



## 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: March 27, 2012

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Title	Agenda Item Type
California Court Case Management System: Election of Delay Cost Reimbursement on Development Contract	Information Only
Submitted by	Date of Report
CCMS Internal Committee Hon. James E. Herman, Chair	March 18, 2012
	Contact
	Les Butler, 818-558-4807 <a href="mailto:les.butler@jud.ca.gov">les.butler@jud.ca.gov</a> and Keri Collins, 818-558-4805 <a href="mailto:keri.collins@jud.ca.gov">keri.collins@jud.ca.gov</a>

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### **Executive Summary**

Due to a delay caused by the vendor, Deloitte Consulting, LLP, in the development of the California Court Case Management System (CCMS), the Administrative Office of the Courts (AOC) negotiated two options for the reimbursement of the delay-related costs to be paid by the vendor: a CCMS deployment to the Superior Court of California, County of Fresno, or a payment of \$16 million. The deployment to the Superior Court of Fresno County was predicated on a contract amendment being in place by March 31, 2012. Otherwise, the AOC would be deemed to have elected to receive the payment. Since the deployment agreement cannot be in place by that date, the California Court Case Management System (CCMS) Internal Committee and the AOC are notifying the Judicial Council that the cost reimbursement from Deloitte Consulting, LLP, will be the payment of \$16 million.

### **Previous Council Action**

In December 2010, the Executive and Planning Committee approved the current CCMS governance model, which was developed to provide broader participation by the judicial branch and justice system partners. The council has assumed the role of CCMS executive sponsor and has designated the Administrative Director of the Courts as the lead executive for the CCMS

project. In April 2011, the Chief Justice appointed a new internal Judicial Council committee charged with overseeing the council's policies on CCMS. The committee advises the council on CCMS-related policy decisions and reports on CCMS progress, ensuring that the Judicial Council is fully informed and up to date on the case management system and that deployment of CCMS will be undertaken in a way that is consistent with policies and priorities established by the council. The Judicial Council, effective April 29, 2011, voted to ratify the Chief Justice's establishment of the CCMS Internal Committee.

At the July 22, 2011, Judicial Council business meeting, the council voted to redirect \$56.4 million from the California Court Case Management System to trial court operations. The CCMS Internal Committee and the CCMS Executive Committee were asked to return to the Judicial Council at its October 2011 meeting to review all options for moving forward with CCMS within the current budget constraints. A portion of this redirected funding would have been used for maintenance of the application and completion of a software release to incorporate legislative and other necessary changes that have occurred since the requirements for the CCMS application were created in 2007.

At its October 28, 2011, business meeting, the Judicial Council authorized the AOC to execute a letter of intent to begin a due diligence process with the Chan Soon-Shiong Family Foundation and the State Bar; a status update on the CCMS project, including deployment, was also provided. An update on CCMS and the due diligence process for the CCMS Collaborative Project was provided to the council on December 12, 2011. At the January 24, 2012, Judicial Council business meeting, the council voted to suspend the due diligence process for the Collaborative Project. An update on the report to the Legislature was provided at the February 28, 2012, business meeting.

## **Summary of Findings**

In December 2009, during the late stages of development and the early stages of vendor testing, the AOC and the courts discovered numerous quality issues with the V4 application. As a result, a 10-month delay in completion of the core product followed. The vendor, Deloitte Consulting LLP, was contractually responsible for the costs associated with correcting the quality issues and certain costs incurred by the judicial branch as a result of the project's 10-month delay. The AOC Finance Division's Business Services Unit and the AOC Office of the General Counsel, along with executive leadership, negotiated the terms of the vendor delay cost reimbursement. The AOC calculated the cost of the delay at \$16 million, which included the AOC's costs for maintaining technical environments, software licensing, contractors, court subject matter experts, AOC staff, and travel expenses. The AOC and the vendor agreed that deployment to the Superior Court of Fresno County at no charge would be equitable compensation representing the equivalent value of the \$16 million delay cost reimbursement. This agreement was dependent on Judicial Council approval as well as proceeding with deployment of the early adopter courts and reuse of the tools, templates, and configuration developed during the project.

The resolution of the delay cost reimbursement was memorialized in an amendment to the development contract. According to the contract amendment, if the AOC and vendor did not enter into the Fresno deployment Statement of Work by October 31, 2011, the Judicial Council had the right to instead elect to receive from the vendor a payment of \$16 million. The AOC and the vendor extended the date regarding this election option to March 31, 2012, to allow additional time for the branch to decide on a strategy for CCMS and negotiate new terms with the vendor.

The Statement of Work for deploying CCMS to the Superior Court of California, County of Fresno, contained the assumption that tools, templates, and the configuration resulting from the early adopter court deployments would be reused for the Fresno deployment. Since the deployments have not taken place due to the redirection of funds, those tools and templates are not available, and the Fresno deployment Statement of Work cannot be executed by March 31, 2012. The AOC has requested, and Deloitte has declined, to extend the date beyond March 31, 2012. Based on the contractual deadline, the only alternative is to accept the \$16 million.

## **Next Steps**

### **Payment of reimbursement cost**

The vendor will make a payment of \$16 million to the Judicial Council, Administrative Office of the Courts. Monies will be deposited to the appropriate fund(s) based on the funding source(s) of the technical environments, software licensing, contractors, court subject matter experts, AOC staff, and travel expenses incurred that were due to the delay. Allocation of the funding by the Judicial Council may require approval by the Legislature to expend additional funds depending on the fund source and fiscal year in which the funds would be expended. This is due to limits on what can be expended, known as appropriation authority, that are specified in the Budget Act. The approvals necessary depending on the scenario are explained below:

For fiscal year (FY) 2011–2012:

- If monies are deposited in the Trial Court Trust Fund (TCTF) or the Judicial Administration Efficiency and Modernization Fund (Modernization Fund), additional appropriation authority will be required as both funds are currently projected to fully utilize their existing authority. The request to increase authority must be approved by the Department of Finance and, for TCTF, the chairperson of the Joint Legislative Budget Committee (Provision 4 of 2011 State Budget Act Item 0250-101-0932 for TCTF or Provision 1 of 2011 State Budget Act Item 0250-102-0556 for the Modernization Fund<sup>1</sup>).
- Funds deposited into the Trial Court Improvement Fund (TCIF) would not require approval from the other branches of government to expend the monies.

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<sup>1</sup> Per Provision 1 of 2011 State Budget Act Item 0250-102-0556, “[a]ny augmentation shall be authorized not sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairpersons of the committees and appropriate subcommittees that consider the State Budget, and the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time after that notification the chairperson of the joint committee, or his or her designee, may determine.” Budget Act of 2011 (Stats. 2011, ch. 33)

- If the Judicial Council allocates the funds to offset reductions to trial court operations funding, monies deposited in TCIF or the Modernization Fund could be transferred to TCTF utilizing the specific one-time authority granted for this purpose. \$78,384,000 of that authority remains available (Provision 19 of 2011 State Budget Act, Item 0250-101-0932).

For FY 2012–2013:

- If monies were deposited in TCTF, sufficient appropriation authority is anticipated to be available in TCTF to use the funds.
- If monies were deposited in the Modernization Fund, the council would need to follow the same process in FY 2012–2013 as in FY 2011–2012.
- Funds deposited into the Trial Court Improvement Fund would not require approval from the other branches of government to expend the monies.