



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: July 14, 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 February 10th, 2020 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 July 13, 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 – Fiscal Year 2020-21 (Action Required)

Discuss and approve the scope of audits for fiscal year 2020-21, including the high-risk areas and judicial branch entities to be audited, based on available audit resources.

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

Item 2

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

Review and approve for public posting the State Controller's recent audit of Sutter Superior Court's revenues, expenditures, and fund balance for fiscal year 2017-18. Government Code, Section 77206(h) requires the State Controller to periodically audit the trial courts and how they account for the funds under their control.

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

Item 3

Revisions to the Judicial Branch Contracting Manual (Action Required)

Review and approve the proposed changes to the Judicial Branch Contracting Manual per California Rules of Court, Rule 10.63(c)(3), as well as the accompanying report to the Judicial Council.

Presenter(s)/Facilitator(s):

Oliver Cheng, Attorney – Judicial Council’s Legal Services

John Prestianni, Supervising Attorney – Judicial Council’s Legal Services

Jimmy Nguyen, Attorney – Judicial Council’s Legal Services

Andrew Tran, Attorney – Judicial Council’s Legal 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 San Diego Superior Court, per Rule of Court 10.63(c)(1).

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 Courts of Appeal, First Appellate District, 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 the Courts of Appeal, Second Appellate District, 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

February 10, 2020

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, Mr. Kevin Lane, Ms. Kate Bieker, Ms. Michelle Martinez, Mr. Neal Taniguchi, Mr. Phil Jelicich (non-voting advisory member)

Advisory Body Members Absent: None

Others Present: Mr. Grant Parks (Lead Committee Staff), Ms. Dawn Tomita (Audit Supervisor), Ms. Anna Maves (Supervising Attorney, Center for Families, Children & the Courts), Mr. Raymond Low (Chief Compliance Officer, Los Angeles Superior Court), Mr. Snorri Ogata (Chief Information Officer, Los Angeles Superior Court), Mr. Christopher Vose (Court Executive Officer, Lassen Superior Court), Ms. Ann Mendez (Court Executive Officer, Sierra Superior Court), Mr. Kevin Harrigan (Court Executive Officer, Tehama Superior Court)

OPEN MEETING

Call to Order and Roll Call

The chair welcomed committee members and called the meeting to order at 12:18 p.m. and took roll call.

Approval of Minutes

Judge O'Malley moved to approve the minutes of the October 21, 2019 meeting. Justice Siggins 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 audit progress. Audit Staff visited San Diego Superior Court and the 2nd District Court of Appeal in December and January. Those audits are moving forward per the audit schedule. Audit Services has some vacancies and is in process of recruitment for both Senior Auditor and Auditor positions. Once these positions are filled, the audit team should have eight auditors. Having these vacant positions filled is important

before considering additions to audit scope (later agenda items for this meeting). As for external audits, the Governor's proposed budget for next fiscal year includes the audit committee's proposal for additional funding for superior court audits performed by State Controller's Office. Finally, State Auditor's Office continues its statewide audits of mental health under Lanterman-Petris-Short Act. This audit report is expected to be published in April 2020.

Action Item 1

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

Adding AB1058 as part of standard scope of audit for Audit Services Office

Ms. Anna Maves provided some information regarding this request. The Judicial Council of California (JCC) contracts with Department of Child Support Services (DCSS) for funding the AB 1058 Child Support Commissioner and Family Law Facilitator Program. The contract requires the courts to comply with state and federal regulations regarding use of the funds. One of the regulations requires the work billed to the grant must be related to the program. When DCSS audited the courts in 2016 and 2018, they found several courts out of compliance. Based on the findings, DCSS asked Judicial Council for reimbursement of over \$2,000,000 in repayment which has been deferred. The Judicial Council prepared a corrective action plan in response to the findings. According to this plan, JCC would adopt federal grant requirements and train staff on properly tracking time spent on the grant. The action plan also has approved a time tracking methodology which would be subject to audit. The Judicial Council's Family and Juvenile Law Advisory Committee requested the Audit Committee to include the AB 1058 program in future JCC audits. Ms. Maves indicated that all action items in the corrective action plan are complete, except coming to this committee and making this request. DCSS has suspended audits after the first round of eighteen audits and indicates it will perform one audit in 2019-20 and additional audits in 2020-21.

The Audit Committee discussed adding AB 1058 program to annual audit plan given the limited audit resources. Mr. Parks commented that adding AB 1058 to audit plan would add approximately 60 hours for each audit. Judge Rosenberg asked if there is an option to hire more auditors. Mr. Parks said he could check with the Budget Services, but suspected funding was limited. Due to Audit Services Office being currently understaffed, members proposed not to include the AB 1058 program in the annual audit plan.

Action: Judge O'Malley moved to approve a motion against adding the AB 1058 program from the annual audit program. The motion was seconded by Ms. Kate Bieker. Four committee members voted to approve this motion, while four members opposed. Since the motion failed, the chair directed Mr. Parks will draft a letter to the Family and Juvenile Law Advisory Committee outlining what audit staff could do to support their request to audit the AB 1058 program.

Action Item 2

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

During the last meeting, the Audit Committee discussed resuming audit work of payments to court interpreters (previously, this work was suspended by the committee pending changes to the council's interpreter pay policies). Mr. Parks commented that Court Executives Advisory Committee (CEAC) is working on revisions to the policy and proposed holding off from adding this item to audit plan until start of next fiscal year.

Action: Judge O'Malley moved to approve the motion to hold off from adding court interpreter payments into audit program. The motion seconded by Ms. Martinez. Motion approved unanimously.

Action Item 3

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

The State Auditor's Office performs statutory audits of the Judicial Council every other year. These audits evaluate compliance with the Judicial Branch Contracting Manual and adherence to competitive bidding requirements, among other items. This recent audit had just a few findings. Specifically, JCC had some reporting challenges following its transition to FISCAL that affected the quality of its semiannual reporting to the Legislature. The Judicial Council is working with the Department of FISCAL to determine the best way to obtain the data needed to satisfy statutory reporting requirements. Another finding identified procurement managers authorizing agreements that exceeded their signing authority. The Judicial Council agreed with those findings and has had discussions with procurement staff regarding their authority.

Action: Ms. Kate Bieker moved to approve the motion to post State Auditor's review of Judicial Council. Motion seconded by Hon. Arthur A. Wick. Motion approved unanimously.

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 4

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 Los Angeles Superior Court and its various projects funded through the Court Innovations, per Rule of Court 10.63(c)(1).

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

Item 5

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 Tehama 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.

Item 6

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 Sierra 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.

Item 7

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 Lassen Superior Court, per Rule of Court 10.63(c)(1).

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

Item 8

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 San Mateo Superior Court, per Rule of Court 10.63(c)(1).

Action: Judge O'Malley moved to approve this report for posting (seconded by Mr. Lane). Mr. Taniguchi abstained from voting. The motion passed by unanimous voice vote of the committee members present.

Adjourned closed session at 1:15pm.



JUDICIAL COUNCIL OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND FINANCIAL ACCOUNTABILITY FOR THE JUDICIAL BRANCH

Meeting Date: 07/14/2020

Informational Item #1 – (No Action Required)

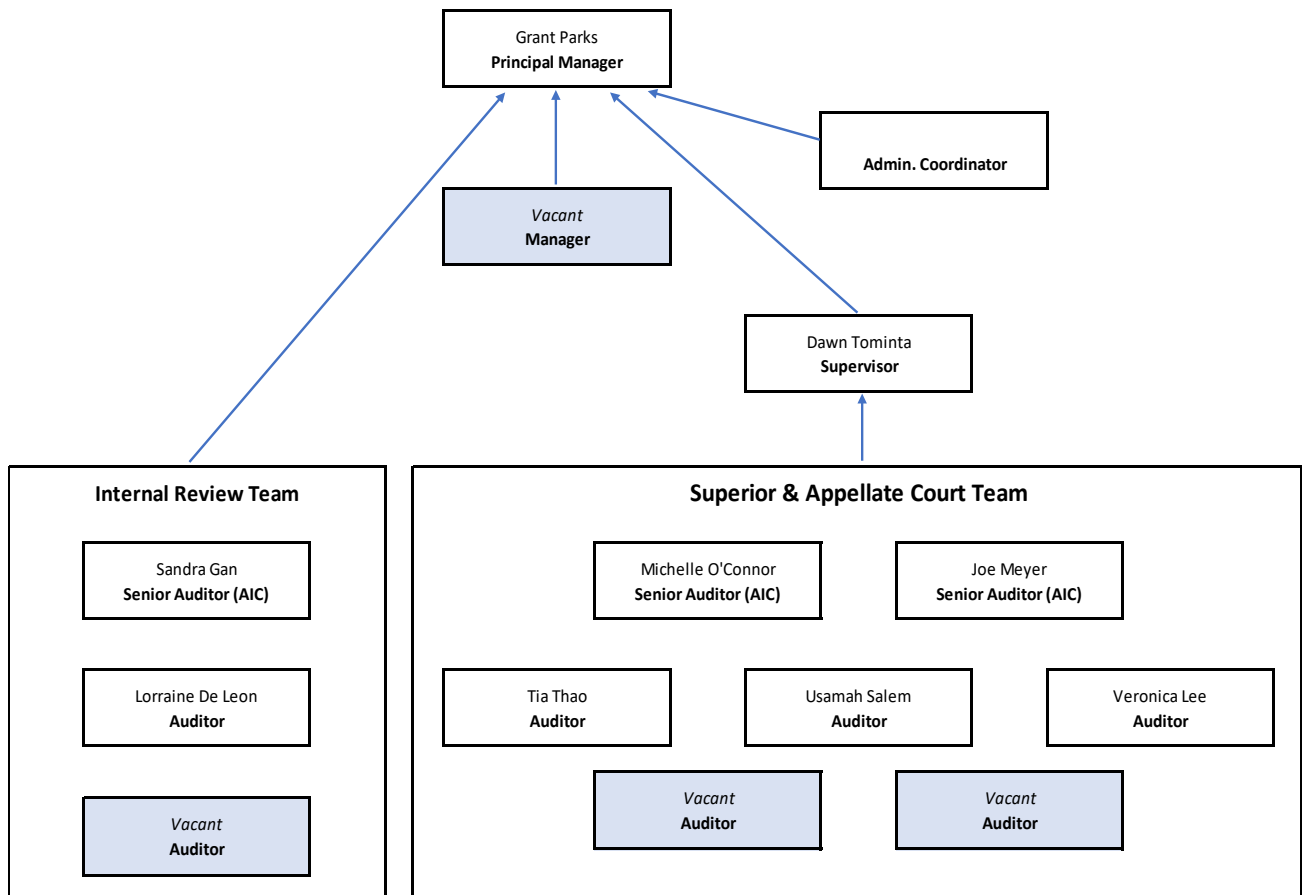
Report from Audit Services

Status Update – Judicial Council’s Audit Services

Workload & Staffing

Audit Services was able to hire an additional auditor to backfill for an internal promotion, which is now reflected in the updated office organization chart (below).

Judicial Council Audit Services - Organization Chart
(6/30/2020)



With the advent of the Covid-19 pandemic, Audit Services suspended its audit work between March and May 2020, gradually resuming audit activity on June 1st. Since our last meeting in February 2020, audit staff have completed their audit work at San Diego Superior Court and the First and Second Appellate Districts of the Courts of Appeal. During our hiatus between March and May, audit staff worked on revising the procedures in their standard audit programs and comparing current practices to those outlined in Generally Accepted Government Auditing Standards

Given the State's projected budget deficit, the annual audit plan presented in today's meeting (action item #1) assumes the staffing levels shown in organization chart will persist for FY 2020-21, while also anticipating that travel costs will be restricted as a branch-wide cost-savings measure. These budget reductions will likely reduce the scope of what our audits traditionally focus on (such as cash handling controls) since we will have limited to no onsite presence at the courts for the upcoming fiscal year.

Status of External Audits

State Controller's Office (SCO)

Audit Program of the Trial Courts

At our last meeting, I informed the committee that the Governor had included funding in his January budget proposal to add \$1 million for the SCO audits mandated by Government Code, Section 77206(h). The Governor's May revision eliminated funding for this proposal as a cost savings measure. The proposed audit plan discussed in today's meeting assumes there will not be further reductions to eliminate the \$540,000 that is continuously appropriated each year for SCO audit activity (which covers roughly 4-5 audits).

Since our last meeting in February, SCO audit staff have been working towards completing the remaining seven courts based on its contract with the Judicial Council. The SCO expects to complete audits of the seven remaining courts (listed below) by November 30, 2020.

- Placer – *in progress (60% complete)*
- El Dorado – *in progress (95% complete)*
- Solano – *in progress (45% complete)*
- Stanislaus – *in progress (10% complete)*
- Kern – *in progress (20% complete)*
- Merced – *in progress (20% complete)*
- San Joaquin – *in progress (50% complete)*

Audit of the Judicial Council

Government Code, section 77206(i) requires the SCO to audit the Judicial Council's revenues, expenditures and fund balances for all funds under its control on a biennial basis. The council's next audit from the SCO will likely begin in late fall / early winter and will focus on activity from fiscal year 2019-20.

State Auditor's Office (CSA)

Statewide Audit of the Lanterman-Petris-Short Act

The Legislature's Joint Legislative Audit Committee (JLAC) directed the State Auditor to perform a statewide performance audit of county and court implementation of the Lanterman-Petris-Short Act. JLAC authorized this audit at its meeting in June 2019. The State Auditor's web site lists the status of this audit as "on hold" (as of June 4, 2020) given the current pandemic and it is not yet clear when this audit will be issued.

State Auditor's Compliance Audit of Court Procurement Practices

The Public Contract Code, section 19210 directs the State Auditor to audit five judicial branch entities (excluding the Judicial Council) biennially to evaluate their compliance with the Judicial Branch Contract Law. The upcoming fiscal year 2020-21 will include the next cycle of five courts to be audited under this code section. Audit Services staff have been coordinating with the State Auditor's Office to minimize the likelihood that any court selected by the State Auditor will not also have another audit currently in progress (or scheduled to be audited in fiscal year 2020-21) by either the State Controller's Office or Audit Services.



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ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

Meeting Date: 07/14/2020

Action Item #1 – (Action Required)

2020-2021 Annual Audit Plan

Requested Action:

- **Action Item** – Discuss and approve the draft annual audit plan for fiscal year 2020-21.

Supporting Documents:

- ***Attachment A***—Draft Audit Plan (Fiscal Year 2020-21).

Background:

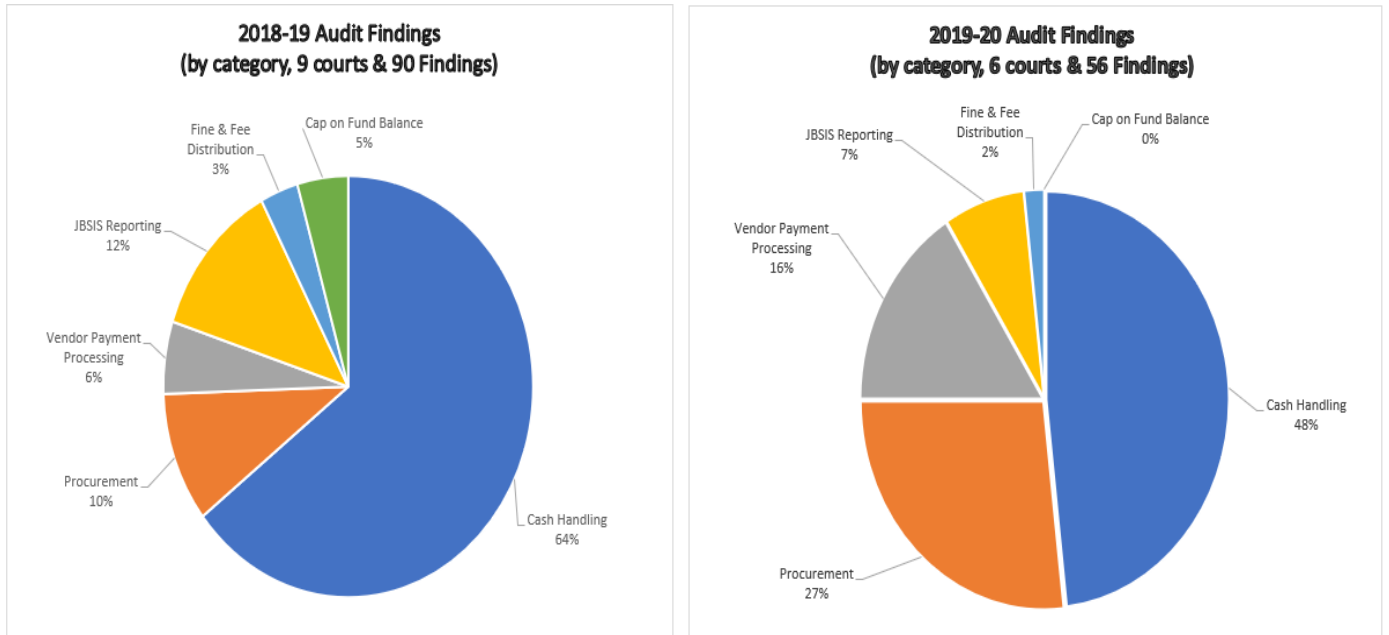
One of the audit committee’s primary responsibilities under California Rules of Court, Rule 10.63(c)(1) is to “review and approve a yearly audit plan for the judicial branch...” The proposed audit plan for fiscal year 2020-21 is provided as Attachment A and represents audit staff’s recommendations to the committee for what should be audited for the coming year. The recommended plan is based on a variety of factors, including areas of risk at the courts and available audit resources within Audit Services.

Last Year’s Audit Findings

The Covid-19 pandemic caused Audit Services to suspend temporarily (between March and May 2020) its work under the 2019-20 audit plan so the courts could focus instead on local issues and priorities in their courthouses. As a result, the committee has reviewed only six audits this fiscal year as of our last meeting on February 10, 2020. Those six audits reported 56 findings in the following categories:

- Cash Handling (27 of 56; 48%)
- Procurement (15 of 56; 27%)
- Vendor Payment Processing (9 of 56; 16%)
- JBSIS Reporting (4 of 56; 7%)
- Fine & Fee Rev. Distribution (1 of 56; 2%)

In 2019-20, these six courts agreed with our findings 96% of the time (54 out of 56 findings) and partially agreed twice. The audit results from this year are somewhat similar to last year (2018-19), which also showed a concentration of findings in cash handling. However, cash handling findings have decreased from 64% of all findings to 48%. A side-by-side comparison of findings (year-by-year) is shown in the pie charts below.



To address the top four audit areas shown above, Audit Services has issued branch-wide audit advisories to all courts, specifically:

Cash Handling: Advisory #2018-2 (November 2018)

- Discussed risk areas associated with voided transactions, manually-generated receipts, and the processing of payments received by mail (each of which are high-risk areas for loss or theft).

Procurement and Vendor Payment: Advisory #2019-01 (March 2019)

- Discussed requirements and best practices in areas with common findings, such as purchase requisitions, competitive solicitations, advertising, vendor selection, prohibitions on contract splitting, and the “three-point match” process.

JBSIS Reporting: Advisory #2019-02 (October 2019)

- Highlights that not all courts are able to support reported filings with corroborating listings of specific cases, making the data difficult to audit and verify. Disclosed our current reporting rules allow courts to continuously amend their filings data and change the information used in trial court budget allocations.

Audit Plan for Fiscal Year 2020-21

The Covid-19 pandemic is expected to create budget challenges in fiscal year 2020-21. Audit Services is anticipating budget reductions in available funding for travel, thus making most court audits similar to “desk reviews” based on data and documents that can be obtained electronically or through the mail. This budget reduction for travel—along with expected reductions in staffing where Audit Services will only have five auditors on its *Court Audit Team*—will result in a reduction to the scope of our audit work for fiscal year 2020-21. Some significant changes proposed in the FY 2020-21 annual audit plan include:

Cash Handling (Suspended):

- Audit Services proposes suspending this area of work since travel and on-site observations of key controls is an integral part of our testing approach. Should funding for travel be restored, audit staff will inform the committee and resume auditing in this area.

AB 1058 Grant Program (Added):

- The audit committee previously voted (2/10/2020) to approve adding this work to our standard audit scope in response to a request from the council’s Family and Juvenile Law Advisory Committee.

Court Interpreter Payment Provisions (Suspended)

- The audit committee had previously voted to suspend testing in this area until the council’s interpreter payment policies were revised. CEAC was considering changes in February 2020 that provided clarity and was responsive to prior audit finding in this area. Committee staff recommend that the committee consider resuming this work once the new payment standards are in place.

Prior to the pandemic, audit hours were mostly focused on cash handling (but were also highly dependent on how many payment locations a given court operated). Nevertheless, Audit Services believes the changes described above will result in a net reduction in the total audit hours needed to complete each audit. Tables 3A and 3B of the audit plan (on pages 10 and 11) are feasible given current resources, resulting in the following courts being scheduled for audit:

Plumas	Shasta	Mariposa	Mono	Sonoma
6 th DCA	Imperial	Riverside	Santa Clara	Amador
Alpine	Inyo	Tuolumne	Del Norte	

Plumas and Shasta are already in progress because they are carryover audits from the prior year’s audit plan. Similarly, we also expect Tuolumne and Del Norte to be finished at the beginning of fiscal year 2021-22. Finally, Table 4 of the audit plan (page 12) also shows that El Dorado, San Joaquin, and Stanislaus superior courts would have been selected for audit this year; however,

the State Controller's Office intends to audit these courts in fiscal year 2020-21. Audit Services did not want these courts to be audited twice in the same year. The State Auditor's Office is currently selecting its five courts for its biennial procurement audits and Audit Services has been similarly coordinating our audit schedule with the State Auditor.

Audit Services welcomes committee members' questions, comments, or proposed changes to the audit plan for fiscal year 2020-21.



**JUDICIAL BRANCH
ANNUAL AUDIT PLAN
Fiscal Year 2020-21**



JUDICIAL COUNCIL
OF CALIFORNIA
AUDIT SERVICES

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BACKGROUND

The Audit Committee

The Judicial Council amended Rule of Court, rule 10.63 in July 2017, establishing the “Advisory Committee on Audits and Financial Accountability for the Judicial Branch” (audit committee). The Judicial Council has tasked the audit committee with advising and assisting the Judicial Council in performing its responsibilities to ensure that the fiscal affairs of the judicial branch are managed efficiently, effectively, and transparently. The committee’s audit-specific responsibilities include¹:

- Reviewing and approving an annual audit plan for the judicial branch.
- Reviewing all audit reports of the judicial branch and recommending action to the Judicial Council in response to any substantial issues identified.
- Approving the public posting of all audit reports of the judicial branch.
- Advising and assisting the Judicial Council in performing its responsibilities under:
 - Government Code, Section 77009(h) – the Judicial Council’s audits of the superior courts.

¹ The Judicial Council tasked the Advisory Committee on Audits and Financial Accountability for the Judicial Branch with responsibilities beyond reviewing and responding to audit reports, which is the principal focus of this annual audit plan. Other committee responsibilities generally include monitoring adherence to the California Judicial Branch Contract Law, evaluating proposed changes to the *Judicial Branch Contracting Manual*, and making recommendations on proposed changes to the annual compensation plan for Judicial Council staff.

- Government Code, Section 77206 – Responding to external audits of the Judicial Council and the superior courts by the State Controller, State Auditor, or Department of Finance.

The audit committee serves as a central clearinghouse for hearing all audit-related issues pertaining to the Judicial Council, Courts of Appeal, and the superior courts, regardless of whether the audit was performed by the Judicial Council’s own staff (Audit Services) or by external audit organizations (such as the State Controller’s Office, State Auditor’s Office, or the Department of Finance). The audit committee communicates significant audit findings and issues to the entire Judicial Council, and can also suggest policy changes or other proposed corrective actions in response to any significant audit finding.

Purpose of the Annual Audit Plan

The purpose of the annual audit plan is twofold: The annual plan explains (a) which focus areas will be audited during the year, and (b) how Audit Services will coordinate with external audit organizations (described below) to execute the annual audit plan in response to statutorily mandated audits and to other areas of focus. The annual audit plan itself also helps to establish expectations for audit committee members regarding which audits and topics will come before their committee for further discussion during the year.

Audit Services’ Role

Audit Services’ primary role is to establish an annual audit plan, which explains how significant risks and statutory audit requirements imposed on the judicial branch will be addressed in the coming year, and to perform audits of the Courts of Appeal and superior courts to ensure the Judicial Council’s rules and policies are followed in actual practice. Audits of the superior courts often entail a review of its fiscal affairs such as, but not limited to, whether a superior court has: implemented certain mandatory internal controls over cash handling; adhered to statutory limitations on fund balance; and has procured goods and services that are consistent with “court operations” as defined by Rule of Court, rule 10.810. Audits of the Courts of Appeal focus more heavily on procurement activity given the more limited requirements imposed on their activities by the Judicial Council. Finally, Audit Services performs internal reviews of the Judicial Council as directed by executive management and coordinates with independent, external agencies that audit the Judicial Council’s operations.

The Role of External Audit Agencies

External audit agencies, such as the State Auditor’s Office (State Auditor) and the State Controller’s Office (SCO), also perform recurring audits of the judicial branch as directed by

statute. The statutory authorities for each external audit agency (as they currently pertain to the judicial branch) are summarized below:

State Auditor's Office – performs the following audits:

- Financial statement audits of the State's *Comprehensive Annual Financial Report* (CAFR), as prepared by the SCO, in accordance with Generally Accepted Accounting Principles. [Govt. Code, Section 8546.3]
- Discretionary audits as directed by the Joint Legislative Audit Committee. [Govt. Code, Section 8546.1]
- Audits of the Judicial Council and other judicial branch entities' compliance with the Judicial Branch Contracting Law. [Pub. Contract Code, Section 19210]

State Controller's Office – performs the following audits:

- Audits of Judicial Council and superior courts' revenues, expenditures and fund balance. [Govt. Code, Section 77206]
- Audits of criminal fine and fee revenue collection and distributions by the superior courts. [Govt. Code 68101- 68104]

Although the State Auditor and the SCO both perform financial-related audits, the purpose of each audit is different. The State Auditor's annual financial statement audit of the statewide CAFR includes the financial information submitted by the judicial branch to the SCO. Separate from this statewide financial statement audit, the Government Code requires the SCO to evaluate the Judicial Council and superior courts' compliance with state laws, rules and regulations pertaining to significant revenues, expenditures, and fund balances under their control. These SCO audits focus on evaluating financial compliance with the State's unique rules, such as the State's legal/budgetary basis of accounting and civil filing fee collections and distributions. The Judicial Council is required to use the SCO to perform the audits mandated under Government Code, Section 77206, unless either the State Auditor or Department of Finance can perform the same scope of work as the SCO but at a lower cost.

ANNUAL AUDIT PLAN

Risk Assessment Background

The concepts behind *risk* and *internal controls* are interrelated. Internal controls are those policies or procedures mandated by the Judicial Council, or developed by a court, designed to achieve a specific control objective. For example, an internal control for cash handling, such as the segregation of certain conflicting duties, principally focuses on reducing the risk of theft. Internal controls respond to risks and Audit Services broadly classifies risks into the following three categories:

- Operational Risk – The risk that the court’s strategic business objectives or goals will not be accomplished in an effective or efficient manner.
- Reporting Risk – The risk that financial or operational reporting is not relevant or reliable when used for internal decision-making or for external reporting. Examples of external reporting include the Judicial Council and the courts’ financial reporting to the SCO, or a court’s reporting of case filing data to the Judicial Council through the Judicial Branch Statistical Information System (JBSIS).
- Compliance Risk – The risk of not complying with statutory requirements or the policies promulgated by the Judicial Council (such as the requirements found in the *Trial Court Financial Policies and Procedures Manual* (FIN manual), Judicial Branch Contracting Manual, or other Judicial Council policies).

Any single risk area may overlap with more than one of the three risk categories defined above. For example, certain reports—such as JBSIS case filing reports—have a reporting risk component in that the data reported must be accurate and complete to support trial court funding allocations, along with a compliance component since the Judicial Council has established definitions for what constitutes a new case filing and how a filing should be categorized by case type. Another example would be the court’s annual reports to the Judicial Council on their fund balance, which the Judicial Council uses to evaluate a court’s compliance with state law limiting fund balance to a certain percentage of its operating budget. Audit Services considers risk areas that cross over into more than one risk category to be generally indicative of higher risk.

However, risk areas that can be confined to only one risk category—such as compliance risk—may also be considered an area of higher risk depending on the likelihood of error or its potential negative effects (financial, reputational, etc.). For example, the FIN Manual has established policies concerning the proper handling of cash and other forms of payment received by the courts. Many of these policies were issued with the intent of establishing a minimum level of internal controls at each court to prevent or detect theft or fraud by court employees, and to provide the public with the highest level of assurance that their payments would be safeguarded and properly applied to their cases.

When identifying areas to include within the scope of its superior court audits, Audit Services focused on identifying compliance and reporting risks, but not operational risks. This decision reflects Audit Services’ recognition of each superior court’s broad authority to operate under its own locally-developed rules and strategic goals. Government Code, Section 77001 provides for each superior court’s local authority by authorizing the Judicial Council to adopt rules that establish a decentralized system of trial court management. The Judicial Council’s Rules of

Court, rule 10.601, also emphasizes the decentralized management of superior court resources and affirms each superior court's authority to manage their day-to-day operations with sufficient flexibility. Audit Services will consider auditing operational risk areas where courts have local discretion only when asked to do so by the superior court's presiding judge or court executive officer and provided that sufficient audit staff resources are available.

The Legislature has provided the Judicial Council with the responsibility for developing broad rules within which the superior courts exercise their discretion. For example, Government Code, Section 77206 authorizes the Judicial Council to regulate the budget and fiscal management of the trial courts, which has resulted in it promulgating the FIN Manual pursuant to Rules of Court, rule 10.804. The FIN Manual establishes a fundamental system of internal controls to enable trial courts to monitor their use of public funds, consistently report financial information, and demonstrate accountability. The FIN Manual contains both mandatory requirements that all trial courts must follow, as well as suggestive guidance that recognizes the need for flexibility. Similarly, the Legislature enacted section 19206 of the Public Contract Code, requiring the Judicial Council to adopt and publish a *Judicial Branch Contracting Manual* (JBCM) that all judicial branch entities must follow. When identifying high risk areas that will be included in the scope of its audits, Audit Services considers the significant reporting and compliance risks based on the policies and directives issued by the Judicial Council, such as through the FIN Manual, JBCM, Rules of Court, and budgetary memos.

Risk Areas, Assessed Level of Risk, and Auditing Entities

Audit Services uses its professional judgment when identifying areas of risk (and associated risk levels), which inform the scope of its audits of the superior courts and the Courts of Appeal. Specifically, Audit Services considered the significance of each risk area in terms of the likely needs and interests of an objective third party with knowledge of the relevant information, as well as a risk area's relevance or potential impact on judicial branch operations or public reputation. The risk areas assessed are shown in Table 1 below. The table also reflects statutorily-mandated audits performed by the State Auditor and State Controller's Office, which further contribute to accountability and public transparency for the judicial branch. When assigning risk levels, Audit Services generally considered the complexity of the requirements in a given risk area and its likely level of importance or significance to court professionals, the public, or the Legislature. Areas designated as high risk were generally those with complex requirements (such as criminal fine and fee distributions). In other cases, high risk areas were those where the internal control requirements may not be complex but the incentives to circumvent those controls or to rationalize not having them in the first place is high (i.e. cash handling). Areas of medium risk generally included those risk areas where the complexity of the requirements were low to moderate, but the reputational risk resulting from any significant audit findings would be moderate to high.

Table 1 – Risk Areas Considered (by area, level of risk, and responsible audit organization)

Risk Area	Description of Risk	Risk Category and Level		Audit Organization		
		Reporting Risk	Compliance Risk	JCC Audit Services	State Controller's Office	State Auditor's Office
<i>Superior Courts</i>						
Financial Reporting	Financial statements are not prepared in accordance with GAAP.	Medium	Medium			X
Financial Compliance	Revenues, expenditures, and fund balance not recorded in accordance with state rules.	N/A	Medium		X	
Cash Handling	JCC internal control policies on handling cash and other forms of payment not followed.	N/A	High	X		
Procurement Activity	Judicial Branch Contract Law and related JCC policies not followed to maximize best value through competitive procurements.	Medium	Medium	X		X
Payments & Authorization	Payments are for unallowable activities and/or lack authorization from the designated level of court management.	N/A	Medium	X		
Criminal Fine & Fee Revenue	Criminal fines and fees not properly calculated and reported to the county.	High	High	X	X	
Budgetary Accountability	Court submits inaccurate case filing data to JBSIS, impacting trial court budget allocations. Court retains more fund balance than allowed under statute and JCC policy.	High	High	X		
JCC Grant Requirements	Court does not follow JCC policy or grant rules regarding how funds are to be spent, accounted for, and/or reported on with respect to performance or outcomes.	Medium	Medium	X		
<i>Appellate Courts</i>						
Financial Reporting	Financial statements are not prepared in accordance with GAAP.	Medium	Medium			X
Procurement Activity	Judicial Branch Contract Law and related JCC policies not followed to maximize best value through competitive procurements.	Medium	Medium	X		X
JCC Grant Requirements	Court does not follow JCC policy or grant rules regarding how funds are to be spent, accounted for, and/or reported on with respect to performance or outcomes.	Low	Low	X		
<i>Judicial Council</i>						
Financial Reporting	Financial statements are not prepared in accordance with GAAP.	Medium	Medium			X
Financial Compliance	Revenues, expenditures, and fund balance not recorded in accordance with state rules.	N/A	Medium		X	
Procurement Activity	Judicial Branch Contract Law and related JCC policies not followed to maximize best value through competitive procurements.	Medium	Medium			X
Non-Audit, Internal Reviews	The Judicial Council's offices and programs are reviewed for financial and/or operational performance as directed by executive management.	Medium	Medium	X		

To the extent that Audit Services notes systemic and recurring issues at multiple courts, this too is considered as part of the risk-assessment process. Of the six audits reviewed by the audit committee in 2019-20, there was a total of 56 findings (27 of which were in the area of cash handling or 48%). This was followed by: procurement-related findings (15 findings or 27%); court payment procedures (9 findings or 16%); and JBSIS reporting/other (5 findings or 9%). Cash handling continues to be a high-risk area given the potential for the loss or theft of public funds. Many of our procedures involve determining whether a court has implemented the required or suggested internal controls described in the *Trial Court Financial Policies and Procedures Manual*. Procurement and payment activities continue to demonstrate medium risk. In fiscal year 2019-20, most procurement findings pertained to the lack of a complete requisition process to ensure a buyer's purchase request is independently reviewed to ensure it serves a legitimate business need and the necessary funds are available. Courts also did not always follow the FIN Manual's "three-point match" process to ensure each vendor's invoice agrees with the terms/conditions of the contract and the receiving document prior to issuing payment to a vendor. Finally, we believe JBSIS reporting continues to be an inherently high-risk process given: (1) the complexity of the rules for reporting; (2) the fact courts must configure their various Case Management Systems (CMS)—often with 3rd party help—to adhere to reporting rules; and (3) that several of the Judicial Council's key business decisions are based on JBSIS filings data (i.e. trial court budget allocations and the branch's judicial needs assessment).

Audit Scope and Adjustments for Fiscal Year 2020-21

For FY 2020-21, Audit Services plans two significant adjustments to the audit scope from the audit plan approved last year, specifically:

- The inclusion of the AB 1058 program's grant requirements (per the audit committee's vote on February 10th, 2020).
- The suspension of audit procedures related to court "cash handling" requirements. Existing audit procedures rely extensively on in-person observations of key controls, and anticipated budget reductions and travel restrictions will limit our ability to complete this work in fiscal year 2020-21. To the extent that travel funding is eventually restored, Audit Services will promptly resume this work and inform the committee (along with its impact to the audit schedule).

Table 2 below summarizes the specific scope items planned for superior courts in fiscal year 2020-21, along with a recap of the frequency of reported audit findings from the prior year.

Table 2 – Standard Audit Scope Areas, Superior Courts – Audit Results at a Glance

Areas and Sub-Areas Subject to Audit		Audit in FY 2021?	Audit Findings from Prior Year	
			# of Findings Last Year	Common Issues
Cash Handling				
1	Daily Opening Process	No	1	
2	Voided Transactions		2	
3	Handwritten Receipts		3	
4	Mail Payments		4	No restrictive endorsement of checks; no mail payment log
5	Internet Payments		1	
6	Change Fund		2	
7	End-Of-Day Balancing and Closeout		6	Supervisor doesn't verify balance with clerk; no blind close-out
8	Bank Deposits		4	No secondary verification / counting of deposit amount
9	Other Internal Controls		4	Various; limited control over access to safe and combinations
Procurement and Contracts				
10	Procurement Initiation	Yes	6	Lack of purchase requisition use and approval
11	Authorization & Authority Levels		2	
12	Competitive Procurements		3	
13	Non-Competitive Procurements		1	
14	Leveraged Purchase Agreements		0	
15	Contract Terms		2	
16	Other Internal Controls	1		
Payment Processing				
17	3-Point Match Process	Yes	5	Lack of three-point match verification
18	Payment Approval & Authority Levels		1	
19	Special Rules - In-Court Service Providers	No	3	
20	Special Rules - Court Interpreters		Audit Committee suspended review pending policy change	
21	Other Items of Expense	Yes	0	
22	Jury Expenses		0	
23	Allowable Costs		0	
24	Other Internal Controls		0	
Fine & Fee Distributions				
25	CMS-Calculated Distributions	Yes	1	
26	Manually-Calculated Distributions		0	
1% Fund Balance Cap				
27	Calculation of the 1% Cap	Yes	0	
28	Use of "Held on Behalf" Funds		0	
JBSIS Case Filing Data				
29	Validity of JBSIS Data	Yes	4	JBSIS case definitions not followed; variances between reported counts of case filings and the court's corresponding case listings.
Grants				
30	AB 1058 Grants	Yes		
Other Areas				
31	[None]	No	0	TBD, if warranted

Note: Due to anticipated budget reductions and travel restrictions, Audit Services will temporarily suspend the review of the *Cash Handling* area for FY 20-21. Audit Services will resume testing if audit staff have the ability to travel as part of their audit work.

Available Staff Resources and Audit Scheduling

Audit Services has two units—an *Internal Review Team* and a *Court Audit Team*—that each focus on distinct areas of work. The *Court Audit Team* currently consists of two senior auditors and three audit staff, who are split into two different sub-teams. The *Court Audit Team’s* focus at each court is based on the risk areas noted in Table 1 above and the related scope areas noted in Table 2. The *Internal Review Team* has more limited staffing, with one senior auditor and one staff auditor based in San Francisco. This team generally focuses on performing periodic internal reviews as directed by the Judicial Council’s executive management team. The *Internal Review Team* also investigates whistleblower complaints and performs non-recurring or targeted reviews of judicial branch programs that may affect multiple courts. Based on the available staff resources shown in Table 3 below, Audit Services estimates that it has 8,430 available hours for audit activities of the appellate and superior courts for fiscal year 2020-21, which does not include the roughly 3,372 hours the *Internal Review Team* has reserved for internal reviews.

The timeframes shown in Table 3A for Audit Services’ schedule of court-specific audits are high-level estimates and are intended to depict the time between the start of the audit (i.e. the entrance conference) to the substantial completion of fieldwork and the delivery of any findings to the court’s management for their official comment. Audit Services will provide each court with a reasonable period of time—up to three weeks—to provide its official response and corrective action plan before making preparations to share the report with the audit committee. As a result, final audit reports may come to the audit committee about a month after the anticipated completion of fieldwork as depicted in Table 3A.

Table 3A – Anticipated Audit Schedule (Fiscal Year 2020-21)

	July	August	September	October	November	December	January	February	March	April	May	June
Judicial Council - Audit Services												
Court Audit Team #1	Napa / Plumas		Sonoma			Santa Clara			Tuolumne			
	Mariposa			Imperial			Alpine					
Court Audit Team #2	Shasta		6th DCA			Amador			Del Norte			
	Mono			Riverside			Inyo					
Internal Review Team	Internal Reviews											
State Controller's Office	7 Trial Court Audits - GC 77206(h)					Judicial Council Audit - GC 77206(i)				Trial Court Audits		
	Trial Court Fine & Fee Revenue Distribution Audits - GC 68103 & 68104											
State Auditor's Office	Procurement Audits (of 5 judicial branch entities) - PCC 19210(a)											
	CAFR - Statewide Financial Statement Audit of FY 2019-20 (all State Agencies)											

Table 3B – Available Audit Hours (by auditor and team)

	Fiscal Year 2020-21												Total
	July	August	September	October	November	December	January	February	March	April	May	June	
Monthly Working Days	23	21	22	22	21	23	21	20	23	22	21	22	261
Available Monthly Hours	184	168	176	176	168	184	168	160	184	176	168	176	2,088
Judicial Branch Holidays	(8)	-	(8)	(8)	(24)	(8)	(16)	(16)	(8)	-	(8)	-	(104)
Estimated Personal Leave	(24)	(8)	(16)	(16)	(40)	(64)	(8)	(16)	(8)	(16)	(8)	(8)	(232)
Available Hours Per Auditor	152	160	152	152	104	112	144	128	168	160	152	168	1,752
Administrative Time	(2)	(2)	(2)	(3)	(2)	(2)	(2)	(2)	(3)	(2)	(2)	(2)	(26)
Training	(8)	-	-	(8)	-	(8)	(8)	-	-	(8)	-	-	(40)
Travel (Two Round Trips / Month)													
Non-Audit Hours	(10)	(2)	(2)	(11)	(2)	(10)	(10)	(2)	(3)	(10)	(2)	(2)	(66)
Available Audit Hours Per Auditor	142	158	150	141	102	102	134	126	165	150	150	166	1,686
# of Audit Staff	7	7	7	7	7	7	7	7	7	7	7	7	7
Total Available Audit Hours	994	1,106	1,050	987	714	714	938	882	1,155	1,050	1,050	1,162	11,802
Court Audit Team #1	355	395	375	353	255	255	335	315	413	375	375	415	4,215
Court Audit Team #2	355	395	375	353	255	255	335	315	413	375	375	415	4,215
Internal Review Team	284	316	300	282	204	204	268	252	330	300	300	332	3,372

Note: The court audits scheduled in Table 3A based on available hours in Table 3B are subject to change depending on: each court’s availability; Audit Services’ resources; and changing audit priorities based on risk. The audit committee may also reprioritize audits and modify the audit schedule as it deems necessary. The schedule presented above assumes travel restrictions and the audit scope adjustments discussed earlier and as shown in Table 2.

Schedule of Court Audits

Courts that are not scheduled for an audit this fiscal year may appear in next year’s annual audit plan. Table 4 on the following page shows all 6 appellate courts and 58 superior courts, listed by the time elapsing since its previous audit. Elapsed time will always be a significant consideration for Audit Services when scheduling audits. To minimize the risk of a single court being audited by multiple entities during the same year, audit scheduling is also influenced by the work of other audit organizations. This year, Audit Services has deferred audits of El Dorado, San Joaquin and Stanislaus superior courts since the State Controller’s Office will be auditing these courts in the first half of fiscal year 2020-21.

Table 4 – Schedule of Previous and Planned Appellate and Superior Court Audits

Appellate / Superior Court	Date of Last Audit Report	(Current Plan) (Next Year)		Appellate / Superior Court	Date of Last Audit Report
		FY 2020-21	FY 2021-22		
6th DCA	N/A	X		57. Yolo	February-15
32. Plumas	January-11	IP		54. Tulare	July-15
45. Shasta	January-11	IP		16. Kings	October-15
28. Napa	March-11	IP		12. Humboldt	December-15
3. Amador	April-11	X		7. Contra Costa	February-16
9. El Dorado	April-11		Y	10. Fresno	June-16
39. San Joaquin	April-11		Y	15. Kern	August-16
49. Sonoma	April-11	X		31. Placer	October-17
2. Alpine	July-11	X		24. Merced	January-18
14. Inyo	July-11	X		4. Butte	April-18
13. Imperial	August-11	X		3rd DCA	May-18
33. Riverside	October-11	X		48. Solano	June-18
43. Santa Clara	December-11	X		6. Colusa	June-18
22. Mariposa	January-12	X		5. Calaveras	June-18
55. Tuolumne	February-12	X		47. Siskiyou	October-18
26. Mono	March-12	X		56. Ventura	December-18
50. Stanislaus	April-12		Y	34. Sacramento	December-18
8. Del Norte	September-12	X		5th DCA	February-19
42. Santa Barbara	November-12			11. Glenn	February-19
27. Monterey	December-12		Y	4th DCA	March-19
30. Orange	December-12		Y	35. San Benito	June-19
19. Los Angeles	February-13		Y	38. San Francisco	June-19
1. Alameda	March-13		Y	44. Santa Cruz	June-19
23. Mendocino	July-13		Y	25. Modoc	October-19
58. Yuba	August-13			53. Trinity	October-19
21. Marin	October-13			52. Tehama	February-20
51. Sutter	November-13			46. Sierra	February-20
20. Madera	June-14			18. Lassen	February-20
29. Nevada	July-14			41. San Mateo	February-20
17. Lake	August-14			37. San Diego	Jun-20
40. San Luis Obispo	December-14			2nd DCA	Jun-20
36. San Bernardino	January-15			1st DCA	Jun-20

Notes:

"IP" = In progress

"X" = Scheduled for audit in current year's audit plan

"Y" = Tentative for audit in next year's audit plan



JUDICIAL COUNCIL
OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

Meeting Date: 07/14/2020

Action Item #2 – (Action Required)

External Audit – State Controller’s Audit of Sutter Superior Court

Requested Action:

- **Action Item** – Discuss and approve for posting the State Controller’s audit of Sutter Superior Court’s revenues, expenditures and fund balance.

Supporting Documents:

- Attachment B – Superior Court of California, County of Sutter—Validity of Recorded Revenues, Expenditures, and Fund Balances (July 1, 2017 – June 30, 2018); issued February 2020

Background:

Section 77026(h) of the Government Code requires the State Controller’s Office (SCO) to audit the revenues, expenditures and fund balances of the superior courts on a four-year cycle. The Judicial Council has entered into an agreement with the SCO to conduct eight of these audits by November 30, 2020.

Sutter Superior Court is the first court to be audited by the SCO under the agreement and the audit was completed in February 2020. Overall, the SCO stated that its “*audit found that the revenues, expenditures, and fund balances reported by the Court complied with governing statutes, rules, regulations, and Judicial Branch policies, and were maintained in accordance with appropriate fund accounting principles.*”

Nevertheless, the SCO did report three audit findings, summarized below:

Reporting of Revenues – The SCO noted various errors in the court’s reporting of revenues, resulting in a cumulative error of \$65,220 (or approximately 1% of all revenue reported). These errors resulted from various posting issues with how revenue was accrued and the proper use of the “Prior Year Revenue Adjustment Account” (GL 812110). The Judicial Council’s Branch Accounting and Procurement (BAP) staff are

reviewing the finding to determine what additional guidance is needed to better assist the courts.

The SCO also noted the Court reported \$132,987 of expenditures in error (equal to 2% of reported expenditures), based on the following two findings.

Reporting of Payroll Expenditures – The SCO noted that the Court had an abnormal debit balance in its Employee Benefits Liability Account and had misstated its current year expenditures by \$27,856 and prior year expenditures by \$105,131. The auditors noted the court was not accurately recording expenditures and liabilities for medical insurance premiums for current and retired court employees.

Other Expenditures – The SCO noted that the Court did not properly record expenditures for court-appointed counsel. Specifically, the SCO noted that \$1,584 in current year expenditures was overstated because the services were received in the prior year and should have been recorded to the “Prior Year Expenditure Adjustment Account (GL 999910).”

The Court agreed with these findings and commented it was working with the Judicial Council’s accounting staff to ensure it successfully corrects the issues raised by the audit. Committee staff recommend the public posting of this audit on the www.courts.ca.gov website.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SUTTER

Audit Report

VALIDITY OF RECORDED REVENUES, EXPENDITURES, AND FUND BALANCES

July 1, 2017, through June 30, 2018



BETTY T. YEE
California State Controller

February 2020



BETTY T. YEE
California State Controller

February 13, 2020

Stephanie Hansel, Court Executive Officer
Superior Court of California, County of Sutter
1175 Civic Center Boulevard
Yuba City, CA 95993

Dear Ms. Hansel:

The State Controller's Office audited the Superior Court of California, County of Sutter (Court) to determine whether the revenues, expenditures, and fund balances under the administration, jurisdiction, and control of the Court complied with governing statutes, rules, regulations, and policies; were recorded accurately in accounting records; and were maintained in accordance with fund accounting principles. The audit period was July 1, 2017, through June 30, 2018.

Our audit found that the Court complied with governing statutes, rules, regulations, and policies for revenues, expenditures, and fund balances. However, our audit identified a few instances in which revenue and expenditure transactions were not recorded correctly in the accounting records. Errors in the recording of revenues caused a cumulative understatement of \$65,220 (or roughly 1% of all revenue reported). Similarly, cumulative expenditures were understated by \$132,987 (or 2% of reported expenditures). We also noted weaknesses in the Court's internal controls for procurement and disbursement processing. These issues are described in the Findings and Recommendations section of our report.

This report is for your information and use. The Court's responses to the findings are incorporated into this final report. We appreciate the Court's willingness to implement corrective actions.

If you have any questions, please contact Joel James, Chief, Financial Audits Bureau, by telephone at (916) 323-1573.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/as

cc: Joe Azevedo, Court Fiscal Officer
Superior Court of California, County of Sutter
Martin Hoshino, Administrative Director
Judicial Council of California
Millicent Tidwell, Chief Deputy Director
Judicial Council of California
John Wordlaw, Chief Administrative Officer
Judicial Council of California
Zlatko Theodorovic, Chief Financial Officer and Director of Finance
Judicial Council of California
Grant Parks, Principal Manager
Audit Services
Judicial Council of California
Aaron Edwards, Assistant Program Budget Manager
California Department of Finance
Emma Jungwirth, Principal Program Budget Analyst
California Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the Superior Court of California, County of Sutter (Court) to determine whether the revenues, expenditures, and fund balances under the administration, jurisdiction, and control of the Court: complied with governing statutes, rules, regulations, and policies; were recorded accurately in the accounting records; and were maintained in accordance with fund accounting principles. The audit period was July 1, 2017, through June 30, 2018.

Our audit found that revenues, expenditures and fund balances reported by the Court complied with governing statutes, rules, regulations, and Judicial Branch policies, and were maintained in accordance with appropriate fund accounting principles. However, in the course of our testing, we identified a few instances in which the court did not record revenues and expenditures correctly. Errors in the recording of revenues caused a cumulative understatement of \$65,220 (or approximately 1% of all revenue reported). Similarly, cumulative expenditures were understated by \$132,987 (or 2% of reported expenditures).

We also noted weaknesses in the Court's internal controls for procurement and disbursement processing. These issues are further described in the Findings and Recommendations section of this report.

Background

Superior Courts (trial courts) are located in each of California's 58 counties and follow the California Rules of Court (CRC), established through Article IV of the Constitution of California. The Constitution charges the Judicial Council of California (JCC) with authority to adopt rules for court administration, practices, and procedures. The *Judicial Council Governance Policies* are included in the CRC. Trial courts are also subject to compliance with various other state laws, rules, and regulations, much of which are codified in California's Government Code (GC), which includes GC sections 68070 through 77013, Title 8, The Organization and Government of Courts.

Pursuant to CRC, Rule 10.804, the JCC adopted the *Trial Court Financial Policies and Procedures Manual*, which provides guidance and directives for trial court fiscal management. The manual contains regulations establishing budget procedures, recordkeeping, accounting standards, and other financial guidelines. The manual is comprised of an internal control framework that enables courts to monitor their use of public funds, provide consistent and comparable financial statements, and demonstrate accountability. Procurement and contracting policies and procedures are addressed separately in the *Judicial Branch Contracting Manual*, adopted by the JCC under Public Contract Code section 19206.

With respect to trial court operations, CRC Rule 10.810 provides cost definitions (inclusive of salaries and benefits, certain court-appointed counsel provisions, services and supplies, collective bargaining, and indirect costs), exclusions to court operations, budget appropriations for counties, and functional budget categories. GC section 77001 provides

trial courts with the authority and responsibility for managing their own operations.

All employees are expected to fulfill at least the minimum requirements of their positions and to conduct themselves with honesty, integrity, and professionalism. In addition, they must operate within the specific levels of authority that may be established by the trial court for their positions.

The JCC requires that trial courts prepare and submit Quarterly Financial Statements, Yearly Baseline Budgets, and Salary and Position Worksheets to the JCC. Financial statement components form the core of subject matter in the audit.

The Trial Court Trust Fund (TCTF) is the primary source of funding for trial court operations. The JCC allocates the TCTF to trial courts. The two main revenue sources to the TCTF are the annual transfer of appropriations from the State's General Fund and maintenance-of-effort payments by counties, derived from their collections of fines, fees, and forfeitures.

In fiscal year (FY) 2017-18, the Court (County of Sutter) generated approximately 78% of its total revenues from TCTF allocations.

Serving the County of Sutter with a population of 98,735, the Superior Court of California, County of Sutter employs approximately 58 staff members to fulfill its operational and administrative activities. The Court incurred approximately \$6.6 million in expenditures for the period of July 1, 2017, through June 30, 2018. Of this amount, approximately 76% represents employee salaries and benefits.

Funds under the Court's control include a General Fund, a Non-Grant Special Revenue Fund, a Grant Special Revenue Fund, and a Fiduciary Fund. The General Fund and the Non-Grant Special Revenue Fund each had revenues and expenditures in excess of 4% of total revenues and expenditures and were considered material and significant.

We performed the audit at the request of the JCC. The authority is provided by Interagency Agreement No. 38881, dated May 28, 2019, between the SCO and the JCC.

**Objective, Scope,
and Methodology**

The objective of our audit was to determine whether the Court complied with governing statutes, rules, and regulations relating to the validity of recorded revenues, expenditures, and fund balances of all material and significant funds under its administration, jurisdiction, and control.

The audit period was July 1, 2017, through June 30, 2018.

Specifically, we conducted this audit to determine whether:

- Revenues were consistent with authorizing Government Code sections, properly supported by documentation, and recorded accurately in the accounting records;

- Expenditures were incurred pursuant to authorizing Government Code sections, consistent with funds' purposes, properly authorized, adequately supported, and recorded accurately in the accounting records; and
- Fund balances were reported based on the Legal/Budgetary basis of accounting and maintained in accordance with fund accounting principles.

To accomplish our objective, we:

General Procedures

- Reviewed the *Judicial Council Governance Policies (November 2017)*, the Budget Act, the *Manual of State Funds*, applicable Government Code and California Rules of Court sections, the *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, and relevant other internal policies and procedures to identify compliance requirements that apply to trial court revenues, expenditures, and fund balances.

Internal Controls

- Reviewed the Court's current policies and procedures, organization, and website, and interviewed Court personnel to gain an understanding of the internal control environment for governance, operations, and fiscal management;
- Interviewed Court personnel and prepared internal control questionnaires to identify internal accounting controls;
- Assessed whether key internal controls, such as reviews and approvals, reconciliations, and segregation of duties were properly designed, implemented, and operating effectively by performing walk-throughs of revenue and expenditure transactions;
- Reviewed the Court's documentation and financial records supporting the validity of recorded revenues, expenditures, and fund balances.
- Evaluated electronic access controls and data reliability of the Court's financial system; and
- Selected revenue and expenditure ledger transactions to test the operating effectiveness of internal controls. Using non-statistical sampling, we selected 40 revenue items and 40 expenditure items to evaluate key internal controls of transactions recorded in significant operating funds and the related fund accounts. Testing was expanded for accounts in which instances of error were identified to verify the impact of identified instances. Errors were not projected to the population.

We designed our testing to both verify the Court's adherence to prescribed accounting control procedures and to verify that transactions were correctly recorded into the accounting system for financial reporting. Our testing methodology and results are summarized below:

Revenue Testing

- We tested revenue transactions and account balances in the General Fund, Non-Grant Special Revenue Fund, and Grant Special Revenue Fund to determine whether revenue accounting was consistent with authorizing Government Code sections, properly supported by documentation, and recorded correctly in the accounting system.
- The selections made for testing represented all revenue accounts that exceeded 4% of the Court's total revenues of \$6,540,212 for FY 2017-18. We tested 100% of the revenue balances reported in these accounts. The sample consisted of 40 transactions selected to test both internal controls and account recording.
- We tested \$6,180,085 of \$6,540,212, or 94.5% of total revenues.

We found errors in the recording of transactions that caused current-year (FY 2017-18) revenues to be understated by \$59,643 and prior-year (FY 2016-17) revenues to be understated by \$5,577. These identified errors had a minor cumulative effect on the Court's reporting of revenue (approximately 1% of total revenue reported).

Details of our findings are provided in the Findings and Recommendations section of this report. The following table identifies total revenues by account, related amounts tested, and error amounts noted:

Revenue Accounts	Total Revenues	Percentage Total	Amount Tested	Percentage Tested	Error Amount ¹
<u>State Financing Sources²</u>					
Trial Court Trust Fund ³	\$5,121,237	78.3%	\$5,121,237	100.0%	\$ 2,869
State Trial Court Improvement and Modernization Fund	12,301	0.2%	12,301	100.0%	12,301
Court Interpreter ³	315,436	4.8%	315,436	100.0%	(2,852)
MOU Requirements ¹	186,113	2.8%	2,520	1.4%	-
Other Miscellaneous	159,761	2.4%	159,761	100.0%	-
Subtotal	<u>5,794,848</u>		<u>5,611,255</u>		<u>12,318</u>
<u>Grants²</u>					
AB 1058 Commissioner/Facilitator ³	272,528	4.2%	272,528	100.0%	(3,926)
Other Judicial Council Grants	102,618	1.6%	8,532	8.3%	-
Subtotal	<u>375,146</u>		<u>281,060</u>		<u>(3,926)</u>
<u>Other Financing Sources²</u>					
Interest Income	25,633	0.4%	2,131	8.3%	-
Local Fees	70,688	1.1%	8,278	11.7%	-
Enhanced Collections ³	273,665	4.2%	273,665	100.0%	(68,035)
County Program – Restricted	3,615	0.1%	3,615	100.0%	-
Other Miscellaneous	377	0.0%	81	21.5%	-
Subtotal	<u>373,978</u>		<u>287,770</u>		<u>(68,035)</u>
Revenue (before Prior-Year Adjustments)	6,543,972		6,180,085		(59,643)
Prior-Year Adjustments	<u>(3,760)</u>	-0.1%	-	0.0%	<u>(5,577)</u>
Total Revenues	<u>\$6,540,212</u>	100.0%	<u>\$6,180,085</u>	94.5%	<u>\$ (65,220)</u>

¹ Revenues over/(under)stated; see Finding 1.

² Tested internal controls.

³ Material accounts.

Expenditure Testing

- We tested expenditure transactions and account balances of the General Fund, Non-Grant Special Revenue Fund, and Grant Special Revenue Fund to determine whether expenditures were incurred pursuant to authorizing Government Code sections, consistent with the fund's purpose, properly authorized, adequately supported, and accurately recorded in the accounting records.
- The selections made for testing represented all material expenditure accounts that exceeded 4% of total expenditures. We stratified accounts into two groups comprised of personnel services (payroll) and operating expenditures (non-payroll).
- To test payroll, we selected the two pay periods occurring in March 2018 and reconciled salaries and benefit expenditures shown on the payroll registers to the general ledger. We further selected 30 of 53 employees from the payroll registers and verified the following attributes:
 - Employee timesheets included supervisory approval;
 - Regular earnings and other supplemental pay was supported by salary schedules and Personnel Action Forms;
 - Employer retirement contributions and payroll taxes were entered into the general ledger accurately; and
 - Health insurance premiums shown on the payroll register agreed with the employees' benefit election forms.
- For the material non-payroll accounts:
 - We selected all expenditure transactions (100%) that exceeded \$50,000;
 - From the remaining population, we sample-tested an additional 36 transactions, in addition to the initial 40 expenditure transactions selected for testing internal controls;
 - The sample of 40 expenditure transactions were used for testing both internal controls and the accuracy of recording transactions; and
 - We traced expenditures recorded in the general ledger to supporting documents.
- We tested \$719,366 of \$6,629,685, or 10.9% of total expenditures.

The test results revealed internal control deficiencies and showed that current-year expenditures for staff benefits were understated by \$27,856 and contracted services were overstated by \$1,584. We also found that prior-year (FY 2016-17) expenditures were understated by \$106,715. These identified errors had a minor cumulative effect on the court's reporting of expenditures (equal to 2% of the total expenditures reported).

Details of our findings are provided in the Findings and Recommendations section of this report. A summary is presented in the following table:

Expenditure Accounts	Total Expenditures	Percentage Total	Amount Tested	Percentage Tested	Error Amount ¹
<u>Personnel Services²</u>					
Salaries – Permanent ³	\$ 3,084,946	46.5%	\$ 134,241	4.4%	\$ -
Overtime	473	0.0%	-	0.0%	-
Staff Benefits ³	1,923,859	29.0%	53,449	2.8%	(27,856)
Subtotal	5,009,278		187,690		(27,856)
<u>Operating Expenditures and Equipment²</u>					
General Expense	150,334	2.3%	43,083	28.7%	-
Printing	14,767	0.2%	879	6.0%	-
Telecommunications	34,325	0.5%	4,832	14.1%	-
Postage	46,752	0.7%	1,169	2.5%	-
Insurance	3,452	0.1%	2,725	78.9%	-
In-State Travel	5,912	0.1%	1,672	28.3%	-
Training	10,419	0.2%	1,430	13.7%	-
Security Services	161,361	2.4%	13,885	8.6%	-
Facility Operations	10,649	0.2%	1,033	9.7%	-
Contracted Services ³	820,470	12.4%	245,333	29.9%	1,584
Consulting and Professional Services	9,815	0.1%	320	3.3%	-
Information Technology	229,982	3.5%	107,096	46.6%	-
Other Items of Expense	28,637	0.4%	28,069	98.0%	-
Subtotal	1,526,875		451,526		1,584
<u>Special Items of Expense²</u>					
Jury Costs	13,532	0.2%	150	1.1%	-
Other	80,000	1.2%	80,000	100.0%	-
Subtotal	93,532		80,150		-
Expenditures (before Prior-Year Adjustments)	6,629,685		719,366		(26,272)
Prior-Year Expenditure Adjustments	-	0.0%	-	0.0%	(106,715)
Total Expenditures	\$ 6,629,685	100.0%	\$ 719,366	10.9%	\$ (132,987)

¹ Expenditures over/(under)stated; see Findings 2 and 3.

² Tested internal controls.

³ Material account.

Fund Balance Testing

- We judgmentally selected the General Fund, the Non-Grant Special Revenue Fund, and the Grant Special Revenue Fund because these funds had significant balances in revenue and expenditure accounts.
- We tested revenue and expenditure transactions in the General Fund, the Non-Grant Special Revenue Fund, and the Grant Special Revenue Fund to determine whether transactions were reported based on the Legal/Budgetary basis of accounting and maintained in accordance

with fund accounting principles (see the table below for transaction summary by fund);

- We verified the accuracy of individual fund balances in the Court's financial supporting documentation; and
- We recalculated sampled funds to ensure that fund balances as of June 30, 2018, were accurate and in compliance with applicable criteria.

We noted that the fund balance was overstated by \$67,767 as of June 30, 2018, because the Court did not record revenue and payroll benefit expenditures accurately in its accounting records.

The following table identifies changes in fund balances:

	General Fund	Non-Grant Special Revenue Fund	Grant Special Revenue Fund	Total
Beginning Balance	\$ 516,779	\$ 262,263	\$ -	\$ 779,042
Revenues	5,827,185	337,881	375,146	6,540,212
Expenditures	(5,871,311)	(337,297)	(421,075)	(6,629,683)
Transfers – In	-	36,210	45,929	82,139
Transfers – Out	(82,139)	-	-	(82,139)
Ending Balance	<u>\$ 390,514</u>	<u>\$ 299,057</u>	<u>\$ -</u>	<u>\$ 689,571</u>
<u>Ending Balance Error Amount:</u>				
Revenues (Finding 1)	\$ 2,815	\$ (68,035)	\$ -	\$ (65,220)
Payroll Benefits (Finding 2)	132,987	-	-	132,987
Totals	<u>\$ 135,802</u>	<u>\$ (68,035)</u>	<u>\$ -</u>	<u>\$ 67,767</u>

We conducted this performance audit under the authority of GC section 77206(h). We conducted the audit in accordance with 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We limited our review of the Court's internal controls to gaining an understanding of the significant internal controls within the context of the audit objective. We did not audit the Court's financial statements.

Conclusion

Our audit found that revenues, expenditures, and fund balances reported by the Court complied with governing statutes, rules, regulations, and Judicial Branch policies, and were maintained in accordance with appropriate fund accounting principles. However, in the course of testing, we noted that in some instances, the Court did not record revenue transactions in the period in which revenues were earned and available.

We noted that, in other instances, employee benefits were paid in excess of recorded expenditures. We also noted weaknesses in the Court's internal controls over procurement and disbursement processing. These issues are further described in the Findings and Recommendations section of this report.

**Follow-up on
Prior Audit
Findings**

This is the first audit performed by the SCO at the Court pursuant to GC section 77206(h)(2); therefore, the SCO did not have prior audit findings to address in this report. The Court was previously audited by the JCC's Internal Audit Services, which issued a report in November 2013. We are not including any follow-up to matters presented in the JCC's prior report.

**Views of
Responsible
Officials**

We issued a draft report on January 13, 2020. Stephanie Hansel, Court Executive Officer, responded by email dated February 3, 2020 (Attachment), agreeing with the audit results. This audit report includes the Court's response.

Restricted Use

This report is solely intended for the information and use of the Superior Court of California, County of Sutter; the JCC, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit the distribution of this report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

February 13, 2020

Findings and Recommendations

FINDING 1— Revenues – Reporting Deficiencies

We noted inaccuracies and inconsistencies in the recording of transactions during our testing of the Court's revenue accounts. We identified the following errors:

- The Court's FY 2017-18 financial statements reported \$5,121,237 of Trial Court Trust Fund (TCTF) revenues; however, the TCTF Distribution Schedules that we obtained from the Judicial Council of California (JCC) showed TCTF allocations to the Court in the amount of \$5,118,367. Reconciling the differences revealed posting errors related to prior-year revenues and accruals. Details are as follows:
 - The Court understated TCTF Operations revenue (GL Account 812110) of \$6,151 by recording a negative adjustment from the prior year's (FY 2016-17) TCTF Distribution Schedule #14 in the current year. The prior-year revenue negative adjustment should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910).
 - The Court duplicated a journal entry to accrue revenues and receivables at year-end for the TCTF – Returned Checks (GL Account 812152), Civil Assessments (GL Account 812159), Child Custody Evaluations (GL Account 812162), and Court Appointed Counsel for Children (GL Account 812163). Revenue and General Fund balances were thereby overstated by \$9,185.
 - The Court did not accrue revenue of \$164 at year-end from TCTF Distribution Schedule #14 for the TCTF Automated Record Keeping and Micro Graphics (GL Account 812160). Revenue and General Fund balances were understated by \$164.
- The Court incorrectly recorded prior-year reimbursements of \$3,353 for Court Interpreter fees from the FY 2016-17 TCTF Distribution Schedule #14 as current year reimbursements, instead of posting to the Prior Year Revenue Adjustment Account (GL Account 899910).

Additionally, the Court did not accrue reimbursements totaling \$6,205 from FY 2017-18 TCTF Distribution Schedule #14. As a result, reimbursements for the Court Interpreter Program were understated by \$2,852 and the General Fund balance was understated by \$6,205.

- The AB 1058 Grant revenue for the Child Support Commissioner and Family Law Facilitator programs was understated by \$3,926. The Court incorrectly recorded reductions to prior-year reimbursements as adjustments to current-year revenue. Adjustments to prior year revenues should be recorded in the Prior Year Revenue Adjustment Account (GL Account 899910).
- For FY 2017-18, the Court did not include all reimbursable costs of administering its Enhanced Collections Program when calculating its full cost recovery. Additionally, we found accounting entries for costs and related reimbursements recorded in different fiscal years. Collections performed in the enforcement of court orders for fees, fines, forfeitures, restitutions, penalties, and assessments result in

various operating costs to the Court. Through the Enhanced Collections Program, the Court receives reimbursements to recover related operating and indirect costs. We calculated that the Court should have reported additional cost reimbursements of \$68,035. Details are as follows:

- The Court posted reimbursements to an incorrect fiscal period, thereby not matching reimbursements with the related costs of the same fiscal period. Fiscal-year program operating costs of \$37,430 for June 2018 were posted in July 2018 of the subsequent fiscal year and recorded as a reimbursement for FY 2018-19.
- The Court did not include \$5,469 of direct costs for salaries, benefits, and operating expenses recorded during the year-end adjustment period of FY 2017-18 when calculating the cost recovery reimbursement of its Enhanced Collections Program for the same period.
- The Court applied an incorrect indirect cost rate and excluded benefits from indirect cost calculations. The Court's approved indirect cost rate for FY 2017-18 was 22.67%. However, the Court applied a lower indirect cost rate of 20% to direct salaries charged to the Enhanced Collections Program.

By applying the approved indirect cost rate of 22.67% to both direct salaries and benefits charged to the program, the Court would have recovered \$25,136 in additional revenue.

- The Court did not transfer expenditures in the amount of \$2,455 for program indirect costs in May 2018 from the Trial Court Operations Fund (General Fund) to the Enhanced Collections Fund (Grant Special Revenue Fund); however, the Court correctly included these expenditures when computing the monthly recovery costs. As a result, the error affected only the ledger classification, not the revenue calculation.
- The Court incorrectly recorded a prior-year (FY 2016-17) revenue allocation of \$12,301 for the State Trial Court Improvement and Modernization Fund reimbursements as current-year revenues (GL Account 837011), instead of posting the cash receipt as a prior-year revenue adjustment (GL Account 899910).

CRC Rule 10.804(a) states:

As part of its responsibility for regulating the budget and fiscal management of the trial courts, the Judicial Council adopts *The Trial Court Financial Policies and Procedures Manual*. The manual contains regulations establishing budget procedures, recordkeeping, accounting standards, and other financial guidelines for superior courts. The manual sets out a system of fundamental internal controls that will enable the trial courts to monitor their use of public funds, provide consistent and comparable financial statements, and demonstrate accountability.

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 5.01, section 6.3.1 states, in part:

Since the trial court derives most of its revenues from state funding and local fees and fines, revenues can be accurately measured and expected to be available within a reasonable amount of time to pay for current liabilities. The trial court must use a 60-day period as the criterion to determine revenue availability.

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 15.02, section 6.7 states, in part:

To achieve full cost recovery, each court will apply the applicable indirect cost rate (in effect at the time the billing is prepared) to the total salaries/wages and benefits of direct cost centers or programs, unless an indirect cost rate exception is in effect for the entity being billed (as may be the case with the federal government).

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 5.02, section 3.0 states:

It is the policy of the trial court to establish an accounting system with a chart of accounts and general ledger that enable the court to record financial transactions with accuracy and consistency. All of the trial courts use a single chart of accounts. This single set of accounts ensures that the financial position of all courts is reported consistently and clearly. The actual accounts each court utilizes may vary depending on the complexity of operations.

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 7.02, section 3.0 states, in part, “A transaction between the court and any other government entity should be memorialized in an MOU.”

The Trial Court Chart of Accounts describes GL Account 899910 – Prior Year Revenue Adjustment as account “used to record revenue that was earned in the prior year but not accrued.”

Recommendation

We recommend that the Court strengthen its internal controls over the year-end closing process to ensure that revenues are properly accrued in the period in which they are measurable and available.

FINDING 2— Payroll – Reporting Deficiencies

During our review of the Court’s payroll system, we noted the following accounting errors and control deficiencies:

- The Court’s Employee Benefits Liability Account (GL Account 374700) had an abnormal (debit) balance of \$132,987 as of June 30, 2018. We reviewed the Court’s GL and noted that the Court made payments for employee benefits in excess of accrued liabilities and expenditures. The account had a beginning debit balance of \$105,131 as of July 1, 2017. During FY 2017-18, the Court made disbursements totaling \$1,000,284 from the Employee Benefits Liability Account. However, the Court accrued only \$972,428 in

liabilities during the year. As a result, the General Fund's current-year and prior-year expenditures for Staff Benefits were understated by \$27,856, and \$105,131, respectively, and the fund balance was overstated by \$132,987 at year end.

We also found that the Court paid \$717 for medical insurance for one employee, but recorded expenditures totaling \$1,863 in the GL. As a result, expenditures and liabilities for employee health benefits were understated by \$2,205 for March 2018.

- We were unable to verify supervisory approval of employee timesheets. Although Court management informed us that employee timesheets were reviewed and approved each pay period, the Court was unable to provide records for the employee sample selection to validate time card approvals. System-generated time reports were provided, but they did not contain any proof (such as a signature) that supervisors had reviewed and approved employee entries.

The Court further indicated that it did not maintain a payroll policy and procedures manual documenting internal processing steps and requirements for both time reporting and payroll processing.

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 1.03, section 6.4 states, in part:

1. The court must establish an effective system of internal review to ensure that all financial transactions are properly and accurately recorded and reported on a timely basis as required.
2. An effective system of internal review includes, but is not limited to, the following:...
 - d. Periodic (not less than monthly) reviews of applicable accounting records (relating to budgets, cash flow, timekeeping, payroll, procurement, cash collection, etc.) against original entries for accuracy.

Recommendation

We recommend that the Court:

- Implement internal controls to ensure that all account balances are accurately stated in the financial statements at year end;
- Perform periodic reconciliations of employee benefit expenditures and liabilities recorded in the GL against the payments made to the health insurance providers; and
- Develop and implement a Court payroll policy and procedures manual that addresses time reporting and payroll processing requirements.

FINDING 3— Expenditures – Internal Control Deficiencies

During our review of the Court's expenditure transactions, we noted the following deficiencies in the Court's procurement and disbursement process:

- The Court did not provide a purchase order, contract, or purchase requisition for six of 40 expenditure transactions selected for review to support payment terms;

- Seven of 40 invoices reviewed did not contain evidence of approval for payment;
- The Court incorrectly recorded expenditures totaling \$48 for mileage reimbursement paid to court interpreters in Court Interpreter Travel (GL Account 938502) instead of Court Interpreter – Mileage (GL Account 938509); and
- The Court did not properly record expenditures for court-appointed counsel. We reviewed three invoices and noted that \$1,584 of \$2,034 in payments made to vendors were related to services provided in the prior fiscal year as current-year expenditures instead of recorded in the Prior Year Expenditure Adjustment Account (GL Account 999910).

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 1.03, section 6.3.3 states, in part:

5. Proper Authorization and Documentation

- a. The court must establish a system of authorization to provide effective management control over its assets, liabilities, revenues and expenditures. The specific levels and scope of authority of executives, managers, supervisors, and staff, with dollar limits where appropriate, must be established and documented. That documentation will be provided to applicable court, county, and accounting service provider personnel, and to the Judicial Council of California, for reference.
- b. When processing transactions, evidence of authorization must be maintained in the accounting files to document that:
 - i. Proper authorizations are obtained.
 - ii. Authorizations are issued by court employees acting within the scope of their authority.
 - iii. Transactions conform to the terms of the authorizations.

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 5.01, section 6.4 states, in part, “The trial court must recognize expenditures in the fiscal year during which goods are received or services are rendered.”

The *Trial Court Financial Policies and Procedures Manual, Eighth Edition, December 2016*, Policy No. Fin 5.02, section 3.0 states:

It is the policy of the trial court to establish an accounting system with a chart of accounts and general ledger that enable the court to record financial transactions with accuracy and consistency. All of the trial courts use a single chart of accounts. This single set of accounts ensures that the financial position of all courts is reported consistently and clearly. The actual accounts each court utilizes may vary depending on the complexity of operations.

The Trial Court Chart of Accounts provides Prior Year Expense Adjustments (GL Account 999910) as the account to use for recording “expenses related to prior year activity.”

Recommendation

We recommend that the Court:

- Implement internal controls to ensure that all account balances are accurately stated in the financial statements at year end;
- Maintain adequate procurement documents to define the services that vendors agree to provide to the Court; and
- Ensure that proper authorizations are obtained prior to processing invoices for payments.

**Attachment—
Superior Court's Comments
Concerning the Audit Results**



SUPERIOR COURT OF CALIFORNIA COUNTY OF SUTTER

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STEPHANIE M. HANSEL
COURT EXECUTIVE OFFICER

February 3, 2020

Jim L. Spano, CPA
Chief, Division of Audits
California State Controller's Office
P.O. Box 942850
Sacramento, CA 94250

Re: Response to the Audit of the Superior Court of California, County of Sutter

Mr. Spano:

The Court is in receipt of the State Controller's Office (SCO) audit report titled "Superior Court of California, County of Sutter, Validity of Recorded Revenues, Expenditures, and Fund Balances" for the period July 1, 2017, through June 30, 2018. Below are the Court's responses to the findings and recommendations contained in the audit report.

FINDING 1— Revenues – Reporting Deficiencies

We noted inaccuracies and inconsistencies in the recording of transactions during our testing of the Court's revenue accounts. We identified the following errors:

- The Court's FY 2017-18 financial statements reported \$5,121,237 of Trial Court Trust Fund (TCTF) revenues; however, the TCTF Distribution Schedules that we obtained from the Judicial Council of California (JCC) showed TCTF allocations to the Court in the amount of \$5,118,367. Reconciling the differences revealed posting errors related to prior-year revenues and accruals. Details are as follows:
 - The Court understated TCTF Operations revenue (GL Account 812110) of \$6,151 by recording a negative adjustment from the prior year's (FY 2016-17) TCTF Distribution Schedule #14 in the current year. The prior-year revenue negative adjustment should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910).

Court Response: *The Court agrees there was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support, revenues and reimbursements that should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910) were recorded as then-current year revenues and reimbursements. Upon sharing the audit findings, JCC management stated that this direction was an effort to preserve multi-year trend analysis. JCC management advised that it would direct courts to record prior year revenue and reimbursements in the Prior Year Revenue Adjustment Account going forward.*

- The Court duplicated a journal entry to accrue revenues and receivables at year-end for the TCTF – Returned Checks (GL Account 812152), Civil Assessments (GL Account 812159), Child Custody Evaluations (GL Account 812162), and Court Appointed Counsel for Children (GL Account 812163). Revenue and General Fund balances were thereby overstated by \$9,185.

Court Response: *The Court agrees there was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support, no adjusting journal entries were made to correct the duplicate journal entry because as JCC staff stated, "...you will always be able to trace what happened and over a two year period of time the revenues will balance themselves out." Upon sharing the audit findings, JCC management committed to elevating the Court's level of service.*

- The Court did not accrue revenue of \$164 at year-end from TCTF Distribution Schedule #14 for the TCTF Automated Record Keeping and Micro Graphics (GL Account 812160). Revenue and General Fund balances were understated by \$164.

Court Response: *The Court agrees that it did not accrue \$164 out of \$157,670 at year-end from TCTF Distribution Schedule #14.*

- The Court incorrectly recorded prior-year reimbursements of \$3,353 for Court Interpreter fees from the FY 2016-17 TCTF Distribution Schedule #14 as current year reimbursements, instead of posting to the Prior Year Revenue Adjustment Account (GL Account 899910).

Court Response: *The Court agrees there was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support, revenues and reimbursements that should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910) were recorded as then-current year revenues and reimbursements. Upon sharing the audit findings, JCC management stated that this direction was an effort to preserve multi-year trend analysis. JCC management advised*

that it would direct courts to record prior year revenue and reimbursements in the Prior Year Revenue Adjustment Account going forward.

Additionally, the Court did not accrue reimbursements totaling \$6,205 from FY 2017-18 TCTF Distribution Schedule #14. As a result, reimbursements for the Court Interpreter Program were understated by \$2,852 and the General Fund balance was understated by \$6,205.

Court Response: *The Court agrees that \$6,205 out of \$157,670 for FY 2017-18 TCTF Distribution Schedule #14 was not accrued.*

- The AB 1058 Grant revenue for the Child Support Commissioner and Family Law Facilitator programs was understated by \$3,926. The Court incorrectly recorded reductions to prior-year reimbursements as adjustments to current-year revenue. Adjustments to prior year revenues should be recorded in the Prior Year Revenue Adjustment Account (GL Account 899910).

Court Response: *The Court agrees there was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support, revenues and reimbursements that should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910) were recorded as then-current year revenues and reimbursements. Upon sharing the audit findings, JCC management stated that this direction was an effort to preserve multi-year trend analysis. JCC management advised that it would direct courts to record prior year revenue and reimbursements in the Prior Year Revenue Adjustment Account going forward.*

- For FY 2017-18, the Court did not include all reimbursable costs of administering its Enhanced Collections Program when calculating its full cost recovery. Additionally, we found accounting entries for costs and related reimbursements recorded in different fiscal years. Collections performed in the enforcement of court orders for fees, fines, forfeitures, restitutions, penalties and assessments result in various operating costs to the Court. Through the Enhanced Collections Program, the Court receives reimbursements to recover related operating and indirect costs. We calculated that the Court should have reported additional cost reimbursements of \$68,035. Details are as follows:
- The Court posted reimbursements to an incorrect fiscal period, thereby not matching reimbursements with the related costs of the same fiscal period. Fiscal-year program operating costs of \$37,430 for June 2018 were posted in July 2018 of the subsequent fiscal year and recorded as a reimbursement for FY 2018-19.

Court Response: *The Court agrees there was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support,*

revenues and reimbursements that should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910) were recorded as then-current year revenues and reimbursements. Upon sharing the audit findings, JCC management stated that this direction was an effort to preserve multi-year trend analysis. JCC management advised that it would direct courts to record prior year revenue and reimbursements in the Prior Year Revenue Adjustment Account going forward.

- The Court did not include \$5,469 of direct costs for salaries, benefits and operating expenses recorded during the year-end adjustment period of FY 2017-18 when calculating the cost recovery reimbursement of its Enhanced Collections Program for the same period.

Court Response: *The Court agrees with this error. Court oversight led to the \$5,469 not being included in the reimbursement calculations.*

- The Court applied an incorrect indirect cost rate and excluded benefits from indirect cost calculations. The Court's approved indirect cost rate for FY 2017-18 was 22.67%. However, the Court applied a lower indirect cost rate of 20% to direct salaries charged to the Enhanced Collections Program.

By applying the approved indirect cost rate of 22.67% to both direct salaries and benefits charged to the program, the Court would have recovered \$25,136 in additional revenue.

Court Response: *The Court agrees this was an error that was corrected seven months prior to the initiation of this audit. The Court applied the 20% indirect cost rate that it used in its grant claims. Further, the Court misunderstood that it could only apply the indirect cost rate to salaries. The Court is now applying the approved 22.67% indirect cost rate to both salaries and benefits.*

- The Court did not transfer expenditures in the amount of \$2,455 for program indirect costs in May 2018 from the Trial Court Operations Fund (General Fund) to the Enhanced Collections Fund (Grant Special Revenue Fund); however, the Court correctly included these expenditures when computing the monthly recovery costs. As a result, the error affected only the ledger classification, not the revenue calculation.

Court Response: *The Court agrees this was a technical recording error.*

- The Court incorrectly recorded a prior-year (FY 2016-17) revenue allocation of \$12,301 for the State Trial Court Improvement and Modernization Fund reimbursements as current-year revenues (GL Account 837011), instead of posting the cash receipt as a prior-year revenue adjustment (GL Account 899910).

Court Response: *The Court agrees this was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support, revenues and*

reimbursements that should have been recorded in the Prior Year Revenue Adjustment Account (GL Account 899910) were recorded as then-current year revenues and reimbursements. Upon sharing the audit findings, JCC management stated that this direction was an effort to preserve multi-year trend analysis. JCC management advised that it would direct courts to record prior year revenue and reimbursements in the Prior Year Revenue Adjustment Account going forward.

Recommendation

We recommend that the Court strengthen its internal controls over the year-end closing process to ensure that revenues are properly accrued in the period in which they are measurable and available.

Court Response: *The Court agrees with the recommendation. The Court has started using the Prior Year Revenue Adjustment Account (GL Account 899910) to record revenue and reimbursement from prior fiscal years.*

FINDING 2— Payroll – Reporting Deficiencies

During our review of the Court's payroll system, we noted the following accounting errors and control deficiencies:

- The Court's Employee Benefits Liability Account (GL Account 374700) had an abnormal (debit) balance of \$132,987 as of June 30, 2018. We reviewed the Court's GL and noted that the Court made payments for employee benefits in excess of accrued liabilities and expenditures. The account had a beginning debit balance of \$105,131 as of July 1, 2017. During FY 2017-18, the Court made disbursements totaling \$1,000,284 from the Employee Benefits Liability Account. However, the Court accrued only \$972,428 in liabilities during the year. As a result, the General Fund's current-year and prior-year expenditures for Staff Benefits were understated by \$27,856, and \$105,131, respectively, and the fund balance was overstated by \$132,987 at year end.

Court Response: *The Court agrees these were technical recording errors. Part of the JCC-provided accounting support includes payroll accounting support. We inquired with JCC payroll accounting support regarding this audit issue. They found that prior to transitioning to the Phoenix-HR payroll system, the Court's retiree health benefit contribution was being recorded in the Benefits Liability Account rather than the Retiree Health Benefit expense account, which led to the debit balance in the Benefits Liability Account. Since transitioning to the Phoenix-HR payroll system in October 2018, the Court's retiree health benefit contribution has been recorded in the Retiree Health Benefit expense account. The Court continues to work with JCC payroll support to reconcile the Benefits Liability Account and eliminate the debit balance.*

We also found that the Court paid \$717 for medical insurance for one employee, but recorded expenditures totaling \$1,863 in the GL. As a result, expenditures and liabilities for employee health benefits were understated by \$2,205 for March 2018.

Court Response: *The Court agrees this was a recording error. Upon learning of the error, the Court took immediate action to correct it.*

- We were unable to verify supervisory approval of employee timesheets. Although Court management informed us that employee timesheets were reviewed and approved each pay period, the Court was unable to provide records for the employee sample selection to validate time card approvals. System-generated time reports were provided, but they did not contain any proof (such as signatures) that supervisors had reviewed and approved employee entries.

Court Response: *The Court agrees that it could not provide system-generated reports showing supervisor approval of timesheets from a payroll system it no longer has access to. The SCO auditor suggested that the Court could have printed such system reports after each payroll period to verify the electronic approval by supervisors. This would have been an inefficient use of limited Court resources and public money since such system reports would have been electronically available had the Court still been on the prior payroll system.*

The Court further indicated that it did not maintain a payroll policy and procedures manual, which would be useful to document internal processing steps and requirements for both time reporting and payroll processing.

Court Response: *The Court agrees that it does not maintain a documented payroll policy and procedures manual. The Court will immediately begin developing a manual to document internal steps and requirements for processing timesheets and payroll.*

Recommendation

We recommend that the Court:

- Implement internal controls to ensure that all account balances are accurately stated in the financial statements at year end; and
- Perform periodic reconciliations of employee benefit expenditures and liabilities recorded in the GL against the payments made to the health insurance providers.
- Develop and implement a Court payroll policy and procedures manual that addresses time reporting and payroll processing requirements.

Court Response: *The Court agrees with these recommendations.*

FINDING 3— Expenditures – Internal Control Deficiencies

During our review of the Court's expenditure transactions, we noted the following deficiencies in the Court's procurement and disbursement process:

- The Court did not provide a purchase order, contract, or purchase requisition for six of 40 expenditure transactions selected for review to support payment terms;

Court Response: *The Court agrees that for six transactions related to emergency entrance screening, printing jury summons, annual maintenance of Business Reply Mail, payroll processing services, cleaning supplies, and a clerk recruitment announcement in the local newspaper totaling \$7,249 out of \$523,368 in expenditures reviewed it could not*

provide a purchase order, contract, or purchase requisition. The Court now has a contract for entrance screening and is in the process of entering into a contract for printing services. The Court's policy is to document all expenditures with a purchase requisition and all expenditures over \$500 with a purchase order.

- Seven of 40 invoices reviewed did not contain evidence of approval for payment;

Court Response: Although the Court agrees that seven invoices totaling \$19,592 out of \$523,368 in expenditures reviewed did not have signatures authorizing payment, the Court Fiscal Manager reviewed and approved the invoices for payment prior to posting in the Phoenix financial system.

- The Court incorrectly recorded expenditures totaling \$48 for mileage reimbursement paid to court interpreters in Court Interpreter Travel (GL Account 938502) instead of Court Interpreter – Mileage (GL Account 938509); and

Court Response: The Court agrees that \$48 out of over \$28,300 was incorrectly recorded. Upon learning of the error, the Court took immediate action to correct it.

- The Court did not properly record expenditures for court-appointed counsel. We reviewed three invoices and noted that \$1,584 of \$2,034 in payments made to vendors were related to services provided in the prior fiscal year as current-year expenditures instead of recorded in the Prior Year Expenditure Adjustment Account (GL Account 999910).

Court Response: The Court agrees this was a technical recording error. Notwithstanding that the Court is ultimately responsible for the accounting and reporting of its revenues and expenditures, the Court relies heavily on accounting support provided by the Judicial Council of California (JCC) as the Court's fiscal team consists of two people. Following direction given by JCC accounting support, expenditures that should have been recorded in the Prior Year Expense Adjustment Account (GL Account 999910) were recorded as then-current year expenditures. Upon sharing the audit findings, JCC management stated that this direction was an effort to preserve multi-year trend analysis. JCC management advised that it would direct courts to record prior year expenditures in the Prior Year Expense Adjustment Account going forward.

Recommendation

We recommend that the Court:

- Implement internal controls to ensure that all account balances are accurately stated in the financial statements at year end;
- Maintain adequate procurement documents to define the services that vendors agree to provide to the Court; and
- Ensure that proper authorizations are obtained prior to processing invoices for payments.

Court Response: The Court agrees with these recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Stephanie M. Hansel". The signature is written in a cursive, flowing style.

Stephanie M. Hansel
Court Executive Officer

cc: Grant Parks, Principal Manager
Audit Services
Judicial Council of California

**State Controller's Office
Division of Audits
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JUDICIAL COUNCIL
OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

Meeting Date: 07/14/2020

Action Item #3 – (Action Required)

Proposed Changes to the Judicial Branch Contracting Manual (JBCM)

Requested Action:

- **Action Item #1** – Discuss and approve the proposed draft report from Judge Rosenberg (on behalf of the audit committee) to the Judicial Council regarding proposed changes to the *Judicial Branch Contracting Manual*.
- **Action Item #2** – Discuss and approve the proposed changes to the *Judicial Branch Contracting Manual*.

Supporting Documents:

Attachment C – containing the following:

- Proposed draft report to the Judicial Council (2 pages); and
- Proposed tracked changes / redline version of the *Judicial Branch Contracting Manual* (7 pages).

Background:

California Rules of Court, Rule 10.63(c)(3) requires the audit committee to “review and recommend to the council proposed updates and revisions to the Judicial Branch Contracting Manual.” Attorneys from the Judicial Council’s Office of Legal Services developed the proposed changes based on updates to state contracting law and through consultation with procurement staff. The proposed changes also went through a public comment period that ended on June 26, 2020 (item# SP20-02).

The proposed changes incorporate new requirements pertaining to the Disabled Veteran Business Enterprise (DVBE) program; update references to the Public Contract Code and State Contracting Manual; and provide an additional exception to competitive bidding requirements consistent with the State Contracting Manual. If approved by the audit committee, these revisions will be considered during the council’s September 2020 business meeting with implementation expected in October 2020.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

Item No. 20-155

For business meeting on: September 24–25, 2020

Title	Agenda Item Type
Judicial Branch Administration: Revisions to <i>Judicial Branch Contracting Manual</i>	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	October 1, 2020
Recommended by	Date of Report
Hon. David Rosenberg, Chair Advisory Committee on Audits and Financial Accountability for the Judicial Branch	July 14, 2020
	Contact
	Oliver Cheng, Attorney 415-865-4616 oliver.cheng@jud.ca.gov

Executive Summary

The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council adopt proposed revisions to the *Judicial Branch Contracting Manual*. The proposed revisions include edits to incorporate new Disabled Veteran Business Enterprise (DVBE) requirements, as well as edits to add an exception to competitive bidding for the procurement of training.

Recommendation

The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council, effective October 1, 2020, revise and adopt proposed revisions to the *Judicial Branch Contracting Manual*.

The proposed revisions to the *Judicial Branch Contracting Manual* are shown in tracked changes in Attachment C.2.

Relevant Previous Council Action

At the Judicial Council’s regular business meeting on August 26, 2011, the council adopted the initial version of the *Judicial Branch Contracting Manual* (referred to as the JBCM or manual), effective October 1, 2011, the operative date of substantive requirements of the California Judicial Branch Contract Law (JBCL).¹ In December 2011, April and August 2012, December 2013, June 2015, June 2016, July 2017, July 2018, and September 2019, the council adopted revisions to the JBCM. The version of the JBCM adopted by the council in September 2019, effective October 1, 2019, remains in effect as of the date of this report.²

Analysis/Rationale

Statutory requirement and development of the JBCM

The JBCL was enacted on March 24, 2011, and became effective on that date. With certain exceptions,³ the JBCL requires that superior and appellate courts, the Judicial Council, and the Habeas Corpus Resource Center (referred to collectively as judicial branch entities, or JBEs) comply with provisions of the Public Contract Code applicable to state agencies and departments related to the procurement of goods and services.⁴ The JBCL applies to all covered contracts initially entered into or amended by JBEs on or after October 1, 2011.⁵ The JBCL also requires the council to adopt a manual containing procurement and contracting policies and procedures that must be followed by all JBEs.⁶

This report is being submitted by the Advisory Committee on Audits and Financial Accountability for the Judicial Branch (Audit Committee) pursuant to rule 10.63 of the California Rules of Court. Under rule 10.63, the duties of the Audit Committee include (1) advising and assisting the council in performing its responsibilities and exercising its authority under the JBCL, and (2) reviewing and recommending to the council proposed updates and revisions to the JBCM.⁷

The policies and procedures in the manual must be “consistent with [the Public Contract Code] and substantially similar to the provisions contained in the *State Administrative Manual* and the *State Contracting Manual*.”⁸ The requirement that JBEs comply with applicable provisions of the Public Contract Code is independent of the requirement that JBEs follow the policies and

¹ Pub. Contract Code, §§ 19201–19210.

² The current version of the JBCM is at: <https://www.courts.ca.gov/documents/jbcl-manual.pdf>.

³ *Id.*, §§ 19204(c), 19207, and 19208.

⁴ *Id.*, § 19204(a).

⁵ *Id.*, § 19203.

⁶ *Id.*, § 19206.

⁷ Cal. Rules of Court, rule 10.63(c)(2) & (c)(3).

⁸ Pub. Contract Code, § 19206.

procedures in the JBCM. Since the adoption of the initial JBCM, Judicial Council staff has continued to receive input from the JBCM Working Group regarding proposed revisions to the JBCM, and the council has adopted nine sets of revisions.

Proposed revisions to the JBCM

Assembly Bill 230 created new DVBE-related contracting and procurement requirements.⁹ For example, pursuant to AB 230, Public Contract Code section 10230 requires that every awarded contract that includes a DVBE participation incentive shall contain a provision requiring the contractor to comply with all rules, regulations, ordinances, and statutes that govern the DVBE program, including, without limitation, Military and Veterans Code section 999.5. Therefore, conforming edits are proposed for chapter 3 (pages 9–10) of the JBCM to describe the new AB 230 DVBE requirements.

Updates are proposed for chapter 4 (page 7) to update a DGS website link, and to chapter 4C (pages 7 and 23) to update references to a *State Contracting Manual* (SCM) section (due to SCM updates) and a Public Contract Code subsection (due to Public Contract Code renumbering).

Edits are proposed for chapter 5 (pages 8–9) to add an exception to competitive bidding for the procurement of non-IT training.

Policy implications

The policies and procedures in the manual must be consistent with the Public Contract Code and substantially similar to the provisions contained in the SCM. Adopting the proposed revisions to the JBCM regarding the new AB 230 DVBE requirements (including new DVBE requirements in Public Contract Code section 10230) will enable the JBCM to remain consistent with the Public Contract Code. The proposed edits to add an exception to competitive bidding are closely based on the exception to competitive bidding for the procurement of non-IT training that is set forth in the SCM.¹⁰ As a result, the JBCM would provide judicial branch entities with greater flexibility to procure training, while also remaining substantially similar to the SCM, in accordance with the JBCL.

Comments

The proposed revisions to the JBCM were submitted for public comment from June 12 through June 26, 2020. The invitation to comment specifically sought input on whether the revisions were clear and understandable, appeared to work from a court operations perspective, and were user-friendly. No public comments were received.

⁹ Stats. 2019, ch. 676.

¹⁰ The SCM's exception to competitive bidding for the procurement of non-IT training is in SCM Vol. 1, Section 5.80(B)(2)(n)). SCM Vol. 1 is available at: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>.

Alternatives considered

None.

Fiscal and Operational Impacts

No significant costs or operational impacts will result from implementing the recommendations in this report.

Attachments

1. Attachment C.2: Proposed revisions to the *Judicial Branch Contracting Manual*, with revisions in tracked changes format

DRAFT

Proposed Revisions to the *Judicial Branch Contracting Manual*
(revisions in tracked changes format)

DRAFT

Proposed revisions to the *Judicial Branch Contracting Manual*:
Chapter 3 (Socioeconomic and Environmental Programs), pages 9-10.

Contract Obligations: Every awarded contract that includes a DVBE participation incentive shall contain a provision requiring the contractor to comply with all rules, regulations, ordinances, and statutes that govern the DVBE Program, including, without limitation, MVC Section 999.5. (See PCC 10230).

Contractor postcontract certification: Upon completion of an awarded contract that contains a commitment to achieve a DVBE goal, the JBE must require the prime contractor that entered into a subcontract with a DVBE to certify to the JBE:

- The total amount of money the prime contractor received under the contract;
- The name and address of the DVBE subcontractor that participated in the performance of the contract;
- The amount of money and percentage of work each prime contractor committed to provide to each DVBE subcontractor and the amount each DVBE subcontractor received from the prime contractor; and
- That all payments under the contract have been made to the DVBE subcontractor. Upon request by the JBE, the prime contractor shall provide proof of payment for the work.

The JBE must keep this certification on file.

4. Other Considerations

Effect on Contracts of Failure to Meet DVBE Goals: Failure of a JBE to meet the goals established under MVC 999 et seq. and PCC 10115 et seq. does not affect the validity or enforceability of any contract (PCC 10115.6, MVC 999.8).

No Goals Reporting Requirement: There are no DVBE goals-reporting requirements in either the PCC or MVC applicable to JBEs.⁴

LPAs: If a JBE procures goods or services using an LPA that includes DVBE participation, some or all of the purchase may count toward the JBE's DVBE goal. See chapter 6 of this Manual for additional information regarding DVBE considerations when using LPAs.

⁴ MVC 999.7 and PCC 10115.5, which required state agencies to provide annual reports to the Governor and DGS with respect to meeting DVBE goals, were repealed effective January 1, 2007.

SB/DVBE Option: The DVBE incentive is not applicable when a JBE conducts a procurement using the SB/DVBE option. See section D in the “Selected Topics Relevant to the Solicitation of IT Goods and Services” portion of chapter 4C of this Manual for additional information regarding the SB/DVBE option.

Replacing DVBE Subcontractors or Suppliers: A contractor shall use the DVBE subcontractors or suppliers identified in its bid or proposal, unless the JBE approves in writing replacement by another DVBE subcontractor or supplier. (See MVC 999.5(f)).

3.2 AMERICANS WITH DISABILITIES ACT CONSIDERATIONS

In compliance with the Americans with Disabilities Act (ADA) and similar California statutes, JBEs must make reasonable efforts to ensure that their programs, activities, and services are accessible to persons with disabilities. Contracting and procurement are activities covered by these laws.

JBEs must provide reasonable accommodation to persons with disabilities that enable them to participate in the procurement process. JBEs must also be prepared to respond to questions about reasonable accommodation by persons with disabilities. The term “reasonable accommodation” does not include actions that would fundamentally alter the nature of the procurement process or that would impose an undue financial or administrative burden upon a JBE.

JBEs should designate an individual (ADA Coordinator) who is available to respond to questions or concerns regarding reasonable accommodation of disabilities in the procurement process. Solicitation Documents should advise Prospective Bidders that the JBE complies with the ADA and similar California statutes and that requests for accommodation of disabilities should be directed to the ADA Coordinator.

3.3 STATE AGENCY BUY RECYCLED CAMPAIGN (SABRC) PROGRAM

The SABRC is a joint effort between the California Department of Resources Recycling and Recovery (CalRecycle) and DGS to implement state law requiring state agencies and the Legislature to purchase recycled-content products (RCPs). It complements the efforts of the Integrated Waste Management Act (Pub. Resources Code, § 4000 et seq.), which was enacted to reduce the amount of waste going to California’s landfills.

Proposed revisions to the *Judicial Branch Contracting Manual*:

Chapter 4 (Competitive Solicitation Overview), page 7.

4. Record of advertisement: A copy of the published advertisement should be included in the procurement file.

5. Resolicitations: A JBE conducting a resolicitation does not need to readvertise the solicitation if:

- The resolicitation occurs within three months of the publication of the original advertisement;
- Notice of resolicitation is provided to Prospective Bidders that requested and/or were sent the original Solicitation Document; and
- There is no material change to the solicitation.

6. Contract advertising exemption: JBEs can be granted an exemption from advertising by the Approving Authority or delegee when there is a compelling reason to do so. An exemption may be warranted if, for example, only one Prospective Bidder can supply the required goods or services and advertising would not produce more Prospective Bidders.

7. Advertising in the CSCR: The CSCR is a centralized listing of state procurements that DGS is required to publish by Government Code (GC) section 14825. The CSCR currently takes the form of an online database, accessed through DGS's Cal eProcure systems. Prospective Bidders are likely to see advertisements in the CSCR.

A JBE may submit an advertisement to the CSCR by using DGS Procurement Division's Internet web page (www.dgs.ca.gov/pd/Home.aspx), or by submitting Form STD 815 to DGS/Business Development Unit. DGS charges a fee for each advertisement that appears in the CSCR. There is an additional fee for advertisements that are not submitted electronically.

E. Samples

The practice of obtaining samples from Prospective Bidders before contract award is not recommended. If sample goods are needed for review before award for demonstration or prepurchase testing, the Solicitation Document should:

- Explain that sample goods are required for demonstration or prepurchase testing;
- State that the JBE is not obligated for the cost of the sample goods or for their return; and

Proposed revisions to the *Judicial Branch Contracting Manual*:
Chapter 4C (Procurement of IT Goods and Services), pages 7 and 23.

and if not, which elements are not responsive and what changes would be necessary and acceptable.

Draft Bid: A draft Bid may be included to allow each Bidder to submit an "almost final" Bid in order to identify any faulty administrative aspect of the Bid that, if not corrected, could cause the final Bid to be rejected for ministerial reasons.

The IFB or RFP must be drafted to implement the phased approach, if applicable.

STEP 6—DRAFT SOLICITATION DOCUMENT

The Buyer should draft the final Solicitation Document. For requirements applicable to Solicitation Documents, see chapter 4, section 4.2 of this Manual.

The more thorough a JBE is in communicating its specific needs, requirements, goals, and objectives in the Solicitation Document, the more complete, responsive, and acceptable the Bids received will be.

Bidders may claim a small business preference in any competitive solicitation of IT goods and services.³ Applicable Solicitation Documents must contain language regarding the small business preference. For additional information regarding the small business preference, see chapter 3, section 3.4.

The following subsections provide additional information useful in drafting the three types of Solicitation Documents.

A. RFQs

An RFQ is used for procurements where Bids may be solicited by phone or another method of electronic communication.

³ Government Code section 14838.5(c) allows the director of the Department of General Services (DGS) to establish a higher threshold above which state agencies must offer the small business preference. Within the executive branch, purchasing authority resides primarily with DGS (see, e.g., *State Contracting Manual*, volume 2, ~~section 4.A1.0Fi\$Cal~~, [chapter 1, Introduction](#)). Within the judicial branch, however, each JBE possesses its own purchasing authority (see chapter 1, section 1.1.A of this Manual). Accordingly, the authority to establish a higher threshold amount for a JBE resides in the Approving Authority of that JBE. If the Approving Authority establishes a higher threshold amount, the Approving Authority must ensure that the higher threshold is reasonable and appropriate.

4. The Evaluation Team must publicly open the cost portion of the Bids as specified in the RFP (except Bids determined to have a material deviation in the noncost portion).
5. The Evaluation Team must evaluate the cost portion of the Bids opened in item 4 above.

The Evaluation Team must not use any requirements other than those provided by law or specified in the RFP (or addenda thereto) to score Bids. The JBE must award the contract (if at all) to the Bidder whose Bid is given the highest score by the Evaluation Team, after applying any preference, incentives, or discounts. See chapter 3 of this Manual for more information regarding preferences, incentives, and discounts.

Suggested Cost Evaluation Criteria: JBEs may use the process for assigning cost points set forth in appendix A of this chapter. Alternately, JBEs may adopt their own processes for assigning cost points.

Note: There is an additional cost evaluation requirement for IT goods solicitations that are required to be advertised (see the table in step 7 for which solicitations must be advertised). For those solicitations, the JBE must consider a Bidder's "best financing alternative" (including lease or purchase alternatives) if any Bidder timely requests such consideration. If the solicitation is posted more than 30 days before the Bid Closing Time, the Bidder's request must be received by the JBE at least 30 days before the Bid Closing Time. If the solicitation is posted less than 30 days before the Bid Closing Time, the Bidder's request must be received by the JBE by the day that is halfway between the posting date and the Bid Closing Time. However, the JBE does not need to consider a particular financing alternative if, in the judgment of the Approving Authority, that financing alternative should not be considered. (See PCC 12102.2(d)(e).)

Demonstration: The evaluation process may also include a demonstration, at the JBE's discretion. The demonstration may be used to verify the claims made in the Bid, corroborate the evaluation of the Bid, or confirm that the hardware and software are actually in operation. If a demonstration is required, the JBE will give notice to the Bidder. The Bidder must make all arrangements for demonstration facilities at no cost to the JBE. The location of the demonstration may be determined by the JBE. The Evaluation Team, in its good faith judgment, will determine whether or not a demonstration has been successfully executed.

Certification: The JBE's contact person for administration of the solicitation (who should have been identified in the RFP) must execute a certificate under penalty of perjury that

Proposed revisions to the *Judicial Branch Contracting Manual*:
Chapter 5 (Non-Competitively Bid Procurements), pages 8-9.

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.

The JBE may, in its Local Contracting Manual, place restrictions on the use of sole source procurements or specify a form for sole source requests. If no form is specified in the Local Contracting Manual, the sole source request may take the form of a memorandum.

5.10 SPECIAL CATEGORY NCB CONTRACT REQUEST

The JBE may, under certain circumstances, establish a special category non-competitively bid contract request (SCR) when it determines that a significant number of repeat NCB procurements of non-IT goods, non-IT services, or IT goods and services will occur. The SCR is limited to a specific type of non-IT goods, non-IT services, or IT goods and services for which:

- There is no viable competition; or
- Competitive bidding cannot be completed using reasonable efforts before the time such non-IT goods, non-IT services, or IT goods and services are required.

The JBE may, in its Local Contracting Manual, place restrictions on the use of SCRs or specify a form for use in SCRs. If no form is specified in the Local Contracting Manual, the SCR may take the form of a memorandum.

The SCR must be signed by the sole source approver. The Buyer should place a copy of the SCR in the procurement file for any procurement of the affected non-IT goods, non-IT services, or IT goods and services.

5.11 TRAINING

JBEs may procure training without conducting a competitive procurement if: (i) the training is for JBE personnel and does not involve training on the use of IT goods or services; (ii) the dollar amount of the training contract does not exceed \$50,000; and (iii) the dollar amount of multiple training contracts with a single contractor does not exceed \$50,000 cumulatively in any 12-month period. The foregoing non-competitively bid

procurement is limited to pre-existing training courses; it does not cover the development of training or other personal or consulting services. A JBE shall not split contracts to avoid competitive bidding or other contract requirements. A JBE with recurring training needs should assess the JBE's cumulative amounts spent on training, and generally should go out to bid if there are significant ongoing and/or JBE-wide training needs.

5.1~~2~~ AMENDMENTS

The JBE should submit certain amendments to the NCB process outlined below. The NCB process ensures that the amendment is in the best interest of the JBE.

A. Amendments Covered

The types of amendments covered are those that affect the competitive basis on which the contract was awarded, including amendments that increase or decrease quantity, dollar amounts, or time. Specifically:

- Amendments to a competitively-solicited contract where the type of change contemplated in the amendment was not evaluated in the selection process;
- Amendments to an LPA purchasing document where the type of change contemplated in the amendment was not evaluated during the LPA review process; and
- Amendments to a small purchase (originally under \$10,000) which increase the value of the purchase to \$10,000 or more, if the original purchase was completed pursuant to section 5.1 above.

Example: The JBE has a services contract that is nearing expiration, and the JBE wishes to extend the term of the contract using an amendment. The contract was competitively solicited, but renewal terms were not addressed in the Solicitation Document and were not considered by the Evaluation Team. Before extending the term of this contract using an amendment, the JBE should submit the amendment to an NCB process.

Example: The JBE has a contract that grants the JBE the option to extend the term of the contract for one year. The contract is nearing expiration, and the JBE wishes to extend the term of the contract using an amendment. The contract was competitively solicited, and the extension term was evaluated during the solicitation process. There is no need to submit the amendment to an NCB process.