



Audit of the  
Superior Court of California,  
County of Merced

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JANUARY 2018



JUDICIAL COUNCIL  
OF CALIFORNIA

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LEADERSHIP SERVICES DIVISION

AUDIT SERVICES

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**Superior Court of California, County of Merced**

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## EXECUTIVE SUMMARY

### Introduction

Government Code, sections 77206(g) and 77009(h) provide the Judicial Council of California (Judicial Council) with the authority to inspect and review superior court records and to perform audits, reviews, and investigations of superior court operations. The Judicial Council's Office of Audit Services (Audit Services) periodically conducts performance audits of the superior courts in order to verify their compliance with the Judicial Council's policies and with state law. These audits, as well as similar audits of the appellate courts, are primarily focused on assisting the courts identify which of their practices, if any, can be improved upon to better promote sound business practices and to demonstrate accountability for their spending of the public's funds.

State law authorizes the Judicial Council to establish each superior court's annual budget and to adopt rules for court administration, practice, and procedure. Most of the criteria used by Audit Services stems from the policies promulgated by the Judicial Council, such as those contained within the *Trial Court Financial Policies and Procedures Manual* (FIN Manual) and the *Judicial Branch Contracting Manual* (JBCM). These policies establish both mandatory requirements that all superior courts must follow, as well as suggestive guidance. California's courts drastically vary in terms of their caseloads, budget, and staffing levels, thus requiring the Judicial Council to adopt rules that at times provide the courts with flexibility given their varying resources and constraints. State law also requires the superior courts to operate under a decentralized system of management, and the Judicial Council's policies establish the boundaries within which courts exercise their discretion when managing its day-to-day operations.

Audit Services' annual audit plan for the Judicial Branch establishes the scope of each audit and provides a tentative schedule for the courts being audited during the fiscal year. The audit plan explains those scope areas deemed to be of higher risk based on Audit Services' professional judgment and recognizes that other state audit agencies may, at times, perform reviews that may overlap with Audit Services work. In those instances, Audit Services may curtail its planned procedures as noted in the scope and methodology section of this report.

### Summary of Audit Results

We found that the Superior Court of California, County of Merced (Court) should be commended for demonstrating compliance with many of the Judicial Council's requirements evaluated during the audit. Table 1 below presents a summary of the audit's results, including references to any audit findings discussed in the body and a summary of the Court's agreement or disagreement with the findings noted.

Table 1 Audit Results – At A Glance – California Superior Court, County of Merced

Areas and Sub-Areas Subject to Review		Tested	Reportable Audit Findings			Minor or Isolated Non-Compliance	
			# of Findings	Finding Reference(s)	Court's View	# of Issues	Log Reference(s)
<b>Cash Handling</b>							
1	Daily Opening Process	Yes	✓				
2	Voided Transactions	Yes	1	2016-2-01	Agree		
3	Handwritten Receipts	Yes	✓				
4	Mail Payments	Yes	3	2016-4-01; 02; 03	Agree	2	Log-4-1; 2
5	Internet Payments	Yes	✓				
6	Change Fund	Yes	✓			3	Log-6-1; 2; 3
7	End-Of-Day Balancing and Closeout	Yes	✓			1	Log-7-1
8	Bank Deposits	Yes	1	2016-8-01	Agree	2	Log-8-1; 2
9	Other Internal Controls	Yes	✓			4	Log-9-1; 2; 3; 4
<b>Procurements</b>							
10	Procurement Initiation	Yes	1	2016-10-01	Agree		
11	Authorization & Authority Levels	Yes	✓			1	Log-11-1
12	Competitive Procurements	Yes	1	2016-12-01	Agree		
13	Non-Competitive Procurements	Yes	✓				
14	Leveraged Purchase Agreements	Yes	✓				
15	Contract Terms	Yes	✓			1	Log-15-1
16	Purchase Cards	Yes	1	2016-16-01	Agree	1	Log-16-1
17	Other Internal Controls	Yes	1	2016-17-01	Agree	1	Log-17-1
<b>Payment Processing</b>							
18	3-Point Match Process	Yes	✓				
19	Payment Approval & Authority Levels	Yes	✓				
20	Special Rules - In-Court Service Providers	Yes	1	2016-20-01	Agree	1	Log-20-1
21	Special Rules - Court Interpreters	Yes	✓			2	Log-21-1; 2
22	Other Items of Expense	Yes	✓				
23	Jury Expenses	Yes	✓				
24	Travel Expense Claims	Yes	2	2016-24-01; 02	Agree	1	Log-24-1
25	Business-Related Meals	Yes	2	2016-25-01; 02	Disagree; Agree	1	Log-25-1
26	Petty Cash	Yes	1	2016-26-01	Agree	4	Log-26-1; 2; 3; 4
27	Allowable Costs	Yes	1	2016-27-01	Disagree	1	Log-27-1
28	Other Internal Controls	Yes	✓			1	Log-28-1
<b>Fine &amp; Fee Distribution</b>							
29	CMS-Calculated Distributions	Yes	✓			3	Log-29-1; 2; 3
30	Manually-Calculated Distributions	N/A	-				
<b>1% Fund Balance Cap</b>							
31	Calculation of the 1% Cap	Yes	1	2016-31-01	Partially Disagree		
32	Use of "Held on Behalf" Funds	N/A	-			1	Log-32-1
<b>JBSIS Case Filing Data</b>							
33	Validity of JBSIS Data	Yes	2	2016-33-01; 02	Agree		
<b>Grant Award Compliance</b>							
34	AB 1058 Program	Yes	✓				
<b>Other Areas</b>							
35	[None]	N/A	-				

Source: Auditor generated table based on testing results and court management's perspective.

Note: Areas subjected to testing are generally based on requirements in the Trial Court Financial Policies and Procedures Manual (FIN Manual), the Judicial Branch Contracting Manual (JBCM), or California Rules of Court, but may also include other JCC policies and directives. Areas not tested are based on audit determinations - such as area not applicable, recently reviewed by others, or no transactions selected to review. Applicable criteria are cited in each audit finding (as referenced above) in the body of our report. The Judicial Council's audit staff determine the scope of each audit based on their professional judgment and the needs of the Judicial Council, while also providing the Court with an opportunity to highlight additional areas for potential review depending on available audit resources.

The Court consistently demonstrated adherence to several different compliance requirements evaluated during the audit, as shown in Table 1. In particular, the Court demonstrated strong compliance in the areas of fine and fee distributions and grant award compliance. For example, our review of the Court's fine and fee distribution found that its policies and procedures ensure accurate calculations and distributions of total fines, penalties, assessments, and fees collected to appropriate funds and entities. In addition, the Court follows applicable grant accounting policies and procedures and grant award requirements.

Our audit did identify 19 reportable audit findings where we believe the Court should consider taking corrective action to improve its operations and more fully comply with the Judicial Council's policies. In many instances, the Court took immediate corrective action to address the noted findings. These 19 findings are identified in Table 1 under the column "Reportable Findings" and include reference numbers indicating where the reader can view in further detail the specific findings and the Court's perspective. One particular area of focus for the Court as it considers additional opportunities for improvement includes improving its controls over the processing of payments received through the mail. Specifically, we found that the Court did not always use a two-person team to open mail payments and maintain a log to create a record of the non-cash payments received in the mail. In addition, clerks did not always restrictively endorse checks received in the mail. Further, clerks who open and logs mail payments also took payments over the counter payments, which creates a potential for lapping fraud. When mail payments are not properly safeguarded and accounted for, the Court faces increased risk that these payments may become lost or stolen. Payments received by mail are fundamentally a high-risk process given that the paying member of the public is neither present during the transaction nor is guaranteed to receive a receipt. The Court explained that some of this was caused by new staff, staff rotations, and a need for training, but once it was brought to the Court's attention it was immediately corrected.

### **Summary Perspective of Court Officials**

Audit Services initiated its audit of the Court on March 22, 2017, and completed fieldwork on May 26, 2017. Audit Services shared the draft audit findings with Court's officials on November 16, 2017, and received the Court's final official responses on December 21, 2017. The Court generally agreed with most of the findings and its specific responses for each are included in the body of the report.

## BACKGROUND ON THE COURT'S OPERATIONS

The Superior Court of California, County of Merced (Court) operates in the Central Valley of California, north of Fresno and southeast of San Jose, serving a county population of over 255,793. The Court operates under the authority and direction of the Presiding Judge, who is responsible for ensuring the effective management and administration of the Court, consistent with any rules, policies, strategic plan, and the funding provided by the Judicial Council.

California's 58 superior courts each have differing workloads, staffing levels, and financial resources. They operate under a decentralized system of governance and are each responsible for their own local court operations and business decisions. The Presiding Judge has the authority to: develop a local budget and allocate the funding provided by the Judicial Council; approve procurements and contracts; and authorize the Court's expenditures. The information in Table 2 is intended to provide the reader with context and perspective on the Court's relative size and workload compared to averages of all 58 superior courts.

Table 2 – Statistical Data for Merced Superior Court and Average of all Superior Courts

Statistic	Merced Superior Court	Average of All Superior Courts					All 58 Courts
		Cluster 1 Courts	Cluster 2 Courts	Cluster 3 Courts	Cluster 4 Courts		
<b>Financial Highlights (Fiscal Year 2016-17)</b>							
Total Revenue	\$ 16,484,877	\$ 2,250,083	\$ 10,582,305	\$ 41,232,247	\$194,113,750	\$ 43,247,805	
Total Expenditures	\$ 16,306,877	\$ 2,214,461	\$ 10,478,487	\$ 41,316,417	\$194,616,764	\$ 43,294,681	
Staff Salaries & Benefits As a % of Total Expenditures	\$ 11,561,150 70.9%	\$ 1,481,300 66.9%	\$ 7,931,905 75.7%	\$ 31,481,920 76.2%	\$157,192,180 80.8%	\$ 34,297,139 79.2%	
<b>Judicial Officers and Staff (2017 Court Statistics Report)</b>							
Judges	10	2	8	27	128	29	
Commissioners/Referees	2	-	1	4	22	5	
Non-Judicial Staff (approx.)	126	17	84	276	1,253	288	
Total	138	19	93	307	1,403	322	
<b>New Case Filings (Fiscal Year 2015-16)</b>							
<b>Appeal Filings</b>	47	11	63	141	398	118	
<b>Civil Filings</b>							
Civil	2,846	289	1,913	8,063	57,178	11,341	
Family Law	3,656	270	1,794	6,926	28,299	6,575	
Juvenile Delinquency	329	36	250	1,260	2,449	745	
Juvenile Dependency	295	40	211	669	4,064	859	
Mental Health	27	20	122	615	2,517	569	
Probate	363	46	251	918	3,297	809	
Small Claims	855	65	390	1,871	13,998	2,724	
<b>Criminal Filings</b>							
Felonies	1,654	474	2,218	4,960	33,794	7,234	
Misdemeanors / Infractions	36,354	5,164	23,918	86,524	375,861	86,633	
<b>Total</b>	46,426	6,415	31,130	111,947	521,855	117,607	

Source: Financial and case filing reports maintained by the Judicial Council. The date ranges differ for the above information due to the different sources of data. The financial data is from the Judicial Council's Phoenix financial system, the judicial officer and staff counts information is from the most recent Court Statistics Report, and the case filing counts are from the Judicial Branch Statistical Information System data as of November 20, 2017, and may not agree with other reports as this data is subject to continuous updates.

Note: The Judicial Council generally groups superior courts into four clusters and uses these clusters, for example, when analyzing workload and allocating funding to courts. According to past Judicial Council documents, the cluster 1 courts are those superior courts with between 1.1 and 4 judicial position equivalents (JPEs), cluster 2 courts are those with between 4.1 and 20 JPEs, cluster 3 courts are those with between 20.1 and 59.9 JPEs, and cluster 4 courts are those with 60 or more JPEs. Merced Superior Court is a cluster 2 court.

## AUDIT SCOPE AND METHODOLOGY

Audit Services initiated an audit of the Superior Court of California, County of Merced (Court) in order to determine whether it complied with certain key provisions of statute and the policies and procedures adopted by the Judicial Council of California. Our audit was limited to evaluating compliance with those requirements that, in our professional judgment, were necessary to answer the audit’s objectives. The time period covered by this audit was generally limited to fiscal year 2016-17, but certain compliance areas noted below required that we review earlier periods. Table 3 lists the specific audit objectives and the methods we used to address them.

Table 3 – Audit Objectives and the Methods Used to Address Them

	<b>Audit Objective</b>	<b>Method</b>
1	Through inquiry, auditor observation, and review of local court policies and procedures, identify areas of high risk to evaluate the Court’s compliance.	Audit Services developed an annual audit plan generally identifying areas of high risk at the superior courts. At the Court, Audit Services made inquiries and obtained local procedures to further understand the Court’s unique processes in each compliance area.
2	<p>Determine whether the Court implemented adequate internal controls over its handling of cash receipts and other payments. Such a review will include, at a minimum, the following:</p> <ul style="list-style-type: none"> <li>▪ Determine whether the Court complied with the mandatory requirements in the FIN manual for internal controls over cash (payment) handling.</li> <li>▪ Assess the quality of the Court’s internal controls to minimize the potential for theft, such as controls over the use of manual receipts and voided transactions.</li> </ul>	We obtained information from the Court regarding the types and average volume of collections at each of its payment collection locations. For selected locations, we observed the Court’s practice for safeguarding and accounting for cash and other forms of payments from the public. For example, we reviewed and observed the Court’s practice for appropriately segregating incompatible duties, assigning cash drawers to cashiers at the beginning of the day, reviewing and approving void transactions, safeguarding and accounting for handwritten receipts, opening and processing mail payments, controlling access to change funds, overseeing the end-of-day balancing and closeout process, and preparing and accounting for the daily bank deposits.
3	Determine whether the Court demonstrated appropriate control over its non-personal services spending	We reviewed the Court’s assignment of purchasing and payment roles to assess whether it appropriately segregated staff roles for approving purchases, procuring the goods or services,

<p>activities. Specifically, our review included the following:</p> <ul style="list-style-type: none"> <li>▪ Determine whether the Court’s procurement transactions, including purchase card transactions, complied with the applicable requirements in the Judicial Branch Contracting Manual requirements or the Trial Court Financial Policies and Procedures Manual.</li> <li>▪ Determine whether the Court’s payment transactions—including but not limited to vendor payments, claim payments, travel expense claim reimbursements—were reasonable and in compliance with the Trial Court Financial Policies and Procedures Manual and applicable Judicial Council policies and rules.</li> </ul>	<p>receiving the goods, and paying for the goods or services.</p> <p>We also judgmentally selected a sample of 25 procurement transactions, including 10 purchase card transactions, and assessed whether each transaction:</p> <ul style="list-style-type: none"> <li>• Was properly authorized and approved by authorized Court management.</li> <li>• Adhered to competitive bidding requirements, when applicable.</li> <li>• Had contracts, when applicable, that contained certain terms required to protect the Court’s interests.</li> </ul> <p>We selected a sample of 40 payments pertaining to various purchase orders, contracts, or in-court services, 10 travel expense claims, and 10 business-related meal expenses, and determined whether:</p> <ul style="list-style-type: none"> <li>• The Court followed the 3-point match process as described in the FIN Manual to ensure goods and services are received and accepted, and in accordance with contract terms prior to payment.</li> <li>• Appropriate Court staff authorized payment based on the Court’s payment controls and authorization matrix.</li> <li>• Whether the payment reasonably represented an allowable “court operations” cost per Rule of Court, Rule 10.810.</li> <li>• Whether the payments for in-court service providers, travel expense claims, and business meals adhered to applicable Judicial Council policies.</li> </ul>
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4	Determine whether the Court properly calculates fine and fee distributions for certain selected case types.	<p>We reviewed the Court’s process for updating and controlling access to its distribution tables.</p> <p>We also reviewed the Court’s calculations and distributions of fines, penalties, fees, and assessments for certain high volume or complex case types.</p>
5	<p>Determine whether the Court properly calculates its one percent fund balance cap for the most recent completed fiscal year.</p> <p>Determine whether the Court spent any funds the Judicial Council approved the Court to hold from prior year excess fund balance funds only for the purposes approved by the Judicial Council.</p>	<p>We obtained the Court’s final <i>1% Fund Balance Cap Calculation Form</i> for the most recently completed fiscal year at the time of our testing (fiscal year 2015-2016), and performed the following:</p> <ul style="list-style-type: none"> <li>• Verified significant calculations and balance amounts.</li> <li>• Traced and verified significant inputs on the form (such as year-end encumbrances) to supporting records and the Phoenix accounting system.</li> </ul> <p>We obtained any Judicial Council-approved request by the Court to hold excess prior year fund balances. To the extent that the Court spent these funds, we verified that such spending was limited for the purposes previously approved by the Judicial Council. The Court did not spend any “excess / held” funds during the period of our review.</p>
6	Determine whether the Court accurately reports case filing data to the Judicial Council through the Judicial Branch Statistics Information System (JBSIS).	<p>We obtained an understanding of the Court’s process for reporting case filing data to the Judicial Council through JBSIS. For the most recent fiscal year for which JBSIS data is no longer updated (fiscal year 2015-2016), we performed the following:</p> <ul style="list-style-type: none"> <li>• Matched the case filing counts the Court reported to JBSIS with Court-maintained records listing the case numbers for each reported case, by case type.</li> <li>• We selected 10 cases from 6 case types, for a total of 60 reported cases, and</li> </ul>

		<p>reviewed the relevant case file records to verify that the Court correctly applied the JBSIS definitions for reporting each case filing.</p>
7	<p>Determine whether the Court spent significant grant awards from the Judicial Council in compliance with the grant award requirements.</p>	<p>We determined whether the Court had any significant grant activity during the fiscal year 2016-17. We inquired court management about its process for tracking and reporting grant award costs. We selected certain grant awards to review, such as AB 1058 grants, and identified the applicable grant award requirements, such as allowable activities and costs, period of availability, matching requirements, and reporting requirements.</p> <p>We then selected grant award expenditures and determined whether the Court had sufficient records to support the expenditures charged to the grant. For example, for personal service costs charged to the grant award, we reviewed the payroll records and employee timesheets to verify the costs and time charged to the grant. We interviewed selected employees to determine how they track and report the time they charged to the grant award. We also reviewed other operating costs and expenditures charged to the grant award to determine whether the costs were supported, allowable, and allocable to the grant award.</p>

**Assessment of Data Reliability**

The U.S. Government Accountability Office (GAO) requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. In performing this audit, we obtained and reviewed financial transaction data from the Phoenix financial system—the statewide accounting system used by the superior courts—for the limited purpose of selecting transactions to test the Court’s compliance with its procurement and related payment activities. Prior to making our selections, we independently queried the Phoenix financial system to isolate distinct types of non-personal service expenditure transactions relevant to our testing—such as by general ledger code—and reconciled the resulting extract with the Court’s total expenditures as noted on its trial balance report for the same period. Our analysis noted no material differences leading us to conclude that use of the Phoenix financial transaction data was sufficiently reliable for the limited purpose of selecting transactions for testing.

## **Report Distribution**

The Judicial Council's *Advisory Committee on Audits and Financial Accountability for the Judicial Branch* reviewed this report on January 18, 2018, and approved it for public release.

California Rules of Court, Rule 10.500 provides for the public access to non-deliberative or non-adjudicative court records. Final audit reports are among the judicial administrative records that are subject to public access unless an exemption from disclosure is applicable. The exemptions under rule 10.500 (f) include records whose disclosure would compromise the security of a judicial branch entity or the safety of judicial branch personnel. As a result, any information meeting the nondisclosure requirements of rule 10.500(f) have been omitted from this audit report.

## **Audit Staff**

This audit was completed by the following staff under the general supervision of Robert Cabral, Manager:

Dawn Tomita, Senior Auditor (auditor in charge)

Jerry Lewis, Auditor

Mami Nakashita, Auditor

Veronica Perez, Auditor

**SCHEDULE OF AUDIT FINDINGS AND PLANNED CORRECTIVE ACTION**

## CASH HANDLING PROCEDURES

### The Court Generally Followed Required Cash Handling Procedures, But Can Improve Its Process over Void Transactions, Mail Payments, and Deposits

#### Background

Trial courts must collect and process customer payments in a manner that protects the integrity of the court and its employees, and promotes public confidence. Thus, trial courts should institute internal control procedures that assure the safe and secure collection, and accurate accounting of all payments. A court's handling of collections is inherently a high-risk activity given the potential incentives for court employees to act inappropriately when mandatory internal controls per the Trial Court Financial Policies and Procedures Manual (FIN Manual) are compromised or not in operation.

Overall, the Court should be commended for demonstrating compliance in many of the areas we evaluated during the audit. Specifically, the court demonstrated sound management practices in the areas of its daily opening process, controls over handwritten receipts, end of day process, and internet payments process.

Nevertheless, we identified five audit findings that we believe require the Court's attention and corrective action. These findings pertained to the following specific areas of cash handling:

Finding Reference	Subject Area
2016-2-01	Void Transactions
2016-4-01	Mail Payments – Mail Opening Process
2016-4-02	Mail Payments – Non-Cash Payments
2016-4-03	Mail Payments – Prompt Payment Processing
2016-8-01	Bank Deposits

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#### **FINDING REFERENCE: 2016-2-01**

#### *VOID TRANSACTIONS*

#### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.8 VOID TRANSACTIONS:

1. A supervisor or designee must review and approve all voided transactions. Where possible, the security access levels to the trial court's case management system should be adjusted so that supervisor or designee must review and approve a voided transaction before it takes effect in the system. The trial court will retain all void receipts, including the details of any re-receipting of the original voided transaction for five years.
2. The trial court's case management system should keep an appropriate audit trail of voided transactions by maintaining a record of both the original transactions entered into the case

management system as well as the subtraction caused by the void. The original transactions entered into the case management system should be voided, not deleted.

### **CONDITION**

Of the eight payment collection locations reviewed, one could not demonstrate the disposition of a payment associated with a voided transaction. Specifically, for one of the 10 void transactions reviewed at the Los Banos payment collection location, the Court's employees could not demonstrate how they processed a \$480 payment after the Court voided the original transaction. Neither the Court's CMS nor other available documents indicated whether the Court "re-rang" the payment or otherwise demonstrated how that payment was ultimately applied. According to court officials, the lack of documentation was the result of a temporary lead clerk who approved voiding the transaction while being unaware of the related documentation requirements. The Court's CFO indicated that court employees were conducting further research to determine the final disposition of the payment. While the \$480 payment itself is a relatively small amount in relation to all voided transactions, the exception we identified was from a small sample of voided transactions for which we expected to find no errors. Voided transactions, if not properly controlled and documented, are at greater risk for theft and we raise this issue so the Court can consider whether refresher training for its supervisors, or other additional steps, are required to mitigate this risk.

### **RECOMMENDATION**

To ensure that all payments are accounted for and properly documented, the Court should ensure that void transaction approvers log the details and final disposition of all void transactions, such as in the void transaction comments field of the CMS. The Court should also consider providing refresher training to supervisors and staff regarding the necessary documentation that must be retained when voiding payment transactions.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding. Corrective Action was taken immediately upon finding the error in April 2017. This was a one-time occurrence. During this time, our Lead Clerk was out on medical leave and the employee who made this error was temporarily acting as Lead under the Supervisor. Finance staff became aware that this temporary Lead Clerk was not completing certain steps in the void process. We had our Court IT DBA/Programmer discontinue this employee's access rights to process voids, and had the Supervisor of the division assume this responsibility until the Lead Clerk returned from medical leave.

**Response provided on 11/17/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 4/2017

**Responsible Person(s):** Keri Brasil, CFO

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### **FINDING REFERENCE: 2016-4-01**

*MAIL PAYMENTS – MAIL OPENING PROCESS*

### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.4 PAYMENTS RECEIVED THROUGH THE MAIL, (2):

To provide for the strongest protection of trial court assets and to protect the integrity and reputation of the trial court, a team approach should be used to maintain accountability for payments received through the mail. When processing mail payments, the court should adhere to the following procedures:

- a. A two-person team should be assigned to open the mail (or alternatively, one person can open the mail and create the Payment Receipts log if the person is recorded on video and the video is retained for at least 6 months.)
- b. Mail should only be processed when both team members are present (or alternatively, one person starts the process by sequentially numbering the envelopes and recording the envelope number and sender's name in the Payment Receipts log. When available, the second person opens the mail, and completes the Payment Receipts log for each envelope identified by the first person.)
- c. Two-person team combinations should be rotated regularly.
- d. To maintain separation of duties, team members opening and logging mail payments should not also enter the mail payments in the court's cashiering system and/or automated case management system, if possible.

#### **CONDITION**

Our observation of the Court's mail payment processing practices found that three of the eight payment collection locations reviewed—the Civil Division in the Old Merced Courthouse, and the Criminal Division and the Family Law Division in the New Merced Courthouse—neither followed the suggested two-person “team approach” when opening payments received through the mail nor adhered to the suggested alternative procedures. Specifically, the individuals who open the mail at these three locations do so individually (out of the presence of others) and, at the same time, fully complete the payment receipt log without the participation or corroboration of another court employee. Payments received by mail is an area of high-risk—since the payer is neither present during the transaction nor is guaranteed to receive a receipt—and the FIN Manual's guidance is intended to mitigate the risk of lost or stolen payments. Subsequent to our review, the Family Law Division immediately changed its process and began using a two-person team approach to open and log the mail payments. According to the Court, these locations were not using the two-person team approach correctly, and since the audit, the other two locations have also adopted the correct process.

Separate from our observations above, we also noted segregation of duties issues at the Civil Division and Criminal Division locations. Specifically, the Court allows the person who opens and logs the mail payments at these locations to also accept payments over the counter, leaving the Court at risk for a type of fraud known as “lapping.” According to the Court, it was not aware this was happening at these two locations and has taken corrective action of the isolated incidents at these locations.

**RECOMMENDATION**

To ensure the safe, secure collection, and accurate accounting of all payments received through the mail, the Court should monitor to ensure its payment collection locations either consistently follow a two-person team approach where both individuals are present when opening and logging mail payments, or implement the alternative procedures suggested in the FIN Manual. Further, the Court should also periodically monitor to ensure the same employees do not both log payments received by mail and accept over-the-counter payment transactions.

**COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and has corrected this practice. Since this was brought to our attention, during the audit, Finance staff has been reviewing and actively checking to ensure the two-person team is in effect.

**Response provided on 11/17/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 4/2017

**Responsible Person(s):** Keri Brasil, CFO, and Jane Van Vloten, Court Operations Manager

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**FINDING REFERENCE: 2016-4-02***MAIL PAYMENTS – NON-CASH PAYMENTS***CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.4 CHECK/MONEY ORDER/CASHIER CHECK HANDLING PROCEDURES, (3):

3[9]. The trial court must restrictively endorse all checks, warrants, money orders, and other negotiable instruments immediately upon receipt and acceptance.

FIN MANUAL, FIN 10.02, 6.4 PAYMENTS RECEIVED THROUGH THE MAIL, (3):

To provide for the strongest oversight and monitoring of payments received through the mail, courts should maintain a Payments Receipt Log. Without a Payment Receipts Log, courts have no record to reference or research should a mail payment become lost or stolen. The following method should be used for processing payments received through the mail:

a. Payments received through the mail should be listed on a Payments Receipts Log sheet.

b. The Payments Receipts Log sheet should include the following information:

- i. Case or docket number;
- ii. Name of the person making the payment;
- iii. Cash, check, and money order amount;
- iv. Check or money order number;
- v. Date received in the mail; and
- vi. Name of the person opening the mail and the person recording the payment on the Payments Receipt Log.

**CONDITION**

The Court did not always restrictively endorse mail check payments immediately upon receipt and did not consistently log non-cash mail payments, leaving it with a higher risk of lost or stolen payments. Specifically, at three of the eight payment collection locations reviewed—the Civil Division and the Collections Division in the Old Merced Courthouse, and the Criminal Division in the New Merced Courthouse—we observed that staff did not restrictively endorse the checks immediately upon opening the mail to protect the Court’s interests should the checks become lost or stolen. According to the Court, new staff and staff rotations may have caused staff to overlook this step; nevertheless, the Court stated it would instruct staff to restrictively endorse all checks immediately.

In addition, at two of the eight payment collection locations—the Civil Division in the Old Merced Courthouse and the Family Law Division in the New Merced Courthouse—Court staff did not use a Payment Receipts Log or similar document to capture certain key identifying information, such as the case number, the name of the person making the payment, and the date the payment was received. According to the Court, these two divisions must establish case numbers for new cases that may not be immediately available if the payment is related to a new case filing; however, the Court acknowledged that staff at these locations should still have enough information to record at least the name of the person making the payment, the amount, and the date received on a log. Without this key information, it is unclear how the Court can effectively monitor whether non-cash payments received through the mail or the drop-box are processed correctly and in a timely manner, or how such payments that go unprocessed for significant periods of time are tracked and reported to the Court’s management as required by the FIN Manual. The Court stated it would direct its staff to complete the Payment Receipts Log on a consistent basis.

**RECOMMENDATION**

To ensure the safe, secure collection, and accurate accounting of all payments received through the mail, the Court should consider taking steps, such as periodic staff training, to ensure that all staff restrictively endorse checks immediately upon receipt. The Court should also consider periodic training and monitoring to ensure that staff complete a Payment Receipts Log with all available key information necessary to establish a clear record of all the payments, cash and non-cash, received through the mail or drop-box.

**COURT’S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and has corrected this practice. Since this was brought to our attention while the auditors were present, Finance staff has been reviewing the payments received through the mail log and actively checking to ensure that the payments are endorsed upon opening the mail.

**Response provided on 11/17/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 4/2017

**Responsible Person(s):** Keri Brasil, CFO, and Jane Van Vloten, Court Operations Manager

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**FINDING REFERENCE: 2016-4-03*****MAIL PAYMENTS – PROMPT PAYMENT PROCESSING*****CRITERIA**

FIN MANUAL, FIN 10.02, 6.4 PAYMENTS RECEIVED THROUGH THE MAIL, (1):

Checks and money orders received through the mail should be processed (i.e., including immediately restrictive endorsement for deposit in the court bank account, entered into the court's receipting system and deposited to the appropriate bank account) on the day they are received. Any exceptions are to be brought to the attention of a supervisor, placed under dual control, and processed as soon as practicable. Money received through the mail will be deposited and entered in the court's cashiering system and/or automated case management system on the day received.

FIN MANUAL, FIN 10.02, 6.4 PAYMENTS RECEIVED THROUGH THE MAIL, (4):

To provide for strong oversight and monitoring of payments not processed on the day they were received in the mail, courts must adhere to the following steps:

- a. Trial court staff responsible for processing payments must review on a daily basis all payments that are held over from a previous day's work to determine if any of the held payments can be processed. This requirement can be met by reviewing the held Payments Receipt Log sheets and associated payments to determine if the payment can be processed.
- b. The supervisor/manager responsible for the trial court staff that process payments must identify and log any payment that has been held for more than five (5), fifteen (15) and thirty (30) calendar days without being processed. The log must specify the reason why the payment cannot be processed. The log must identify any cash payment being held in suspense for more than five (5), fifteen (15) and thirty (30) calendar days.
- c. The supervisor/manager responsible for the trial court staff that process payments must provide a report at least on a monthly basis, to the Court Executive Officer and the Court Fiscal Officer and/or to his or her written designee, that lists by age (length of time held) any payment that has been held for more than fifteen (15) and thirty (30) calendar days without being processed. The report must provide the following details, if known, for each payment being held:
  - i. Case or docket number;
  - ii. Name of the person mailing the payment;
  - iii. Payment amount;
  - iv. Check number (if applicable);
  - v. Date received in the mail; and
  - vi. Reason why payment cannot be processed.

**CONDITION**

The Court did not provide the necessary oversight and monitoring of payments received through the mail. At two of the eight payment locations reviewed – the Criminal Division at the New

Merced Courthouse and the Civil Division at the Old Merced Courthouse – the location supervisors do not maintain a log of mail payments not processed within five calendar days. In addition, a third payment collection location—the Family Law Division in the New Merced Courthouse—does not record the date when it received the payments in the mail. Thus, these locations lack a critical tool to ensure payments received through the mail are processed in a timely manner, and if not processed within five, 15, and 30 days, are logged and reported to appropriate management. According to the Court, these locations forgot and need refresher training of the logging and reporting requirements for mail payments that remain unprocessed for five, 15, and 30 days.

For example, our review of selected mail payments found that these locations did not process mail payments by the next business day. Specifically, of the ten mail payments reviewed at the Criminal Division location, we found that five remained unprocessed for seven or more days, with one of these five mail payments remaining unprocessed for 14 days. Furthermore, the location could not demonstrate that it prioritizes mail payments for processing by the next day, and as a result, may have mail payments that remain unprocessed for 15 days or longer without reporting this backlog to the CEO or CFO as required by the FIN Manual. This happens because the location does not maintain a log of unprocessed mail payments with the date received, files the unprocessed mail payments in alphabetical order rather than by the date received, and reviews the file of unprocessed mail payments only once a month.

At the Civil Division location, five of the ten mail payments reviewed remained unprocessed for more than eight days, with two of these five mail payments remaining unprocessed for 13 days. In addition, this location could not demonstrate that it returned one of the ten mail payments reviewed. Specifically, when we inquired about the disposition of this mail payment, the location supervisor believes that the sender sent the check to the Court in error, as the \$225 check amount is the same fee charged for civil e-filings, so they returned this check to the sender. However, the location did not annotate the mail payment log or retain any other type of evidence to support that it returned the check to the sender.

At the Family Law Division location, it did not record the date when it received the ten mail payments reviewed. As a result, we could not calculate the number of days elapsed between when the location received the mail payment and when it recorded the payment in the CMS, and thus could not determine whether it processed the mail payments on the day received or by the next business day.

## **RECOMMENDATION**

The Court should take steps to ensure all court staff working in payment collection locations fully complete a Payment Receipts Log and take steps to ensure that mail payments are entered into its CMS system by the next business day. Such steps might include additional training for court staff and periodic monitoring by court management to ensure that payments received by mail are appropriately logged, promptly processed, and reported to appropriate management when processing delays occur.

The Court should also ensure that all supervisors/managers responsible for staff that process payments take steps to identify and log any mail payment that has been held for more than five,

15, and 30 calendar days without being processed. For those mail payments held more than 15 or 30 calendar days, the Court should monitor to ensure the supervisors/managers provide a report to the CEO and CFO providing the details for each payment held, including the reason why the payment cannot be processed.

Finally, the Court should ensure that payment collection locations retain copies of returned checks and any associated correspondence sent to demonstrate the return of the checks and the dates returned.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and has corrected this practice. Since this was brought to our attention while the auditors were present, Finance staff has been reviewing and actively checking to ensure all payments are posted timely (within the 15 calendar days). If not posted timely, this is then reported to the CEO/CFO.

**Response provided on 11/17/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 4/2017

**Responsible Person(s):** Keri Brasil, CFO, and Jane Van Vloten, Court Operations Manager

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### **FINDING REFERENCE: 2016-8-01**

#### *BANK DEPOSITS*

#### **CRITERIA**

FIN MANUAL, FIN 13.01, 6.4 DEPOSITS:

1. Courts are required to deposit receipts in a timely and economical manner. Courts will adhere to the following guidelines in determining when to deposit receipts into an appropriate court approved bank account.
  - a. All court locations that have safes, vaults, or other comparable storage that is adequate to safeguard cash may accumulate collections until they amount to \$1,000 in coin/paper currency or \$10,000 in any combination of coin/paper currency, checks, money orders, and warrants (excluding state warrants and state checks), whichever occurs first.

#### **CONDITION**

The Court does not ensure it deposits receipts in the bank in a timely manner. Specifically, the Court's Finance Division does not deposit collections in the bank when it accumulates \$10,000 or more in daily collections. Our review of five daily collections found that all exceeded \$15,000 per day, but the Court did not make a deposit on each of those days. Instead, the Court's practice is to only make bank deposits twice per week. Also, one of the eight payment collection locations reviewed—the Los Banos payment collection location—does not deposit collections in the bank each day when the currency exceeds \$1,000. According to the Court, it has limited armored transit services for transporting the deposits to the bank and will need to seek approval to increase the dollar threshold for when it must make deposits since the bank is located 25 miles

from the Los Banos payment collection location. Thus, the Court is not taking all steps required by the FIN Manual to safeguard its receipts and reduce the risk of lost or stolen collections.

### **RECOMMENDATION**

To safeguard its receipts and reduce the risk of lost or stolen collections, the Court should require each cash collection location, as well as the Finance Division, to monitor and make a bank deposit when collections accumulate to \$1,000 in coin or paper currency, or \$10,000 in any combination of coin, paper currency, checks, money orders, and warrants, whichever comes first. Since the Court indicates having limited armored transit services, it may also consider the feasibility of using staff or bank messenger services to make the required deposits. If the Court cannot make deposits in the frequency required, it should prepare and submit to the Judicial Council a request for approval of an alternate procedure to increase its threshold for when deposits are required.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and recommendation. The Court will be requesting approval of an alternate procedure through the Judicial Council.

**Response provided on 11/17/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 1/2018

**Responsible Person(s):** Linda Romero-Soles, CEO; Keri Brasil, CFO

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## PROCUREMENT AND CONTRACTS

### **The Court Should Strengthen Efforts to Ensure Purchase Requests or Requisitions Are Properly Documented, Competitive Bid Requirements Are Met, and Purchase Card Policies are Followed**

#### **Background**

Trial courts are expected to procure goods and services in a manner that promotes competition and ensures best value. Thus, the Judicial Branch Contracting Manual (JBCM) and the Trial Court Financial Policies and Procedures Manual provide uniform guidelines for trial courts to use in procuring necessary goods and services and in documenting their procurement practices. Trial courts must demonstrate that their procurement of goods and services are conducted economically and expeditiously, under fair and open competition, and in accordance with sound procurement practice. Typically, a purchase requisition is used to initiate all procurement actions and to document approval of the procurement by an authorized individual. The requestor identifies the goods or services, verifies that budgeted funds are available for the purchase, completes the requisition form, and forwards it to the court manager authorized to approve procurement requests. The authorized court manager is responsible for verifying that the correct account codes are specified and assuring that funds are available before approving and forwarding the requisition form to the staff responsible for procuring goods and services. Depending on the type, cost, and frequency of the goods or services to be procured, trial court employees responsible for procuring goods and services may need to perform varying degrees of procurement research to generate an appropriate level of competition and obtain the best value. Court procurement staff may need to also prepare and enter the agreed terms and conditions into purchase orders, service agreements, or contracts to document the terms and conditions of the procurement transaction, and maintain a procurement file that fully documents the procurement transaction.

The Court demonstrated compliance in various procurement-related activities we evaluated during our audit, including demonstrating sound management practices in the areas of authorization and authority levels, non-competitive procurements, and in establishing clear contract terms.

Nevertheless, we identified four audit findings that we believe requires the Court's corrective action. These findings pertained to the following specific areas of procurements:

<b>Finding Reference</b>	<b>Subject</b>
2016-10-01	Procurement Initiation
2016-12-01	Competitive Procurements – Solicitation Practices
2016-16-01	Purchase Cards – Approval Limits
2016-17-01	Other Internal Controls – Encumbrances

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**FINDING REFERENCE: 2016-10-01**

**PROCUREMENT INITIATION**

**CRITERIA**

**JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 2, 2.1 FORMULATING THE PROCUREMENT APPROACH, C:**

The Buyer's first step in the planning and scheduling of a procurement effort is the initial review of a purchase request. Reviewing the request in terms of the following information will assist the Buyer in determining any impact to the procurement planning and scheduling activities.

1. Internal review and approvals: Consider the following:
  - Have the proper approval signatures been obtained to conduct the procurement in conformance with the Judicial Branch Entity's Local Contracting Manual?
  - Is the request in compliance with applicable equipment standards?
  - Is there documentation in sufficient detail to support and justify conducting the procurement?

**FIN MANUAL, FIN 6.01, 6.1 STANDARD PROCUREMENT PROCESS, (1):**

1. The procurement process begins with the completion and submittal of a written or electronic purchase requisition to the trial court employee who has been given the responsibility for approving the requisition. This is a separate and distinct process from approving the purchase order or executing the contract. Requisition approval authority may be delegated by organizational structure (e.g., manager of a unit) or by the type of goods or services requested (e.g., equipment or services under \$5,000). The individual who approves the requisition is responsible for assessing the need for the requested good or services and assuring that funds are available in the court's budget and that appropriate account codes are provided for the proposed purchase. See Section 6.3, Purchase Requisition Preparation and Approval for suggested requisition approval.

**FIN MANUAL, FIN 6.01, 6.3 PURCHASE REQUISITION PREPARATION AND APPROVAL, (1):**

1. A written or electronic purchase requisition is used to initiate all procurement actions. The requestor identifies the correct account code(s) and verifies that budgeted funds are available for the purchase, completes the requisition form, and forwards it to the trial court employee responsible for approving the requisition. After performing an assessment of the need verifying that the correct account code(s) are specified, and assuring that funding is available, the *requisition* is forwarded to the trial court's buyer.

**FIN MANUAL, FIN 6.01, 6.10 ADMINISTRATION AND DOCUMENTATION, (2):**

2. A properly documented procurement file for purchase orders and/or contracts provides an audit trail from the initiation of the requirement to the delivery of goods. The file provides a complete basis for informed decisions at each step of the acquisition process. A well-

documented file also supports the actions taken, provides information for later review and facts in the event of litigation or an investigation. Depending on the nature and value of the procurement, procurement files must contain:

- a. Approved purchase requisition.

### **CONDITION**

Of the 25 procurement transactions reviewed, 15 should have had a purchase request or requisition documented in the procurement file. However, for 8 of those 15, the Court did not prepare and document the purchase request. For example, the Court issued a nearly \$67,000 purchase order to replace and update the audio systems in two of its courtrooms and a \$14,000 blanket purchase order for document shredding services. According to the Court, although it did not document all purchase requests and approvals, the CEO verbally approved the purchase requests prior to purchasing staff initiating the procurement process. Without a documented purchase request or requisition, the Court cannot demonstrate that it assured, before the purchase is made, that there was an adequately justified business need for the requested good or services, that funds were available in the Court's budget for the purchase, and that an authorized individual, acting within his or her authorized approval-level, approved the purchase.

### **RECOMMENDATION**

To ensure purchases are appropriately justified, funded, and approved, the Court should take steps to ensure it obtains and documents in its procurement files the approval of purchase requisitions prior to the start of the purchasing activity, regardless of whether the activity is a competitive or non-competitive procurement.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and has since corrected its practice to ensure all purchase requests or requisition pre-approvals are documented.

**Response provided on 12/7/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 12/1/2017

**Responsible Person(s):** Keri Brasil, CFO

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### **FINDING REFERENCE: 2016-12-01**

#### **COMPETITIVE PROCUREMENTS – SOLICITATION PRACTICES**

### **CRITERIA**

JUDICIAL BRANCH CONTRACTING MANUAL (JBCM), CHAPTER 4, COMPETITIVE SOLICITATION OVERVIEW:

#### **4.7 SUMMARY DOCUMENT**

The evaluation and selection process for every procurement effort should be documented and referenced in a procurement summary. The purpose of the procurement summary is to create a single document that provides the history of a particular procurement transaction and explains

the significant facts, events, and decisions leading up to the contract execution. The procurement summary should be included in the procurement file.

Procurement summaries should be written clearly and concisely to support the soundness of the purchasing decision.

Procurement summary information includes but is not limited to:

- Document the prices offered by the Bidders;
- Documenting that the selection process occurred in accordance with the Solicitation Document;
- Determining that the selected Bidder is responsible and the Bid is responsive; and
- Attaching the scoring sheets, if applicable.

**JBCM, CHAPTER 4B, STEP BY STEP GUIDE FOR THE PROCUREMENT OF NON-IT SERVICES:**

**STEP 5—SELECT SOLICITATION DOCUMENT TYPE - Three types of Solicitation Documents are used in the procurement of non-IT services:**

- Requests for Quote (RFQs);
- Invitations for Bid (IFB); and
- Requests for Proposal (RFPs).

The table below provides guidance on when the various types of Solicitation Document are typically used.

Solicitation Document	Procurement Size	Description	Awarded to
RFQ	Less than \$5,000*	Used for very small purchases.	Lowest Responsible Bidder or Highest Scored Bid, at the JBE's discretion
IFB	Any size	Used for simple, common, or routine services that may require personal or mechanical skills.	Lowest Responsible Bidder
RFP	Any size	Used for complex or unique non-IT services in which professional expertise and methods may vary greatly, and creative or innovative approaches are needed.	Highest Scored Bid

\* A JBE may adopt a higher threshold for the use of RFQs in its Local Contracting Manual. If the JBE adopts a higher threshold, the JBE must ensure that (i) the higher threshold is reasonable and appropriate, and (ii) the JBE provides adequate oversight for the use of larger-value RFQs. Also, note that procurements under \$5,000 may be conducted without a competitive solicitation; see chapter 5 section 5.1 of this Manual.

**STEP 7—PREPARE ADVERTISING - A JBE must advertise any solicitation of non-IT services of \$5,000 or more. \***

\* All solicitations of non-IT services of \$5,000 or more must be advertised, even if the JBE adopts a threshold for use of RFQs that is higher than \$5,000.

## JBCM, CHAPTER 4C, STEP BY STEP GUIDE FOR THE PROCUREMENT OF IT GOODS AND SERVICES:

STEP 4—SELECT SOLICITATION DOCUMENT TYPE - Three types of Solicitation Documents are used in the procurement of IT goods and services:

- Requests for Quote (RFQs);
- Invitations for Bid (IFB); and
- Requests for Proposal (RFPs).

The table below provides guidance on when to use the three types of Solicitation Documents.

Solicitation Document	Procurement Size	Type of Procurement
RFQ	Up to \$100,000*	IT goods, IT services, and any combination of IT goods and services
IFB	Any size	Acquisition of hardware independently of a system integration project
RFP	Any size	IT goods, IT services, and any combination of IT goods and services

\* A JBE may adopt a higher or lower threshold for the use of RFQs in its Local Contracting Manual. If the JBE adopts a higher threshold, the JBE must ensure that (i) the higher threshold is reasonable and appropriate, and (ii) the JBE provides adequate oversight for the use of larger-value RFQs. Also, note that procurements under \$5,000 may be conducted without a competitive solicitation; see chapter 5, section 5.1 of this Manual.

### CONDITION

For five of the 25 procurement transactions reviewed, the Court was required to follow competitive solicitation practices because the procurements were not made through a Leveraged Procurement Agreement (LPA) or other non-competitive process. However, for three of these five, the Court did not follow or document its compliance with many of the JBCM competitive solicitation requirements.

For example, for one of these three procurements, the Court used a request for quote (RFQ) to solicit moving services—to Los Banos—valued at up to \$14,000. However, unless the JBE adopted a higher threshold, which the Court did not, the JBCM indicates that RFQs may be used for non-IT services up to only \$5,000. The JBCM also requires that solicitations for non-IT services greater than \$5,000 be advertised or have an exemption from advertising approved by the PJ or written delegate. However, in part, because the Court did not have in its Local Contracting Manual a higher threshold for the use of RFQs, the Court did not meet either of these requirements for its solicitation of moving services. Finally, for this moving services procurement, the Court did not provide a procurement summary or copies of the offers received, the evaluations it performed on the offers, and an explanation of why the vendor was selected, which are all JBCM requirements of competitive solicitations for non-IT services. According to the Court, it used a RFQ for this procurement because it believed an RFQ was sufficient. However, as noted above, unless courts adopt a higher threshold in their Local Contracting Manual, the JBCM allows courts to use RFQs for non-IT services up to only \$5,000.

For the other two procurements, the Court created a blank purchase order (BPO) for each procurement. One BPO amounted to \$14,000 for document shredding services and the other

totaled \$10,000 to replace and upgrade some of its network cabling. However, the Court did not provide any documentation of the solicitations it executed to establish the BPOs or how it met other applicable competitive procurement requirements. Specifically, the Court did not document which type of solicitation document it used for either procurement. In addition, it did not have support to show it performed the required advertising for the document shredding procurement. Further, it did not have a procurement summary that described the offers received and the selection process for either procurement, and because there is no solicitation document, it is unknown whether a Notice of Intent to Award was required. Thus, the Court could not demonstrate that it followed the JBCM competitive solicitation requirements for these two procurements. According to the Court, it has used the mobile shredding service since 2010 and has continued to use this service without an increase in price since 2012. Also, it used the telecommunications vendor because this vendor was already familiar with the cabling in its new courthouse building. However, because each of these procurements exceeded \$5,000, the Court must follow the JBCM competitive procurement requirements or document a non-competitive procurement. When the Court does not fully document its compliance with all the JBCM's procurement requirements, it risks creating an appearance that it has not done all its required due diligence to procure goods and services fairly.

### **RECOMMENDATION**

To increase transparency to the public and to reduce the risk of not being able to show it performed its due diligence to procure goods and services fairly, the Court should ensure it uses the solicitation appropriate for the type of procurement, documents its procurement summary, and retains appropriate procurement documents to substantiate its compliance with all applicable JBCM requirements.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with these findings and will follow the JBCM procurement requirements.

**Response provided on 12/7/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 12/7/2017

**Responsible Person(s):** Keri Brasil, CFO

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### **FINDING REFERENCE: 2016-16-01**

*PURCHASE CARDS – APPROVAL LIMITS*

### **CRITERIA**

JUDICIAL BRANCH CONTRACTING MANUAL, CHAPTER 9, 9.2 PURCHASE CARD PROGRAMS, A:

Purchase cards may not be used to circumvent established procurement procedures. All procurements executed using a purchase card should be initiated by an approved purchase requisition. Purchase cards may be used only for official JBE business; personal use is prohibited.

JBCM, CHAPTER 9, 9.2 PURCHASE CARD PROGRAMS, B (3):

Purchase cards may only be used for purchases with a maximum of \$1,500 per transaction. A suggested daily limit of \$5,000 should also be set for purchase card use. Alternative procedures should be documented, incorporated into the court's Local Contracting Manual, and distributed to court personnel.

**CONDITION**

For five of the 10 purchase-card transactions reviewed, the Court completed the purchase before staff prepared and obtained approval of the purchase card request. Although the Court's credit card checkout policy indicates that a credit card may be checked out from Central Accounting one workday before use after approval of the credit card request, the Court completed these five purchases, which ranged from \$178 to more than \$1,600, three to four weeks before the purchase card requests were prepared and approved. According to the Court, although these requests were not prepared and approved prior to using the purchase cards to complete the purchase, the CEO pre-approved the purchases either verbally or through an email. However, when the Court does not follow its credit card checkout policy and does not document approval of the purchase card request before using court purchase cards to complete purchases, it leaves itself at risk of unauthorized use of its purchase cards.

In addition, for two of the 10 purchase-card transactions reviewed, court staff made purchases that exceeded the JBCM's \$1,500 per-transaction limit even though the Court did not provide for an exception to this limit in its Local Contracting Manual (LCM). Specifically, one transaction totaling \$2,682 was for five mini personal computers and the other transaction was \$1,611 for tent, chair, and linen rental for the new Los Banos courthouse dedication. The Court makes purchase cards available to certain staff so that these individuals can make purchases directly from vendors. However, the Court does not have any alternative procedures in its LCM to the JBCM's \$1,500 per-transaction limit. According to the Court, it made these purchases above the \$1,500 per-transaction limit because the CEO verbally approved the use of the purchase cards to complete these purchases. If the Court believes a purchase card per-transaction limit greater than \$1,500 would better suit the Court's needs, it should document that limit in its LCM. By documenting in its LCM, as required by the JBCM, its alternative transaction limits for its purchase card program, the Court can improve transparency and awareness among its staff for how purchase cards are to be used and their limitations, as well as reduce the risk of the Court incurring unintentional costs.

**RECOMMENDATION**

To ensure that only appropriate purchases are paid with its purchase cards, the Court should enforce its credit card checkout policy. Following this check out policy will allow the Court to complete the purchase requisition before making the purchase.

In addition, to increase transparency to the public and to reduce the risk that court staff may exceed the JBCM's purchase card limits, the Court should update its LCM to incorporate its alternative per-transaction limits for its purchase cards. In addition, to ensure that it is using public funds appropriately, the Court should implement a process for court staff to document the

justification and authorization for when it is necessary to exceed the per-transaction limits established by the Court for its purchase cards.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding. However, as additional information, the Court was under a tight deadline for some of these purchases due to the new courthouse construction project. For example, the Court was required to purchase the NUCS (small form factor) for the public ticketing system and public court calendars (that are displayed in the lobby outside of each courtroom and the public ticketing system case numbering system) in the new Los Banos Courthouse. It took longer than normal to secure the bids and the Court could not delay the contractor's installation of these items. Therefore, the Court was required to purchase these items via credit card so the project would not be delayed further. Court management (CEO/Mgrs.) held weekly construction meetings and, based on the contractor's timeline, the CEO verbally authorized this expenditure as time was of the essence. Nonetheless, The Court will modify its local contracting manual to increase the per-transaction limit threshold should we have any transactions in the future that exceed the \$1,500 limit. Also, all purchases made with the court credit card now requires the CEO pre-approval and the form the CEO signs authorizes the Court to pay for the credit card charges.

**Response provided on 12/18/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 11/17/2017

**Responsible Person(s):** Keri Brasil, CFO

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### **FINDING REFERENCE: 2016-17-01**

*OTHER INTERNAL CONTROLS – ENCUMBRANCES*

#### **CRITERIA**

FIN MANUAL, FIN 5.01, 6.6 ENCUMBRANCES:

Encumbrances are used as a means of ensuring that court resources are available to pay commitments as they become due. An encumbrance reserves part of a fund until a commitment is paid, cancelled, or expires. At the time of payment, the encumbrance is disencumbered (i.e., reduced) and the Expenditure is recorded. A Purchase Order (PO), Contract, Memorandum of Understanding (MOU), or Intra-Branch Agreement (IBA) cannot be encumbered unless there is an unencumbered balance of an appropriate fund.

POs, Contracts, MOUs, and IBAs, must be forwarded to the accounts payable provider. Any encumbrance amount over \$500 must be posted in the accounting system ensuring adequate amounts must be reserved for the expenditures contemplated. As invoices related to encumbrances are paid, encumbrances should be disencumbered by an amount equal to the payment. Once the last payment related to the Contract, PO, MOU, or IBA is made, the encumbrances associated with the Contract, PO, MOU, or IBA must be disencumbered. Similarly, all encumbrances associated with Contracts, POs, MOUs, or IBAs that have expired or have been cancelled must also be disencumbered. There are court financial commitments that

typically would not be encumbered; examples include monthly telephone services and subscriptions.

#### 6.6.1 ONE-TIME COMMITMENTS

One-Time POs or contracts for delivery of goods or services within the fiscal year must be encumbered for the full amount when issued.

#### 6.6.2 BLANKET PURCHASE ORDERS

Blanket purchase orders encumber an estimated amount to cover specific goods or services during the term of the blanket purchase order and are set up by fiscal year.

#### 6.6.3 MULTI-YEAR CONTRACTS/POs

Multi-year POs, Contracts, MOUs, and IBAs must specify on the document the amount to be encumbered when the performance occurs over several fiscal years. Contracts, POs, MOUs, and IBAs for anticipated costs must record an encumbrance for each fiscal year.

### **CONDITION**

For two of the 19 procurements reviewed that were each greater than \$500, the Court did not enter in its accounting system the encumbrance PO needed to encumber and reserve fund balance. These two procurements amounted to more than \$1.3 million and were for goods and services such as legal notices placed in the newspaper, and indigent defense legal services for dependency. According to the Court, a PO is not always created in the accounting system—Phoenix—because it is not always needed. For example, a PO is not needed for an emergency purchase or any other direct charge. However, neither of these two procurements are similar to the financial commitment examples the FIN Manual indicates courts typically would not encumber. When procurements over \$500 are not encumbered, the Court risks not having the resources it needs to pay its commitments as they become due.

### **RECOMMENDATION**

To ensure court resources are available to pay commitments as they become due, the Court should establish a practice of entering in its accounting system an encumbrance PO to encumber and reserve fund balance for all procurements over \$500 and that are not like the examples the FIN Manual indicates courts would typically not encumber.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and will ensure that court resources are available to pay commitments as they become due.

**Response provided on 12/7/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 12/1/2017

**Responsible Person(s):** Keri Brasil, CFO

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## PAYMENT PROCESSING

### **The Court Should Strengthen Its Process for Authorizing and Approving Payments for In-Court Service Providers, Require Appropriate Approval Levels for Travel Expense Claims, and Consider Alternative Means of Funding Certain Activities**

#### **Background**

Trial courts must institute procedures and internal controls to ensure they pay for appropriate goods and services in an economical and responsible manner, ensuring that they receive acceptable goods and services prior to payment. Thus, the FIN Manual provides courts with various policies on payment processing and provides uniform guidelines for processing vendor invoices, in-court service provider claims, and court-appointed counsel. All invoices and claims received from trial court vendors, suppliers, consultants and other contractors are routed to the trial court accounts payable department for processing. The accounts payable staff must process the invoices in a timely fashion and in accordance with the terms and conditions of the purchase agreements. Staff must match all invoices to the proper supporting procurement and receipt documentation, and must ensure approval for payment is authorized by court management acting within the scope of their authority.

In addition, trial court judges and employees may be required to travel as a part of their official duties, and may occasionally conduct official court business during a meal period. Courts may reimburse their judges and employees for their reasonable and necessary travel expenses, within certain maximum limits, incurred while traveling on court business. Courts may also reimburse their judges and employees, or pay vendors, for the actual cost of providing business-related meals when certain rules and limits are met.

The Court demonstrated compliance in many of payment-related activities we evaluated during our audit. The Court demonstrated sound management practices in the areas of its payment approval and authority levels, other items of expense, and jury expenses.

Nevertheless, we identified seven audit findings in the payment processing area that we believe requires the Court's corrective action. These findings pertained to the following specific areas of payment processing:

<b>Finding Reference</b>	<b>Subject</b>
2016-20-01	Special Rules – In-Court Service Providers and Three-Point Match
2016-24-01	Travel Expense Claims – Completeness
2016-24-02	Travel Expense Claims – Approvals
2016-25-01	Business-Related Meals – Allowability
2016-25-02	Business-Related Meals – Meal Rate Limits
2016-26-01	Petty Cash
2016-27-01	Allowable Costs – Unallowable Rule 10.810 Expenses

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**FINDING REFERENCE: 2016-20-01**

*SPECIAL RULES – IN-COURT SERVICE PROVIDERS AND THREE-POINT MATCH*

**CRITERIA**

FIN MANUAL, POLICY NO. FIN 8.02, 6.1 CLAIMS PAYMENT PROCESS, 6.1.1  
Introduction, (2):

The basis for a claim is created when the court authorizes services to be provided by an individual or business. The claims payment process assures that proper documentation accompanies each claim and that approval for payment is obtained from authorized staff. At the end of the process, three main functions of accounts payable are completed: 1) supporting documents are reviewed and approved, 2) warrants are issued, and 3) accounting entries are recorded.

FIN MANUAL, POLICY NO. FIN 8.02, 6.8 RECONCILIATION OF CLAIMS:

After Accounts Payable has received and recorded a claim, it must be reconciled to the court authorization for the services provided and the service provider's invoice. The claim should be reviewed against the court authorization to verify the appointment, rates, and any hour or dollar limits that may apply. The invoice should be reviewed against the court authorization for the rates and hours charged, and other costs incurred. The correctness of unit price extensions and totals should also be reviewed. Previous claims for the same matter should also be reviewed to assure that limits are not exceeded.

FIN MANUAL, POLICY NO. FIN 8.01, 6.3.2 DOCUMENT MATCHING, (2):

A "three-point-match" procedure consists of matching a vendor invoice to a purchase agreement and to proof of receipt and acceptance of goods or services. For example:

- a. All details of the invoice, including description of goods and services ordered, quantities invoiced, unit prices billed and other applicable charges must be matched to the details and terms and conditions of the court's purchase agreements or contracts.

FIN MANUAL, POLICY NO. FIN 8.01, 6.3.3 REVIEW FOR ACCURACY OF INVOICE, (3):

To ensure that payments are made according to contract specifications, terms of applicable contracts or purchase agreements shall be compared to the invoice for accuracy.

**CONDITION**

Our review of the Court's payments to in-court service providers found that all four of the in-court service provider claims reviewed did not include a written court authorization of the services "to be" provided. The Court indicated that court staff reviewed and approved or "authorized" the claims for payment. However, this is not the same as a court authorization of services "to be" provided because approving claims for payment is "after" (not before) the services are provided. Without the appropriate court authorizations, accounts payable staff

cannot reconcile the claim for services provided to the services authorized, nor verify the authorized pay rates or limits to ensure the accuracy of the payment.

### **RECOMMENDATION**

To ensure that the Court pays the proper amounts for the in-court services it receives, it should take steps to strengthen its process for authorizing in-court services and for approving payments to its in-court service providers. For instance, the Court should ensure that it documents its court authorizations for in-court services and provides accounts payable staff with a copy of the court authorization documents that delineate the services, pay rates, and limits the Court authorized prior to delivery of the services, and that the accounts payable staff need to reconcile and verify that all in-court services claims agree to their respective authorization documents before processing these claims for payments.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and will include the pre-approval documentation with the in-court services.

**Response provided on 12/7/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 12/1/2017

**Responsible Person(s):** Keri Brasil, CFO

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### **FINDING REFERENCE: 2016-24-01**

#### *TRAVEL EXPENSE CLAIMS - COMPLETENESS*

### **CRITERIA**

FIN MANUAL, FIN 8.03, 6.4.1 SUBMITTAL OF TRAVEL EXPENSE CLAIMS (TEC), (1):

Judges and employees who incur reimbursable business travel costs must submit a completed TEC form, which:

- a. Includes only allowable expenses paid by the judge or employee.
- e. Notes the business purpose of the trip.

FIN MANUAL, FIN 8.03, 6.4.2 ALLOWABLE EXPENSES, (1):

The following types of expenses are allowable and reimbursable for trial court business travel:

- c. Mileage. Personal vehicle mileage is reimbursable at the current federal mileage reimbursement rate established by the Internal Revenue Service that corresponds to the date/s of travel. Parking and toll charges are also reimbursable.
- e. Meals. Trial court judges and employees may be reimbursed for meals consumed during business travel. Meals to be reimbursed should be itemized as breakfast, lunch or dinner.

The maximum allowable reimbursement for each meal is established by the Judicial Branch Travel Guidelines...

FIN MANUAL, FIN 8.03, 6.3.2 PERSONAL VEHICLE MILEAGE, (2):

Trial court judges and employees submitting claims for reimbursement for personal vehicle use should note the following:

- b. When travel commences from home, and the traveler is authorized to use his/her personal vehicle to travel to a business destination other than the traveler's regular place of work, reimbursed mileage will be calculated from the traveler's designated headquarters or home, whichever results in the lesser distance, to the business destination. If the traveler departs from the last business destination directly to the traveler's home, mileage reimbursement will be calculated from the last business destination to the traveler's designated headquarters or home, whichever results in the lesser distance. If the first or last business destination is closer to home than the regular place of work, no mileage reimbursement will be allowed.

#### **CONDITION**

For seven of the ten travel expense claims (TECs) reviewed, the Court allowed claimants to submit TECs that did not include key information that is needed to assess the propriety of the claimed costs. Specifically, all seven TECs did not include information about the start and end time of the travel to reasonably assess the propriety of the meal and mileage expenses, and three of these seven TECs did not include the purpose of travel to assess whether all the travel expenses were business-related.

Specifically, for four of the TECs, the Court was unable to demonstrate how it determined that the meal expense reimbursements were appropriate because the claimants did not indicate on the TECs the start and end times of travel. Without this key information, the Court cannot support that the claimants claimed appropriate meal expense reimbursements.

In addition, for three of the TECs, although the Court provided some online maps to support the mileage claimed, we could not determine whether the mileage was reasonable. Specifically, the TECs did not include the start and end times of the business travel. Therefore, we could not determine whether the claimant commenced the business portion of travel from home or from the office. Information related to where and when the claimant began business travel helps reviewers and approvers determine the proper starting point for the mileage calculation. Since we could not determine at what time or whether the claimant started travel from home or from the office, we were unable to determine whether the claimant claimed the lesser of the mileage from home or office to the business destination and whether the mileage claimed was reasonable and appropriate.

The Court indicated that approving supervisors review the supporting documents with the TEC to ensure meals and mileage are appropriate and would know when and for what purpose the business travel occurred before approving the TECs for payment, but will nonetheless take action to ensure travelers include complete information on their TECs going forward. Providing

required information on travel expense claims not only allows for greater clarity on when and how court employees incurred travel expenses, but also positions the Court to demonstrate greater accountability over its travel costs.

### **RECOMMENDATION**

To ensure it complies with the required travel expense reimbursement policy and procedures, and to ensure its travel expenses are an appropriate and necessary use of public funds, the Court should require all court employees and officials who travel on Court business to provide the information and documentation necessary to allow for the proper review and approval of allowable travel expenses. Any Court instructions should include how to properly complete the TEC form, as well as explain the importance of providing the appropriate documentation and information that is needed to support the claimed travel expenses. In addition, approving supervisors and reviewers should question travelers about any missing information that is necessary to evaluate the appropriateness of claimed expenses, and about any apparent conflicts in the information provided and the expenses claimed for reimbursement. Supervisors and reviewers should annotate the TEC with any additional information that is needed to clarify the propriety of the travel expenses.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees and will ensure staff follow the JCC Travel Expense Reimbursement and Business Meal Expense Guidelines.

**Response provided on 12/18/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 11/1/2017

**Responsible Person(s):** Keri Brasil, CFO and Karen Bettencourt, Finance/Collections Supervisor

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### **FINDING REFERENCE: 2016-24-02**

*TRAVEL EXPENSE CLAIMS - APPROVALS*

### **CRITERIA**

FIN MANUAL, FIN 8.03, 6.4.1 SUBMITTAL OF TRAVEL EXPENSE CLAIMS (TEC), (1):

Judges and employees who incur reimbursable business travel costs must submit a completed TEC form, which:

- a. Is approved and signed by the judge's or employee's appropriate approval level.

### **CONDITION**

We found that the appropriate level supervisor did not approve two of the ten travel expense claims (TECs) reviewed. Specifically, the Court Executive Officer (CEO) approved two TECs that judges submitted. However, the appropriate approval level supervisors for judges are the Presiding Judge (PJ) or Assistant Presiding Judge (APJ). If the claimant is the PJ, then the approver should be the APJ.

The FIN Manual makes a distinction between the appropriate approval level for a judge and a court employee. In Audit Services' view, if there were questions or concerns regarding a judge's TEC, the Court's CEO or a lower-level employee may feel uncomfortable making further inquiries and potentially would be less likely to disallow the judge's claimed costs. For context, although both judge TECs reviewed did not include travel start and end times, these TECs did not otherwise appear to contain questionable charges. Nevertheless, we are raising this issue with the Court because we see a potential control weakness with court employees approving judicial officers' TECs. According to the Court, this is an issue that needs to be addressed statewide so that all courts follow the appropriate and consistent procedure because it noted that other courts follow this same travel approval procedure.

### **RECOMMENDATION**

To increase the likelihood that travel expense claims submitted by judges are thoroughly reviewed, and challenged when appropriate, the Court should consider requiring that all TEC forms submitted by judges be approved by the PJ or a designated judicial officer. Such a process might entail court employees highlighting potential problems with a judicial officer's TEC, which would be submitted to the designated judicial officer for final review and approval.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees and will ensure staff follow the JCC Travel Expense Reimbursement Guidelines. However, JCC needs to remind all courts of this policy. In a recent survey that our Court conducted with all California superior courts, it was noted that several courts follow our same practice.

**Response provided on 12/18/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 11/1/2017

**Responsible Person(s):** Keri Brasil, CFO and Karen Bettencourt, Finance/Collections Supervisor

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### **FINDING REFERENCE: 2016-25-01**

*BUSINESS-RELATED MEALS - ALLOWABILITY*

### **CRITERIA**

FIN MANUAL, FIN 1.03, 6.2 BENEFITS OF AN EFFECTIVE SYSTEM OF INTERNAL CONTROL:

As a public institution, the trial court must maintain the highest standard of ethics and level of integrity to inspire public confidence and trust in the court system. Negative public perception about a trial court erodes public confidence in the fairness of the court system. An effective system of internal controls minimizes the trial court's exposure to operational and financial risks and negative public perception.

FIN MANUAL, FIN 8.05, 6.1 AUTHORIZED BUSINESS MEALS:

The Presiding Judge—or, if delegated in writing by the Presiding Judge, the Court Executive Officer or another judge—must determine in each instance that there is a business purpose to permit the business meal expenditure.... Business meals are meals or refreshments during which discussion of court business occurs or meals or refreshments associated with court conferences, meetings, and workshops, when there is a business need to keep participants together.

#### FIN MANUAL, FIN 8.05, 6.8 UNALLOWABLE BUSINESS MEAL EXPENSES:

The trial court may pay or reimburse the costs of a group meal that is intended to recognize an individual for his or her work-related accomplishments on behalf of the court or in connection with a purpose that is part of the court's mission. However, the court may not pay or reimburse the costs of a group meal that is intended to be part of a retirement event for a judge or court employee.

#### **CONDITION**

The Court incurred some business-related meal expenses for events that may cause the public to question why the Court decided to use limited public funds to pay for these event expenses. Specifically, we reviewed eight business-related meal expenditure transactions and noted the following observations:

- The Court awarded lunch to employees of a certain division for its first-place win in a contest—a team building activity—during the Court's 2016 holiday luncheon. The Court spent \$171 on these awards. The Court spent an additional \$2,270 on lunches for court employees attending the 2016 holiday luncheon. The agenda for the luncheon included employee recognition items, a team building exercise, and an item on security training. According to the Court, it views this as a part of its court-wide employee morale program, which includes teamwork and recognition for participating in a team building exercise.
- The Court spent \$193 on ice cream for all court employees in appreciation and recognition of their dedication and hard work. The Court provided an agenda that contained comments by management that demonstrates the intent of the event was to show how much staff are appreciated and to recognize staff for their dedication. According to the Court, this event was to recognize employees for keeping cases current in its CMS and other duties, and it also views this event as a part of its court-wide employee morale/recognition program.

Although Audit Services agrees with the Court that there is value in periodically holding events aimed at building employee morale and to recognize hard work, using limited public funds designated for court operations costs may prompt the public to question whether using public funds for these events are prudent. The Court may wish to consider other means for funding these types of activities, such as collecting contributions from court employees throughout the year—on a voluntary basis—to pay for these kinds of employee-recognition events. Such a process will enable the Court to better defend itself should an external entity, or member of the public, question these expenses.

## **RECOMMENDATION**

To limit the risk of the public or other entities questioning the Court's use of public funds for employee morale-building events, the Court should consider alternative means of funding such activities. One approach the Court could consider would be to collect voluntary contributions from court employees during the year to pay for these activities.

## **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court disagrees with the finding noted above. The Court had discussed these types of employee morale expenditures with the former JCC Audit Services Principal Manager prior to using Court funds. The Manager advised the Court that expenditures for employee morale purposes are acceptable. Therefore, the Court proceeded to use court funds for these purposes. In addition, studies have found that employees are more productive when they are recognized for their years of service, their strong work ethic, and appreciated for their on-going contributions. The Court strongly agrees with having a strong working-team ethic and that it's important to remind staff how essential each one is in executing their roles and performing their duties to successfully achieve the mission of the Court. The Court considers these expenditures more cost effective and efficient than it is to lose employee productivity due to low morale, and/or incurring additional costs for their loss of work time due to stress and other illnesses. Regarding Audit Services approach, all court staff already voluntarily participate annually in the food can drive for the homeless for Thanksgiving and the toy drive during the holidays. Court Management also contributes annually to "Operation Holiday Sponsor a Family Program."

**Response provided on 12/18/2017 by:** Linda Romero Soles, CEO

**Date of Corrective Action:** Not applicable

**Responsible Person(s):** Keri Brasil, CFO

### ***AUDIT SERVICES COMMENTS ON COURT'S VIEW***

The Court misunderstands the point of our audit finding and related recommendation. We agree that morale building activities—such as holiday parties and similar events—are an effective way to help maintain worker productivity and overall engagement. However, paying for such activities with public funds unnecessarily exposes the Court to criticism for how it is spending money that is otherwise designated for court operations. While we recognize that the amounts spent by the Court in this case are relatively modest, the point of our recommendation was to suggest an alternative way for the Court to fund these types of activities in the future.

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## **FINDING REFERENCE: 2016-25-02**

### ***BUSINESS-RELATED MEALS – MEAL RATE LIMITS***

#### **CRITERIA**

FIN MANUAL, FIN 8.05, 6.6 AUTHORIZED BUSINESS MEAL RATES, (1):

...The maximum rates that trial courts may pay (directly or as reimbursement) for business meal expenses are provided below. The specified rates are intended to cover all expenses related to

business meals, such as food, beverages (including water), service charge, tip, and taxes. Actual reimbursement or payment for meals other than those for individuals representing the trial court during a business meal function at an outside organization may not exceed the maximum rates below. Trial court judges and employees may purchase more expensive individual meals when requesting business meal expense reimbursement through the TEC process if they choose, but court reimbursement for such meals may not exceed the maximum rates listed below.

- a. Group Meals Provided at Trial Court or Government Facility or Individual Reimbursement, through a TEC

Breakfast: Actual cost not to exceed \$8.00 per person

Lunch: Actual cost not to exceed \$12.00 per person

Dinner: Actual cost not to exceed \$20.00 per person

### **CONDITION**

The Court did not always ensure that its business meal costs were within the maximum allowed rates. For two of the eight business-related meal transactions reviewed, the actual per person meal cost exceeded the applicable maximum business meal rate. Specifically, in both cases the maximum allowable business meal rate was \$12 per person for a group lunch. However, the Court incurred actual meal costs of \$16.71 per person at one lunch and \$16.98 per person at a second lunch. According to the Court, exceeding the per person limit on these two business lunches was an oversight.

### **RECOMMENDATION**

To ensure its business meal expenses are consistent with the Judicial Council business-related meal expense policy and procedures and an appropriate and necessary use of public funds, the Court should consider taking steps, including additional training if necessary, to ensure that court employees are aware of the maximum allowed business meal rates and review requests for business meal forms to ensure the Court does not exceed the maximum allowed meal cost limits.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees and will ensure staff follow the JCC Business-Related Meal Expense Guidelines. Since this period, if the meal costs exceed the maximum rates, court management contributes the difference.

**Response provided on 12/18/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 11/1/2017

**Responsible Person(s):** Keri Brasil, CFO and Karen Bettencourt, Finance/Collection Supervisor

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### **FINDING REFERENCE: 2016-26-01**

*PETTY CASH*

### **CRITERIA**

FIN MANUAL, FIN 8.04, 3.0 POLICY STATEMENT:

A petty cash fund may be established when the trial court finds it necessary to keep a small amount of cash on hand to purchase low value supplies and services that cannot be practically purchased by other means. The maximum petty cash purchase is \$100.00 unless advance approval from the Court Executive Officer, or documented designee is obtained in writing or email.

FIN MANUAL, FIN 8.04, 6.1 INTRODUCTION, (1):

A petty cash fund may be established when it can be demonstrated that a continuing cash advance should be kept on hand to permit the purchase of low-value supplies and services.

### **CONDITION**

For nine of the 22 petty cash expenditures reviewed, the Court used the petty cash fund to pay for items that are not its intended purpose, which is to purchase low-value supplies or services. Specifically, for five of the nine petty cash expenditures, the Court used a total of \$196 in petty cash funds to pay for business-related meals. For three petty cash expenditures, the Court used a total of \$95 in petty cash to pay for cakes for its Drug Court program. For the ninth expenditure, the Court used \$25 in petty cash to pay for three employee overtime meals that it should have instead reimbursed to each employee through the travel expense claim reimbursement process to ensure it reported the overtime meals as taxable income.

According to the Court, the CEO instructed staff to use the petty cash fund for these transactions. As a result, the Court used its petty cash fund on expenses not related to its intended purpose.

### **RECOMMENDATION**

To ensure it uses its petty cash fund consistent with the petty cash procedures outlined in the FIN Manual, the Court should consider restricting the use of the petty cash fund for the purchase of low-value supplies and services that cannot be practically purchased by other means and that are allowable court operations costs.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with this finding and will adhere to the FIN Manual. The Court is also looking to eliminate the petty cash fund in the future.

**Response provided on 12/7/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 12/1/2017

**Responsible Person(s):** Keri Brasil, CFO

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### **FINDING REFERENCE: 2016-27-01**

*ALLOWABLE COSTS – UNALLOWABLE RULE 10.810 EXPENSES*

### **CRITERIA**

CALIFORNIA RULES OF COURT, RULE 10.810, COURT OPERATIONS:

a. Definition... "court operations" as defined in Government Code section 77003 includes the following costs:

5. (*services and supplies*) operating expenses in support of judicial officers and court operations;

### **CONDITION**

The Court has not always ensured that its expenses are allowable under Rules of Court, Rule 10.810. Specifically, we determined that for five of the 22 petty cash expenditures transactions we reviewed, the Court purchased goods that are not Rule 10.810 allowable. These five expenditures are as follows:

- For two expenditures, the Court used petty cash to purchase gift cards—four \$10 Starbucks gift cards and one \$10 Subway gift card—to give away to employees for its Halloween costume contest.
- For another expenditure, the Court used \$21 of petty cash to pay for a pizza party to employees of the division that won the Halloween costume contest.
- For two expenditures, the Court used \$22 of petty cash to purchase Sonic drinks for employees of the division that had 100 percent participation in that month's Spirit Day, and used petty cash to purchase two \$15 Panera gift cards for employee morale.

In addition, the Court purchased other goods that the public may question as not Rule 10.810 allowable court operations costs. Specifically, the Court used the petty cash fund to purchase \$193 worth of ice cream for its employees and to purchase \$12 worth of ice for its holiday luncheon and meeting. The Court indicates it purchased these items to maintain or promote good employee morale. It also, used its purchase cards to buy a \$248 microwave and \$178 worth of birthday cards. Per the Court, it purchased the microwave because the microwave that was originally included in JCC's Los Banos courthouse construction project budget was cut from the budget due to a funding shortfall, and it purchased enough birthday cards for all staff for an entire year because the cards helped it maintain or improve employee morale.

Although the Court's purchase of these items to help maintain or improve employee morale may be considered acceptable management practice, its use of public court funds to purchase gifts are not Rule 10.810 allowable. In addition, its use of court funds to pay for personal use goods may also be questioned as not Rule 10.810 allowable court operations costs. These practices leave the Court vulnerable to public criticism regarding its use of public court funds, and as with our earlier finding regarding business meals for holiday luncheons, the Court may want to consider other means, such as collecting voluntary contributions from court employees, to pay for its morale-building events.

### **RECOMMENDATION**

To ensure the Court pays only costs that are reasonable and allowable, it should consider providing training and instruction to court staff—particularly court management and accounts

payable staff—to ensure that payments are clearly for allowable court operations costs as defined in California Rules of Court, rule 10.810. Also, to limit the risk of the public or other entities questioning the Court’s use of public funds for employee morale-building events, the Court should consider alternative means of funding such activities. One approach the Court could consider would be to collect voluntary contributions from court employees (or management) during the year to pay for these activities.

### **COURT’S VIEW AND CORRECTIVE ACTION PLAN**

The Court disagrees with the finding noted above. The Court had discussed these types of employee morale expenditures with the former JCC Audit Services Principal Manager prior to using court funds. The Manager advised the Court that expenditures for employee morale purposes are acceptable. Therefore, the Court proceeded to use court funds for these purposes. In addition, studies have found that employees are more productive when they are recognized for their years of service, their strong work ethic, and appreciated for their on-going contributions. The Court strongly agrees with having a strong working-team ethic and that it’s important to remind staff how essential each one is in executing their roles and performing their duties to successfully achieve the mission of the Court. The Court considers these expenditures more cost effective and efficient than it is to lose employee productivity due to low morale, and/or incurring additional costs for their loss of work time due to stress and other illnesses. Regarding Audit Services approach, all court staff already voluntarily participate annually in the food can drive for the homeless for Thanksgiving and the toy drive during the holidays. Court Management also contributes annually to “Operation Holiday Sponsor a Family Program.”

**Response provided on 12/18/2017 by:** Linda Romero Soles, CEO

**Date of Corrective Action:** Not applicable

**Responsible Person(s):** Keri Brasil, CFO

### ***AUDIT SERVICES COMMENTS ON COURT’S VIEW***

The Court misunderstands the point of our audit finding and related recommendation. We agree that morale building activities—such as holiday parties and similar events—are an effective way to help maintain worker productivity and overall engagement. However, paying for such activities with public funds unnecessarily exposes the Court to criticism for how it is spending money that is otherwise designated for court operations. While we recognize that the amounts spent by the Court in this case are relatively modest, the point of our recommendation was to suggest an alternative way for the Court to fund these types of activities in the future.

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## FINE AND FEE DISTRIBUTIONS

### **Background**

Trial courts must accurately calculate and distribute the monies they collect so that State and local funds receive the amounts State law designates for each. State statutes and local ordinances govern the distribution of the fees, fines, penalties, and other assessments that courts collect. In addition, courts rely on the State Controller's Office *Trial Court Revenue Distribution Guidelines* and the Judicial Council *Uniform Bail and Penalty Schedules* to calculate and distribute these court collections to the appropriate State and local funds. Courts may use either an automated system, manual process, or a combination of both to perform the often-complex calculations and distributions required by law.

Our review of its fine and fee distributions found that Court policies and procedures ensure accurate calculations and distributions of total fines, penalties, assessments, and fees collected to the appropriate funds and entities.

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## ONE PERCENT FUND BALANCE CAP

### The Court Should Ensure Its One Percent Fund Balance Cap Calculations Include Only Financial Commitments That Qualify as Year-End Encumbrances

#### Background

State law allows trial courts to retain unexpended fund balance reserves in an amount that does not exceed one percent of its prior fiscal year operating budget. To assist in ensuring compliance with this requirement, the JCC requires courts to prepare and submit a final *1% Fund Balance Cap Calculation Form* (calculation form) approximately six months after the end of the fiscal year, which calculates the amount of fund balance that a court may carry over into the next fiscal year. Courts self-report the inputs on the calculation form, such as year-end expenditures, expenditure accruals, and encumbrances.

The JCC adopted a process whereby courts that meet certain specified guidelines may request approval from the JCC to hold excess funds “on behalf of the court.” The request specifies how the funds will be used and requires the court to explain why such spending could not occur through its annual operating budget. If the JCC approves the court’s request, the JCC may impose additional terms and conditions that courts must accept, including separately tracking the expenditures associated with these funds held on behalf of the court. As a part of the JCC-approved process for approving funds held on behalf of a court, Audit Service is charged with reviewing funds held on behalf of the courts as a part of its normal court audit cycle to confirm that the courts used the funds for their approved stated purpose.

We identified one audit finding in the one percent fund balance cap area that we believe requires the Court’s corrective action. This finding pertained to the following specific area of the one percent fund balance cap calculations:

Finding Reference	Subject
2016-31-01	Calculation of the One Percent Cap - Encumbrances

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#### **FINDING REFERENCE: 2016-31-01**

#### *CALCULATION OF THE ONE PERCENT CAP - ENCUMBRANCES*

#### **CRITERIA**

FIN MANUAL, FIN 5.01, 6.8.3 YEAR-END ENCUMBRANCES, (1):

The trial court must review the ending balances for all open POs, MOUs, IBAs, and contracts and the related encumbrances for validity. Unneeded encumbrance balances, including balances for blanket purchase orders that will not be used by the end of the fiscal year (June 30), must be disencumbered and the disencumbrance must be recorded in that fiscal year.

“TRIAL COURT BUDGET: ENCUMBRANCES” POLICY MEMO (JCC 6/27/2014 BUSINESS MEETING; AGENDA ITEM H):

5. The fund balance should not be used for ongoing expenses. Ongoing expenses should be part of a court's annual budget. [...]
6. Courts cannot encumber for multiple years time-and-materials or not-to-exceed contracts or agreements that don't define deliverables. These include contracts or agreements for which specific goods or services are not assigned a value and that are not associated with specific delivery or start dates—for example, master agreements and Phoenix blanket purchase orders.

“TRIAL COURT ALLOCATIONS: TRIAL COURT RESERVES HELD IN THE TRIAL COURT TRUST FUND” POLICY MEMO (JCC 4/15/2016 BUSINESS MEETING; AGENDA ITEM 16-055):

[Excerpt] Effective June 30, 2014, Government Code section 77203 authorizes trial courts to carry over unexpended funds in an amount not to exceed 1 percent of the court's operating expenses from the prior fiscal year. The section also exempts certain funds from the calculation of the 1 percent authorized to be carried over from the prior fiscal year. Section 68502.5(c)(2)(A) directed the Judicial Council, in setting allocations for the fiscal year, to reduce a trial court's allocation in the amount that its prior fiscal year ending fund balance exceeded 1 percent of its prior fiscal year operating expenses. Courts are also allowed to exclude encumbered funds from the cap.

#### **CONDITION**

Of the 11 year-end encumbrances reviewed for fiscal year 2015-16 that exceeded \$10,000, we found that the Court reported three encumbrances that do not qualify as year-end encumbrances. Specifically, the Court reported as a year-end encumbrance a \$14,000 not-to-exceed blanket purchase order for which specific goods were not assigned a value and were not associated with a specific delivery date as of June 30, 2016.

In addition, the Court reported as year-end encumbrances two contract amounts of \$97,350 and \$38,226 that remained on a temporary services contract. Rather than liquidate the unspent \$135,576 in encumbrances associated with this temporary services contract at the end of fiscal year 2015-16, the Court reported these remaining contract amounts as year-end encumbrances. The Court subsequently spent the encumbered amounts on temporary services the Court received from the contractor during the following fiscal year. However, according to the JCC's encumbrance policy, the Court should encumber and reserve funds associated with ongoing operating expenses for only the current fiscal year.

Courts self-report the inputs on the 1% Fund Balance Cap Calculation Form, including year-end encumbrances. If a court reports inaccurate year-end encumbrance information on the form, it may increase the amount of fund balance it may carry over from one year to the next. Based on how the calculation form determines allowable fund balance, a court may potentially inflate how much fund balance it may carry over by overstating total encumbrances from the most recently completed fiscal year. According to the Court, it consulted with and followed the guidance provided by the judicial council general ledger staff when performing its year-end activities and

completing the 1% Fund Balance Cap Calculation Form. However, the Judicial Council's encumbrance policy memo (referenced above under criteria) clearly states that these kinds of contracts cannot be encumbered at year end, and thus, should not be included in the Court's 1% fund balance cap calculations.

### **RECOMMENDATION**

To ensure the Court accurately calculates its fund balance subject to the 1% cap, the Court should take steps to ensure it accurately reports its qualifying encumbrances at year end. Specifically, the Court should ensure that at the end of the fiscal year, it disencumbers any contracts, agreements, or blanket purchase orders for which specific goods or services are not assigned a value and that are not associated with specific delivery or start dates. In addition, the Court should ensure that it disencumbers at year-end any contracts, agreements, or blanket purchase orders associated with ongoing expenses.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court partially disagrees with this finding. The \$14,000 Blanket PO cited in this issue was for moving services that were postponed several times due to the JCC changing the delivery date of the new Los Banos Courthouse several times because of construction delays. These circumstances were beyond the Court's control, otherwise the Court would have followed the FIN Manual. The Court agrees with the other finding and will continuously review all purchase orders to ensure all unused encumbered amounts are liquidated by year end.

**Response provided on 12/7/2017 by:** Keri Brasil, CFO

**Date of Corrective Action:** 12/7/2017

**Responsible Person(s):** Keri Brasil, CFO

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## JBSIS CASE FILING DATA

### The Court Should Ensure Accurate Case Filing Data Is Reported To JBSIS

#### Background

The Judicial Branch Statistical Information System (JBSIS) is a statistical reporting system that defines and electronically collects summary information from court case management systems for each major case processing area of the court. JBSIS directly supports the technology goals of the Judicial Council's strategic plan, providing information for judicial branch policy and budgetary decisions, management reports for court administrators, and the Judicial Council's legislative mandate to report on the business of the courts. Authorization for JBSIS is found in California Rules of Court, rule 10.400: "Consistent with article VI, section 6 of the California Constitution and Government Code section 68505, JBSIS is established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates. Each trial court must collect and report to the Judicial Council information according to its capability and level of automation as prescribed by the JBSIS Manual adopted by the Judicial Council..." The Court Executives Advisory Committee is responsible for oversight of this program.

The Court maintained documentation to support the JBSIS filings data it submitted to Office of Court Research. Nevertheless, we identified two JBSIS-related audit findings that we believe requires the Court's corrective action. These findings pertained to the following specific areas of the JBSIS case filings data:

Finding Reference	Subject
2016-33-01	Validity of JBSIS Data – Case Filings
2016-33-02	Validity of JBSIS Data – Data Quality Procedures

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#### FINDING REFERENCE: 2016-33-01

##### *VALIDITY OF JBSIS DATA – CASE FILINGS*

#### CRITERIA

##### CALIFORNIA RULES OF COURT, RULE 10.400, JUDICIAL BRANCH STATISTICAL INFORMATION SYSTEM:

Consistent with article VI, section 6 of the California Constitution and Government Code section 68505, the Judicial Branch Statistical Information System (JBSIS) is established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates. Each trial court must collect and report to the Judicial Council information according to its capability and level of automation as prescribed by the *JBSIS Manual* adopted by the Judicial Council.

JBSIS [MANUAL], VERSION 2.3, [CHAPTER 5. CIVIL (REPORTS 5a/5b)], CIVIL UNLIMITED 05b—DATA ELEMENT DEFINITIONS:

**CIVIL CASE TYPES** – A broad classification category for trial court caseload involving lawsuits brought to redress private wrongs, such as breach of contract or negligence, or to enforce civil remedies, such as compensation, damages, and injunctions. The civil unlimited category captures unlimited jurisdiction workload (cases over \$25,000).

Civil Unlimited definition for Contract, an action involving a dispute over a promissory agreement between two or more individuals or organizations. Includes Civil Case Cover Sheet codes for Breach of contract/warranty, Collections, Insurance Coverage, and Contract—Other. [Case in first bullet]

Civil Unlimited definition for Unlawful Detainer, an action involving the possession of real property by commercial or residential tenant whose original entry was lawful but whose right to the possession has terminated. Includes Civil Case Cover Sheet codes Unlawful Detainer—Commercial, Unlawful Detainer—Residential, and Drugs. [Case in second bullet]

JBSIS [MANUAL], VERSION 2.3, [CHAPTER 9. JUVENILE DEPENDENCY (REPORTS 9a)], JUVENILE DEPENDENCY 09a—DATA ELEMENT DEFINITIONS:

**JUVENILE DEPENDENCY CASES** – A broad classification of cases filed on behalf of a minor by a social services agency, the parents, the minor, or others interested in the welfare of the minor. Report 09a captures the trial courts' workload generated by juvenile dependency cases. The purpose of this type of proceeding is to provide safety and protection for children who are abused, neglected, exploited, or at risk of harm.

Dependency Welfare & Institution Code §300 – A petition filed by the social worker alleging that a minor comes within the jurisdiction of the juvenile court under one or more subdivisions of this section. [Case in third bullet]

**CONDITION**

The Court provided a listing of cases—by case type—from its case management system (CMS) that materially agreed with the case counts recorded in JBSIS for fiscal year 2015-16. Our review of selected case file records found that for three of the 60 cases we sampled from this listing, the Court did not have the underlying records needed to justify the reporting of each case based on existing JBSIS rules. Although the overall error rate is only five percent (three of 60), all three errors were generally the result of clerical errors or programming errors resulting in the Court's CMS automatically reporting the case to JBSIS. Specifically, our review noted the following:

- In the first case, the Court reported a case as a *civil unlimited*-contract case when a clerk scanned and uploaded a previous case from 2007 into the Court's CMS. If this had been a valid submission for fiscal year 2015-16, we would have expected to see documents supporting the filing, such as a 2015-16 Civil Case Cover Sheet marked as a civil unlimited-contract case. The Court acknowledged that the reporting of the case was an

error and resulted from a clerk scanning an old case into the CMS and its CMS automatically reporting the case to JBSIS.

- In the second case, the Court reported an unlawful detainer case as *civil unlimited* when it should have been reported as *civil limited*. Civil unlimited cases require that amounts in dispute exceed \$25,000; however, the Civil Case Cover Sheet for the case reviewed had a check mark for civil limited and did not exceed \$25,000. The Court explained that this reporting error resulted from the Court's CMS being improperly programmed in the way it reported these particular types of cases to JBSIS (mapping). Our subsequent review of five additional unlawful detainer cases that the Court reported to JBSIS as civil unlimited cases found similar results, that the CMS also reported these five unlawful detainer cases to JBSIS as *civil unlimited* cases when the underlying case records only support that they were civil limited cases.
- In the third case, the Court reported a case as *juvenile dependency* even though it never received the underlying petition required to support such a new case filing. This misreporting occurred because the Court's practice is to establish juvenile dependency cases based on an informal request from the public agency rather than waiting until it formally receives the required petition. However, for this case, the public agency never submitted the required petition. Although the Court subsequently deleted the invalid case from the CMS, the Court could not demonstrate how or if it had adjusted its previous JBSIS reporting based on this error.

### **RECOMMENDATION**

To ensure it reports JBSIS data to the Judicial Council that are accurate and consistent with the rules established in the JBSIS Manual, the Court should periodically review the accuracy of its case filing data and take steps to amend its JBSIS data, as necessary, when it identifies case filing errors. The Court should also consider providing additional training for staff who establish cases in the CMS and correct the mapping of its civil limited unlawful detainer cases to ensure it reports these cases to JBSIS in their corresponding case type.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with the finding and has received additional information from our vendor who configured the JBSIS data. We were advised that due to JBSIS mappings and JBSIS errors that occurred after the initial configuration, the Court was instructed to re-journal the JBSIS report and resubmit it to the Judicial Council. Re-journaling is necessary to capture cases that may have had errors previously but have since been corrected. The Court has commenced re-journaling (which must take place after hours for a final run) and will be resubmitting an amended JBSIS 5b report for August 2015. Additionally, the Court will audit all FY 2015-16 JBSIS reports to ensure any other cases with these errors are corrected. The target date for completion is June 30, 2018.

**Response provided on 12/18/2017 by:** Jane Van Vloten, Court Operations Manager

**Date of Corrective Action:** 6/30/2018

**Responsible Person(s):** Jane Van Vloten, Court Operations Manager

**FINDING REFERENCE: 2016-33-02**

*VALIDITY OF JBSIS DATA – DATA QUALITY PROCEDURES*

**CRITERIA**

CALIFORNIA RULES OF COURT, RULE 10.400, JUDICIAL BRANCH STATISTICAL INFORMATION SYSTEM:

Consistent with article VI, section 6 of the California Constitution and Government Code section 68505, the Judicial Branch Statistical Information System (JBSIS) is established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates.

**CONDITION**

Having a process to verify and correct case counts that have been reported to JBSIS is necessary in order to provide the judicial branch, and other interested stakeholders, with confidence in the overall accuracy of a court's case filings data. Case filings data is a significant input in the Workload Allocation Funding Methodology (WAFM), and thus can negatively affect annual budget allocations of both the Court and/or other superior courts if significant numbers of cases are reported incorrectly.

During the audit, the Court provided listings of cases from its CMS that materially agreed—within 99.99 percent— with the total number of new case filings it reported to JBSIS for fiscal year 2015-16. When Audit Services selected a sample of 60 cases from the Court's listings of cases reported to JBSIS for fiscal year 2015-16, we could not complete our review for one case because the Court had deleted the case from its CMS.<sup>1</sup> The Court made the deletion upon realizing court staff had entered the case in error, since the Court never received the petition required to properly initiate the case. The Court provided a CMS-generated report showing this deleted case from among more than 500 other case deletions (of various case types) over a two-year period. Court staff noted that they did not have a process to reconcile the deleted cases with the case counts previously provided to JBSIS in the Court's monthly reports. Having such a review process would have helped the Court to determine how many of these deleted cases had been reported to JBSIS in error and which monthly reports required adjustment.

However, even if the Court had been able to quantify the deleted cases reported to JBSIS and identify which reports were affected, Audit Services notes that the JBSIS Manual itself does not provide the Court with clear guidance on when reported data is sufficiently flawed so as to require an amended JBSIS report from the Court. Instead, the JBSIS Manual simply states, "Courts may amend data if they find that the original file submission was not accurate." However, this information and guidance in the JBSIS Manual regarding amending data is directed more towards the information technology staff and the process for creating amended

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<sup>1</sup> Although the Court retains electronic copies of the case type reports it submits to JBSIS, and from which we selected cases to review, it removes all the associated data for deleted cases from its CMS.

files, but does not provide guidance on when courts must amend inaccurate data. Without clearer guidance, Audit Services does not expect courts to unilaterally know when or how to properly address data inaccuracies in JBSIS once they are identified (either through an audit or through the Court's own data review processes).

### **RECOMMENDATION**

To ensure the Court can demonstrate it makes every effort to report JBSIS data that is accurate, it should do the following:

- Develop a recurring process whereby the Court identifies whether deleted cases (i.e. cases created in error, etc.) or misclassified cases had been previously reported to JBSIS in error and thus requires an amended report.
- Document its efforts to obtain further guidance from the Judicial Council regarding data quality expectations and how to determine when data is sufficiently flawed so as to require an amended JBSIS report.

### **COURT'S VIEW AND CORRECTIVE ACTION PLAN**

The Court agrees with the finding above. The Court Operations Manager has advised all Clerk's Office Supervisors that a specific comment is required on all deleted cases. An initial email was sent in February 2017 and again in June 2017. In addition, a report may be generated in the CMS to capture all deleted cases within a specified time frame. This report will be reviewed routinely to ensure deleted cases are not reported in any JBSIS reports. This report was ran on June 12, 2017, September 8 and 29, 2017, and November 3, 2017. In addition, the Court has an existing ticket with our vendor to determine the reason deleted cases are being counted for JBSIS purposes.

**Response provided on 12/18/2017 by:** Jane Van Vloten, Court Operations Manager

**Date of Corrective Action:** 6/12/2017

**Responsible Person(s):** Jane Van Vloten, Court Operations Manager

### ***AUDIT SERVICES COMMENTS ON COURT'S VIEW***

We are pleased the Court has instituted a process to review listings of deleted cases to ensure they are not misreported to JBSIS. Audit Services will consider this finding to be fully corrected once the Court has: (1) resolved the existing ticket with its CMS vendor, and (2) has sought further guidance from the Judicial Council regarding data quality expectations per the second part of our recommendation.

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## GRANT AWARD COMPLIANCE

### **Background**

Grant fund awards may substantially benefit a trial court's ability to serve the public. At the same time, the acceptance of grant funds may also represent an area of risk to the court because the grant money received by the court is provided for specific purposes and under conditions that apply to its use. Noncompliance with the terms of significant grant awards may result in the Court losing access to this grant funding in future years, or may result in the Court repaying funds spent inappropriately.

Courts are responsible for separately accounting for its receipt and spending of grant funds in Phoenix by using the appropriate grant coding. Courts are also responsible for following applicable federal, state, or Judicial Council rules when administering grant funds. These rules may pertain to performance reporting, financial reporting, personnel time tracking, among other areas.

Our review of its grant administration practices found that the Court followed appropriate grant accounting and administrative procedures and demonstrated compliance with the AB1058 grant terms and conditions.

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## **OTHER AREAS**

### **Background**

We did not identify any other significant areas during the initial audit planning process that, based on our professional judgement, warranted any additional audit work. Therefore, we did not review compliance with any other areas.

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## **APPENDIX A**

### **MINOR OR ISOLATED NON-COMPLIANCE**

**Superior Court of California,  
County of Merced**

**The appendix lists the minor or isolated instances of non-compliance that Audit Services discussed with Court management. Audit Services' conclusions as to whether a particular item is a minor or isolated instance of non-compliance (and not otherwise reported in the Schedule of Findings) is based on our professional judgment and our consideration of the circumstances associated with the item, such as the limited frequency of the noncompliance or the small dollar amount of the error, as determined through our testing and analysis.**

**Audit Services will follow-up on the status of the Court's planned corrective action on those matters reported in the Schedule of Audit Findings within the body of this report. Matters that are presented as discussion items within this appendix are included only for the benefit of the Court as additional information. Therefore, although some courts may choose to provide a response to these minor or isolated non-compliance log items, a response is not required. In this case, the Court chose not to provide responses to the minor or isolated non-compliance log items.**

**Minor instances of non-compliance are identified as "Log-x-xx" within the "Ref No." column for cross-reference purposes only.**

FUNCTION		REF NO.	ISSUE	COURT RESPONSE
<b>Cash Handling</b>				
1	Daily Opening Process		<b>None Noted.</b>	
2	Void Transactions		<b>None Noted.</b>	
3	Handwritten Receipts		<b>None Noted.</b>	
4	Mail Payment Processing	<b>Log-4-1</b>	At one of the eight payment collection locations reviewed, although we did not observe any unprocessed mail payments, the location indicated that it does not report to the CEO and CFO mail payments not processed in 15 days nor those not processed in 30 days.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
		<b>Log-4-2</b>	At one of the eight payment collection locations reviewed, the location did not submit copies of the signed mail logs with the daily closeout documents at the time of our review in April 2017. As a result, the location could not demonstrate that a designated supervisor reviewed the log to make sure it processed all the mail payments.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
5	Internet Payments		<b>None Noted.</b>	
6	Change Fund	<b>Log-6-1</b>	At two of the eight payment collection locations reviewed during the month of April 2017, the locations used the Change Fund to make the cash drawers whole when cashiers were short cash at the end of the day. Subsequent to our review, the locations took immediate corrective action and created a separate Shortage Fund to facilitate the accounting for cash shortages.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
		<b>Log-6-2</b>	At two of the eight payment collection locations reviewed during the month of April 2017, the Change Fund custodian at the locations did not count and verify the Change Fund each day in the presence of the manager or supervisor. Subsequent to our review, one of the two locations took immediate corrective action and began performing daily counts of the change fund with the supervisor.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
		<b>Log-6-3</b>	At one of the eight payment collection locations reviewed, the location did not complete a Change of Change Fund Custodian Form when it transferred custody of the Change Fund to a new custodian.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>

FUNCTION	REF NO.	ISSUE	COURT RESPONSE
7 <i>End-of-Day Balancing and Closeout</i>	<b>Log-7-1</b>	At one of the eight payment collection locations reviewed—the Collections Division at the New Merced Courthouse—the location supervisor did not count and verify the end-of-day collections and cash bag amounts in the presence of the cashier. This occurred because the supervisor assigned to the location is physically located at a different building as the payment collection location.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
8 <i>Bank Deposits - Payment Collection Location</i>		<b>None Noted.</b>	
<i>Bank Deposits - Central Location</i>	<b>Log-8-1</b>	The Court did not require both the preparer and another Finance staff to sign or initial the deposit slip, which is a FIN Manual, 13.01, 6.4, Item 3c, requirement.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
	<b>Log-8-2</b>	The Court allows the individual responsible for verifying cashier closeout to also perform the incompatibly activity of preparing the daily deposit.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
9 <i>Other Internal Controls</i>	<b>Log-9-1</b>	At three of the eight payment collection locations reviewed, the locations do not have a record showing the date the combination to the safe was last changed and the names of the individuals who know the current combination.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
	<b>Log-9-2</b>	At three of the eight payment collection locations reviewed, the locations do not have a policy for changing the safe combination on a periodic basis.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
	<b>Log-9-3</b>	The Court Finance Division does not retain a record of when it last changed the safe combination.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
	<b>Log-9-4</b>	The Court Finance Division does not change the safe combination on a periodic basis as required in FIN Manual, 10.02, 6.1.1.3e	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
<b>Procurements</b>			
10 <i>Procurement Initiation</i>		<b>None Noted.</b>	

FUNCTION	REF NO.	ISSUE	COURT RESPONSE
11 <i>Authorization and Authority Levels</i>	<b>Log-11-1</b>	<p>The Court executed contracts for 12 of the 25 procurements reviewed. However, for one of these 12 contracts, an authorized court representative did not sign approving the contract. Specifically, although the contract—interpreter services—had initials of the court staff responsible for verifying the interpreting services, the contract did not include a signature block for an authorized court approver to sign the contract, nor did it include this court approval signature anywhere else within the contract.</p> <p>In addition, the payment terms in this contract agreement are not clear. For example, although the claim includes a checked-box indicating that excess pay is applicable and refers to the fees in the contract, the fees specified in the contract are the standard JCC approved fees and the section of the contract that discusses excess pay does not provide an area to specify the excess pay that the Court agreed to pay for the interpreter services.</p>	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
12 <i>Competitive Procurement</i>		<b>None Noted.</b>	
13 <i>Non-Competitive Procurement</i>		<b>None Noted.</b>	
14 <i>Leveraged Procurement Agreements</i>		<b>None Noted.</b>	
15 <i>Contract Terms</i>	<b>Log-15-1</b>	<p>The Court did not execute written contracts for the agreements it reached with three of the four in-court service procurements reviewed—an independent court interpreter and two independent court reporters. Per FIN Manual, 7.01, 3.0, trial courts must execute written contracts when entering agreements for services. It is the responsibility of court employees to apply contract principles and procedures to protect the interests of the Court.</p>	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>

FUNCTION		REF NO.	ISSUE	COURT RESPONSE
16	<i>Purchase Cards</i>	<b>Log-16-1</b>	For one of the 10 purchase card transactions reviewed, the Court used a purchase card to pay for lodging expenses. However, it used a purchase card that was not designated exclusively for paying travel expenses. Per the Court, it was unaware that it must designate certain purchase-cards for paying only travel expenses.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
17	<i>Other Internal Controls</i>	<b>Log-17-1</b>	Of the 25 procurements reviewed, one resulted in a contract that totaled more than \$1 million. However, the Court did not report this contract to the California State Auditor (CSA) as noted in the JBCM and as required by statute.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
<b>Payment Processing</b>				
18	<i>Three-point match</i>		<b>None Noted.</b>	
19	<i>Review and Approval Prior to Payment</i>		<b>None Noted.</b>	
20	<i>Special Rules - In-Court Service Providers</i>	<b>Log-20-1</b>	Four of the 40 payment transactions reviewed were for in-court service claims. The FIN Manual requires that these claims include the claimant's name, address, and signature, as well as the case numbers and names for which the claimant provided services. However, the Court processed two of the four claims for payment even though both did not include a claimant signature and one did not include the case number.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>

FUNCTION	REF NO.	ISSUE	COURT RESPONSE
21 <i>Special Rules - Court Interpreters</i>	<b>Log-21-1</b>	One of the two interpreter payment transactions reviewed did not include an explanation of the unusual circumstances that warranted the Court paying a higher daily rate than the rate specified in the JCC's <i>Payment Policies for Contract Court Interpreters</i> . Specifically, the Court paid \$1,000 for a half-day of certified ASL interpreter services. However, the JCC's payment policies indicate that a certified ASL interpreter is paid \$156.56 for a half-day of service, unless unusual circumstances justify paying a higher rate. Although this claim had a checked box indicating that excessive pay is applicable and the short agreement on the reverse side of the claim form provided examples of when excess pay may be warranted, neither the claim form nor the agreement described or indicated the specific unusual circumstances that led the Court to agree to pay the higher rate. In addition, the Court did not record and memorialize within the written agreement the higher rate it agreed to pay.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
	<b>Log-21-2</b>	For one of the two interpreter payment transactions reviewed, although emails indicate that the Court encountered difficulty in finding the particular dialect that the contract interpreter provided, the Court paid for the interpreter's out-of-country travel costs, but did not document the CEO's or designee's prior written approval of these extraordinary travel costs, which included airfare, hotel, meals, and passport expenses.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
22 <i>Other Items of Expense</i>		<b>None Noted.</b>	
23 <i>Jury Expenses</i>		<b>None Noted.</b>	

FUNCTION	REF NO.	ISSUE	COURT RESPONSE
24 <i>Travel Expense Claims</i>	<b>Log-24-1</b>	Although we did not encounter examples of the Court paying excessive lodging rates, during our inquiries when reviewing travel expenses, the Court indicated that it does not require travelers to prepare an Exception Request for Lodging form and submit it in advance of the travel for PJ or designee approval. Further, it does not require travelers to submit with their travel expense claim forms (TECs) this required form that documents the necessity for attending the business function, the efforts made to locate lodging within the JCC-approved lodging rates, and advance approval by the PJ or designee for exceeding the JCC-approved lodging rates. Instead, the Court indicates the CEO approves the excess lodging rates when reviewing travel expenses on the TEC form.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
25 <i>Business-Related Meals</i>	<b>Log-25-1</b>	For two of the eight business-related meal transactions reviewed, the Court was unable to demonstrate that the business-related meal forms were appropriately approved prior to the events. Specifically, although the CEO was a primary participant in the event meetings, the CEO rather than the PJ signed the business-related meal forms authorizing the business meals. In addition, the CEO also dated the forms after the date of the events. Subsequent to this initial finding, the Court provided copies of e-mails with the CEO's handwritten notes instructing staff to place food orders for each of the business meal events to demonstrate that the CEO approved of the meals before the event. However, the handwritten notes were not dated. Moreover, since the CEO was a primary participant in these events, the CEO in effect self-authorized the business meals rather than seek and obtain appropriate-level advance approval from the PJ. Therefore, the Court's practice of self-authorizing business-related meal expenses and signing and dating the business-related meal forms after the date of each event does not demonstrate that it consistently obtains appropriate-level approvals for business meals in advance of the events.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>

FUNCTION	REF NO.	ISSUE	COURT RESPONSE	
26	<i>Petty Cash</i>	<b>Log-26-1</b>	Contrary to the FIN Manual requirements and its own written Petty Cash Procedure, the Court assigned other cash handling responsibilities to the petty cash custodian. Specifically, the petty cash custodian also counts and verifies the opening cash balances and the end-of-day collections, maintains the overage/shortage fund, and prepares the daily deposits.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
		<b>Log-26-2</b>	The Court makes the petty cash reimbursement checks payable to Court rather than to the petty cash custodian. This occurs because, contrary to requirements in the FIN Manual, the Court's written Petty Cash Procedure indicates that petty cash reimbursement checks are made payable to the Court.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
		<b>Log-26-3</b>	Of the 22 petty cash expenditures reviewed, six were related to meals and bypassed key control procedures that apply to meals. Specifically, use of the petty cash fund for five of these six petty cash expenditures bypassed the requirements for requesting and obtaining advance approval for the business-related meals. As a result, the Court did not complete a business-related meal form that would, at a minimum, describe the purpose and reason for conducting business during a meal period and would document advance approval by the PJ or designee for these business-related meal expenses. For the sixth petty cash expenditure, the Court used the petty cash fund to pay for employee overtime meals instead of requiring that each employee complete a TEC form to obtain reimbursement for the overtime meal, and thus allow the Court to properly report the overtime meal reimbursement as taxable income to each employee.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>

FUNCTION		REF NO.	ISSUE	COURT RESPONSE
		<b>Log-26-4</b>	An analysis of the Court's use of its \$250 petty cash fund indicates that it could either reduce or eliminate the fund because most of the purchases are not the intended purpose of the petty cash funds or could have been made through other means, such as with a purchase card. Specifically, the three petty cash replenishments we reviewed that totaled \$100 or more occurred only in those instances when the Court used the petty cash fund to pay for business meals and other questionable or unallowable items. The Court also used the petty cash fund to purchase space heaters, two car washes, and its annual fire extinguisher maintenance, all of which it could have purchased using a purchase card. The one use of the petty cash fund that the Court could not pay using a purchase card was an expedited cash payment to a juror who needed his daily juror pay to purchase fuel.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
27	<i>Allowable Costs</i>	<b>Log-27-1</b>	The Court purchased coffee and sugar supplies for jurors who were not sequestered. Although Rules of Court, Rule 10.810 expressly allows meals, which would include beverages, for jurors who are sequestered, it does not provide the same for jurors who are not sequestered. Thus, these costs are not rule 10.810 allowable court operations costs.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
28	<i>Other Internal Controls</i>	<b>Log-28-1</b>	For two of the 40 payment transactions reviewed, the Court paid for group meals, but did not follow the requirements for requesting and approving business-related meal expenses. Specifically, although the county subsequently reimbursed the Court for these grand jury costs that are not rule 10.810 allowable, court staff did not prepare a business-related meal form and obtain advance written approval from the PJ or designee before purchasing the meals for the July 2016 Grand Jury training.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
<b>Fine and Fee Distribution</b>				
29	<i>CMS-Calculated Distributions</i>	<b>Log-29-1</b>	The Court did not provide a county Board of Supervisors resolution that authorizes it to assess up to \$150 for the PC 1463.13 Alcohol & Drug Problem Assessment local program.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>

FUNCTION		REF NO.	ISSUE	COURT RESPONSE
		<b>Log-29-2</b>	The Court assessed a \$150 PC 1463.13 Alcohol & Drug Problem Assessment on DUI and Reckless Driving convictions. Although this assessment is applicable to crimes involving alcohol or drugs and for which a court orders the offender to participate in a county alcohol and drug problem assessment program, PC 1463.13(a)(2) indicates that this assessment does not apply to persons convicted of a DUI or a related offense.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
		<b>Log-29-3</b>	The Court assessed the \$50 VC 23645 (PC1463.25) Alcohol Abuse Education Penalty on Reckless Driving convictions. However, VC 23645 applies only to DUI convictions.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
30	<i>Manually-Calculated Distributions</i>		<b>Not Applicable.</b>	
<b>One Percent Fund Balance Cap</b>				
31	<i>Calculation of the One Percent Fund Balance Cap</i>		<b>None Noted.</b>	
32	<i>Use of Excess Fund Balance Held on Behalf of the Court</i>	<b>Log-32-1</b>	The Court originally requested, and the JCC approved, to hold \$306,172 "on behalf of" the Court. The Court later amended its initial request in April 2016 to reduce the amount held "on behalf of" the Court to \$298,878. However, as of May 2017, more than a year later, the Court has not updated its accounting system records to reflect the \$7,294 reduction from the associated encumbrance balance.	<i>Since these log items are only for the benefit of the Court, a response is not required. Therefore, the Court chose not to provide a response.</i>
<b>JBSIS Case Filing Data</b>				
33	<i>Validity of Court-Reported JBSIS Case Filing Data</i>		<b>None Noted.</b>	
<b>Grant Compliance</b>				
34	<i>AB 1058 Program</i>		<b>None Noted.</b>	
<b>Other Areas</b>				
35			<b>None Reviewed.</b>	