

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



August 24, 2018

Mr. Martin Hoshino, Administrative Director
Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102

**SUBJECT: JUDICIAL COUNCIL OF CALIFORNIA CONTRACT
FINAL AUDIT REPORT**

Dear Mr. Hoshino:

Enclosed is the California Department of Child Support Services (DCSS), Office of Audits and Compliance (OAC), final report on the costs claimed under the Judicial Council of California contract by the Superior Court of California, County of Fresno (Court). Our review was limited to examining Assembly Bill (AB) 1058 child support related costs claimed in state fiscal year 2015-16 for the Child Support Commissioner and the Family Law Facilitator programs. This engagement was performed to satisfy federal and state mandated subrecipient monitoring of the AB 1058 child support grant funds.

OAC reviewed the Court's response to the draft report, including the corrective action identified by the Court in response to the reported finding. The finding has not changed and the results of the review are in the attached Evaluation of Response.

On August 10, 2018, DCSS issued a letter regarding the repayment and/or corrective action required in response to the finding in this report. OAC will follow up within six months from the date of this report to ensure corrective action was taken by the Court.

We appreciate the assistance and cooperation of the Judicial Council and the Court staff during the review. If you have any questions regarding this report, please contact me at (916) 464-5520.

Sincerely,

A handwritten signature in blue ink that reads "Karen Dailey".

KAREN DAILEY
Audit Chief
Office of Audits and Compliance
Department of Child Support Services

Enclosure

**Department of Child Support Services
Office of Audits and Compliance**

**Judicial Council of California Contract
Review Audit Report**

**Superior Court of California
County of Fresno**



**Prepared by:
Office of Audits and Compliance**

**CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES
OFFICE OF AUDITS AND COMPLIANCE
Judicial Council of California Contract Review
Superior Court of California, County of Fresno**

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**Judicial Council Contract Review
Superior Court of California, County of Fresno
Department of Child Support Services
Office of Audits and Compliance
Audit Report**

INTRODUCTION

California Department of Child Support Services (DCSS), Office of Audits and Compliance (OAC), conducts fiscal and compliance audits of subrecipients who receive IV-D program funds in the administration of the child support program. These audits are required as part of DCSS' subrecipient monitoring responsibilities. DCSS contracts with the Judicial Council of California (JCC) for statewide Title IV-D services with the Child Support Commissioner (CSC) program and Family Law Facilitator (FLF) offices. The Court receives federal and state funds through a contract with the Judicial Council of California who oversees these programs and the expenditures claimed under this contract.

This report presents the results of the OAC's review of the Superior Court, County of Fresno (Court) CSC and FLF programs for the state fiscal year (SFY) of July 1, 2015 through June 30, 2016.

BACKGROUND

The Child Support Enforcement (CSE) program is a federal/state/local partnership to collect child support from noncustodial parents. The goals of this program are to ensure children have the financial support of both their parents, foster responsible behavior towards children, and reduce welfare costs. The CSE Program was established in 1975 as Title IV-D of the Social Security Act.

Established by state legislation in 1999, the California Department of Child Support Services is designated as the single state entity responsible for ensuring that all functions necessary to establish, collect, and distribute child support are effectively and efficiently implemented. Title 45, Section 302.34 gives DCSS authority to enter into a cooperative agreement with the courts under the state plan. The JCC, chaired by the Chief Justice of California, is the chief policy making agency of the California Judicial System. The JCC oversees the ongoing operations of the statewide Title IV-D CSC and FLF programs in the courts under grant funding AB 1058. In SFY 2015-16, DCSS contracted the JCC for a total of \$55,171,367. For the period July 1, 2015 through June 30, 2016, the JCC reimbursed the Court \$2,248,649 in state and federal funds as follows: \$1,765,237 for the CSC and \$483,412 for the FLF program.

OBJECTIVES, SCOPE, AND METHODOLOGY

The review was conducted for the period July 1, 2015 to June 30, 2016. The area of review was limited to claimed expenditures under the contract agreement #10-0586-16 between DCSS and the JCC for this period. The objective of the review was further limited to determining if expenditures claimed by the Court under JCC contract agreement #10-30621 for the CSC program and #10-30688 for the FLF program complied with applicable laws, rules, and regulations, including OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in Title 2 CFR Subtitle A Chapter II, Part 200 (Uniform Requirements) , Trial Court Financial Policies and Procedures Manual (FIN Manual) and Title IV-D (AB 1058) Child Support Commissioner and Family Law Facilitator Program Accounting and Reporting Instructions.

The audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. This audit includes examining, on a test basis, evidence supporting the amounts included on contract invoices. An audit also includes assessing the accounting principles used and significant estimates made by management.

Due to the limited scope, our audit does not constitute a financial statement audit conducted in accordance with GAS; therefore, we do not express an opinion on the financial statements, or on any individual account balances. Had we performed additional procedures, or conducted a complete audit of the financial statements, other matters might have come to our attention that may have been reported.

AUDIT AUTHORITY

Uniform Requirements 2 CFR 200.328 Monitoring and reporting program performance makes DCSS responsible for oversight of the operations of the Federal award supported activities. Section 200.331 requires DCSS, as the pass-through entity, to monitor the activities of the subrecipient to ensure the subaward is used for authorized purposes, in compliance with the federal statutes and regulations and the terms and conditions of the federal award and subaward, and that the subaward performance goals are achieved. This section also provides the authority for DCSS, as the pass-through entity, to perform on-site reviews of the subrecipient's program operations. Section 200.336 Access to records provides DCSS the right to access any pertinent documents. Title 45 CFR 302.12 gives DCSS the responsibility for securing compliance with the requirements of the State plan when delegating any of the functions of the AB 1058 program to any cooperative agreement.

CONCLUSION

As noted in the Finding and Recommendation section of this report, we found the Court did not have sufficient support for the personnel expenses claimed in the FLF Program during our audit period. As indirect costs are based on supported personnel expenses, the Court lacked support for a portion of the indirect costs claimed.

RESTRICTED USE

This audit report is intended solely for the information and use of the DCSS and JCC should not be used for any other purpose. This restriction is not intended to limit distribution of this report, which is a matter of public record when the final is issued.

FINDING AND RECOMMENDATION

Finding 1 – Unsupported Personnel Expenses – \$474,683

For SFY 2015-16, we found the Court did not have support for salaries, benefits, or indirect costs claimed for the Family Law Facilitator program. Specifically, Court staff worked in the Self-Help Center performing both AB 1058 and non-AB 1058 program activities. Judicial Council of California AB 1058 grant instruction manual and annual training requires the courts to allocate salaries and benefits based on actual hours court staff spend directly working in the AB 1058 program. However, instead of documenting actual direct labor hours worked in the AB 1058 program, the fiscal staff created a “Staff Split Worksheet” documenting these estimated percentages based on the FLF manager’s understanding of the projected workload in the Self-Help Center. The fiscal staff created the JC-4 Timesheets, using the agreed-upon percentages based on projected workload, and staff signed the timesheets created by fiscal staff that “certify under penalty of perjury that this time sheet accurately represents actual time worked...” Interviews with staff in the FLF program revealed the timesheets were not based on the actual direct labor hours worked, and the FLF manager and staff agreed they might have worked hours in addition to those documented on the timesheets. While we noted there was AB 1058 program activity occurring at the Court, we deemed the time reporting documentation unreliable and unsupported.

Using alternative methods, we requested supplemental documents to support hours in the AB 1058 program, such as sign-in sheets, intake forms, detailed calendars, phone logs, database records, etc. In response, the Court provided us sign-in sheets, intake forms, and a Court calendar for the week of January 25-29, 2016. However, the Court did not provide this alternative supporting documentation for the remainder of the audit period.

To correct, the Court plans to maintain logs and tallies to track the actual hours staff spend in the FLF program. The Court also plans to have staff complete the automatic data processing timesheets using the correct budgetary codes that document the direct labor hours staff spend in the FLF program. Since direct labor hours were not tracked in SFY 2015-16, and the documentation did not support hours spent in the program in accordance with JCC policy, we found the Court overclaimed \$474,683 in FLF for salaries, benefits, and indirect costs.

Criteria

2 CFR Part 200.430 Compensation-personal services, (i) Standards for Documentation of Personnel Expenses (1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable and properly allocated;
- (ii) Be incorporated into the official records of the non-Federal entity;

- (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100 percent of compensated activities;
- (iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;
- (v) Comply with the established accounting policies and practices of the non-Federal entity; and
- (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award.

Policies and procedures provided to the Court in the Title IV-D Child Support Commissioner and Family Law Facilitator Accounting and Reporting Instructions issued by the Judicial Council of California, dated June 2015, states, "The salaries and benefits of the court employees who work on AB 1058 program components (CSC and FLF) can be charged to the grant....for the time devoted and identified specifically to the program" (Page 11). Additionally, the instructions provide specific guidance to the courts on documenting allowable and not allowable hours that can be charged directly to the AB 1058 program when completing the time reporting documentation (Page 15).

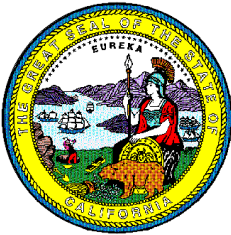
The JC-4 timesheet, signed by the employee and the employee's supervisor, states, "I hereby certify under penalty of perjury that this time sheet accurately represents actual time worked...."

Recommendation

The JCC should return \$474,683 to DCSS for unsupported salaries, benefits, and associated indirect costs claimed in SFY 2015-16. The percentage of salary and benefit costs claimed must be allocated based on the actual labor hours directly worked in the AB 1058 grant program and must be claimed in accordance with the JCC established policies, procedures, and federal regulations. The indirect costs charged to the AB 1058 grant program must be supported by allowable salaries and benefits.

The JCC has an opportunity to strengthen its processes by working collaboratively with the courts to develop a methodology that supports claimed costs and may consider developing a process, such as on-site monitoring reviews, to ensure the courts understand and apply JCC policies, procedures, and federal regulation requirements that must be met to support the claimed AB 1058 costs.

Agency Response



**Superior Court of California
County of Fresno**

Sheran Morton
Executive Officer/Clerk/Jury Commissioner
Michael Elliott
Assistant Executive Officer

March 27, 2018

Karen Dailey
Audit Manager
Office of Audits and Compliance
Department of Child Support Services
P.O. Box 419064
Rancho Cordova, CA 95741-9064

SUBJECT: Response to DCSS Draft Audit Report of the Fresno Superior Court

Dear Ms. Dailey,

The Fresno Superior Court (Court) is pleased to submit this written response to the State Department of Child Support Services (DCSS) regarding its audit of the Court's Child Support Enforcement Program (AB1058).

The audit was limited to a review of the Court's claimed expenses for the period July 1, 2015 to June 30, 2016, and principally focused on whether the Court's personnel costs were documented in a manner consistent with its grant agreement with the Judicial Council (JCC). DCSS' audit report concludes that \$474,683—or roughly 21 percent of the total AB 1058 funds received—were not supported by appropriately completed timesheets or similar documentation pursuant to the grant's rules. Ultimately, DCSS recommends the JCC return the entire amount of questioned costs, despite the audit report lacking any conclusion or finding that the Court was not providing important program services or was not otherwise meeting expected service delivery levels.

The Court has already taken corrective action in response to the audit, yet returning such a significant amount of the program's funding will only endanger the Court's ability to provide important services to California's most vulnerable children. In general, the Court believes there are alternative timekeeping practices—all of which are allowable under federal rules—that would strike a more appropriate and realistic balance between administrative timekeeping and actual program performance.

Nevertheless, the Court offers the following perspectives on the audit report's specific audit findings and recommendations.

Finding 1 - DCSS concluded that the Personnel Expenses were unsupported in the Family Law Facilitator program (FLF) based on a finding that actual direct labor hours worked in the AB 1058 program could not be substantiated. Although the Court believes that its recording practices for the time period of the audit reasonably reflected the staff time spent working in each grant activity,

after additional education and training provided by the JCC in 2017, the Court immediately updated its recording methodology of staff time related to IV-D activities. Consistent with this direction and education from the JCC, effective in the current fiscal year all staff in the grant programs currently maintains daily logs of their time spent on each program--including those who charge 100% to their respective grants. This recording of time for the AB1058 program is then transferred to the Courts accounting system and JC-4 timesheets as documentation of time spent in IV-D activities.

Specifically, the Audit Report states “instead of documenting actual direct labor hours worked in the AB 1058 program, the managers developed estimated percentages that fiscal staff would use to allocate staff hours.” However; to clarify, the “managers” did not develop estimated percentages.

Rather, instead of an estimation or approximation, the fiscal staff would confirm that specific staff members were scheduled (or allocated) to work in dedicated grant program activities. This information was eventually compiled as a percentage and reflected in a document entitled “staff split”. The staff split was continuously updated throughout the year as staff changes occurred. Our approach did not appear to be unreasonable under the federal regulation since the “staff split” document actually reflected the time staff spent working in each grant program. Similarly, since it accurately reflected the time each staff person performed grant activities, we believe it is consistent with “documentation” as set forth under the state materials.

As stated earlier, since 2017 we instituted a new recording methodology of staff time related to IV-D activities. It is important to note, that these efforts have confirmed the initial percentages (and methodology used in 2015/16) are still accurately reflective of the grant activities currently being performed; further proof to the court that our methodology was indeed reasonable and sound.

Reasonableness

Under the cited federal regulation, the recordation supporting the personnel expenses of the non-federal entity must be “reasonably” reflective of the time charged to the federal program. (see 2 C.F.R. Part 200.430(i)(1)(i) [. . . “provides reasonable assurance” . . .]; 2 C.F.R. Part 200.430(i)(1)(iii) [“Reasonably reflect . . .].)

2 C.F.R. Part 200.430(b).

Further extending the “reasonableness” set forth in the federal regulation, the state materials merely require the grant/non grant activities be documented. (see Title IV-D Child Support Commissioner and Family Law Facilitator Accounting and Reporting Instructions, pg. 13, first para. [staff who “do not work exclusively on AB1058 activities must document staff time spent on program activities . . .”].) Neither the federal regulation nor the state materials specifically address how or when the recordation take place. Essentially, under the criteria stated in the Audit Report, the documentation must only be reasonably reflective of the time charged to the grant program.

The Court would also note that the auditors chose to observe the FLF Office at a time when it was closed to the public. Thus, they could not observe how staff funded 100% to the AB 1058 Grant were assigned to purely grant activities (i.e., front counter triage/outreach performed 8am to 4pm each day the FLF Office is open to the public; outreach performed in the courtroom; the division of reimbursable activities during one-on-one customer assistance.) Unfortunately, although an invitation was extended to the auditors to return to the FLF Office at their convenience when these

activities were fully operational, the auditors declined. Although there was an acknowledgement that there was no question that IV-D activities are occurring at the Court, the object of their review was not to observe IV-D activities, but their scope was limited to ensuring expenditures were adequately supported and compiled with applicable laws, rules, regulations and JCC policy during the audit period.

Substitute Systems

Under 2 C.F.R. Part 200.430(i)(5)(i) substitute systems may be implemented which base time recording on allocations. Such a substitute system was at least indirectly acknowledged in AB 1058 Child Support Proceedings: Establishing Support [revised 2014] Benchguide 203 issued by the Administrative Office of the Courts. According to this publication, of which Michael Wright (AB 1058 Program Manager) was a member of the CFCC Project Staff, child support commissioners were allowed to distinguish Title IV-D activities from non Title IV-D activities by the use of a “time study”. (Id. at sect. 203.5.)

From this publication the use of the term “time study” connotes a practice where activities are associated by percentages which reliably reoccur each work session. Theoretically, if such a practice was authorized in managing IV-D activities at the Commissioner level, it is reasonable that it would also apply to Family Law Facilitator practices as well.

Corrective Action

As stated above, the Court immediately updated its recording methodology of staff time related to IV-D activities upon receiving further direction and education from the JCC. No additional corrective action is needed.

Final Comments

The Court respectfully disagrees with the audit recommendation that the JCC return \$474,683 in funding associated with the FLF Program which would unnecessarily harm the Court’s ability to serve those children who desperately benefit from these services.

It is the Court’s hope that we can work with the JCC, DCSS, and other Courts in devising an acceptable timekeeping system that would satisfy federal and state requirements and not be so arduous, requiring a significant amount of time by staff. In performing minute by minute timekeeping requirements, valuable time is diverted from the true mission of the AB1058 program, serving the needs of the children and families in our county that greatly benefit from this program.

The Court sincerely appreciates the time and efforts of the DCSS audit staff, including additional time spent to review documentation provided after the fieldwork period. We remain committed to supporting the AB1058 Program, and look forward to continued collaboration with the DCSS, JCC, and local agencies for these invaluable services that we provide to the public.

Sincerely,

Sheran Morton,
Court Executive Officer
Superior Court of California, County of Fresno

cc: Hon. Alan M. Simpson, Presiding Judge, Superior of California, County of Fresno
Ms. Anna Maves, Supervising Attorney, CFCC Administration, Judicial Council of California
Mr. Grant Parks, Principal Manager, Audit Services, Judicial Council of California

Evaluation of Response

On March 5, 2018, OAC issued a draft report for the Court's review and response. We received the Court's written response to the draft report on March 27, 2018. The Court disagrees with our audit recommendation. The Court states federal regulation only requires documentation to "reasonably" reflect the time charged to the grant program and the regulations do not specifically address how or when the recordation takes place. The Court also argues the auditors did not directly observe activity at the Self-Help Center to see "staff funded 100% to the AB 1058 grant were assigned purely to grant activities." Lastly, the Court indicated it has already taken corrective action tracking actual hours worked in the AB 1058 grant program.

In response to the Court's interpretation of the term "reasonableness", Title 2 CFR 200.404 states, "In determining reasonableness of a given cost, consideration must be given to: (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs...." We noted, the Court's methodology of using projected workload is not in accordance with JCC policy and therefore does not meet the reasonableness test of 200.404. In addition to applying the test of reasonableness, the regulations also specify a cost must be "accurate, allowable, and properly allocated" (2 CFR 200.430) and must be allocated in accordance to the direct benefit to the AB 1058 program (2 CFR 200.405). As the test of reasonableness and other tests are not met, the finding remains.

In order to gain an understanding of the activity at the Court's Self-Help Center during SFY 2015-16, the auditors conducted interviews with the Family Law Facilitator, Assistant FLF Attorney, and the Self-Help Examiner. These interviews were conducted when the Self-Help Center was closed. Interviews and documentation reveal the Self-Help Center staff performed both IV-D and non-IV-D activity during SFY 2015-16, with no Court staff person performing purely AB 1058 grant functions. We agree IV-D activity did occur in the Court. To support this activity, we asked for alternative documentation such as intake forms, Self-Help sign-in sheets, Case Management System (CMS) reports, phone logs or other documents to support direct labor hours spent in IV-D activity. While the Court provided sign-in sheets and recreated CMS reports for the week beginning January 25, 2016, we were not provided sufficient documentation to support the IV-D work was performed for the remainder of our audit period, so the finding remains.

While we appreciate the Court's kind invitation for us to directly observe current court activities, current activities at the Self-Help Center are not reflective of the activities performed during the review period of SFY 2015-16. Therefore, direct observation does not provide evidence related to our audit objective, nor does it provide insight into the actual AB 1058 grant activity that occurred during the SFY 2015-16 audit period.

We are pleased to learn the Court has implemented new timekeeping practices. While we have not yet reviewed these timekeeping practices, if implemented as described, the practices should be sufficient to fully address these issues in the future. We will follow up within six months for the progress of the corrective action plan.

Francesca Chavez, Auditor in Charge
Associate Management Auditor
Office of Audits and Compliance
Department of Child Support Services

Scott Hunter
Audit Manager
Office of Audits and Compliance
Department of Child Support Services

Karen Dailey
Audit Chief
Office of Audits and Compliance
Department of Child Support Services