

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

### SPR16-01

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| Title   | Action Requested                            |
| Trial Courts: Financial Policies and Procedures | Review and submit comments by June 14, 2016 |
| Proposed Rules, Forms, Standards, or Statutes   | Proposed Effective Date                     |
| Amend Cal. Rules of Court, rule 10.804          | January 1, 2017                             |
| Proposed by                                     | Contact                                     |
| Judicial Council staff                          | Susan R. McMullan, 415-865-7990             |
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| Doug Kauffroath, Director                       |   |
| Legal Services                                  |   |
| Deborah Brown, Chief Counsel                    |   |

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### Executive Summary and Origin

Judicial Council staff recommends that rule 10.804 of the California Rules of Court, concerning the *Trial Court Financial Policies and Procedures Manual*, be amended to (1) remove the reference to policies and procedures for procurement and contracting by superior courts, (2) describe the content and purpose of the manual, and (3) describe the amendments to the manual that must be circulated for comment. Currently, the rule provides that the manual must include policies and procedures for procurement and contracting by superior courts. These policies and procedures, however, are now contained in the *Judicial Branch Contracting Manual*.

### Background

Effective January 1, 2001, the Judicial Council adopted rule 10.804 (then numbered 6.707) of the California Rules of Court, which required staff to the council to adopt a financial policies and procedures manual for the trial courts. The need for the *Trial Court Financial Policies and Procedures Manual* (TCFPPM) arose following enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Stats. 1997, ch. 850), which provided for state funding of the trial courts, removing from counties the responsibility for budget control and financial management of trial courts. The manual was developed to assist trial courts in performing the fiscal management services formerly provided by the counties.

Among the policies and procedures set out in the manual are those for procurement and contracting. On March 24, 2011, Senate Bill 78 was enacted, creating a new part 2.5 of the

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

Public Contract Code (PCC) and designated the California Judicial Branch Contract Law. It required the Judicial Council to adopt and publish a *Judicial Branch Contracting Manual* incorporating procurement and contracting policies and procedures that judicial branch entities, including trial courts, must follow. With the council's adoption of the *Judicial Branch Contracting Manual* on August 26, 2011, the need to include policies and procedures addressing procurement and contracting by superior courts in the TCFPPM was eliminated.

### **The Proposal**

The proposal would delete reference to “policies and procedures for procurement and contracting by superior courts” and the description of the limitations on those policies and procedures in subdivision (a). It would add that the TCFPPM contains regulations establishing budget procedures and recordkeeping, and include the following language from the manual that more fully describes its content and purpose: The manual sets out a system of fundamental internal controls that will enable the trial courts to monitor their use of public funds, provide consistent and comparable financial statements, and demonstrate accountability.

In addition, subdivision (b) would be amended to provide that substantive amendments to the TCFPPM must be available to the superior courts, the California Department of Finance, and the State Controller's Office for 30 days for comment. Currently the rule provides that any amendments—technical corrections or substantive changes—be made available for comment by those entities. Government Code section 77202(c)(3), however, requires circulation to all affected entities about proposed changes to policies on “budget monitoring and reporting,” a type of substantive change. The amendment would provide for comments by courts and the other listed entities on changes to policies that address topics beyond budget monitoring and reporting, but not on nonsubstantive changes. This will permit corrections and clarifications to be made in a timely manner. To specifically provide for this, subdivision (b)(2) would be added to state that the Administrative Director has authority delegated by the council, under article VI, section 6 of the California Constitution and other applicable law, to make technical changes and clarifications to the manual, provided the changes and clarifications are consistent with council policies.

### **Alternatives Considered**

Because certain provisions of rule 10.804 are currently inaccurate and out of date, as described above, no alternatives were considered.

### **Implementation Requirements, Costs, and Operational Impacts**

No implementation requirements, costs, or operational impacts are expected. The amendments will more accurately describe court operations by removing the statement that policies and procedures for procurement and contracting by superior courts are contained in the TCFPPM.

## **Request for Specific Comments**

In addition to comments on the proposal as a whole, the proponents are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The proponents also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

### **Attachments**

Cal. Rules of Court, rule 10.804, at page 4

Rule 10.804 of the California Rules of Court would be amended, effective January 1, 2017, to read:

1 **Rule 10.804. Superior court financial policies and procedures**

2  
3 **(a) ~~Adoption of financial policies and procedures by the Judicial Council~~**

4  
5 The *Trial Court Financial Policies and Procedures Manual* ~~must be consistent with the rules of~~  
6 ~~court and policies adopted by the Judicial Council and must include~~ contains regulations  
7 establishing budget procedures, recordkeeping, accounting standards, and other financial  
8 guidelines for superior the trial courts, and policies and procedures for procurement and  
9 contracting by superior courts. These policies and procedures must not modify superior courts'  
10 existing authority to procure, contract for, or use goods or services or the requirement that a court  
11 have authorized funding available in order to procure or contract for any good or service. The  
12 manual sets out a system of fundamental internal controls that will enable the trial courts to  
13 monitor their use of public funds, provide consistent and comparable financial statements, and  
14 demonstrate accountability.

15  
16 **(b) Amendments ~~Comment period for financial policies and procedures~~**

17  
18 (1) ~~Before amending~~ making any substantive amendments to the *Trial Court Financial*  
19 *Policies and Procedures Manual*, the Judicial Council must make ~~it~~ the  
20 amendments available to the superior courts, the California Department of Finance,  
21 and the State Controller's Office for 30 days for comment.

22  
23 (2) The Judicial Council delegates to the Administrative Director, under article VI,  
24 section 6 of the California Constitution and other applicable law, the authority to  
25 make technical changes and clarifications to the manual, provided the changes and  
26 clarifications are consistent with council policies.

27  
28 **(c) ~~Date of adherence to financial policies and procedures~~**

29  
30 Superior courts must adhere to the requirements contained in the *Trial Court Financial Policies*  
31 *and Procedures Manual*, except as otherwise provided in the manual. Superior courts must not  
32 be required to adhere to any substantive amendment to the manual sooner than 60 days after the  
33 amendment is adopted.

34  
35 **Judicial Council Comment**

36 **Subdivision (a).** Procurement and contracting policies and procedures for judicial branch entities,  
37 including superior courts, are addressed separately in the *Judicial Branch Contracting Manual*, which the  
38 Judicial Council adopted under Public Contract Code section 19206.