



Judicial Council of California · Administrative Office of the Courts

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

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 24, 2012

Title	Agenda Item Type
Collections: Amnesty Program Reimbursement	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	January 24, 2012
Recommended by	Date of Report
Administrative Office of the Courts Margie Borjon-Miller, Assistant Director, Regional Office Jessica Sanora, Senior Manager, Regional Office, Enhanced Collections Unit Gwen Arafiles, Manager, Finance Division	January 12, 2012
	Contact
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Executive Summary

The Finance Division and Regional Office Enhanced Collections Unit of the Administrative Office of the Courts (AOC) recommend that the Judicial Council approve a plan for allocating and disbursing to court and county collections programs \$500,000 received from the California State Department of Finance (DOF). The DOF funds come with specific reporting requirements and may be used only to offset the cost of commission fees payable to private vendors collecting delinquent court-ordered debt eligible under the statewide amnesty program effective January 1, 2012, through June 30, 2012. The amount allocated to each program will depend on the methodology approved by the council and the final number of programs requesting funds, which must be disbursed within fiscal year 2011–2012. The amount disbursed will be based on the actual costs of vendor commissions submitted by the programs to the AOC up to the amount allocated.

Recommendation

The AOC Finance Division and Regional Office Enhanced Collections Unit recommend that the Judicial Council:

1. Approve the allocation and disbursement of \$500,000 received from the DOF to court and county collection programs that agree to: (a) reimburse private collection vendors for their commission costs; (b) follow the AOC's process to obtain the funds; and (c) report amnesty program revenue on specified dates.
2. Approve the allocation of the funding to all qualifying programs proportionally based on the amount of amnesty-eligible debt as reported in June 2009, as described below, and direct the AOC to disburse the money based on actual costs invoiced up to the amount allocated.
3. Delegate to the Administrative Director of the Courts the authority to reallocate remaining funds appropriated by the DOF to all qualifying programs proportionally based on the amount of remaining amnesty-eligible debt, as reflected in the April 16, 2012 reports, and direct the AOC to disburse the money based on actual costs invoiced up to the amount allocated.

Previous Council Action

On April 29, 2010, the Policy Coordination and Liaison Committee (PCLC) acted on behalf of the council to co-sponsor legislation that created the Infraction Amnesty Program. Senate Bill 857 (Stats. 2010, ch. 720) added Vehicle Code section 42008.7, authorizing a mandatory infraction amnesty program for a six-month period effective January 1, 2012, through June 30, 2012, for the collection of bail and fines meeting certain eligibility requirements. Thereafter, the Legislature amended Vehicle Code section 42008.7 (Assembly Bill 1358 (Stats. 2011, ch. 662), permitting courts and counties jointly to agree to include certain misdemeanor violations in the amnesty program.¹ The Judicial Council adopted guidelines for the amnesty program on August 26, 2011, as required by Vehicle Code section 42008.7(e).

Rationale for Recommendations

In June 2011, the AOC Regional Office Enhanced Collections Unit requested \$500,000 from the DOF to offset the costs of implementing the amnesty program, including court and county collections program staff, private collections vendor commission fees, and costs for the creation and distribution of advertising materials. On September 26, 2011, the DOF informed the AOC Regional Office Enhanced Collections Unit that it intended to award the funds for the sole purpose of reimbursing private vendors for their commission costs. The DOF stated that the funds could not be used to reimburse staff or advertising costs.

¹ A copy of Vehicle Code section 42008.7 is Attachment A.

On December 5, 2011, the DOF formally advised the AOC that it had approved \$500,000 appropriation authority for the sole purpose of paying private collection vendor commission costs (see Attachment B). The DOF further stated that a requirement for receiving the funding is to report quarterly on the revenues collected on the DOF-provided reporting template, due in April and July of 2012. The DOF indicated that an executive order would be processed to transfer appropriation authority of the \$500,000 in January 2012.

On November 22, 2011, the Regional Office Enhanced Collections Unit notified all presiding judges, court executive officers, and county administrative officers about the funding opportunity, explained the conditions for receipt of the funding, and asked court and counties to respond by December 2, 2011, indicating if they would like to be considered for receipt of a portion of the funding under the stated conditions. A second notice was sent extending the deadline to January 12, 2012. Sixteen programs have expressed interest.²

Recommendation 1: Approve the allocation and disbursement of \$500,000 received from the DOF to court and county collection programs that agree to: (a) reimburse private collection vendors for their commission costs; (b) follow the AOC's process to obtain the funds; and (c) report amnesty program revenue on specified dates.

The DOF has limited the use of the \$500,000 to reimbursement of private collection vendors for their commission costs, and has also specified certain reporting requirements for receiving the funding. Participating courts and counties will be required to follow the AOC's accounting and reporting process, which is summarized below, in the Implementation Requirements section of this report. Disbursement to each participating court and county program is contingent upon receipt of quarterly reports containing information on the number and dollar value of cases referred for collection, the collection fees, and the number and dollar value of accounts collected each month.³ The reports are due to the DOF by April 30, 2012, and July 31, 2012. To allow time for the AOC to review and compile the information for the DOF, the court and county collections programs will be required to provide this information to the AOC Regional Office Enhanced Collections Unit by April 16, 2012, and July 16, 2012.

Recommendation 2: Approve the allocation of the funding to all qualifying programs proportionally based on the amount of amnesty-eligible debt as reported in June 2009, as described below, and direct the AOC to disburse the money based on invoiced actual costs up to the amount allocated.

This recommendation provides the methodology for allocating the DOF funds. The AOC recommends allocation of the funds to court and county collections programs based on the

² The sixteen courts and counties that responded affirmatively are: Calaveras, Lake, Madera, Marin, Merced, Monterey, Napa, Sacramento, San Diego, San Joaquin, Santa Barbara, Santa Cruz, Tehama, Tulare, and Tuolumne

³ See Attachment B.

amount of court-ordered outstanding delinquent debt in each county as of June 30, 2009, in relation to the total debt of those participating in the program. This recommendation provides a level of funding based on the expected needs of the court and county collection programs.

A program's cost is likely to be proportional to the amount of collectable debt. Collection vendors typically charge a commission calculated as a specified percentage of the amount collected. As a result, the higher the amount of debt collected, the higher the overall amount of the commission collected by the vendor. Therefore, a program's costs will presumably be higher if there is more debt to collect. The actual amount of vendor fees is not known until the debt is collected.

Allocating the funds based on a proportional amount of outstanding debt as of June 30, 2009, for each participating court and county program provides a level of funding based on the court and county collections programs' expected needs. The distribution will be based on the actual amount of the commission owed to the vendor. Below is the formula for allocating funds in this manner:

$$(\text{Amount of court/county outstanding debt as of 6/30/09} \div \text{Total amount of outstanding debt for participating court/county collection programs}) \times \$500,000.$$

This recommended methodology would result in the following allocations to participating court and county collections programs:

Court or County Program	Total Delinquent Debt (FY 2008-09)	% of Delinquent Debt	Allocation from \$500K
Calaveras	\$9,060,308	0.45%	\$2,255
Contra Costa	\$160,980,688	8.01%	\$40,057
Lake	\$29,223,962	1.45%	\$7,272
Madera	\$73,984,759	3.68%	\$18,410
Marin	\$11,705,906	0.58%	\$2,913
Merced	\$70,326,002	3.50%	\$17,499
Monterey	\$113,279,337	5.64%	\$28,188
Napa	\$35,568,947	1.77%	\$8,851
Sacramento	\$519,553,532	25.86%	\$129,282
San Diego	\$630,728,472	31.39%	\$156,946
San Joaquin	\$174,483,518	8.68%	\$43,417
Santa Barbara	\$54,621,746	2.72%	\$13,592
Santa Cruz	\$26,999,422	1.34%	\$6,718
Tehama	\$14,675,724	0.73%	\$3,652
Tulare	\$61,840,934	3.08%	\$15,388
Tuolumne	\$22,349,251	1.11%	\$5,561
Total	\$2,009,382,508	100.00%	\$500,000

Each participating court or county would enter into either an intra-branch agreement or a memorandum of understanding[, respectively,] with the AOC to confirm understanding and acceptance of the DOF's reporting and other requirements. Court and county collection programs would agree to work in partnership with the AOC to process invoices and disburse funds to their private collection vendors. The amount disbursed would be based on invoiced actual costs, up to the amount allocated.

Recommendation 3: Delegate to the Administrative Director of the Courts the authority to reallocate remaining funds from the \$500,000 allocated by the DOF to all qualifying programs proportionally based on the amount of remaining amnesty-eligible debt, as reflected on the April 16, 2012 reports, and direct the AOC to disburse the money based on invoiced actual costs up to the amount allocated.

The third recommendation reflects the possible need to reallocate funds among participating court and county collection programs based on the information provided in the April 2012 quarterly report to ensure that the funds are used to the maximum extent possible between January and June 2012. Under this recommendation, the Administrative Director of the Courts would have the authority to approve reallocation of funds among court and county collection programs using the same formula provided in recommendation 2, adjusted by information as of April 2012, which would reflect actual revenues collected. This recommendation would allow sufficient time for the reallocation and disbursement of funds before the amnesty program ends on June 30, 2012. Due to the quarterly reporting deadline, returning to the council would cause a delay and hardship to the programs. A delay in approving a reallocation would mean that court and county collection programs would not know the amount of funds that they could receive from the remaining DOF funds and, therefore, would not know whether to request disbursement from their allocation or to deduct the collection costs from the amount collected before distributing the collected revenues to the appropriate entities.

Comments, Alternatives Considered, and Policy Implications

Comments

This proposal was not circulated for public comment. The AOC was formally notified by DOF on December 5, 2011 that this funding would be appropriated in January 2012. (Attachment B.) The amnesty program began on January 1, 2012. This limited timeframe did not allow for circulation of the proposal for public comment.

Alternatives Considered

The AOC considered and rejected the alternative of allocating and distributing funds equally among participating court and county collection programs. Under this alternative, for example, if twenty court or county collection programs participated, each would receive \$25,000 (1/20 or 5% of \$500,000). This alternative was rejected because it would not allocate funding based on actual costs and would create a greater potential for requiring reallocation of funds to ensure that

the funding is used to the greatest extent possible. For example, if a court or county collection program were allocated \$25,000, but their actual vendor commission costs were \$19,000, the remaining \$6,000 would have to be reallocated to another court or county collection program or result in unused funds at the end of the program.

If a participating program incurs vendor commission charges that exceed the program's allocation, those commission costs would be recovered from revenues generated by the amnesty program before the revenues, less costs, are distributed to various government entities, (Veh. Code, 42008.7(h)), thereby reducing the amount of funds that would be received by those entities.

Implementation Requirements, Costs, and Operational Impacts

There are no direct costs involved in the management and disbursement of these funds for the AOC. Indirect costs are related to the resources that will be required to manage, disburse, and report the use of these funds. There will be minimal impact on AOC staff to administer funding and to meet the reporting requirement.

The AOC has established the following process to allow courts and county collection programs to invoice for the allocated funds:

- The private collection vendor will submit to the trial court or county collection program a separate invoice for the fees charged for collecting amnesty cases, for which the program is seeking reimbursement from the DOF money, and all required supporting documentation.
- The trial court or the county will pay the collection vendor directly out of the court operations account or the county general fund, respectively.
- The trial court or the county will invoice the AOC on official letterhead for the fees charged for amnesty cases, for which the program is seeking reimbursement from the DOF money, with documentation attached, and then forward the invoice and documentation to the AOC Enhanced Collections Unit.
- The AOC Enhanced Collections Unit will review the trial court or county invoice and documentation to ensure that the amount requested is within the amount allocated. If the amount requested is within the allocation, the Enhanced Collections Unit will submit approved invoices to AOC Accounting for payment to the trial court or county from the TCTF.
- If the invoice exceeds the amount of allocated funding or does not comply with all other conditions, the Enhanced Collections Unit will notify the trial court or county so that the invoice can be resubmitted with correct information.

Operational impacts will result from the processes that are established to invoice, disburse, and report on the revenue and costs resulting from the amnesty program. The AOC Finance Division and the Regional Office Enhanced Collections Unit will work with the participating courts and

counties that receive funds to develop the most effective and efficient procedures to manage these funds.

Relevant Strategic Plan Goals and Operational Plan Objectives

Accepting this recommendation to use the \$500,000 special funding from the DOF by allocations and disbursements to participating court and county collection programs supports the Judicial Council's goal of modernizing the management and administration of court and judicial branch practices (Judicial Council Goal III, Modernization of Management and Administration) by promoting compliance with all court orders and federal and state laws including the collection of fines, fees, and forfeitures with the objective of enhancing revenue by means of the statewide amnesty program.

Attachments

1. Attachment A: Vehicle Code section 42008.7
2. Attachment B: Letter from Department of Finance to AOC dated December 5, 2011

Vehicle Code

42008.7. (a) The State of California continues to face a fiscal and economic crisis affecting the State Budget and the overall state economy. In light of this crisis, a one-time infraction amnesty program would do the following:

(1) Provide relief to individuals who have found themselves in violation of a court-ordered obligation because they are financially unable to pay traffic bail or fines.

(2) Provide increased revenue at a time when revenue is scarce by encouraging payment of old fines that have remained unpaid.

(3) Allow courts and counties to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

(b) A one-time amnesty program for fines and bail meeting the eligibility requirements set forth in subdivision (e) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Section 1463.010 of the Penal Code.

(c) As used in this section, the term "fine" or "bail" refers to the total amounts due in connection with a specific violation, which include, but are not limited to, the following:

(1) Base fine or bail, as established by court order, by statute, or by the court's bail schedule.

(2) Penalty assessments imposed pursuant to Section 1464 of the Penal Code and Sections 70372, 76000, 76000.5, 76104.6, and 76104.7 of the Government Code.

(3) Civil assessment imposed pursuant to Section 1214.1 of the Penal Code.

(4) State surcharge imposed pursuant to Section 1465.7 of the Penal Code.

(5) Court security fee imposed pursuant to Section 1465.8 of the Penal Code.

(d) In addition to and at the same time as the mandatory one-time amnesty program is established pursuant to subdivision (b), the court and the county may jointly agree to extend that amnesty program to fines and bail imposed for a misdemeanor violation of this code and a violation of Section 853.7 of the Penal Code added to the misdemeanor case otherwise subject to the amnesty. The amnesty program authorized pursuant to this subdivision shall not apply to parking violations and violations of Section 23103, 23104, 23105, 23152, or 23153 of this code.

(e) Violations are only eligible for amnesty if paragraph (1), (2), or (3) applies and the requirements of paragraphs (4), (5), and (6) are met:

(1) The violation is an infraction violation filed with the court.

(2) It is a violation of subdivision (a) or (b) of Section 40508, or a violation of Section 853.7 of the Penal Code added to the case subject to paragraph (1).

(3) The violation is a misdemeanor violation filed with the court to which subdivision (d) applies.

(4) The due date for payment of the fine or bail was on or before January 1, 2009.

(5) The defendant does not owe victim restitution on any case within the county.

(6) There are no outstanding misdemeanor or felony warrants for the defendant within the county, except for misdemeanor warrants for misdemeanor violations authorized by the court and the county pursuant to subdivision (d).

(f) Each amnesty program shall accept, in full satisfaction of any eligible fine or bail, 50 percent of the fine or bail amount, as defined in subdivision (c) of this section. Payment of a fine or bail under an amnesty program implemented pursuant to this section shall be accepted beginning January 1, 2012, and ending June 30, 2012. The Judicial Council shall adopt guidelines for the amnesty program no later than November 1, 2011, and each program shall be conducted in accordance with Judicial Council guidelines.

(g) No criminal action shall be brought against a person for a delinquent fine or bail paid under the amnesty program.

(h) The total amount of funds collected under the amnesty program shall as soon as practical after receipt thereof be deposited in the county treasury or the account established under Section 77009 of the Government Code. Any unreimbursed costs of operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or the county that incurred the expense of operating the program. Notwithstanding Section 1203.1d of the Penal Code, the remaining revenues collected under the amnesty program shall be distributed on a pro rata basis in the same manner as a partial payment distributed pursuant to Section 1462.5 of the Penal Code.

(i) Each court or county implementing an amnesty program shall file, not later than September 30, 2012, a written report with the Judicial Council, on a form approved by the Judicial Council. The report shall include information about the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. Notwithstanding Section 10231.5 of the Government Code, on or before December 31, 2012, the Judicial Council shall submit a report to the Legislature summarizing the information provided by each court or county.



December 5, 2011

Ms. Sheila Calabro
Regional Administrative Director, Southern Regional Office
Administrative Office of the Courts
2255 North Ontario Street, Suite 200
Burbank, CA 91504-3188

Subject: Request to Fund Amnesty Program

We approve your request to utilize funding from the Statewide Accounts Receivable Management Enhancements Item, number 9655 of the 2011 Budget Act. The Administrative Office of the Courts (AOC) will utilize the funding for the AOC's Amnesty Program, pursuant to Vehicle Code section 42008.7, which is effective January 2011 through June 2011. The AOC requested funds to offset operating costs that the court and county collection programs will incur as they implement the Amnesty Program. However, funding of \$500,000 is approved only for the payment of contingency fees of private collection agencies that will assist in the collection of the delinquent fines. An executive order will be processed in January 2012 to transfer appropriation authority of \$500,000 into the Trial Court Trust Fund (0932).

The AOC provided a range of revenue and expenditure estimates for the Amnesty Program, based on the inclusion of vehicle code infraction violations only, ranging from \$15,640,000 to \$39,100,000. As previously discussed with your department, a requirement for receiving the funding is to report quarterly the revenues collected as a result of utilizing the funding to the Department of Finance, Fiscal Systems and Consulting Unit (FSCU). See Attachment. The spreadsheet will be due to FSCU by April 30, 2012, and July 31, 2012.

If you have any questions, please contact Rita Alarcon at (916) 445-3434, extension 2140, or via e-mail Rita.Alarcon@dof.ca.gov.

Sincerely,

Jennifer Mora
Supervising Administrative Analyst
Fiscal Systems and Consulting Unit

Attachment

cc: Mr. Michael Miyao, Finance Budget Analyst, Department of Finance

Statewide Accounts Receivable Management Enhancements
 Pilot Program - Private Collection Agencies
 Fiscal Year 2011-12

Department:
 Contact Name:
 Phone Number:
 Fund Number:
 Vendor Name:
 Contingency fee rate(s):

Description of ARs referred to private collectors:

Month	ARs REFERRED		COLLECTION FEES (GC 16583.1)		TOTAL COLLECTIONS		CONTINGENCY FEES		Comment
	Count	Dollar Amount	Count	Dollar Amount	Count	Dollar Amount	Count	Dollar Amount	
July 2010							0	0	
Aug 2010							0	0	
Sep 2010							0	0	
Oct 2010							0	0	
Nov 2010							0	0	
Dec 2010							0	0	
Jan 2011							0	0	
Feb 2011							0	0	
Mar 2011							0	0	
Apr 2011							0	0	
May 2011							0	0	
June 2011							0	0	
Total	0	0.00	0	0.00	0	0.00	0	0.00	