



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 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

THIS MEETING IS BEING RECORDED

Date: July 11, 2023
Time: 12:15 – 1:15 PM
Public Videocast: <https://jcc.granicus.com/player/event/2850>

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

Presenter(s)/Facilitator(s): Hon. Judge Rosenberg—Chair

Approval of Minutes

Approve minutes of the November 8, 2022, meeting of the Audit Committee and
November 18, 2022, action by email.

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 10th, 2023, 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): Matt Espenshade, Principal Manager – Judicial Council's Audit Services

Info 2

General Discussion by Members of the Committee

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): Matt Espenshade, Principal Manager – Judicial Council's Audit Services

IV. DISCUSSION AND POSSIBLE ACTION ITEMS

Item 1

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

Jimmy Nguyen, Attorney – Judicial Council's Legal Services

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

Item 2

Annual Audit Plan – Fiscal Year 2022-23 (Action Required)

Discuss and approve the scope of audits for fiscal year 2023-24 based on risk and available audit staff resources.

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

V. ADJOURNMENT

Adjourn the meeting



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ADVISORY COMMITTEE ON AUDITS AND FINANCIAL ACCOUNTABILITY FOR THE JUDICIAL BRANCH

MINUTES OF ACTION BY EMAIL BETWEEN MEETINGS

November 18, 2022

12:15 p.m.

Action by Email

Advisory Body Members Present: Hon. David Rosenberg, Mr. Neal Taniguchi, Mr. Charles Johnson, Mr. Michael Powell

Advisory Body Members Absent: Hon. Salvatore T. Sirna, Ms. Kate Bieker, Mr. Phil Jelichich (non-voting member)

Others Present: Mr. Grant Parks (Committee Staff)

OPEN MEETING

No public comments were received for this action by email between meetings.

DISCUSSION AND ACTION ITEMS

Each year, the annual budget act appropriates \$540,000 for the audits mandated in section 77206(h) of the Government Code. These audits of trial court revenues, expenditures and fund balances are performed by the State Controller's Office (SCO) and current funding levels support five (5) audits per year. However, statute requires that each trial court receive such an audit every four years (or equivalent to conducting 14-15 audits per year). This budget change proposal concept seeks additional funding to comply with the 4-year audit requirement. If approved by the audit committee, staff will proceed with drafting a full Budget Change Proposal document that will go through the judicial branch's vetting process, including consideration by the Judicial Branch Budget Committee.

Item 1

Approval of Proposed Budget Change Proposal Concept (Motion Passes)

Ayes:

- Hon. David Rosenberg
- Mr. Neal Taniguchi
- Mr. Charles Johnson
- Mr. Michael Powell

No:

Not Voting:

- Hon. Salvatore T. Sirna
- Ms. Kate Bieker

A D J O U R N M E N T

There being no further committee business upon action item passing by a majority of committee members, the vote was closed.

Approved by the advisory body on enter date.



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ADVISORY COMMITTEE ON AUDITS AND FINANCIAL ACCOUNTABILITY FOR THE JUDICIAL BRANCH

MINUTES OF OPEN MEETING WITH CLOSED SESSION

November 8, 2022
12:15 p.m. - 1:15 p.m.
Conference Call

Advisory Body Members Present: Hon. David Rosenberg, Hon. Salvatore T. Sirna, Mr. Neal Taniguchi, Mr. Michael Powell, Ms. Kate Bieker, Mr. Charles Johnson;

Advisory Body Members Absent: Mr. Phil Jelichich (non-voting advisory member)

Others Present: Mr. Grant Parks (Principal Manager, Judicial Council Audit Services), Ms. Dawn Tomita (Manager, Judicial Council, Audit Services), Ms. Michelle O'Connor (Senior Auditor, Judicial Council Audit Services), Mr. Joe Meyer (Senior Auditor, Judicial Council Audit Services), Ms. Kim Turner (Court Executive Officer, Mendocino Superior Court)

OPEN MEETING

Call to Order and Roll Call

The chair welcomed committee members and called the meeting to order at 12:15 p.m. and took roll call.

Approval of Minutes

Judge Sirna moved to approve the minutes of the July 21, 2022, meeting. Mr. Taniguchi seconded the motion. There was no further discussion of the minutes. Motion to approve passed by unanimous voice vote of the committee members present.

Discussion of public comment received for the committee.

Committee members discussed the request to audit court trust accounts, to make sure money is recorded in those trust accounts and reconciled with court management system (CMS). Mr. Parks inquired whether committee would like to add this into audit plan, or if the committee members will need more information to decide. He also added that some courts have very detailed trust account information in CMS, while other courts keep the information in a different format not easily accessible by the JCC.

Mr. Taniguchi shared that auditing different trust accounts presents various challenges. For instance, traffic trust funds are hard to audit, due to constant incoming and outgoing payments. Probate trust accounts can be held opened for years. Some probate funds can be held separately in county and court accounts, making it difficult to reconcile. There are many other various types of trust funds, including civil trust funds, criminal (bail), trust accounts for sale of properties under redevelopment agencies, interpleader trust funds.

Judge Rosenberg suggested to check if implementing an audit of trust funds is within the purview of this advisory committee. Judge Rosenberg asked Mr. Parks to consult with court executive officers and prepare a memo on this. In addition, incorporating this additional component into an audit plan may increase a workload for audit staff. Mr. Parks confirmed he will consult with CEOs to see how trust funds are being accounted and what challenges an audit of these accounts may present. Mr. Parks then will prepare a memo to present to the committee, which will provide more detailed options on adding audit of trust funds into an annual audit plan.

Judge Sirna added it is a good plan. Ms. Bieker suggested to contact Ms. Fae Li as she will be a great resource.

DISCUSSION AND ACTION ITEMS

Info Item 1

Report from Audit Services

Audit Services is finishing audits of Monterey and Marin Superior Courts. Audits of Los Angeles, Yuba, San Luis Obispo, San Joaquin superior courts are currently in progress. Fresno, Humboldt, San Bernardino, San Luis Obispo audits by the State Controller's Office have been finalized and will be presented during this meeting. Calaveras audit by SCO should be available the next meeting. SCO will audit Alameda, Contra Costa, Butte, Kings and Lake Superior Courts. SCO will start audit of Judicial Council in December. SCO will also finalize audit of JCC revenues, expenditures, and fund balance around that timeframe. State Auditor's office will issue biannual reviews of trial courts' contracting practices and procurement activities across the state around December 2022 – January 2023.

Action Item 1

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

Members reviewed State Auditor's recent audit of the Batterer's Intervention Program and its implementation by the trial courts, probation, and other stakeholders. In many cases, enrollees are not completing the program, and courts re-enroll the same offenders multiple times. State Auditor's office identified only 71 out of 756 instances where measures were imposed on those violators who did not successfully comply with the terms of their probation. Towards the end of the audit, State Auditor's office reached out to receive Judicial Branch's perspective on this issue. State Auditor would like JCC to provide guidance and training to courts to impose more consistent practices. JCC's executive office are highly aware of this report, as well as other internal committees. Mr. Parks asked committee members to share their ideas on what steps should be taken by staff going forward.

Judge Sirna commended auditors on bringing these important findings and providing an excellent analysis. This report will be a critical piece to review for criminal bench officers. Mr. Taniguchi shared that only five counties were audited, and some counties may be managing the program differently. It will be hard to generalize all 58 counties. For instance, in San Mateo, when an offender is required to go through conditional probation, if they don't show proof of completion, a probation violation affidavit is filed with the court. Even though it is not clear what steps probation department is taking after the notice is filed.

Ms. Bieker shared that Contra Costa was among the five audited courts. All five audited courts have similar issues with paperwork not being filed, judges not having probation reports on file, repeat offenders coming back, the program not sending reports regarding offenders who didn't show up. Even though audited courts were handling steps differently, the results are the same: the program itself is not always at the level it should be. All pieces of the program need to be looked at starting from the basics, in order to create a good program. We need to review who is managing the providers of the program, identify the right tools and techniques to make sure people

are held accountable, develop the right forms, decide what information should be entered into CMS to inform judges about repeat offenders, review how judges and clerk officers handle the information.

Mr. Parks shared that State Auditors will continue to follow-up with JCC to see what steps have been taken to correct issues identified during this audit. He suggested that information about completion or failure to complete the program should be entered into CMS, so the judges can access this information.

Judge Rosenberg added that Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee (CEAC) should be alerted about results of this audit. JCC can create guidelines and recommendations, but this issue needs to be resolved at the trial court' level. Legislation requires offenders to attend the program week after week, where they can't miss a meeting. This requirement creates some challenges for participants.

Mr. Taniguchi, as a designated liaison with CEAC advisory committee, volunteered to work with Mr. Parks to write a recommendation to CEAC to alert about this audit and the action needed to address the audit findings.

Action: Mr. Taniguchi moved to approve audit report of the Batterer's Intervention Program on Judicial Council's website (seconded by Mr. Powell). The motion passed by unanimous voice vote of the committee members present.

Action Item 2

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

SCO's recent audit of Fresno Superior Court's revenues, expenditures, and fund balance for fiscal year 2020-21 concluded that the court complied with governing statutes and regulations. There were some findings related to prior year revenue adjustments, overtime pay error, improper timesheet approval, but overall it was a clean audit. Mr. Parks recommended to approve posting of this report on Judicial Council's website.

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

Action Item 3

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

SCO's recent audit of Humboldt Superior Court's revenues, expenditures, and fund balance for fiscal year 2020-21 concluded that the court generally complied with governing statutes and regulations. Some minor instances of non-compliances include minor unadjusted revenues, overtime pay error, improper timesheet approval, lack of signed contracts for court interpreters. In one instance, Court did not remove someone from Phoenix system after the employee was no longer with the court. These were the main findings. Mr. Parks recommended to approve posting of this report on Judicial Council's website.

Action: Judge Sirna moved to approve posting of this audit report on Judicial Council's website (seconded by Mr. Powell). The motion passed by unanimous voice vote of the committee members present.

Action Item 4

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

SCO’s recent audit of San Bernardino Superior Court’s revenues, expenditures, and fund balance for fiscal year 2020-21 concluded that the court complied with governing statutes and regulations. One finding included unadjusted revenues of around \$20,000. Mr. Parks recommended to approve posting of this report on Judicial Council’s website.

Action: Mr. Johnson moved to approve posting of this audit report on Judicial Council’s website (seconded by Ms. Bieker). The motion passed by unanimous voice vote of the committee members present.

Action Item 5

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

SCO’s recent audit of San Luis Obispo Superior Court’s revenues, expenditures, and fund balance for fiscal year 2020-21 concluded that the court overall complied with governing statutes and regulations. Auditors identified unadjusted revenues in the amount of \$64,000. Auditors identified some missing vendor agreements, and this was corrected during the audit. Another issue was associated with courts reporting 4th quarter financial statements to the Judicial Council on court’s website. SCO found some variances on what’s posted on court’s website vs. what’s entered in general ledger account in Phoenix. The cause is timing differences, since the 4th quarter report can be submitted before the year end is closed. Some reasons for mismatch have to do with when these adjustments get made. Trial courts need to be provided guidance on when the adjustments get made, to make updates to information posted on courts website, to avoid mismatch with what’s posted in Phoenix.

Judge Rosenberg asked to issue audit advisory on 4th quarter adjustment guidance. Ms. Bieker asked to include some guidance on adjusted revenue. Mr. Parks replied that he can include reference to previously issued audit advisory.

Neal Taniguchi suggested that JCC needs to provide courts a training on this, since it looks like courts are making systematic error in every instance. Mr. Parks suggested that representatives from Branch Accounting and Procurement could be invited to the next meeting, to explain on how to guide courts in this area. Judge Rosenberg agreed it is a good suggestion and it should be done for the next meeting.

Action: Mr. Taniguchi moved to approve posting of this audit report on Judicial Council’s website (seconded by Ms. Bieker). Mr. Powell abstained from voting. The motion passed by unanimous voice vote of the committee members present.

A D J O U R N M E N T

There being no further open meeting business, the meeting was adjourned to closed session at 1:45 p.m.

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

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

Action: Committee members unanimously approved audit of Tuolumne Superior Court for public posting on Judicial Council's website.

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

Action: Committee members unanimously approved audit of El Dorado Superior Court for public posting on Judicial Council's website.

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

Action: Committee members unanimously approved audit of Mendocino Superior Court for public posting on Judicial Council's website.

Adjourned closed session at 2:00 pm.



JUDICIAL COUNCIL OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND FINANCIAL ACCOUNTABILITY FOR THE JUDICIAL BRANCH

Meeting Date: 07/11/2023

Informational Item #1 – (No Action Required)

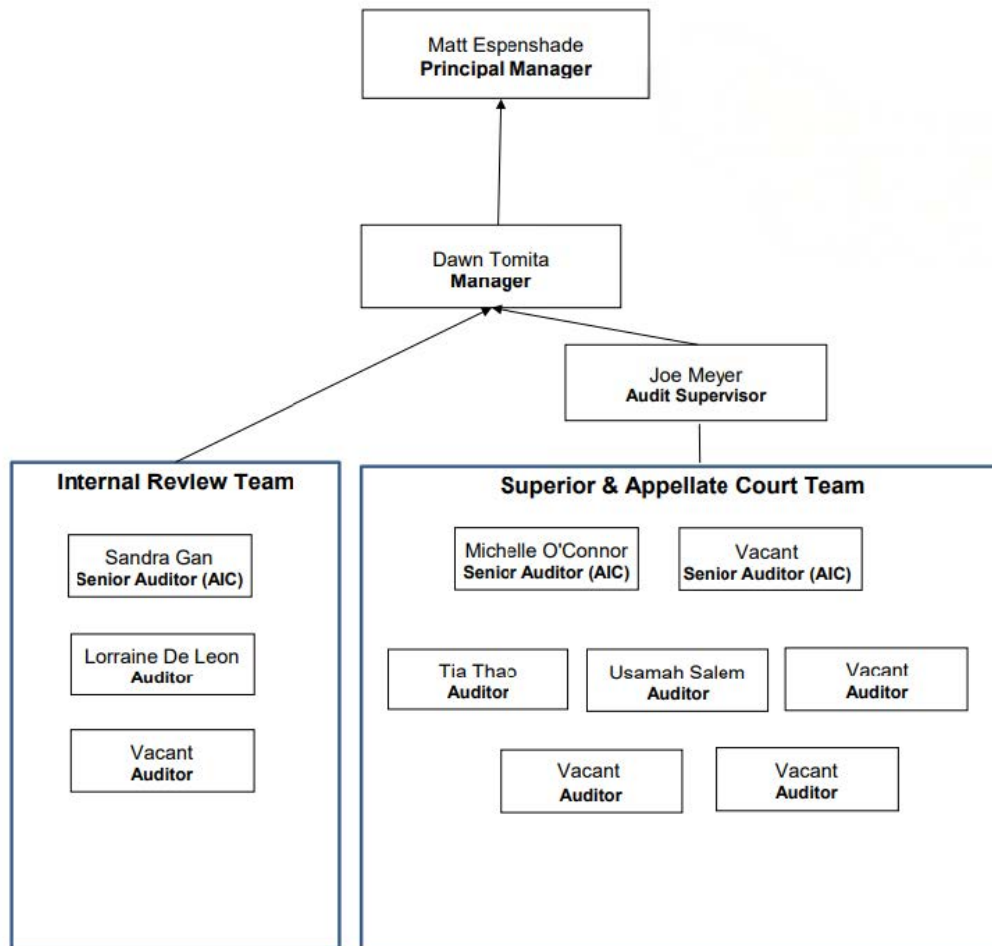
Report from Audit Services

Status Update – Judicial Council’s Audit Services

Workload & Staffing

Audit Services had several auditors leave the council and Joe Meyer was promoted to Audit Supervisor. As a result of two auditors recently leaving the JCC and Joe Meyer’s promotion to Audit Supervisor, Audit Services now has 5 audit staff, all of whom are assigned to trial court audit work. We have begun efforts to recruit to fill our vacant audit positions. Audit Services’ organizational chart as of June 7th is depicted below:

**Judicial Council Audit Services – Organization Chart
(6/7/2023)**



Judicial Council staff have audits in progress at the following courts:

- Madera
- Sonoma
- Fresno
- San Bernardino
- Plumas

Additionally, the following audits have been completed (or are nearly completed) but are pending review at the committee's next meeting:

- Marin
- Monterey
- San Luis Obispo
- Yuba
- Los Angeles
- Tulare
- San Joaquin

Status of External Audits

State Controller's Office (SCO)

Trial Courts Audit Program (Revenues, Expenditures & Fund Balance)

Government Code, section 77206(h) requires the SCO to audit each court's revenues, expenditures, and fund balance on a recurring schedule. The Legislature appropriates \$540,000 each year to fund roughly five audits. You will review four of these audits at our next meeting:

- Calaveras
- Lake
- Butte
- Contra Costa

The SCO's work for FY 22-23 (Alameda, and Kings) is still in progress. For the upcoming FY 23-24 audit list, the SCO has selected Modoc, San Benito, San Diego, San Francisco, Santa Cruz, and Siskiyou superior courts.

State Auditor's Office (CSA)

This biennial audit is required per Public Contract Code, Section 19210(a)(1) and (a)(3), which focuses on five selected courts' compliance with the Judicial Branch Contract Law. The Legislature appropriates \$325,000 for this recurring audit. The report for this audit was issued on January 12, 2023, and will be discussed at the next committee meeting.



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ADVISORY COMMITTEE ON AUDITS AND
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Meeting Date: 7/11/2023

Action Item #1 – (Action Required)

Public Session

Proposed Changes to the Judicial Branch Contracting Manual

Requested Actions:

Action Item #1 - Discuss and approve proposed revisions to the *Judicial Branch Contracting Manual* (Attachment A) and the draft report to the Judicial Council (Attachment B).

Supporting Documents:

- **Attachment A** – Revisions to the *Judicial Branch Contracting Manual* (tracked-changes version)
- **Attachment B** – Draft report to the Judicial Council from the audit committee
- **Attachment C** – Public comments

Summary:

Rule 10.63(c)(3) of the California Rules of Court requires the audit committee to review and recommend to the council proposed updates and revisions the *Judicial Branch Contracting Manual* (JBCM).

AB 661

Assembly Bill 661 (Stats. 2022, ch. 517) adds new recycling requirements to the PCC.9 AB 661 adds new requirements regarding the purchasing of recycled products by JBEs, including new recycled product categories and minimum recycled content percentages. Under AB 661, JBEs are required to purchase recycled products instead of nonrecycled products whenever recycled products are available at no more than 10 percent greater total cost than nonrecycled products, and specified circumstances exist.¹⁰ As a result of AB 661, revisions are proposed to JBCM chapter 3, section 3.3.

SB 34

Senate Bill 34 (Stats. 2022, ch. 297) provides for the voidability of certain contracts entered into through acts of bribery of a public official.¹¹ SB 34 added section 6102 to the PCC, which provides that a contract executed on or after January 1, 2023 (including contracts negotiated prior to January 1, 2023), is voidable if it was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of section 68 or 86 of the Penal Code. As a result of SB 34, revisions are proposed to JBCM chapter 1, section 1.1(C)(2)(c)).

Advertising of procurements in the California State Contracts Register

JBCM chapter 4 provides guidance on the advertising of procurements in the California State Contracts Register (CSCR). Updates are proposed to chapter 4, section 4.1(D)(7) to reflect current procedures for the CSCR.

Policy implications

The revisions are proposed to update the JBCM to conform to statutory requirements, and to facilitate access to information in connection with contracting and procurement. There are no policy implications.

Public Comments

Following review by the JBCM Working Group, the proposed revisions to the JBCM were submitted for public comment from May 4 through May 22, 2023. 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. The public comments that were received during the public comment period and the committee's responses are set forth in the comment chart in this report.

c. Gifts and Gratuities

This section discusses certain restrictions regarding the acceptance of gifts and gratuities. These restrictions are minimum requirements. JBEs may adopt more stringent restrictions in their Local Contracting Manuals.

Accepting gifts and gratuities: No person involved in the procurement process of a JBE may accept, directly or indirectly, any gift, loan of money or equipment, meal, lodging, transportation, entertainment, service, or any other favor of value from any person who is doing or seeking to do business of any kind with that JBE. Doing so could be construed as intent to influence JBE personnel in their official duties or as a reward for an official action performed by the JBE personnel. Favors must be declined. Under PCC 6102, a contract is voidable if it was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of Section 68 or 86 of the Penal Code.

Financial Interest in Contract: GC 1090 is applicable to members of Evaluation Teams, as they are responsible for evaluating Bids. GC 1090 requires that state officers and others not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Any person who is found to have willfully violated GC 1090 may be punished by a fine of not more than \$1,000 or by imprisonment in state prison, and will be forever disqualified from holding any office in this state.

Avoid making a gift of public funds: Article 16, section 6 of the California Constitution strictly prohibits any gift of public funds. To not be considered a gift of public funds, an expenditure must support the JBE's mission (function and purpose) and benefit the judicial branch.

Accepting free or loaner equipment from suppliers: JBEs should not accept an offer of goods or services without cost or obligation to the JBE that is made by a Prospective Bidder, Bidder, or Vendor. If a Buyer's decision is contrary to this best practice, the JBE should execute a contract to memorialize the agreement.

Before accepting any goods and services offered at no cost or obligation to the JBE, the JBE should consider the perception of the acceptance to other suppliers. How does the JBE remain fair and impartial if a decision is eventually made to solicit the goods or services?

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.

A. Utilizing Recycled Content Products

Please see PCC 12200(f) and 12207 for a complete listing of recycled product categories. PCC 12203 requires JBEs to ensure that at least 50 percent of reportable purchases are recycled products. This requirement applies to purchases in each of the targeted categories identified in PCC 12207, which includes categories covering paper products, office supplies, office products, and a wide range of other products. The required postconsumer recycled content varies by category (e.g., recycled paper products must consist of at least 30 percent postconsumer fiber). PCC 12209 provides a listing of products and the minimum recycled content percentages needed to qualify as a recycled product. PCC 12209 also provides that CalRecycle shall consider updating this list of products and the minimum recycled content percentages, beginning on January 1, 2026 and every three years thereafter. For a full description and listing of recycled products and the required minimum recycled content percentages, as well as a full description of how CalRecycle will determine whether the minimum recycled content percentages should be updated, please see PCC 12209. On and after January 1, 2020,

JBEs must ensure that at least 75 percent of reportable purchases are recycled products, except for paint, antifreeze, and tires, which remain at the 50 percent requirement. See PCC 12203(a).

Example: A JBE is purchasing \$20,000 worth of paper for its copy machines. At least \$10,000 of the paper must have 30 percent recycled content by weight. The other \$10,000 may be any mix of recycled or nonrecycled products. For additional information, search on CalRecycle or www.calrecycle.ca.gov.

B. Recycled Preference and Competitive Solicitations

Under PCC 12201, a JBE shall purchase recycled products instead of nonrecycled products, if all of the following requirements are met:

- Fitness and quality of the products are equal;
- Recycled products are available at no more than 10 percent greater total cost than nonrecycled products; and
- One of the following situations applies:
 1. A JBE uses a leveraged procurement agreement through which both recycled and nonrecycled products are available.
 2. A JBE is awarding a contract using the SB/DVBE option (pursuant to Government Code section 14838.5, as further discussed in Chapter 4C of the JBCM) and receives offers for both recycled and nonrecycled products.
 3. A JBE awards a contract without soliciting multiple offers based on a determination that the price is fair and reasonable.

To the maximum extent economically feasible in performance of the contract work, each JBE must require Vendors to use recycled content products (PCC 12203(d)). Contact the SABRC at 916-341-6199 or SABRC@CalRecycle.ca.gov for information on qualifying SABRC reusable and recycled content products.

C. Supplier Certification

Unless otherwise waived as noted below, JBEs must require all Vendors to certify in writing, under penalty of perjury, the percentage of recycled content in the products, materials, goods, or supplies offered or sold to the JBE (PCC 12205). This requirement

Judicial Branch Contracting Manual	Competitive Solicitation Overview	Chapter 4 Page: 7 of 27
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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.

~~After registering with FI\$Cal, a JBE may submit post an advertisement to the CSCR (without fees) via the FI\$Cal website, by using DGS Procurement Division's Internet web page (dgs.ca.gov/pd), 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



Judicial Council of California

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-127

For business meeting on: September 19, 2023

Title

Judicial Branch Administration: *Judicial Branch Contracting Manual*

Rules, Forms, Standards, or Statutes Affected

None

Recommended by

Advisory Committee on Audits and Financial Accountability for the Judicial Branch
Hon. David Rosenberg, Chair

Agenda Item Type

Action Required

Effective Date

October 1, 2023

Date of Report

July 11, 2023

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 reflect new Public Contract Code provisions regarding procurement and contracting, as well as updated procedures for the advertising of procurements in the California State Contracts Register.

Recommendation

The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council, effective October 1, 2023, adopt proposed revisions to the *Judicial Branch Contracting Manual*.

The proposed revisions to the manual are indicated in Attachment A.

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.¹ In December 2011, April and August 2012, December 2013, June 2015, June 2016, July 2017, July 2018, September 2019, September 2020, October 2021, and September 2022, the council adopted revisions to the JBCM. The version of the JBCM adopted by the council on September 20, 2022, effective October 1, 2022, remains in effect as of the date of this report.²

Analysis/Rationale

Statutory requirement and development of the JBCM

The Judicial Branch Contract Law was enacted on March 24, 2011, and became effective on that date. With certain exceptions,³ the law 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 (PCC) applicable to state agencies and departments related to the procurement of goods and services.⁴ The Judicial Branch Contract Law applies to all covered contracts initially entered into or amended by JBEs on or after October 1, 2011.⁵

The Judicial Branch Contract Law also requires the council to adopt a manual containing procurement and contracting policies and procedures that must be followed by all JBEs.⁶ 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*.”⁷ 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 12 sets of revisions.

This report is being submitted by the Advisory Committee on Audits and Financial Accountability for the Judicial Branch under rule 10.63 of the California Rules of Court. Under the rule, the duties of the committee include (1) advising and assisting the council in performing

¹ Pub. Contract Code, §§ 19201–19210.

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

³ Pub. Contract Code, §§ 19204(c), 19207, and 19208.

⁴ *Id.*, § 19204(a).

⁵ *Id.*, § 19203.

⁶ *Id.*, § 19206.

⁷ *Ibid.*

its responsibilities and exercising its authority under the Judicial Branch Contract Law, and (2) reviewing and recommending to the council proposed updates and revisions to the JBCM.⁸

Proposed revisions to the JBCM

AB661

Assembly Bill 661 (Stats. 2022, ch. 517) adds new recycling requirements to the PCC.⁹ AB 661 adds new requirements regarding the purchasing of recycled products by JBEs, including new recycled product categories and minimum recycled content percentages. Under AB 661, JBEs are required to purchase recycled products instead of nonrecycled products whenever recycled products are available at no more than 10 percent greater total cost than nonrecycled products, and specified circumstances exist.¹⁰ As a result of AB 661, revisions are proposed to JBCM chapter 3, section 3.3.

SB34

Senate Bill 34 (Stats. 2022, ch. 297) provides for the voidability of certain contracts entered into through acts of bribery of a public official.¹¹ SB 34 added section 6102 to the PCC, which provides that a contract executed on or after January 1, 2023 (including contracts negotiated prior to January 1, 2023), is voidable if it was entered into because of an act that would constitute a violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of section 68 or 86 of the Penal Code. As a result of SB 34, revisions are proposed to JBCM chapter 1, section 1.1(C)(2)(c)).

Advertising of procurements in the California State Contracts Register

JBCM chapter 4 provides guidance on the advertising of procurements in the California State Contracts Register (CSCR). Updates are proposed to chapter 4, section 4.1(D)(7) to reflect current procedures for the CSCR.

Policy implications

The revisions are proposed to update the JBCM to conform to statutory requirements, and to facilitate access to information in connection with contracting and procurement. There are no policy implications.

Comments

Following review by the JBCM Working Group, the proposed revisions to the JBCM were submitted for public comment from May 4 through May 22, 2023. The invitation to comment specifically sought input on whether the revisions were clear and understandable, appeared to

⁸ Cal. Rules of Court, rule 10.63(c)(2) & (c)(3).

⁹ For a copy of AB 661's text, statutory revisions, and legislative history, please refer to: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB661&firstNav=tracking.

¹⁰ Pub. Contract Code, § 12201.

¹¹ For a copy of SB 34's text, statutory revisions, and legislative history, please refer to: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB34.

work from a court operations perspective, and were user-friendly. The public comments that were received during the public comment period and the committee's responses are set forth in the comment chart in this report.

Alternatives considered

None.

Fiscal and Operational Impacts

No significant costs or operational impacts are anticipated from implementing the recommendations in this report.

Attachments and Links

1. Chart of comments, at page 5.
2. Attachment A: *Judicial Branch Contracting Manual*, with proposed revisions in track changes format.

COMMENT CHART

Invitation to Comment SP23-04
Judicial Administration: *Judicial Branch Contracting Manual*

Commentator	Position	Comment	Committee Response
JD	Disagree		It is unclear why the commentator is disagreeing. The commentator does not specify which of the proposed JBCM revisions they are referring to, or what the commentator is disagreeing with. Therefore, no substantive response is required.
JD Dee	Disagree		It is unclear why the commentator is disagreeing. The commentator does not specify which of the proposed JBCM revisions they are referring to, or what the commentator is disagreeing with. Therefore, no substantive response is required.

DRAFT



JUDICIAL COUNCIL
OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

Meeting Date: 7/11/2023

Action Item #2 – (Action Required)

2022-2023 Annual Audit Plan

Requested Action:

- **Action Item #2** – Discuss and approve the draft annual audit plan for fiscal year 2023-24.

Supporting Documents:

- ***Attachment D***—Draft Audit Plan (Fiscal Year 2023-24).

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 2023-24 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 (2022-23)

So far in fiscal year 2022-23, the audit committee has considered 4 audit reports prepared by the Judicial Council’s Audit Services, and another 7 reports are drafted but pending review by the audit committee (although the results of these audits are preliminary, we included them in the statistics below for additional context to our FY 2022-23 audits). Those 11 audit reports contained a cumulative total of 54 audit findings in the following areas:

- Cash Handling – 35 findings (65%)
- Procurement and Contracts – 11 findings (20%)
- Payment Processing – 7 findings (13%)

Overall, we identified more reportable findings in 2022-23 than in the year prior. That can mostly be attributed to the fact that Audit Services restarted our cash handling testing at the courts after suspending that work due to the COVID-19 pandemic. That is reflected in the most common findings at the courts in FY 2022-23:

- *Cash Management* – our most common findings in this area were related to the lack of proper segregation of duties or safe combinations and contents not being properly secured.
- *Procurement and Contracts* – lack of procurement requisitions to demonstrate management’s approval to begin a solicitation (i.e., demonstrating there was a legitimate business need and funds were available). We also twice noted the lack of documentation to explain why certain solicitations did not follow competitive bidding rules noted in the Judicial Branch Contracting Manual (JBCM).

Changes to the Audit Plan for Fiscal Year 2023-24

Audit Services proposes the following changes to the audit plan:

- ***Eliminate revenue distribution testing*** – We propose to remove this testing from our audit program because we do not believe that Audit Services’ review of revenue distributions provides as much value to the courts as it did in the past. Since 2013 there is now annual revenue distribution training which all courts are invited to attend and at which the statutes governing distributions are explained, court personnel get hands-on experience working with sample distributions, and where court staff can ask questions and get both answers and resources for further guidance. Audit Services did not identify any reportable findings in the area during its FY 2022-23 court audits. Additionally, SCO’s audits include testing in this area and SCO’s audit work has a broader scope than Audit Services’ work.

These proposed changes are expected to translate to the following changes for the typical court audit budget (shown on the next page). Overall, the revisions to the audit plan will result in 32 fewer hours of work on average (per court), as shown in the table below.

Budget hours by Fiscal Year			
	<u>Current</u>	<u>Proposed</u>	
	<i>2022-2023</i>	<i>2023-2024</i>	Change
Scoping	24	24	0
Cash	240	240	0
Procurement	80	80	0
Accounts Payable	40	40	0
JBSIS	120	120	0
Fund Balance	32	32	0
Revenue Distribution	32	0	-32
Enhanced Collections	40	40	0
AIC Leading/Review*	146	146	0
Finding Development	40	40	0
Report Writing	40	40	0
<i>Total</i>	834	802	-32

* Supervisor Leading / Review Based on 25% of fieldwork.

Proposed Audit Schedule (FY 2023-24)

The proposed list below is generally based on those courts with the greatest elapsed time since their prior audit by the council, while also considering the State Controller's planned audits. Considering SCO's audit schedule helps to minimize the number of audits a court will endure in a single fiscal year.

Audit Services' proposed FY 2023-24 audits:

- Alameda
- Kings
- Contra Costa
- Kern
- Placer
- Merced
- Calaveras

Schedule of Current and Planned Audits

The table on the following page provides a listing of the audits scheduled for FY 23-24 (including those currently in progress), as well as those likely to be selected for next year's schedule. This is intended to be a tentative guide to the committee and potential notice to courts that they may be audited.

Appellate / Superior Court	Date of Last Audit Report	(Current Plan)		(Next Year)	
		FY 2023-24	FY 2024-25	Appellate / Superior Court	Date of Last Audit Report
Madera	June-14	IP		Imperial	March-21
Plumas	January-11	IP		Napa	March-21
Sonoma	April-11	IP		Mariposa	July-21
San Bernardino	January-15	IP		Mono	July-21
Fresno	June-16	IP		Riverside	July-21
Alameda	March-13	X		Alpine	February-22
Lake	August-14		Y	Amador	February-22
Yolo	February-15		Y	Del Norte	February-22
Kings	October-15	X		Inyo	February-22
Humboldt	December-15		Y	Santa Clara	February-22
Contra Costa	February-16	X		Shasta	February-22
Kern	August-16	X		Sutter	February-22
Placer	October-17	X		Orange	June-22
Merced	January-18	X		Santa Barbara	June-22
Butte	April-18		Y	Stanislaus	June-22
Colusa	June-18		Y	Nevada	July-22
Solano	June-18		Y	El Dorado	November-22
Calaveras	June-18	X		Mendocino	November-22
Siskiyou	October-18		Y	Tuolumne	November-22
Sacramento	December-18		Y	Marin	*TBD
Ventura	December-18		Y	Monterey	*TBD
Glenn	February-19		Y	San Luis Obispo	*TBD
San Benito	June-19			Yuba	*TBD
San Francisco	June-19			Los Angeles	*TBD
Santa Cruz	June-19			Tulare	*TBD
Modoc	October-19			San Joaquin	*TBD
Trinity	October-19			3rd DCA	^May-18
Lassen	February-20			5th DCA	^February-19
San Mateo	February-20			4th DCA	^March-19
Sierra	February-20			1st DCA	^July-20
Tehama	February-20			2nd DCA	^July-20
San Diego	July-20			6th DCA	^March-21

Notes:

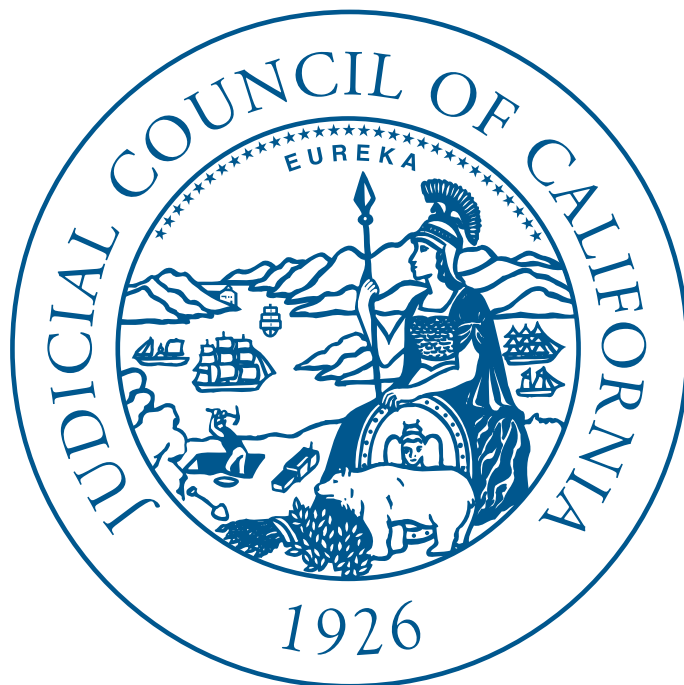
"IP" = In progress

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

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

* = Pending audit committee approval

^ = The appellate courts are not scheduled for audits at this time



**JUDICIAL BRANCH
ANNUAL AUDIT PLAN
Fiscal Year 2023-24**



Judicial Council of California

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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 actions 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. An audit of a superior court often entails a review of its fiscal affairs such as, but not limited to, whether the court has: implemented certain mandatory internal controls over cash handling and has spent state-provided funding on allowable expenses for “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 and state law. Generally, audits are scheduled based on the time elapsing from the prior audit. Finally, Audit Services periodically 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 annual comprehensive report, 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 Contract 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 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 reporting of encumbrances at fiscal year-end, which the Judicial Council uses to help monitor court compliance with statutory caps on each court’s fund balance. Audit Services considers risk areas that cross over into more than one risk category to be 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 given varying court size and resources. 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. 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. High risk areas are those where the internal control requirements may be complex or the incentives to circumvent those controls or to rationalize not having them in the first place is high (e.g., 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.	Medium	Medium		X	
Enhanced Collections Revenue	Court retains revenue from delinquent collections in excess of the actual costs of collecting that delinquent debt.	N/A	Medium	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.	Medium	Medium	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>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 four audits reviewed by the audit committee in fiscal year (FY) 2022-23, there were a total of 13 findings. Additionally, seven more audits are pending the review and approval of the audit committee at its next meeting, which have a total of 41 findings. Last year's audit plan reinstated the review of cash handling controls. This has historically been an area with the largest number of audit findings. Although the findings from the seven reports are preliminary since they are pending review by the audit committee, we included them in the following statistics to provide additional context for Audit Services' FY 22-23 work. The most frequent categories of audit findings for FY 22-23 were cash handling-related findings (35 findings or 65%) such as lacking proper segregation of duties, not requiring periodic counts of the change fund by someone other than the change fund custodian, or not officially appointing a change fund custodian for change funds of \$500 or more. The area with the second highest number of findings was procurements and contracts (11 findings or 54%), such as courts not consistently documenting or requiring purchase requisitions.

Table 2 – Recap of FY 22-23 Audit Findings

Standard Audit Scope - Superior Courts

Areas and Sub-Areas Subject to Review		In Scope for FY 23-24?	Audit Findings from Prior Year	
			# of Findings in FY 22-23	Common Compliance Issues
Cash Handling				
1	Daily Opening Process	Yes	2	
2	Voided Transactions	Yes	0	
3	Handwritten Receipts	Yes	2	
4	Mail Payments	Yes	8	Courts do not always restrictively endorse mail payments, maintain a mail payment receipt log, safeguard mail payments, or identify and track mail payments not processed in 5, 15, or 30 days.
5	Internet Payments	Yes	0	
6	Change Fund	Yes	9	Courts do not require someone to count and verify the change fund at the end of each day while in the presence of a manager or supervisor, require periodic counts of the change fund by someone other than the change fund custodian, or do not officially appoint a change fund custodian for change funds of \$500 or more.
7	End-Of-Day Balancing and Closeout	Yes	3	
8	Bank Deposits	Yes	3	
9	Other Internal Controls	Yes	8	Courts do not always maintain a segregation of duties, or safe combinations and contents are not properly secured.
Procurement and Contracts				
10	Procurement Initiation	Yes	4	Courts do not consistently document or require purchase requisitions.
11	Authorization & Authority Levels	Yes	1	
12	Competitive Procurements	Yes	1	
13	Non-Competitive Procurements	Yes	2	
14	Leveraged Purchase Agreements	Yes	0	
15	Contract Terms	Yes	2	
16	Other Internal Controls	Yes	1	
Payment Processing				
17	3-Point Match Process	Yes	2	
18	Payment Approval & Authority Levels	Yes	2	
19	Special Rules - In-Court Service Providers	Yes	2	
20	Special Rules - Court Interpreters	Yes	0	
21	Other Items of Expense	Yes	0	
22	Jury Expenses	Yes	1	
23	Allowable Costs	Yes	0	
24	Other Internal Controls	Yes	0	
Fine & Fee Distributions				
25	Calculated Distributions	No	0	
3% Fund Balance Cap				
26	Calculation of the 3% Cap	Yes	1	
27	Use of "Held on Behalf" Funds	Yes	0	
JBSIS Case Filing Data				
28	Validity of JBSIS Data	Yes	0	
Grants				
29	AB 1058 Grants	No	0	
Collections				
30	Enhanced Collections	Yes	0	

In Audit Services’ view, cash handling continues to be a high-risk area given that courts do not consistently follow the FIN Manual’s processes for maintaining and tracking accountability over

the change fund with periodic change fund counts and appointed change fund custodians. Additionally, courts do not always properly secure the contents of their safes, leaving collections and monies unsecured and at risk for loss or theft. Finally, we believe procurement processing continues to be an inherently medium-risk process given the lack of use or documentation of purchase requisitions, as well as the complexity of the rules and requirements for the various procurement types and their processing.

Audit Scope and Adjustments for Fiscal Year 2023-24

Additions, deletions, and modifications to the audit plan for FY 23-24 are described below.

- ***Remove revenue distribution testing*** – We propose to remove this testing from our audits because we do not believe that Audit Services’ review of revenue distributions provides as much value to the courts as it did in the past. Since 2013 there is now annual revenue distribution training which all courts are invited to attend and at which the statutes governing distributions are explained, court personnel get hands-on experience working with sample distributions, and where court staff can ask questions and get both answers and resources for further guidance. Audit Services did not identify any reportable findings in the area during its FY 2022-23 court audits. Additionally, SCO’s audits include testing in this area and SCO’s audit work has a broader scope than Audit Services’ work.

Available Staff Resources and Audit Scheduling

Audit Services has two audit teams assigned to court audit work. Staffing currently consists of 1 manager, 1 supervisor, 2 team leaders and 3 audit staff (total of 8 auditors). Audit Services is actively recruiting to fill one auditor position and we plan to recruit to fill another auditor vacancy later this fiscal year. The success of those recruitment efforts may impact the audit schedule. On an as-needed basis, audit staff are pulled to support other projects focusing on the Judicial Council’s internal operations. Based on the available staff resources, Audit Services estimates that it will be able to complete five audits currently in progress and begin an additional eight audits. Staff from the internal review team will work on trial court audits as time permits.

When scheduling court audits, Audit Services will provide each court with a reasonable time—up to 30 days—to provide its official response and corrective action plan before finalizing the draft report for the audit committee. The audit schedule includes assumptions about the required time to complete each audit based on the revisions to the audit plan (discussed previously) and other factors such as the number of anticipated locations where cash handling activities take place.

Schedule of Future Court Audits

Courts that are not scheduled for an audit this fiscal year may appear in next year’s annual audit plan. Table 3 shows all 58 superior courts, ranked 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—and to the extent possible coordinated with—the work of external audit organizations.

Table 3 –Audit Services’ Previous and Planned Appellate and Superior Court Audits (Current Year and Anticipated Next Year)

Appellate / Superior Court	Date of Last Audit Report	(Current Plan)		(Next Year)	
		FY 2023-24	FY 2024-25	Appellate / Superior Court	Date of Last Audit Report
Madera	June-14	IP		Imperial	March-21
Plumas	January-11	IP		Napa	March-21
Sonoma	April-11	IP		Mariposa	July-21
San Bernardino	January-15	IP		Mono	July-21
Fresno	June-16	IP		Riverside	July-21
Alameda	March-13	X		Alpine	February-22
Lake	August-14		Y	Amador	February-22
Yolo	February-15		Y	Del Norte	February-22
Kings	October-15	X		Inyo	February-22
Humboldt	December-15		Y	Santa Clara	February-22
Contra Costa	February-16	X		Shasta	February-22
Kern	August-16	X		Sutter	February-22
Placer	October-17	X		Orange	June-22
Merced	January-18	X		Santa Barbara	June-22
Butte	April-18		Y	Stanislaus	June-22
Colusa	June-18		Y	Nevada	July-22
Solano	June-18		Y	El Dorado	November-22
Calaveras	June-18	X		Mendocino	November-22
Siskiyou	October-18		Y	Tuolumne	November-22
Sacramento	December-18		Y	Marin	*TBD
Ventura	December-18		Y	Monterey	*TBD
Glenn	February-19		Y	San Luis Obispo	*TBD
San Benito	June-19			Yuba	*TBD
San Francisco	June-19			Los Angeles	*TBD
Santa Cruz	June-19			Tulare	*TBD
Modoc	October-19			San Joaquin	*TBD
Trinity	October-19			3rd DCA	^May-18
Lassen	February-20			5th DCA	^February-19
San Mateo	February-20			4th DCA	^March-19
Sierra	February-20			1st DCA	^July-20
Tehama	February-20			2nd DCA	^July-20
San Diego	July-20			6th DCA	^March-21

Notes:

"IP" = In progress

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

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

* = Pending audit committee approval

^ = The appellate courts are not scheduled for audits at this time