | | |
| | add: Leading & Guiding | 20 | 20 | 20 | | |
| | Revised Total Budget (hours) | 682 | 844 | 1,006 | | |

In addition, the table provides detail (upper right) on how often we report audit findings in given areas. For example, audit staff spend significant time reviewing cash handling procedures at the courts, a high-risk area which historically has had the greatest number of audit findings.

If the committee adds AB 1058 to our audit scope (with no other adjustments), we anticipate beginning this work with Napa Superior Court (scheduled to begin in March 2020). It is also possible that the Napa audit would not be available for the audit committee's review until after July 1st (since we give courts roughly one month to formally review and respond to our audit findings). Finally, the audit schedule for fiscal year 2020-21 (to be discussed by the committee in June 2020 as part of the annual audit plan) will likely show only seven audits scheduled for completion (two started from 2019-20, and 5 started and completed during 2020-21). This contrasts to the nine standard audits issued by the audit committee during fiscal year 2019-20.



JUDICIAL COUNCIL OF CALIFORNIA

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HON. TANI G. CANTIL-SAKAUIYE
*Chief Justice of California
Chair of the Judicial Council*

MR. MARTIN HOSHINO
*Administrative Director,
Judicial Council*

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COMMITTEE STAFF
Ms. Nicole Giacinti
415-865-7598
Ms. Tracy Kenny
916-263-2838

January 21, 2020

Hon. David Rosenberg
Judge of the Superior Court of California
County of Yolo
1000 Main Street, Department 14
Woodland, California 95695

Subject: AB 1058 Program—Local Court Audit Request

Dear Judge Rosenberg:

I am writing to you in your capacity as Chair of the Advisory Committee on Audits and Financial Accountability for the Judicial Branch requesting that local courts' AB1058 Child Support Commissioner and Family Law Facilitator Program be included in future Judicial Council audits.

By way of background, Title IV-D of the Social Security Act (42 U.S.C. § 601 et seq.) provides that each state shall establish a child support program as a condition of receiving federal funding for the Temporary Assistance for Needy Families (TANF) program. States must have a designated single statewide child support agency that prepares the state plan, administers the child support program, and receives federal funding for the program. The California Department of Child Support Services (DCSS) has been designated as that statewide agency.

The Child Support Commissioner and Family Law Facilitator Program was created by Assembly Bill 1058 in 1996 to address the problem of overburdened courts and the lack of accessible assistance for litigants with child support issues who did not have attorneys. The program is funded through a cooperative agreement between DCSS and the Judicial Council, which in turn funds local court programs.

The child support program is funded by both federal and state funds and strict federal regulations dictate that funds received can only be used to perform specific program functions and that any time billed to the grant must be properly accounted for and documented. Properly identifying

Hon. David Rosenberg

January 21, 2020

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work as a reimbursable title IV-D activity and then documenting the time spent on that activity can sometimes be a challenge for court staff that are not assigned to work in the AB 1058 Program fulltime, especially in the smaller courts.

From 2016 to 2018 DCSS conducted audits of the AB 1058 Program in 18 superior courts. Auditors reviewed the timekeeping and billing practices of court staff. The audits resulted in “findings” for several courts, which is to say those courts were found to be “out of compliance” with time reporting and other requirements. Trial courts who were found to be out of compliance responded to draft audit reports outlining the steps that would be taken to ensure compliance in the future.

While DCSS initially sought to have funds returned by the courts found to be out of compliance, after various discussions and negotiations between the Judicial Council and DCSS, DCSS agreed to not seek reimbursement of funds previously distributed to the courts on the condition that the Judicial Council agree to a corrective action plan to address the timekeeping concerns. One of the items agreed to as part of the plan was for a request to be made to the Advisory Committee on Audits and Financial Accountability for the Judicial Branch to include the superior courts’ AB 1058 Program in local court audits.

Consequently, in my capacity of co-chair of the Family and Juvenile Law Advisory Committee, I am requesting that the committee consider including the AB1058 Program in future local court audits performed by the Judicial Council’s audit staff, as the committee may deem appropriate.

If you have any questions or concerns regarding this correspondence, please do not hesitate to contact Anna Maves at (916) 263-8624.

Sincerely,



Mark Juhas

Co-Chair

Family and Juvenile Law Advisory Committee

CD/ALM/jh

cc: Robert Oyung, Chief Operating Officer, Judicial Council
Charlene Depner, Director, Center for Families, Children & the Courts, Judicial Council
Grant Parks, Principal Manager, Audit Services, Judicial Council
Anna Maves, Supervising Attorney, Center for Families, Children & the Courts, Judicial Council



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ADVISORY COMMITTEE ON AUDITS AND
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Meeting Date: 02/10/2020

Action Item #2 – (Action Required)

Annual Audit Plan – Court Interpreter Payments

Requested Action:

- **Action Item** – Suspend or reinstate the testing of court interpreter payments as part of the normal scope of court audits per the annual audit plan.

Supporting Documents:

- None

Background:

The Judicial Council's Audit Services has not reviewed payments to court interpreters as part of its standard audit work of the courts since the start of the 2018-19 fiscal year. The audit committee had previously suspended audit work in this area pending anticipated revisions to the Judicial Council's *Payment Policies for Contract Court Interpreters*, which was last updated in 2007. Prior audits had found issues with court interpreters being paid without an agreement specifying the terms of service and agreed-upon pay rate. At times, these pay rates exceeded those established in the Judicial Council's interpreter pay policies. Since the suspension of audit work in August 2018, the audit committee has periodically revisited this issue on:

6/28/2019 – Suspended when approving the audit plan for fiscal year 2019-20

10/21/2019 – Suspended pending additional information on CEAC's efforts.

At the audit committee's last meeting on October 21, 2019, members considered whether to resume testing of court interpreter payments as part of the standard audit scope (see agenda item #1 from 10/21/2019 meeting). During this discussion, committee members learned that the Court Executives Advisory Committee (CEAC) had been working on revisions to the policy. Judge O'Malley directed committee staff to learn the status of this effort and then report back to the chair to determine next steps. Committee staff contacted Mr. Mike Roddy (CEO – San Diego) on November 4th and confirmed that CEAC was working on policy revisions and expects to present them to the Judicial Council in early 2020. Judge Rosenberg decided to resume

discussion of this issue at our next audit committee meeting so members can obtain an update on status and revisit this issue.

Current Status:

Committee staff have learned that CEAC is making substantial progress on both a revised payment policy and court interpreter authorization form. CEAC has created an ad-hoc working group to revise the existing interpreter pay policies and has held various meetings through January 2020. The draft policies are now mostly finalized and are scheduled to be discussed at the next CEAC meeting in early February 2020. Committee staff have reviewed the drafts of these revisions and believe, if implemented, they will substantially address prior audit findings in this area.

Staff recommends that the committee continue to monitor progress of the policies as they make their way to the Judicial Council for approval, with the expectation that they will be finalized in time for consideration as part of the annual audit plan for fiscal year 2020-21 (to be discussed during our June 2020 meeting).



JUDICIAL COUNCIL OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
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Meeting Date: 02/10/2020

Action Item #3 – (Action Required)

External Audit Report – State Auditor’s Office

Requested Action:

- **Action Item** – Review and approve for public posting the State Auditor’s statutory audit of the Judicial Council’s procurement practices.

Supporting Documents:

- ***Attachment B***—State Auditor’s letter report # 2019-302, titled: *Judicial Council of California*

Background:

Section 19210 of the Public Contract Code requires the State Auditor to biennially audit the Judicial Council’s implementation of the Judicial Branch Contract Law (Part 2.5 of Division 2 of the Public Contract Code). Among other things, the law requires the Judicial Council to:

- Notify the State Auditor of contracts estimated to exceed \$1 million and notify the California Technology Agency of information technology-related contracts in excess of \$5 million.
- Report to the Legislature semi-annually a list of vendors or contractors receiving payments from judicial branch entities, the amount of these payments (by contract), and the types of goods or services provided.
- Develop a *Judicial Branch Contracting Manual*—containing contracting policies and procedures that are substantially similar to the provisions contained in the *State Administrative Manual* and *State Contracting Manual*—which must be followed by all judicial branch entities (including the Judicial Council),

The State Auditor’s review generally entails an evaluation of the policies and procedures contained in the *Judicial Branch Contracting Manual* and concludes whether the Judicial Council has substantially followed key policies, such as those pertaining to: competitive bidding;

contract execution; and the authorization of payments to vendors upon the satisfactory delivery of goods and services. The State Auditor also evaluates the accuracy and completeness of the Judicial Council's semi-annual reports to the Legislature.

Summarized Audit Results:

The audit report begins by stating: "***As part of our statutorily required biennial review of the Judicial Council's compliance with the California Judicial Branch Contract Law, we identified no reportable concerns in several areas we examined.***" However, the auditor did identify two audit findings, specifically:

I. Semi-annual reports to the Legislature: When the Judicial Council transitioned over to FI\$Cal for our accounting and procurement functions, our semi-annual reports did not include certain data elements required under state law. Some of the specific issues noted by the auditors included:

- \$120 million in payments to vendors were not disclosed in the semi-annual reports. While these payments were eventually reported 30 days later on FI\$Cal's public website (which is continually updated), our reports to the Legislature had payment data that omitted the last month of the reporting period. These errors were limited to entries pertaining to judicial branch entities other than the superior courts. Judicial Council staff did not appreciate the delay between the posting of payment data in FI\$Cal to the time when that same data would become available on the public FI\$Cal web site.
- The auditors noted examples where contract amendments weren't adequately identified in our semi-annual reports, including missing information on the duration of these amendments and why the amendments were needed. FI\$Cal lacks a dedicated field to record these entries and staff use alternative methods to capture this data, sometimes inconsistently. Judicial Council staff intend to work with FI\$Cal to determine how it can best satisfy its reporting obligations.
- The auditors found more than 500 contracts that the superior courts amended where the goods or services provided under these agreements were not identified. Judicial Council staff are examining the programming costs needed to extract the required information for reporting purposes.

II. Two Procurement Managers Executed Agreements Exceeding Their Authority: The auditors noted five instances when two procurement managers (with authority up to \$500,000) executed various contracts valued between \$572,000 and \$2.7 million each. The Judicial Council's procurement policies establish progressively higher levels of management who are authorized to execute agreements as the total value of such agreements increase. This policy is intended to ensure management at the appropriate

level are both aware and approve of these agreements. At the time these errors occurred, the Judicial Council had a vacancy in the managerial position that would have otherwise approved these transactions. Notwithstanding the approval issues noted in the finding, the auditors did not otherwise conclude the procurements were inappropriate.

Next Steps:

Judicial Council accounting staff will be holding discussions with the Department of FISCAL to determine how best to satisfy the semi-annual reporting requirements to the Legislature. In addition, procurement staff have been reminded of their signing authority when executing contracts. The Judicial Council will be providing an update to the State Auditor in 60 days, six-months, and one-year on the implementation status of the report's recommendations.



December 19, 2019

2019-302

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The Judicial Council of California (Judicial Council) is the policymaking and administrative body of the California courts, and this letter report summarizes our most recent review of the Judicial Council's contracting and procurement practices. As part of our statutorily required biennial review of the Judicial Council's compliance with the California Judicial Branch Contract Law (judicial contract law), we identified no reportable concerns in several areas we examined, as we mention in the Scope and Methodology in the Appendix. However, we identified the following two concerns:

- The Judicial Council did not include all legally required information on the contracting activities of the Judicial Branch of California (Judicial Branch) in its semiannual reports for fiscal years 2017–18 and 2018–19. Specifically, the Judicial Council did not include in the semiannual reports information regarding the Judicial Branch's payments and the contract amendments that the Judicial Branch made during the reporting periods. The Judicial Council did not include the information for various reasons, including its own inconsistent entry of information and limitations of the publicly available Financial Information System for California (FI\$Cal) website, which lacks up-to-date data. By not including this information, the Judicial Council failed to comply with state law and did not provide the Legislature with complete information.
- The Judicial Council did not always follow its policies when procuring goods and services. Specifically, two supervisors—who each had Judicial Council authorization to approve procurements with costs up to \$500,000—approved five procurements for information technology (IT) goods or services, legal services, or fees paid to a national organization, with costs ranging from \$572,000 to \$2.7 million. By approving procurements that they should not have, staff bypassed one of the controls the Judicial Council put in place to reduce the risk of fraud and to ensure that it procures goods and services at the best value for the State. This finding is similar to one we included in our 2017 report, *Judicial Council of California: It Needs to Follow Competitive Bidding Processes More Consistently and Establish Clear Guidance for Invoice Processing*, Report 2017-302.

Background

The Judicial Council's Role

The Judicial Branch is a separate, independent branch of California state government. The branch includes several entities, such as the California Supreme Court (Supreme Court), the six Courts of Appeal, the 58 Superior—or trial—Courts, and the Judicial Council. The Judicial Council is the policymaking body for the state court system; it includes staff who provide various services,

including budgeting, accounting, human resources, and IT. Additionally, the Judicial Council's staff can assist the courts in the procurement of goods and services. To improve the administration of justice, the California Constitution requires the Judicial Council to perform certain actions, such as making recommendations to the courts, the Governor, and the Legislature, and adopting rules for court administration practice and procedure. For example, during the legislative session for 2017 and 2018, the Judicial Council sponsored 13 bills on topics including judgeships, court proceedings, and infractions.

State Contracting and Procurement Requirements

The Public Contract Code (contract code) generally governs contracts entered into by public entities. It establishes how public entities should solicit bids or proposals, evaluate those bids or proposals, and award contracts. In enacting the contract code, the Legislature intended to achieve certain objectives, such as ensuring that public entities comply with competitive bidding statutes; providing all qualified bidders with a fair opportunity to enter the bidding process; and eliminating favoritism, fraud, and corruption in the awarding of public contracts.

The *State Administrative Manual* (SAM) and the *State Contracting Manual* (SCM) furnish additional procurement guidance from the Department of General Services (DGS) to public entities. SAM is a reference resource for statewide management policy, while SCM provides policies, procedures, and guidelines to promote sound business decisions and practices in securing necessary services for the State while remaining in line with the contract code. For example, the contract code allows DGS to determine when public entities may award a contract for services valued at less than \$20,000 without competition. SCM clarifies that state agencies are not required to competitively bid contracts less than \$10,000, though they should document evidence that pricing for these contracts is fair and reasonable.

The California Judicial Branch Contract Law

In 2011 the State enacted the judicial contract law, which requires Judicial Branch entities—as the text box lists—to comply with the provisions of the contract code that apply to state agencies and departments for goods and services, subject to certain exceptions. The judicial contract law also requires the Judicial Council to adopt and publish a contracting manual for all Judicial Branch entities (judicial contracting manual) that is consistent with the contract code and substantially similar to SAM and SCM, which it did in 2011.

Judicial Branch Entities

The judicial contract law defines a *Judicial Branch entity* as the Supreme Court, the Courts of Appeal, the Superior Courts, the Judicial Council, and the Habeas Corpus Resource Center.

Source: [Judicial contract law](#).

Additionally, the judicial contract law requires each Judicial Branch entity to adopt a local contracting manual (local manual) for procurement and contracting of goods and services. The judicial contracting manual requires that the local manuals identify individuals with responsibility and authority for specific procurement activities. The judicial contracting manual additionally identifies items the local manuals may include, such as instructions on setting up and maintaining official procurement files and signature authorizations.

The judicial contract law also requires the Judicial Council to provide reports to the Legislature and the California State Auditor (State Auditor) every six months that provide information related to certain Judicial Branch contract procurement activities. In addition to other information, the reports must include lists of the payments and contract amendments that the Judicial Branch made during the reporting period. Finally, the judicial contract law requires the State Auditor, subject to legislative appropriation, to conduct a biennial audit of the Judicial Council’s compliance with the judicial contract law and report its findings, as we do in this report.

AUDIT FINDINGS

The Judicial Council Did Not Include Required Information in Its Semiannual Reports for Fiscal Years 2017–18 and 2018–19

The judicial contract law requires the Judicial Council to provide a report to the Joint Legislative Budget Committee and the State Auditor twice each year regarding certain Judicial Branch procurement activities during the previous six-month period. The judicial contract law requires these reports to include the information listed in the text box. In these semiannual reports, the Judicial Council reports on the Judicial Branch entities in two groupings: Superior Courts—consisting of the 58 trial courts—and non-Superior Courts—consisting of the Supreme Court, the six Courts of Appeal, the Habeas Corpus Resource Center, and the Judicial Council.

Contrary to the judicial contract law requirements, the Judicial Council did not include some payments its non-Superior Court entities made in each of its fiscal year 2018–19 semiannual reports. Specifically, we estimate that the Judicial Council’s February 2019 report, which covered July through December 2018, did not include roughly 2,200 payments totaling \$46 million from December 2018. Furthermore, we estimate that in its August 2019 report, which covered January through June 2019, the Judicial Council did not include nearly 2,800 payments totaling about \$74 million from June 2019. The excluded transactions amount to about 20 percent of the non-Superior Court entities’ payment activity for each period.

Judicial Council Semiannual Reporting Requirements

Each semiannual report must contain the following information:

- A list of all contractors or vendors receiving payments from any Judicial Branch entity, including a separate listing for each distinct contract identifying the following:
 - The amount of payments to each contractor or vendor.
 - The type of service or good provided.
 - The Judicial Branch entity with which the contractor or vendor contracted.
- A list of all contract amendments made during the report period identifying for each:
 - The contractor or vendor.
 - The type of service or good provided.
 - The nature of the contract amendment.
 - The duration of the contract amendment.
 - The cost of the contract amendment.

Source: Judicial contract law.

The Judicial Council did not provide information regarding these payments at the time it published its reports because the publicly available FI\$Cal website does not provide up-to-date payment data.¹ Although Judicial Council staff are able to input transactions and access current data, FI\$Cal only reports those transactions older than 60 days on its publicly available website. The judicial contract law requires the Judicial Council to submit its semiannual report within roughly one month after the end of the reporting period. Therefore, for example, on August 1, 2019, when the Judicial Council published its report covering the period January 1, 2019, through June 30, 2019, the FI\$Cal system website would have been missing transactions for June 2019. Although those transactions would have subsequently become available on the FI\$Cal website after about 30 days, the Judicial Council did not report them at the required time. We did not identify this issue in the two fiscal year 2017–18 reports because the Judicial Council generated spreadsheets of the required data itself and posted them on its own website.

Additionally, the Judicial Council did not always identify the Judicial Branch’s contract amendments in its reports nor did it always include other required information. FI\$Cal lacks a dedicated field to identify whether a procurement is an original contract or an amendment, so Judicial Council staff sometimes use the item description field to do so. Out of a selection of 15 procurements from the fiscal year 2018–19 semiannual reports that we reviewed, four were contract amendments that the Judicial Council did not identify as such. In these four instances, staff did not use the item description field to identify the procurements as amendments. Similarly, we identified five instances in which the Judicial Council did not include the duration of the contract amendments in the item description field, and five instances in which it did not include the nature of the contract amendments. This information was not included because the Judicial Council lacks sufficiently specific procedures that instruct staff to enter required information into the item description field, so staff use this field inconsistently. Consequently, there may be additional instances of missing information associated with contract amendments.

Finally, for more than 500 contracts that Superior Court entities amended in each fiscal year we reviewed, the Judicial Council did not identify the service or good provided. According to its director of branch accounting and procurement, the Judicial Council identifies the service or good in its reports only when an amendment changed the service or good provided. He also stated that he believed the reason for this approach was that reviewers of the report would have the original contract and it would be easier for them if the Judicial Council only updated this information when it changed.

Nonetheless, by not including the required information, the Judicial Council failed to provide the Legislature with complete information within the statutorily required timelines to evaluate key procurement activities of its Judicial Branch entities. For example, for procurements missing information, a reviewer of the report may have difficulty evaluating whether it was appropriate to amend a contract rather than obtain a new contract. After we brought this concern to the Judicial Council’s attention, the principal manager of audit services said that he expects that the Judicial Council will have further discussions with FI\$Cal staff to address any findings resulting from our work. Additionally, the director of branch accounting and procurement stated that, because the Judicial Council developed special tables to create the Superior Court contract amendment report, it will need to investigate how it could always include the Superior Courts’ information related to the contracted service or good.

¹ The Judicial Branch adopted FI\$Cal as its procurement and accounting system for all its non-Superior Court entities in fiscal year 2018–19. Stakeholders can use the publicly available FI\$Cal website to create lists of payments and contract amendments.

The Judicial Council Did Not Always Follow Its Approval Policies When Procuring Goods and Services

The Judicial Council requires its staff to obtain approval from specific managers when executing procurements with costs up to and greater than \$500,000, while staff can also obtain approvals for contracts with costs less than \$500,000 from specific supervisors. The Judicial Council determined the cost limit for these managers' and supervisors' approvals by evaluating the responsibilities of their positions, the qualifications the Judicial Council expects individuals in those positions to hold, and the consideration required to make appropriate decisions for procurements of different dollar amounts. The Judicial Council established this policy even though the judicial contracting manual does not specifically require it to.

We reviewed 40 procurements that the Judicial Council made from July 1, 2017, through June 30, 2019. Of these, 10 were procurements for goods or services with costs greater than \$500,000. For five of these 10 higher-cost procurements, the Judicial Council staff obtained signatures from one of two supervisors who were not authorized to approve procurements costing more than \$500,000. The costs of the procurements that the supervisors approved ranged from \$572,000 to \$2.7 million and were for court-appointed legal counsel, software products, database maintenance, and fees paid to a national organization related to state courts.

Without obtaining the appropriate approvals, the Judicial Council bypassed one of the controls intended to reduce the risk of fraud and ensure the Judicial Council only procures appropriate goods and services at the best value. When the Judicial Council procures goods or services without the appropriate approvals, it increases the risk that the terms of those procurements may not be optimal or that the procurements may be inappropriate. Further, when the Judicial Council's staff do not obtain approval for procurements from the appropriate individuals, it increases the possibility of misuse of public funds. At our request, the principal manager over procurement, who could have approved the five procurements we identified, reviewed those procurements and determined that he would have approved them if Judicial Council staff had routed them to him.

The Judicial Council staff were able to procure the goods and services without appropriate approval because the Judicial Council does not include a step in its procurement process to ensure that staff obtain appropriate approvals. The Judicial Council acknowledged that the two supervisors who approved the five procurements did not have sufficient signing authority to do so. According to the principal manager of audit services, it was an error that the staff and supervisors did not obtain the appropriate approvals that occurred because the Judicial Council had a vacancy in a mid-level manager position at the time of the procurements. After we informed the Judicial Council of the inappropriate approvals, the principal manager over procurement stated that he addressed the issue by holding a discussion with supervisory staff to ensure that they clearly understood the approval authority policy, and by sending an email to supervisory and management staff to remind them of the policy and its location in the local manual.

Nevertheless, we question whether a discussion with staff and an email reminder will adequately address the issue because we reported a similar finding in our 2017 audit. At that time, we found that one of the Judicial Council's contract supervisors who had approval authority limited to less than \$50,000 approved a procurement costing \$345,000. Because of the potential consequences of the Judicial Council's staff procuring goods and services without the appropriate approvals, and because we found additional instances that occurred during the period covered by this audit, the Judicial Council should establish stronger controls to prevent this problem in the future. For example,

the Judicial Council could require those individuals approving entries of procurements in FISCAL to verify that appropriate managers or supervisors approved the procurements and signed the hard copy contracts.

Additionally, we determined that the supervisor's improper approval of one of those five contracts caused the Judicial Council to violate its legal requirement to notify the State Auditor of that procurement. The judicial contract law requires the Judicial Council to notify the State Auditor in writing within 10 business days each time it executes a contract with a cost greater than \$1 million; the law excludes IT procurements that are subject to review and recommendations by the California Department of Technology and certain construction contracts. However, the Judicial Council did not notify the State Auditor within the required time frame of a \$2.7 million contract for legal representation in juvenile dependency proceedings. As we discuss previously, the supervisor who approved that contract did not have authority to approve contracts with costs greater than \$500,000. That supervisor also failed to inform the contracts manager who typically sends the notices to the State Auditor that the Judicial Council needed to do so.

Recommendations

To ensure that it complies with state law, maintains appropriate transparency, and provides the Legislature with all legally required information regarding its contracting and procurements, the Judicial Council should take the following actions by February 2020:

- Develop and implement a method to include all of the non-Superior Court entities' information required by the judicial contract law when submitting semiannual reports. For instance, if the publicly available FISCAL website does not provide all the required information, the Judicial Council should implement an alternate reporting mechanism, such as providing summary information from FISCAL data not available to the public.
- Establish a procedure that requires procurement staff to consistently include all necessary information in FISCAL when processing contract amendments.
- Develop and implement a method to ensure that it includes in its reports all required contract amendment information related to the Superior Courts.

To better limit the risk of inappropriate procurements and to ensure it procures goods and services at the best value, the Judicial Council should immediately revise its procurement process to include a final verification step to confirm that managers with appropriate signature authority approve its procurements.

We conducted this audit under the authority vested in the California State Auditor by Government Code 8543 et seq. and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

Date: December 19, 2019

APPENDIX

Scope and Methodology

We conducted this audit according to the audit requirements contained in the contract code section 19210, which is part of the judicial contract law. We also conducted this audit in accordance with standards of the U.S. Government Accountability Office (GAO), which we are statutorily required to follow. The judicial contract law requires the State Auditor, upon legislative appropriation, to perform biennial audits of the Judicial Council. The table lists the audit objectives we developed and the methods we used to fulfill those objectives.

Audit Objectives and the Methods Used to Address Them

| AUDIT OBJECTIVE | METHOD |
|---|---|
| <p>1 Determine whether the judicial contracting manual is consistent with the requirements set forth in the judicial contract law.</p> | <ul style="list-style-type: none"> • Compiled revisions to the contract code, SAM, and SCM that occurred from July 1, 2017, through June 30, 2019, and identified significant changes that impact the Judicial Council. • Compared the significant changes we identified in the contract code, SAM, and SCM to the judicial contracting manual and determined whether the judicial contracting manual is consistent with requirements set forth in the judicial contract law. We did not identify any reportable findings related to this objective. |
| <p>2 Determine whether the Judicial Council's local manual conforms to the judicial contracting manual.</p> | <p>Determined that the Judicial Council did not make any changes to its local manual and verified that changes to the judicial contracting manual did not impact the local manual's compliance. We did not identify any reportable findings related to this objective.</p> |
| <p>3 Assess the Judicial Council's internal controls over procurement practices and then determine whether it complied with those controls and other key requirements—including requirements related to competitive bidding and sole-source contracting—when completing its procurements.</p> | <ul style="list-style-type: none"> • Reviewed the judicial contracting manual, the Judicial Council's local manual, and the Judicial Council's procedures and interviewed staff to assess the Judicial Council's internal controls over contracting and procurement. • Using data from the Judicial Council's FISCAL system and its previous Oracle system, identified procurements from the period July 1, 2017, through June 30, 2019. • Judgmentally selected 40 of those procurements—15 agreements, 20 purchase orders, and five contract amendments—and tested them for compliance with requirements of the judicial contracting manual and the Judicial Council's local manual, including requirements concerning procurement approval, segregation of duties, competitive bidding, and other key controls. |
| <p>4 Assess the Judicial Council's internal controls over payment practices and determine whether the entity complied with those controls.</p> | <ul style="list-style-type: none"> • Reviewed the judicial contracting manual, the Judicial Council's local manual, and the Judicial Council's procedures and interviewed staff to assess the Judicial Council's internal controls over payments. • Selected one invoice payment from each of the 40 procurements we selected to address Objective 3 and tested for compliance with requirements of the judicial contracting manual and other procedure documents, including requirements concerning invoice approval, proper authorizations, and segregation of duties. |
| <p>5 Evaluate the Judicial Council's contracts to determine whether the Judicial Council inappropriately split any contracts to avoid necessary approval or competitive bidding requirements.</p> | <ul style="list-style-type: none"> • Identified a provision of the judicial contracting manual that prohibits Judicial Branch entities from splitting transactions costing more than \$10,000 into multiple transactions costing less than \$10,000 to avoid competitive bidding requirements. • Using data from the Judicial Council's FISCAL system, identified vendors from which the Judicial Branch made multiple procurements of less than \$10,000 during the period July 1, 2017, through June 30, 2019. • Assessed procurement documentation to determine whether any of those multiple procurements should have been a single competitively bid procurement. We did not identify any reportable findings related to this objective. |

| AUDIT OBJECTIVE | METHOD |
|--|--|
| <p>6 Assess the reliability of data used in the Judicial Council's semiannual reports on Judicial Branch contracts and payments, as necessary, for the purpose of establishing testing selections.</p> | <ul style="list-style-type: none"> • Obtained data generated from the Judicial Council's FISCAL and previous Oracle systems used in its semiannual reports for the period July 1, 2017, through June 30, 2019. • Haphazardly selected hard copy procurement files and searched for those procurements in either the semiannual report listings or FISCAL and Oracle systems to determine whether the procurements appeared in the systems and were accurate. • Haphazardly selected payment invoices using the Judicial Council's semiannual reports, reviewed the hard copy invoice records related to each payment, and verified that the amounts in the reports match the amounts on the invoices. • Performed this objective in accordance with generally accepted government auditing standards, which we are statutorily required to follow. • Determined that these data are sufficiently reliable for the audit purpose of selecting our testing items, and for relying on the information the Judicial Council provided in its semiannual reports. • We did not identify any reportable findings related to this objective. |

Source: Analysis of the judicial contract law, the State Auditor's planning documents, and information and documentation identified in the table column titled Method.



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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSEHINO
Administrative Director

November 25, 2019

Ms. Elaine M. Howle, CPA*
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, California 95814

Dear Ms. Howle:

I appreciate the opportunity to respond to your office's statutory audit of the Judicial Council's procurement practices. The Judicial Council is committed to continual improvement and the State Auditor's office provides a valuable service through its biennial reviews. I am pleased your report often concluded "no reportable findings" for many of your audit's most important objectives. These key conclusions—even though they are briefly discussed in the Scope and Methodology section at the end of your report—confirm that our *Judicial Branch Contracting Manual* and related procurement policies are consistent with state law. Overall, the limited number of recommendations contained in your report—only two—is a positive reflection of the hard work and professionalism of the Judicial Council's contracting and procurement staff. I am especially pleased your testing found no reportable issues with the following key procurement practices of the Judicial Council:

- Our advertising of significant procurements to maximize bidder participation;
- The solicitation methods we used (e.g., "Request for Quote" or "Request for Proposal");
- The fairness and consistency of our bid-evaluation process to select the winning bidder;
- Our justifications for periodically engaging in noncompetitive procurements; and
- Our controls to prevent unlawful contract splitting that otherwise hinders competition.

These procurement practices and related policies are core components of the *Judicial Branch Contracting Manual*. Despite the overall positive results of your audit, the Judicial Council recognizes the need for further improvement and will carefully consider your report's two

* California State Auditor's comment appears on page 14.

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recommendations. In the sections below, my staff provide additional detail and context on these two issues.

Recommendation #1:

To ensure that it complies with state law, maintains appropriate transparency, and provides the Legislature with all legally required information regarding its contracting and procurements, the Judicial Council should take the following action by February 2020:

- ***Develop and implement a method to include all of the non-Superior Court entities' information required by the judicial branch contract law when it submits its semiannual reports. For instance, if the publicly available FISCAL website does not provide all the required information, the Judicial Council should implement an alternative reporting mechanism, such as providing summary information from FISCAL data not available to the public.***
- ***Establish a procedure that requires its procurement staff to consistently include all necessary information in FISCAL when processing contract amendments.***
- ***Develop and implement a method to ensure it includes in its reports all required contract amendment information related to the Superior Courts.***

Reporting accurate and complete procurement data is a priority for the Judicial Council, and we will work with the Department of FISCAL to explore opportunities to further refine our reporting practices. For context, the Judicial Council began using FISCAL during fiscal year 2018–19 for its accounting and procurement transactions. This implementation was a significant effort for the Judicial Council's staff as it resulted in numerous changes to our internal policies and practices. At the time we prepared our semiannual reports, staff were unaware of any delays between our entry of payment data into FISCAL and when that data would subsequently become available to the public on FISCAL's website. Any under-reporting of our payments to vendors resulting from this minor delay—which the auditors estimated to be between 30 to 60 days—was unintentional. ①

Notwithstanding this issue, the Judicial Council's reporting of its procurement and payment activities on FISCAL's public website has significant benefits. Specifically, the FISCAL website is continually updated and the public no longer needs to wait an additional six months to view the council's more recent transactions. For example, the Judicial Council's most recent semiannual report was due in August 2019, covering the period of January through June 2019. Today, the public can see our payment transactions through August 2019 and thus no longer needs to wait until February 2020 to see our more recent data from the first two months of fiscal year 2019–20.

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Regardless, we understand the estimated delays cited in the auditor’s finding are inconsistent with state law.

The auditor’s draft report also discusses the misclassification of four contract amendments in our semiannual report, noting these four were reported as contracts instead of contract amendments. In a few cases, the auditors also noted the lack of additional information regarding the duration and nature of these amendments. We acknowledge these unintentional omissions. More importantly, we appreciate the auditor’s explanation that “FISCal lacks a dedicated field to identify whether an entry is an amendment, so Judicial Council staff typically use the item description field [within FISCal] to identify amendments.” With our transition to FISCal, staff have sought to identify ways in which they can use FISCal to meet our reporting obligations. In the few cases noted by the auditors, Judicial Council staff did not enter this data—as they have done for other contracts—and we will examine ways to improve our consistency in providing this information. Given the state’s significant investment in FISCal and the desire for greater transparency and timeliness, legislative changes may be necessary to better align the statutorily mandated reporting requirements with FISCal’s functional capabilities. Judicial Council staff will keep these issues in mind during its discussions with FISCal and as we determine the appropriate next steps when developing our corrective action plan.

Finally, the audit report concludes the Judicial Council did not disclose the goods or services pertaining to roughly 500 contract amendments each year. The auditor’s report accurately discloses that we provide this information when reporting the original contract or when a subsequent amendment changes the good or service provided. However, contract amendments that do not change the goods or services procured will not result in the information cited by the auditors in their finding. We will examine the programming costs necessary to compile the missing information and we will have further information at our 60-day, six-month, and one-year updates on the audit.

Recommendation #2

To better limit the risk of inappropriate procurements or that it will not procure goods and services at the best value, the Judicial Council should immediately revise its procurement process to include a final verification step to confirm that managers with appropriate signature authority approve its procurements.

The audit report cites five instances when a supervisor approved a purchase order or contract that exceeded his or her signing authority. In one of these five instances, a result of the improper approval was the under-reporting of a single contract to the State Auditor’s office. We acknowledge the wrong individuals executed these five agreements and our management team has counseled all supervisors regarding their approval authorities. Our management team will

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also consider the merits of developing additional controls—as recommended by the auditor—to the extent they are likely to reduce similar approval issues in the future.

Notwithstanding the wrong individuals approved these five agreements, it is important to note the State Auditor’s report did not otherwise question the merits of these transactions or conclude they were improper. Among the procurements cited in the auditor’s finding were a contract for court-appointed juvenile dependency counsel; a purchase order for branchwide software licenses under an earlier agreement from 2005; and a purchase order to pay dues to the National Center for State Courts, a nationally recognized nonprofit organization focused on improving judicial administration. As noted in the auditor’s report, senior management within the Judicial Council’s procurement office reviewed each of these five transactions—when brought to our attention by the audit team—and concluded each would have been approved if properly routed. Nevertheless, we agree with the auditor’s finding.

With these comments and clarifications in mind, I would like to thank the audit team for their contributions toward helping the Judicial Council further improve its procurement practices. Should you have any questions regarding this response, please contact Grant Parks, Principal Manager, Audit Services, at (916) 263-1321.

Sincerely,



Millicent Tidwell
Chief Deputy Director
Judicial Council

MT/gp

COMMENT

California State Auditor's Comment on the Response From the Judicial Council of California

To provide clarity and perspective, we are commenting on the Judicial Council's response to our audit. The number below corresponds to the number we have placed in the margin of the Judicial Council's response.

- ① The Judicial Council's comment that its staff were unaware at the time it prepared the semiannual report of any delays between its entry of payment data into FI\$Cal and when that data would subsequently become available to the public appears to be incorrect. In each of its semiannual reports for fiscal year 2018–19, the Judicial Council informed the reports' users that they can see all procurement transactions and historical payment data older than 60 days on FI\$Cal's website.