



Audit of the  
Superior Court of California,  
County of San Benito

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JUNE 2019



JUDICIAL COUNCIL  
OF CALIFORNIA

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AUDIT SERVICES

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**Superior Court of California, County of San Benito**

**Table of Contents**

EXECUTIVE SUMMARY ..... i

BACKGROUND ON THE COURT’S OPERATIONS..... v

AUDIT SCOPE AND METHODOLOGY ..... vi

SCHEDULE OF AUDIT FINDINGS AND PLANNED CORRECTIVE ACTION ..... 1

    CASH HANDLING ..... 2

    PROCUREMENT AND CONTRACTS ..... 16

    PAYMENT PROCESSING..... 22

    FINE AND FEE DISTRIBUTIONS..... 25

    ONE PERCENT FUND BALANCE CAP ..... 26

    JBSIS CASE FILING DATA ..... 29

    OTHER AREAS ..... 33

## 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 their 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

Our audit found that the Superior Court of California, County of San Benito (Court) demonstrated compliance with some 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 noted findings. Other matters such as isolated or minor non-compliance—which in our professional judgement do not rise to the level of a reportable finding—were communicated separately to the Court's management in written form.

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

| Areas and Sub-Areas Subject to Review |  | Tested | Reportable Audit Findings |                      |                             |
|---------------------------------------|--|--------|---------------------------|----------------------|-----------------------------|
|                                       |  |        | # of Findings             | Finding Reference(s) | Court's View                |
| <b>Cash Handling</b>                  |  |        |                           |                      |                             |
| 1                                     | Daily Opening Process                      | Yes    | 1                         | 2018-1-01            | Agrees                      |
| 2                                     | Voided Transactions                        | Yes    | ✓                         |                      |                             |
| 3                                     | Handwritten Receipts                       | Yes    | ✓                         |                      |                             |
| 4                                     | Mail Payments                              | Yes    | 2                         | 2018-4-01; 02        | Partially agrees;<br>Agrees |
| 5                                     | Internet Payments                          | Yes    | ✓                         |                      |                             |
| 6                                     | Change Fund                                | Yes    | 1                         | 2018-6-01            | Partially agrees            |
| 7                                     | End-Of-Day Balancing and Closeout          | Yes    | 1                         | 2018-7-01            | Disagrees                   |
| 8                                     | Bank Deposits                              | Yes    | 1                         | 2018-8-01            | Agrees                      |
| 9                                     | Other Internal Controls                    | Yes    | 2                         | 2018-9-01; 02        | Agrees;<br>Agrees           |
| <b>Procurement and Contracts</b>      |  |        |                           |                      |                             |
| 10                                    | Procurement Initiation                     | Yes    | 1                         | 2018-10-01           | Disagrees                   |
| 11                                    | Authorization & Authority Levels           | Yes    | ✓                         |                      |                             |
| 12                                    | Competitive Procurements                   | Yes    | 1                         | 2018-12-01           | Partially agrees            |
| 13                                    | Non-Competitive Procurements               | Yes    | ✓                         |                      |                             |
| 14                                    | Leveraged Purchase Agreements              | Yes    | ✓                         |                      |                             |
| 15                                    | Contract Terms                             | Yes    | ✓                         |                      |                             |
| 16                                    | Other Internal Controls                    | Yes    | ✓                         |                      |                             |
| <b>Payment Processing</b>             |  |        |                           |                      |                             |
| 17                                    | 3-Point Match Process                      | Yes    | ✓                         |                      |                             |
| 18                                    | Payment Approval & Authority Levels        | Yes    | ✓                         |                      |                             |
| 19                                    | Special Rules - In-Court Service Providers | Yes    | 1                         | 2018-19-01           | Partially agrees            |
| 20                                    | Special Rules - Court Interpreters         | N/A    | -                         |                      |                             |
| 21                                    | Other Items of Expense                     | Yes    | ✓                         |                      |                             |
| 22                                    | Jury Expenses                              | Yes    | ✓                         |                      |                             |
| 23                                    | Allowable Costs                            | Yes    | ✓                         |                      |                             |
| 24                                    | Other Internal Controls                    | Yes    | ✓                         |                      |                             |
| <b>Fine &amp; Fee Distribution</b>    |  |        |                           |                      |                             |
| 25                                    | CMS-Calculated Distributions               | Yes    | ✓                         |                      |                             |
| 26                                    | Manually-Calculated Distributions          | N/A    | -                         |                      |                             |
| <b>1% Fund Balance Cap</b>            |  |        |                           |                      |                             |
| 27                                    | Calculation of the 1% Cap                  | Yes    | 1                         | 2018-27-01           | Agrees                      |
| 28                                    | Use of "Held on Behalf" Funds              | N/A    | -                         |                      |                             |
| <b>JBSIS Case Filing Data</b>         |  |        |                           |                      |                             |
| 29                                    | Validity of JBSIS Data                     | Yes    | 1                         | 2018-29-01           | Disagrees                   |
| <b>Other Areas</b>                    |  |        |                           |                      |                             |
| 30                                    | [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, the Judicial Branch Contracting Manual, or California Rules of Court, but may also include other Judicial Council 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—which are described more fully in the Audit Scope and Methodology section of the report. 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 demonstrated adherence to several different compliance requirements evaluated during the audit, as shown in Table 1. In particular, the Court generally demonstrated good compliance in the areas of procurement and payment processing. For example, our review of the Court's procurement practices found that it demonstrated good management practices in the areas of authorization and authority levels, non-competitive procurements, and leveraged purchase agreements. In addition, the Court's payment processing practices ensure the Court pays for only allowable costs.

However, our audit did identify 13 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. These 13 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 opportunities for improvement should include strengthening its controls over the payments it receives in the mail. Specifically, the Court did not use a payment receipts log to record and track the payments received in the mail and did not restrictively endorse checks or other negotiable instruments immediately upon receipt in the mail. Without a mail payments receipt log, the Court has no record to reference or research should a mail payment become lost or stolen. Further, not immediately endorsing mail payments heightens the risk of theft or loss of these payments. According to the Court, although it agreed that using a mail payment receipts log would strengthen its protection of assets, implementing this practice would require it to divert staff and resources from other vital functions that would diminish public service because its staff resources are very limited. The Court did agree, however, to take steps to ensure its staff restrictively endorse all checks, money orders, and other negotiable instruments immediately upon receipt in the mail.

We found that the Court should also focus on ensuring that it can demonstrate following competitive procurement practices. Specifically, the Court could not always demonstrate that it competitively procured goods when a competitive procurement process was applicable. In addition, for many of the procurement transactions reviewed, the Court did not always have a purchase requisition form on file to demonstrate that authorized court management approved the purchase request and the initiation of the procurement process. According to the Court, it does not use a purchase requisition form for all procurements to document its purchase requests and associated authorizations because use of a requisition form is not required. However, without a purchase requisition to document its decisions, the Court cannot demonstrate the specifics of the goods or services it intended to procure, that authorized court management reviewed and approved the purchase request, and that it consistently initiates purchases after fully assessing the business need and available funding for the items.

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

Audit Services initiated its audit of the Court on January 18, 2019, and completed onsite fieldwork on February 22, 2019. Audit Services shared the draft audit findings with the Court's officials on March 25, 2019, and received the Court's final official responses on April 16, 2019.

While the Court disagreed with some findings, it generally agreed or partly agreed with most 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 San Benito (Court) operates one court facility in the city of Hollister. 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 San Benito Superior Court and Average of all Superior Courts

| Statistic   | San Benito Superior Court | Average of All Superior Courts |                  |                  |                  |                |
|---|---------------------------|--------------------------------|------------------|------------------|------------------|----------------|
|   |                           | Cluster 1 Courts               | Cluster 2 Courts | Cluster 3 Courts | Cluster 4 Courts | All 58 Courts  |
| <b>Financial Highlights (Fiscal Year 2017-18)</b>                 |                           |                                |                  |                  |                  |                |
| Total Revenue   | \$ 3,059,139              | \$ 2,203,781                   | \$ 10,614,170    | \$ 41,408,761    | \$194,435,516    | \$ 43,334,366  |
| Total Expenditures  | \$ 3,047,434              | \$ 2,238,710                   | \$ 10,747,319    | \$ 41,941,660    | \$198,103,021    | \$ 44,073,255  |
| Staff Salaries & Benefits   | \$ 2,190,465              | \$ 1,498,581                   | \$ 8,081,296     | \$ 32,278,737    | \$159,856,126    | \$ 34,936,503  |
| As a % of Total Expenditures                                      | 71.9%                     | 66.9%                          | 75.2%            | 77.0%            | 80.7%            | 79.3%          |
| <b>Judicial Officers and Staff (2018 Court Statistics Report)</b> |                           |                                |                  |                  |                  |                |
| Judges  | 2                         | 2                              | 8                | 27               | 128              | 29             |
| Commissioners/Referees  | -                         | -                              | 1                | 4                | 21               | 5              |
| Non-Judicial Staff (approx.)                                      | 26                        | 16                             | 87               | 291              | 1,281            | 296            |
| Total   | 28                        | 18                             | 96               | 322              | 1,430            | 330            |
| <b>New Case Filings (Fiscal Year 2016-17)</b>                     |                           |                                |                  |                  |                  |                |
| <b>Appeal Filings</b>   | 16                        | 10                             | 76               | 184              | 402              | 132            |
| <b>Civil Filings</b>  |                           |                                |                  |                  |                  |                |
| Civil   | 695                       | 289                            | 2,102            | 8,988            | 62,412           | 12,416         |
| Family Law  | 504                       | 270                            | 1,790            | 6,639            | 27,411           | 6,376          |
| Juvenile Delinquency  | 55                        | 36                             | 247              | 1,122            | 2,210            | 678            |
| Juvenile Dependency   | 52                        | 36                             | 212              | 583              | 3,570            | 764            |
| Mental Health   | 22                        | 15                             | 154              | 680              | 2,602            | 607            |
| Probate   | 53                        | 47                             | 273              | 894              | 3,489            | 842            |
| Small Claims  | 184                       | 51                             | 413              | 1,954            | 14,475           | 2,820          |
| <b>Criminal Filings</b>   |                           |                                |                  |                  |                  |                |
| Felonies  | 303                       | 426                            | 1,598            | 4,707            | 32,224           | 6,690          |
| Misdemeanors / Infractions  | 7,155                     | 4,983                          | 21,839           | 75,978           | 343,087          | 78,530         |
| <b>Total</b>  | <b>9,039</b>              | <b>6,163</b>                   | <b>28,704</b>    | <b>101,729</b>   | <b>491,882</b>   | <b>109,855</b> |

Source: Financial and case filings data 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 April 2, 2019, 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. San Benito Superior Court is a cluster 1 court.

## AUDIT SCOPE AND METHODOLOGY

Audit Services initiated an audit of the Superior Court of California, County of San Benito (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 period covered by this audit was generally limited to fiscal year 2017-18, but certain compliance areas noted below required that we review earlier periods or current practices. 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, we made inquiries and reviewed any local procedures to further understand its 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> | During our preliminary planning, 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 complied with the applicable requirements in the Judicial Branch Contracting Manual or the Trial Court Financial Policies and Procedures Manual.</li> <br/> <li>▪ Determine whether the Court’s payment transactions—including but not limited to vendor payments and claim payments—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 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, 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 adhered to applicable Judicial Council policies.</li> </ul> <p>(Note: We did not select and review court interpreter claims as the Audit Committee suggested we defer reviewing these types of claims to allow courts time to develop procedures to address previous systemic audit findings related to court interpreter claims.)</p> |
|---|---|

|   |   |   |
|---|---|---|
| 4 | <p>Determine whether the Court properly calculates fine and fee distributions for certain selected case types.</p>  | <p>During the audit planning phase, the Court informed us that the State Controller’s Office (SCO) last began a revenue audit of its fine and fee distributions around October 2017 and sent it an email around January 2018 explaining that there was a delay in the audit.</p> <p>Because the SCO had not issued a final audit report prior to the start of our audit, we proceeded to review the Court’s process for updating and controlling access to its distribution tables and reviewed its calculations and distributions of fines, penalties, fees, and assessments for certain high volume or complex case types. Nonetheless, the scope of our review was limited since the Court could not provide distribution tables or examples for some of its calculations and distributions, such as proof of insurance, domestic violence fees, Health and Safety, and Fish and Game code violations.</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 (fiscal year 2017-18), 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>Further, we obtained any Judicial Council-approved request by the Court to hold excess prior year fund balances. To the extent that the Court had and spent any of these held funds, we verified that such spending was limited for the purposes previously approved by the Judicial Council. During the audit planning phase, the Court informed us that it did not have any funds held on its behalf.</p>   |

|   |   |  |
|---|---|--|
| 6 | Determine whether the Court accurately reports case filings 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 filings data to the Judicial Council through JBSIS. For the most recent fiscal year for which the Judicial Council froze and used JBSIS data for trial court funding allocations (fiscal year 2016-17), we performed the following:</p> <ul style="list-style-type: none"> <li>• Obtained the relevant case filings data the Court reported to the Judicial Council through JBSIS and reconciled these case filing counts to its underlying records of case numbers supporting each reported case filing count, by case type, to validate that it accurately reported its case filings count data. However, because the Court did not retain and could not provide CMS reports that support the case filings data it reported to the Judicial Council, we could not fully reconcile and validate the JBSIS case filings counts it reported. Therefore, this lack of CMS case filing reports limited the scope of our review.</li> <li>• We selected 10 cases from six case types, for a total of 60 reported cases, and reviewed the relevant case file records to verify that the Court correctly applied the JBSIS definitions for reporting each of the selected case filings.</li> </ul> |
|---|---|--|

### 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 June 28, 2019, 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:

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

## CASH HANDLING

### The Court Should Strengthen Its Controls Over Certain Payment Collection Processes

#### 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 a system of 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 demonstrated compliance in some of the cash handling areas we evaluated during the audit. Specifically, the Court demonstrated sound management practices in voiding payment transactions, controlling handwritten receipts, and processing internet payments. Nevertheless, we identified eight 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   |
|-------------------|--|
| 2018-1-01         | Daily Opening Process – Verification of Beginning Cash |
| 2018-4-01         | Mail Payments – Mail Opening Process and Receipts Log  |
| 2018-4-02         | Mail Payments – Endorsement                            |
| 2018-6-01         | Change Fund - Accountability                           |
| 2018-7-01         | End-of-Day Balancing and Closeout – Blind Closeout     |
| 2018-8-01         | Bank Deposits – Prompt Deposit and Verification        |
| 2018-9-01         | Other Internal Controls – Safe Combinations            |
| 2018-9-02         | Other Internal Controls – Cashier Shortages            |

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#### **FINDING REFERENCE: 2018-1-01**

#### *DAILY OPENING PROCESS – VERIFICATION OF BEGINNING CASH*

#### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.2 BEGINNING DAILY BALANCE:

2. Cashiers must count and verify receipt of their assigned individual beginning cash funds in the presence of their supervisor or his or her designee, and both must sign and date a cash receipt log for each such verification and receipt.

#### **CONDITION**

Contrary to FIN Manual requirements, the Court does not require cashiers to count and verify the receipt of their assigned individual beginning cash funds in the presence of a supervisor at the beginning of the day. Specifically, when cashiers receive their cash boxes at the beginning of the

day, both the supervisor and cashier sign and date the beginning cash log without counting and verifying the beginning cash funds.

According to the Court, it follows this practice because it believes it is not necessary to count the cash funds at the beginning of the day since staff counted and verified the cash funds during the previous day's closeout process and then secured the funds in a locked safe overnight. Nonetheless, the FIN Manual requires cashiers to count and verify receipt of their cash funds at the beginning of each day while in the presence of a designated supervisor to ensure full accountability before commencing daily collection activities. For instance, some court staff have access to both the safe in Fiscal, which holds a secondary key to the cash boxes, as well as access to the safe in Collections, which holds the cash boxes containing the cash funds. As a result, the Court potentially allows a subsequent cash fund shortage to be without clear accountability of who may have caused the shortage or when it may have occurred as any discrepancy that might arise in between end-of-day cash counts would be potentially difficult to resolve. Following such FIN Manual requirements help protect the integrity of both the Court and all its cash handling employees.

### **RECOMMENDATION**

To ensure clear accountability and to protect the integrity of its cash handling employees, the Court should require cashiers to count and verify receipt of their assigned individual beginning cash funds in the presence of their designated supervisors, and to sign and date a cash receipt log for each such verification and receipt before cashiers commence their daily payment collection duties.

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

Agree. The Court will require (i) each cashier to count and verify receipt of his or her assigned individual beginning cash funds in the presence of his or her supervisor (or designee), and (ii) both the cashier and his or her supervisor (or designee) to sign and date a cash receipt log for each such verification and receipt.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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### **FINDING REFERENCE: 2018-4-01**

*MAIL PAYMENTS – MAIL OPENING PROCESS AND RECEIPTS LOG*

### **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. One person can open the mail and create the payment receipts log if he or she is recorded on video and the video is retained for at least six months.
  - b. Mail should only be processed when both team members are present. Alternatively, if two people cannot be present during mail opening, then one person—without opening the envelopes—should start the payment receipts log by sequentially numbering the envelopes and documenting the envelope number and the sender’s name in the payment receipts log. When the second person opens the mail, he or she should complete the payment receipts log for each envelope identified by the first person. A field should be added to the payment receipts log to indicate when an envelope does not contain a payment; not all fields listed in Paragraph 3(b) below will be completed.
  - 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.
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.

**FIN MANUAL, FIN 1.01, 6.4 TRIAL COURT OPERATING STANDARDS:**

4. A presiding judge or his/her designee who wants to establish an alternative procedure will submit a signed and dated Request for Alternative Procedure Form (copy provided in 7.0, Associated Documents) to:

Judicial Council of California  
Director of Branch Accounting and Procurement  
Attn.: Trial Court Alternative Financial Policies and Procedures  
2850 Gateway Oaks Drive, Suite 300  
Sacramento, CA 95833-4348  
E-mail: [TCFin@jud.ca.gov](mailto:TCFin@jud.ca.gov)

Once approved, alternative procedures must be documented by the trial court, incorporated into the local trial court manual, and distributed to court personnel. Any alternative procedure that is different from what is included in the Trial Court Financial Policies and Procedures Manual or the county’s policy document must first be approved by Judicial Council of California Staff.

**CONDITION**

The Court does not follow the two-person “team approach” suggested in the FIN Manual when opening mail, nor does it follow the FIN Manual suggested alternative procedures to mitigate the potential risk of one person taking mail payments when opening the mail. Specifically, the Court allows the HR/Admin staff person to open the mail while alone in her office and without oversight. Although the office has a glass wall, the glass faces a hallway at the rear of the building where no other staff are present to oversee the mail opening activity. According to the Court, it does not use a two-person team because it does not have enough available staff. However, when courts do not use two-person teams to open mail nor implement alternative

procedures such as those suggested in the FIN Manual to mitigate the risk created by insufficient oversight, they are at heightened risk for lost or stolen mail payments. 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.

Additionally, the person who initially opens the mail does not log the mail payments on a Payment Receipts Log. Instead, the person opens the mail and distributes any mail payments to each respective division. The Criminal Division assigns a cashier responsible for processing payments at a window to then record the mail payments on an electronic log that is saved on the shared drive. This cashier then transfers the mail payments to another cashier who processes the mail payments and updates the electronic log. The Civil Division, on the other hand, does not log any of the mail payments it receives. According to the Court, it does not create a mail payment log during the initial mail opening because it was unaware that it should. Also, its Civil Division does not log mail payments because its staff always process the payments on the same day received. As a result, without a record of the payments it received in the mail, the Court is at increased risk for lost or stolen mail payments. Specifically, because the person who initially opens the mail does not log the mail payments, the Court is at increased risk for misplacing payments between opening the mail and walking the payments downstairs to the divisions. In addition, because the Criminal Division cashier who logs the mail payments also usually takes payments at a window, the cashier could misapply and not log mail payments with a relatively low chance of detection. Further, without any log, the Civil Division does not capture the information it needs to monitor and track individual mail payments nor have a record that managers could use to reconcile and ensure the entry of all mail payments into the CMS.

### **RECOMMENDATION**

To ensure the safe, secure collection, and accurate accounting of all payments received through the mail, the Court should consider doing the following:

1. Require its staff to either follow a two-person team approach where both individuals are present when opening and logging mail payments, or implement alternative procedures, such as those suggested in the FIN Manual, to mitigate the risk of lost or stolen mail payments. If the Court cannot implement a two-person team approach or the alternative procedures suggested in the FIN Manual, it should prepare and submit to the Judicial Council a request for approval of an alternate procedure for opening and accounting for the payments it receives in the mail.
2. Require the persons who open the mail to complete a Payment Receipts Log with all key information necessary to establish a clear record of all the payments, cash and non-cash, received through the mail. The Court can subsequently use these logs to reconcile and confirm entry of these mail payments into its CMS during the end-of-day closeout process.

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

Partially agree. The recommended practices would strengthen the Court’s protection of assets and are worthy of consideration. Unfortunately, the Court’s staff resources are very limited, and

implementing the recommended practices would require the Court to divert staff and resources from other vital functions that would diminish public service. Accordingly, the Court has decided against implementing the recommended practices at this time. With regard to preparing and submitting an alternate procedure, FIN 10.02, section 6.4.2 states that trial courts “should” follow a two-person team approach, or that trial courts “should” use the alternate approach mentioned in finding #1 above. Respectfully, as those are recommended rather than mandatory practices, the Court does not intend to seek approval of alternative procedures.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** Completed

**Responsible Person(s):** n/a

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

To provide clarity and perspective, we are commenting on the Court’s response. The Court explains it will neither implement nor seek the Judicial Council’s approval of alternative procedures to the two-person team approach—or the other alternative one-person approaches cited in the FIN Manual—simply because the manual uses the word “should” instead of “shall,” regardless of the Court’s admission that the suggested procedures would strengthen its processes.

The FIN Manual provides these procedures for the “strongest protection of the trial court’s assets and reputation” and to reduce the risk of theft. As such, we believe it is both reasonable and prudent for the Court to do something. The Court should both: (1) develop reasonable controls that it can deploy successfully, and (2) obtain the Judicial Council’s approval of these alternative procedures if they deviate from the FIN Manual.

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#### **FINDING REFERENCE: 2018-4-02**

#### ***MAIL PAYMENTS – ENDORSEMENT***

#### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.4 CHECK, MONEY ORDER, AND CASHIER’S CHECK HANDLING PROCEDURES:

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

#### **CONDITION**

The Court does not restrictively endorse checks and money orders received through the mail immediately upon receipt. Instead, the Criminal/Traffic Division endorses the mail payment checks when entering the payments into the CMS, which may be one or more days after it initially received the payment. The Civil Division, on the other hand, does not endorse any of the checks or money orders it receives, whether in the mail or at the counter. Instead, it leaves this task for the Fiscal clerk to perform while preparing the bank deposit. According to the Court, it was unaware of the FIN Manual requirement to restrictively endorse checks immediately upon receipt. Additionally, the Civil Division does not endorse its checks because it does not have the

endorsement stamp it needs to restrictively endorse the checks it deposits with the county treasurer. After our audit, the Fiscal Manager indicated plans to order the appropriate stamp for deposits made with the county. Endorsing checks and money orders “for deposit only” immediately upon receipt protects the courts’ interests by limiting the potential for further negotiation of these payments. When courts do not restrictively endorse checks or other negotiable instruments immediately upon receipt, they risk that unendorsed checks and negotiable instruments may be lost or stolen and cashed or deposited in a non-court bank account.

### **RECOMMENDATION**

To ensure the safe, secure collection, and accurate accounting of all payments received through the mail, the Court should take steps, such as clarifying local cash handling procedures and periodic staff training, to ensure that all staff consistently restrictively endorse all checks, money orders, and other negotiable instruments immediately upon receipt in the mail. Additionally, the Court should complete its efforts to obtain endorsement stamps for the Civil Division so that staff may restrictively endorse all checks and money orders immediately upon receipt, both through the mail and over the counter.

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

Agree. The Court will clarify its local cash handling procedures and take other steps to ensure that staff restrictively endorse all checks, money orders, and other negotiable instruments immediately upon receipt in the mail. Additionally, the Court will obtain the endorsement stamps for the Civil Division.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

### **FINDING REFERENCE: 2018-6-01**

#### *CHANGE FUND – ACCOUNTABILITY*

### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.1 CASH CHANGE FUND:

7. At the end of each business day, individuals responsible for making change from the Cash Change Fund must—in the presence of a court manager, supervisor, or his or her designee—count, verify, and reconcile the Change Fund monies to the day’s beginning balance, and initial and date the verification/reconciliation.
8. A trial court employee, other than the individuals responsible for making change from the Cash Change Fund, should count the Cash Change Fund in accordance with the following schedule and report the count to the Fiscal Officer.

| Size of Cash Change Fund | Frequency of Count |
|--------------------------|--------------------|
| • Less than \$200        | Annually           |
| • \$200 to \$499.99      | Quarterly          |
| • \$500 or more          | Monthly            |

## **CONDITION**

Although the Fiscal Division oversees a \$450 change fund, the Court does not require the custodian responsible for the fund to count and verify the change fund at the end of each day while in the presence of another manager or supervisor. Instead, a fiscal staff person counts and verifies the change fund each day while alone in her office. According to the Court, it follows this practice because it has been short of staff for the past year and did not have a fiscal manager who could observe the employee count, verify, and reconcile the change fund. Additionally, fiscal staff were not aware of the FIN Manual requirement to count and verify the fund while in presence of a manager or supervisor because the Court does not have local cash handling policies and procedures written for change funds that could help align its change fund administration practices closer to the FIN Manual requirements. As a result, the Court's current practice of counting the change fund absent the presence of a manager potentially allows a change fund shortage to occur without clear accountability of when the shortage may have occurred or who may have caused the shortage.

In addition, the Court does not require individuals who are not the change fund custodians to periodically count its change fund. The Court follows this practice because it was unaware of this FIN Manual requirement and because the Fiscal Division has been short-staffed since the departure of its previous fiscal manager last year. Furthermore, it did not establish local cash handling policies and procedures for change funds that require someone other than the change fund custodians to count the change fund periodically. Nonetheless, the FIN Manual requires courts to have individuals other than the change fund custodians count change funds at least quarterly for change funds between \$200 and \$500. As a result of its current practice, the Court may not know for an extended period of time if its change fund is short of funds.

## **RECOMMENDATION**

To reduce the risk of prolonged unaccountable change fund shortages or overages, the Court should establish local cash handling policies and procedures that align with the FIN Manual requirement to count, verify, and reconcile the change fund monies to the day's beginning balance at the end of each business day. In addition to verifying the change fund at the end of each business day, the Court should ensure that the daily verification is performed while in the presence of a court manager, supervisor, or designee. Lastly, the Court should ensure that an individual other than the custodian counts and verifies its change funds at the frequency specified in the FIN Manual, such as quarterly for its \$450 change fund.

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

The Court agrees with the first two findings, but disagrees with the third.

The Court will revise its local cash handling procedures to align with the specified TCFPPM requirements to (i) count, verify, and reconcile the change fund monies to the day's beginning balance at the end of each business day, and (ii) perform the daily verification in the presence of a fiscal manager, court manager, supervisor, or designee.

FIN 10.02, section 6.3.1.8 states that a "trial court employee, other than the individuals responsible for making change from the Cash Change Fund, **should** count the Cash Change Fund

in accordance with” a specified schedule. (emphasis added) Accordingly, this is a recommended rather than a mandatory practice. The Court has decided against implementing this recommended practice at this time.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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

To provide clarity and perspective, we are commenting on the Court's response. The Court explains that it will not periodically conduct counts of its change fund in accordance with the FIN Manual's schedule simply because the policy uses the word “should” instead of “shall.”

The FIN Manual's policy of having an independent trial court employee—one who is not responsible for the daily administration of the change fund—verify the change fund's balance periodically is a reasonable and prudent business practice that results in stronger controls over cash, which can also help to prevent or detect theft. The Court does not explain in its response why it believes following the FIN Manual's procedures are ill-advised, or further explain why developing alternative procedures would not be worthwhile. Our recommendation is intended to improve the Court's controls over cash.

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**FINDING REFERENCE: 2018-7-01**

***END-OF-DAY BALANCING AND CLOSEOUT – BLIND CLOSEOUT***

**CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.10 DAILY BALANCING AND CLOSEOUT:

1. At the end of each workday, each cashier must balance the payments collected in his or her individual cash drawer/bag with the payments and collections recorded in the cashiering system and/or automated case management system. Cashiers may not leave the premises or transact new business until the daily balancing and closeout processes are complete.
2. The balancing and closeout process includes the following steps:
  - a. The cashier completes and signs the recap of daily collections report; attaches a calculator tape for checks; and submits the report, collections, and beginning cash to the supervisor or his or her designee for verification;
  - b. The supervisor or his or her designee verifies in the presence of the cashier that the beginning cash is fully accounted for and the submitted collections balance with the recap of daily collections report;
  - c. The supervisor or his or her designee then verifies that the submitted collections balance with the associated payments and collections reported on the cashier's case management system daily collections closeout report;
  - d. If the collections balance with the amounts in the case management system, the cashier and supervisor or his or her designee must both sign and date the case management system daily collections closeout report.

## CONDITION

The Court does not perform what is commonly known as a "blind closeout" where cashiers count and record their collections on a recap form without any knowledge of the amounts the CMS indicates they collected, then submit the form and collections to a supervisor for verification against the recap form and the CMS collections reports. Instead, cashiers count and compare their daily collection totals against CMS reports that indicate how much they collected before they submit their daily collections to a designated supervisor for verification. Cashiers follow this practice because the Court's local cash handling policies and procedures that address cashier closing do not require cashiers to follow a "blind closeout" process. As a result, the Court's current practice allows a cashier to know in advance when an overage occurs and potentially risks the cashier taking any overage without risk of detection of the missing overage amount when the designated supervisor verifies the end-of-day collections to the CMS reports because the total collection amounts would still balance.

## RECOMMENDATION

To better safeguard its funds and ensure clear accountability for shortages and overages, the Court should update its local cash handling policies and procedures. Specifically, the Court should require its cashiers to complete their recap of the collections in their individual cash drawer/bag at the end of each workday without knowledge of the CMS collections, i.e. a "blind closeout." Afterwards, cashiers should submit their completed recap report and collections to a designated supervisor for verification of their collections to the recap report, and then to the CMS collections closeout report.

## COURT'S VIEW AND CORRECTIVE ACTION PLAN

Disagree. Respectfully, FIN 10.02, section 6.3.10 in its current form does not require the Court to perform a "blind closeout." The tenth edition of the TCFPPM, currently published for review and comment, contains the following proposed change to FIN 10.02, section 6.3.10.2.a: "**The cashier completes and signs the recap of daily collections report independent of information contained in the case management daily collections report; attaches a calculator tape for checks; and submits the report, collections, and beginning cash to the supervisor or his or her designee for verification;**" (proposed change in bold underline). This proposed language, if adopted, would require the Court to perform a blind closeout. The Court is uncertain why it has received an audit finding for failure to comply with a practice that was neither required nor recommended in the TCFPPM as it existed during the audit period.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** If the proposed language is adopted in the tenth edition of the TCFPPM, the Court will make corresponding changes to its local cash handling policy.

**Responsible Person(s):** n/a

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

To provide clarity and perspective, we are commenting on the Court's response. The Court questions the audit finding given, in its view, the lack of criteria prohibiting cashiers from

knowing upfront the amounts collected per CMS daily collections reports and how those amounts compare to the actual monies the cashiers collected.

We have decided to raise this issue as a finding because of the inherent weaknesses and risks of allowing cashiers to know, in advance, how much cash they are expected to have on hand prior to supervisory involvement during the close-out process. As noted in the finding, cashiers who know they have collected too much may have the opportunity and incentive to keep these overages. The blind close process mitigates this risk. Contrary to the Court's response, the FIN Manual currently requires the supervisor (not the cashier) to verify that the submitted collections balance with the amounts reported in the Court's CMS. Regardless, the Court's response does not explain why it would choose not to implement our recommendation, which is intended to help the Court improve its cash handling practices and is consistent with expected clarifications to the FIN Manual.

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**FINDING REFERENCE: 2018-8-01*****BANK DEPOSITS – PROMPT DEPOSIT AND VERIFICATION*****CRITERIA****FIN MANUAL, FIN 13.01, 6.4 DEPOSIT:**

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.
  - c. Accumulated coin/paper currency, checks, money orders, and warrants of any amount will not remain undeposited for more than 10 working days. A court may deposit more often than once a day at its discretion and when it is economical or practical to do so because of the amount of its receipts.
3. Deposits consisting of coin and paper currency in excess of \$100 will be prepared as follows:
  - b. The coin and paper currency portion of any bank deposit must be counted by one person, and verified and initialed by a second person (preferably a supervisor or lead) prior to tendering the deposit to an armored car service, a court employee for deposit to a bank night deposit drop safe, or a bank teller within the lobby of the bank.
  - c. Paper currency and coin (unrolled) will be placed in the deposit bag and sealed in the presence of two court employees who will sign a court copy of the deposit slip indicating they have verified the coin and paper currency amount contained in the deposit bag.

**CONDITION**

The Court does not require its staff to place and seal its daily collections in deposit bags while in the presence of two court employees. Instead, one Fiscal staff person, alone in her office, places the reviewed collections in envelopes and places them in the Fiscal safe where they are stored until they are ready for deposit. The Court follows this practice because it was unaware of the requirement to place and seal the collections in deposit bags while in the presence of another employee. As a result, the Court is at risk that any potential deposit shortage would be without clear accountability of when or who may have been responsible for the discrepancy.

In addition, the Court does not promptly deposit collections once the cash collections amount to \$1,000 or more. Specifically, the Court collects more than \$1,000 daily in cash, but only makes deposits approximately once or twice a week, depending on workflow. For example, the recent deposit we reviewed for January 31, 2019, consisted of approximately 11 days' worth of collections, which amounted to more than \$44,000 in cash and nearly \$34,750 in checks, for a total deposit amount of more than \$78,750. The Court stated that it follows this practice because it does not have enough staff to make daily deposits, as the staff, along with a deputy escort, have to walk the deposits across the street to their respective banks. Nonetheless, by not making daily deposits as required when its cash collections exceed \$1,000, the Court leaves itself at increased risk for the loss or theft of significant amounts of cash and other collections.

**RECOMMENDATION**

To better safeguard its receipts and reduce the risk of lost or stolen collections, the Court should ensure that a supervisor or other appropriate staff be present when the fiscal staff seals its bank deposit bags and both sign the deposit slip verifying the amount contained in the bag. Additionally, to minimize the potential risk of the loss or theft of large amounts of cash, the Court should promptly deposit cash collections into the bank when they exceed \$1,000, and should not allow any amount of coin/paper currency, checks, money orders, or warrants to go undeposited for more than 10 working days.

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

Agree. The Court will (i) ensure that a supervisor or other appropriate staff is present when the fiscal staff member seals a bank deposit bag, and both court employees sign the deposit slip verifying the amount contained in the bag, (ii) promptly deposit cash collections into the bank when they exceed \$1,000, and (iii) not allow any amount of coin/paper currency, checks, money orders, or warrants to go undeposited for more than 10 working days. For the avoidance of doubt, the Court interprets FIN 13.01, section 6.4.3.c to require the presence of a total of two (not three) court employees when money is placed in the deposit bag and sealed.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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**FINDING REFERENCE: 2018-9-01**

*OTHER INTERNAL CONTROLS – SAFE COMBINATIONS*

**CRITERIA****FIN MANUAL, FIN 10.02, 6.1.1 USE OF SAFES AND VAULTS:**

3. When using safes and vaults, the following procedures must be followed:
  - a. The combination will be distributed to as few persons as possible consistent with operating requirements and the value of the cash or documents safeguarded.
  - b. The combination should be memorized by trial court employees and should not be kept in legible form. If necessary to maintain the combination in legible form, it should not be kept in any written or electronic document that identifies it as the combination to the safe and should be maintained in a secure location not visible or accessible to anyone else. Only the court executive officer or the court executive officer's designee is approved to maintain the combination to the safe in legible form that identifies it as such.
  - d. The court executive officer or his or her designee will maintain a record showing the following information:
    - i. The date the combination was last changed; and
    - ii. The names of persons knowing the current combination.
  - e. The trial court should change the combination when any of the following occur:
    - i. The combination becomes known to an excessive number of trial court employees;
    - ii. A trial court employee with knowledge of the combination separates from employment in the trial court;
    - iii. A trial court employee with knowledge of the combination no longer requires the combination in the performance of his or her duties; or
    - iv. The time interval (defined by the trial court) during which the combination shall remain valid has expired.

**CONDITION**

Contrary to FIN Manual requirements, the Court does not maintain a record of the date the combinations to the Collections and Fiscal Division safes were last changed or the names of individuals knowing the present combinations. In addition, the Court does not change the safe combination when it becomes known to an excessive number of court employees, any employee having knowledge of the combination leaves employment with the Court, any court employee no longer requires the combination in the performance of his or her duties, or on a periodic basis as defined by the Court. This occurs because the Court does not have local policies and procedures that require court management to track and monitor the safe combinations, and management was not aware that it needed to maintain such records of the dates the combinations to each safe were last changed and the persons knowing the combinations to each safe, or to change the combinations periodically. As a result, the Court may leave itself susceptible to the potential theft of cash and other collections by those individuals with knowledge of the safe combinations and who may have unauthorized access to the safes.

**RECOMMENDATION**

To ensure it properly safeguards the contents of its safes, the Court should develop and follow written procedures that require staff to change the combinations to each safe as suggested in the FIN Manual; for example, when the combination becomes known to an excessive number of

court employees. Additionally, the Court should continuously maintain an accurate up-to-date record of the dates that safe combinations were changed and the names of the individuals knowing the current combinations to its safes.

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

Agree.

1. FIN 10.01, section 6.1.1.3.d states that a trial court "should" change the combination of a safe when certain specified events occur. This is a recommended rather than a mandatory practice. The Court has considered this recommended practice, and decided to implement it.

2. The Court will maintain a record showing the information required by FIN 10.01, section 6.1.1.3.d.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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### **FINDING REFERENCE: 2018-9-02**

#### *OTHER INTERNAL CONTROLS – CASHIER SHORTAGES*

#### **CRITERIA**

FIN MANUAL, FIN 10.02, 6.3.11 OVERPAYMENTS, PARTIAL PAYMENTS, AND CASHIERING SHORTAGES AND OVERAGES:

8. Cash shortages that result from cashier errors and that cannot be identified with a customer or case (representing the amount by which the cash is less than the cashier's accounting of the transactions receipted) will be debited to Partial Payments general ledger asset account 353030 or 353630 at the time the shortage is detected.

- a. The Partial Payments general ledger asset account will be cleared to a cashiering Shortages general ledger expense account 952599 at least once per quarter.

FIN MANUAL, FIN 8.04, 3.0 PETTY CASH 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.

#### **CONDITION**

Contrary to the FIN Manual, the Court does not recognize cash shortages as expenses when a cashier's collections are short funds at the end of the day. Instead, according to the Court, it uses its petty cash fund to cover these shortages because they occur so rarely. However, the FIN requires courts to record cash shortages resulting from cashier errors in the court's accounting system as a shortage expense. Courts that have "difference funds" may cover the shortage amount from its fund, sometimes also called a "shortage fund." The Court's practice of using its

petty cash fund to cover shortages may result in its inability to review the significance of its total annual cash shortages and consider the needed for any cashier remediation training.

Moreover, the Court's practice of using its petty cash fund to replenish cashier shortages is not an appropriate use of the petty cash fund. The FIN Manual designates courts use petty cash for purchasing low-value supplies and services that cannot be practically purchased by other means. According to the Court, it uses the petty cash fund to cover these shortages because they happen so infrequently. Nonetheless, the Court's use of petty cash funds to cover cashier shortages is not an appropriate use of the fund and is contrary to FIN Manual guidance. As a result, the Court is at increased risk of unaccountable shortages in its petty cash fund and the total amount of its annual cashier shortages may remain unknown, as noted above.

### **RECOMMENDATION**

To ensure it properly accounts for cash shortages resulting from cashier errors, the Court should consider developing and following written procedures for handling cashier shortages that are consistent with FIN Manual guidance.

To ensure it uses its petty cash fund consistent with the petty cash procedures outlined in the FIN Manual, the Court should restrict its 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**

Agree. The Court will (i) revise its local cash handling procedures regarding shortages to comply with FIN 10.02, section 6.3.11, and (ii) restrict its use of the petty cash fund for the purchase of low-value supplies and services that cannot be practically purchased by other means.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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## PROCUREMENT AND CONTRACTS

### The Court Should Consistently Use Purchase Requisitions and Ensure the Competitive Solicitation of Goods and Services

#### Background

Trial courts are expected to procure goods and services in a manner that promotes competition and ensures best value. To achieve this expectation, 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 purchase requests. The court manager is responsible for verifying the necessity and appropriateness of the requested items, 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, court staff 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-upon 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 most of the procurement areas we evaluated during our audit, including demonstrating sound management practices in the areas of authorization and authority levels, in its use of non-competitive procurements, and in entering into leveraged purchase agreements. Nevertheless, we identified two audit findings that we believe require the Court's corrective action. The findings pertained to the following specific areas of procurement:

| Finding Reference | Subject   |
|-------------------|---|
| 2018-10-01        | Procurement Initiation – Purchase Requisitions    |
| 2018-12-01        | Competitive Procurements – Solicitation Practices |

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#### **FINDING REFERENCE: 2018-10-01**

#### *PROCUREMENT INITIATION – PURCHASE REQUISITIONS*

#### **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. 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. 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. 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**

The Court does not consistently use purchase requisitions to pre-approve and initiate its procurement of goods or services. Specifically, for 13 of the 25 procurement transactions reviewed, the Court did not create and complete a purchase requisition form on which the

requestor identifies and documents the necessity for the requested goods or services, and on which an authorized manager verifies the necessity for the goods or services and that sufficient funds are available for the purchase given its local budget priorities before approving the initiation of the procurement process. According to the Court, it does not prepare a purchase request for procurements costing less than \$1,000 and for court reporter services. Nonetheless, 9 of the 13 procurement transactions reviewed that were without a purchase requisition were for non-court reporter procurement transactions valued at more than \$1,000 each. Without an approved purchase requisition to demonstrate that an authorized court manager reviewed and approved the initiation of the procurement, the Court is at risk of staff initiating purchases before fully assessing the business need and available funding for the items or of making unauthorized purchases.

### **RECOMMENDATION**

To ensure it can demonstrate that its purchases are appropriately justified, funded, and approved, the Court should take steps to ensure it consistently 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 for a competitive or non-competitive procurement.

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

Disagree. Section 6 of the Introduction to the JBCM states that the JBCM “supersedes the following chapters of the *Trial Court Financial Policies and Procedures Manual* (TCFPPM) that would otherwise apply to the superior courts: ... FIN 6.01, Procurement.” Footnote 8 to the Introduction of the JBCM clarifies that FIN 6.01 is not “superseded for the planning, design, construction, rehabilitation, renovation, replacement, lease, or acquisition of trial court facilities.” The same information is repeated in Section 2.0 of FIN 6.01. None of 9 transactions found to lack purchase requisitions were purchases relating to the planning, design, construction, rehabilitation, renovation, replacement, lease, or acquisition of trial court facilities. Accordingly, FIN 6.01 sections 6.1, 6.3, and 6.10—cited above as authority for the requirement of purchase requisitions—do not apply to these transactions. Furthermore, JBCM Chapter 2, section 2.1.C, also cited above, states that the Buyer’s first step in planning and scheduling a procurement effort is the review of a “purchase **request**.” However, the JBCM does not require the use of “purchase requisitions” as that term is used in the TCFPPM, and none of the many TCFPPM requirements and processes applicable to “purchase requisitions” are made applicable to JBCM “purchase requests.” Respectfully, if the JCC wishes to require the trial courts to use purchase requisitions for non-facilities-related purchases, the JCC should consider amending the JBCM accordingly.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** The Court does not plan to take further action.

**Responsible Person(s):** n/a

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

To provide clarity and perspective, we are commenting on the Court’s response. The use of purchase requisitions to document approved purchase requests is a reasonable and commonly accepted business practice. The purpose of a purchase requisition is to ensure the requestor documents a business need and available funding for the item sought before an authorized

court manager approves and forwards the purchase request to the Court's buyer prior to expending time to make the purchase. Although the JBCM does not provide courts with explicit steps for processing purchase requests, FIN 6.01, Procurement does provide courts with a clearer explanation as to how the purchase request process the JBCM references typically works, which is helpful guidance to those who are unfamiliar with the process. Without an approved purchase requisition to demonstrate that an authorized court manager reviewed and approved the purchase request and initiation of the procurement, the Court is at increased risk of staff initiating purchases before fully assessing the business need and available funding for the items or of making unauthorized purchases. Our recommendation is meant to help the Court mitigate this potential risk.

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## **FINDING REFERENCE: 2018-12-01**

### *COMPETITIVE PROCUREMENTS – SOLICITATION PRACTICES*

#### **CRITERIA**

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

##### 4.1 THE BASICS OF COMPETITION

Competition is one of the basic tenets of procurement under the California Judicial Branch Contract Law. The type of competition will vary depending on the type of goods or services to be procured, as well as the value of the procurement.

##### A. General Requirements

Judicial Branch Entities (JBEs) must conduct competitive procurements in a manner that promotes open, fair, and equal competition among Prospective Bidders. Generally speaking, a procurement must be competitive unless it falls into one of the categories covered in chapter 5 of this Manual.

Buyers conducting competitive procurements must provide qualified Prospective Bidders with a fair opportunity to participate in the competitive solicitation process, stimulating competition in a manner conducive to sound fiscal practices without favoritism, fraud, or corruption.

#### JBCM, CHAPTER 5, NON-COMPETITIVELY BID PROCUREMENTS:

##### INTRODUCTION

In certain circumstances, Judicial Branch Entities (JBEs) may procure non-IT goods, non-IT services, and IT goods and services without going through a competitive process (advertising, receiving Bids, etc.). In these non-competitively bid (NCB) procurements, a single entity is afforded the opportunity to provide the specified non-IT goods, non-IT services, or IT goods and services. The following are the categories of allowed NCB procurements:

- Purchases under \$5,000;

#### JBCM, CHAPTER 4A, STEP-BY-STEP GUIDE FOR THE PROCUREMENT OF NON-IT GOODS:

##### STEP 1—DETERMINE THE PROCUREMENT VALUE

The value of the procurement directly affects the processes to be used in the procurement. The JBE employee requesting the procurement should estimate the total value of the procurement, including:

- Value of the non-IT goods to be procured;
- Value of any associated incidental services (such as installation);
- Delivery costs;
- Taxes (if applicable); and
- Other associated costs, as applicable.

JBEs may not split a single transaction into a series of transactions for the purpose of evading procurement requirements. In particular, a series of related services that would normally be combined and bid as one job cannot be split into separate tasks, steps, phases, locations, or delivery times to avoid adhering to competitive solicitation requirements

### **CONDITION**

For one of the seven procurement transactions reviewed for which we expected to see the use of a competitive procurement process, the Court did not perform a competitive solicitation for the procurement of goods that exceeded the \$5,000 JBCM non-competitive bid threshold applicable at the time of the procurement. Specifically, the Court paid a print services vendor a total of more than \$8,000 in fiscal year 2017-18 for three separate purchases of more than \$2,500 each for the same form. Because it made multiple purchases costing more than \$2,500 each to print a commonly needed form for proceeding dispositions, the Court should have anticipated its operational needs and that multiple purchases would total more than \$5,000, requiring a competitive solicitation and bid process. According to the Court, although it agrees with our assessment, it does not know why it did not solicit competitive bids to purchase these preprinted forms. In addition, for four other procurement transactions, we could not determine whether the Court followed a competitive award process because it initially awarded the contracts more than 10 years ago between 2005 and 2008, before the October 2011 effective date of the JBCM. As a result, when courts do not follow the JBCM competitive bidding requirements when procuring goods or services, and automatically renew contracts year-after-year without any further assessment of competitive pricing, they risk both not obtaining the best value procurements and creating the appearance of not awarding procurement contracts fairly.

### **RECOMMENDATION**

To increase transparency to the public and to demonstrate it performed its due diligence to consistently procure goods and services through a fair and competitive procurement process, the Court should fully assess its operational needs when approving purchase requests for goods or services and ensure it uses the solicitation appropriate for the type of procurement. It should also document a summary of its procurements and retain appropriate procurement documents in a procurement file to substantiate its compliance with all applicable competitive procurement and JBCM requirements.

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

Partially agree. The Court agrees that it failed to competitively solicit the \$8,000 contract for printing services. The Court intends to terminate this contract and enter into a new contract in accordance with applicable provisions of the JBCM.

The Court disagrees with the characterization of its pre-JBCM agreements. Pursuant to Public Contract Code section 19203, the Judicial Branch Contract Law (“JBCL”), and the JBCM adopted pursuant thereto, apply to all contracts initially entered into or amended by judicial branch entities on or after October 1, 2011. Nothing in the JBCL or the JBCM requires judicial branch entities to terminate contracts made prior to October 1, 2011 and re-solicit those contracts in accordance with the JBCM. In addition, nothing in the JBCL or the JBCM requires judicial branch entities to “assess competitive pricing” before allowing any contract to renew automatically. Respectfully, if the JCC wishes to require judicial branch entities to re-solicit pre-JBCL contracts, or to assess competitive pricing on automatically renewing contracts, the JCC should consider amending the JBCM accordingly.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** The Court will enter into a new printing services contract by November 1, 2019.

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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

To provide clarity and perspective, we are commenting on the Court’s response. When courts allow contracts to continue indefinitely, they forego an opportunity to re-bid and re-assess these contracts to ensure that they continue to provide them with best value goods and services for the price they pay. Additionally, while the Court may have executed some of these contracts prior to the effective date of the JBCM, it is accountable for the prudent use of public court funds and should periodically determine and demonstrate that it continues to receive overall good value at a fair and reasonable price, including those contracts with payments that fall under the competitive bidding threshold. When courts allow contracts to continue indefinitely without any re-assessment of best value, they risk continuing to pay a contract with terms that may no longer be in their best interests.

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## PAYMENT PROCESSING

### The Court Should Require Claimants to Provide the Information Required on Claim Forms

#### 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 and in-court service provider claims. 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 respective 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.

Overall, the Court demonstrated material compliance in the payment processing areas we evaluated during our audit. For instance, the Court demonstrated sound management practices in performing the 3-point match process, ensuring allowable costs, and other internal controls.

Nevertheless, we identified one payment processing finding that we believe requires the Court's corrective action. This finding pertained to the following specific area of payment processing:

| Finding Reference | Subject  |
|-------------------|--|
| 2018-19-01        | Special Rules – In-Court Service Providers - Claim Forms |

#### **FINDING REFERENCE: 2018-19-01**

#### *SPECIAL RULES – IN-COURT SERVICE PROVIDERS – CLAIM FORMS*

#### **CRITERIA**

#### **FIN MANUAL, FIN 8.02, 6.3 COMPLETE CLAIM DOCUMENTATION:**

- (1) The documentation required to pay a claim consists of a court-approved claim form that includes at least the following information:
  - a. The name and address of the person or business submitting the claim,
  - b. The tax identification number of the person or business submitting the claim. (If the tax identification number is on file with the court, it need not appear on every claim form.),
  - c. The signature of the person making the claim or the person authorized to sign for the business making the claim,
  - d. The case number and name, and
  - e. The amount of compensation claimed.

**CONDITION**

For four of the eight in-court services claims reviewed, the Court processed and paid the claims even though the claimants did not include all the information required for the Court to fully verify the accuracy and validity of the claims. Specifically, court accounts payable staff processed two contract court reporter claims and two juvenile dependency claims for payment without requiring the claimants to include on their claim forms their signatures and/or case numbers and names for which they provided services. According to the Court, it does not require "in-court" service providers to use a court-approved claim form that would require claimants to provide all the specific information required by the FIN Manual because the terms of its agreements with in-court services providers requires them to provide the specific information the Court needs to process their claims. However, the provider agreement requirements may vary from contract to contract and most do not require the providers to include on their claim forms all the information required by the FIN Manual. As a result, when courts do not require claimants to provide claims with case numbers, names, and signatures certifying the authenticity and accuracy of their claims, accounts payable staff cannot effectively reconcile the claims to their corresponding court authorization for the services provided. Such missing information may also increase the risk of claimants submitting invalid or inappropriate claims that claimants may later assert was not theirs or was unintended.

**RECOMMENDATION**

To ensure court staff processing and approving in-court service provider claims have the information they need to reconcile and verify the accuracy of these claims prior to payment, the Court should require all in-court service providers to use a claim form that includes at least the following information:

- a. The name and address of the person or business submitting the claim,
- b. The tax identification number of the person or business submitting the claim. (If the tax identification number is on file with the court, it need not appear on every claim form.),
- c. The signature of the person making the claim or authorized to sign for the business making the claim,
- d. The case number and name, and
- e. The amount of compensation claimed.

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

Partially agree. It is the Court's understanding that FIN 8.01 ("Vendor Invoice Processing") governs payments made to service providers who have written contracts with the Court, while FIN 8.02 ("Claim Processing") governs payments made to court-appointed service providers who do not have written contracts with the Court. Trial courts require additional information to process "claims" (as set forth in FIN 8.02) because there is no written contract, not because the vendor provides "in-court" services.

The Court agrees that the claims submitted by the two court reporters—with whom the Court does not have a contract—did not contain all information required by FIN 8.02.

However, the Court disagrees that the invoices submitted by the Court's juvenile dependency counsels—with whom the Court has contracts—are "claims" for purposes of FIN 8.02. All

information the Court needs to reconcile and verify the accuracy of these invoices is contained in the respective contracts, not in a court order or other authorization. Accordingly, the Court does not require the information specified in FIN 8.02 to process the invoices accurately.

The Court will adopt a claim form for use by court-appointed service providers who do not have written contracts with the Court. Respectfully, however, the Court does not intend to require service providers who have written contracts with the Court to use this claim form.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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

To provide clarity and perspective, we are commenting on the Court's response. The Court incorrectly asserts that the policies contained in FIN 8.02 only apply to service providers who do not have contracts, and, as a result, questions the finding's inclusion of certain claims submitted by court-appointed juvenile dependency counsel who perform work for the Court under contract.

The Court is incorrect. FIN 8.02 applies to all in-court service providers, regardless of whether or not a contract exists. FIN 8.02, section 2, explains that its purpose is to provide uniform guidelines for payments to individuals and businesses that provide "in-court" services to the trial court. FIN 8.02 further cites court-appointed counsel as an example of these "in-court" services. By requiring claimants to list certain information on their claim forms as required by the FIN Manual—such as the case number and name corresponding to the claim—the Court is better positioned to reconcile and ensure it authorized these "in-court" services for the specific cases listed, and thereby reduces the risk of paying for services that it did not authorize. Audit Services stands by its conclusion that FIN 8.02 is applicable to the claims submitted by the Court's juvenile dependency counsel. The Court needs to take steps to ensure that submitted claims contain all the information required by the FIN Manual.

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## FINE AND FEE DISTRIBUTIONS

### The Court Calculated Accurate Fine and Fee Distributions for the Case Types Reviewed

#### 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 fines, penalties, fees, 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.

Although the scope of our review was limited since the Court could not provide distribution tables or samples of its calculations and distributions for some of the 19 case types we typically review—such as Proof of Insurance, Domestic Violence, Health and Safety, and Fish and Game code violations—, for the fine and fee distributions we did review, the Court configured its automated case management system to accurately calculate and distribute the 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 It Includes Only Current Encumbrances in Its One Percent Fund Balance Cap Calculations

#### 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 Judicial Council 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.

In addition, should a court need to retain funds that exceed its one percent fund balance cap, the Judicial Council adopted a process whereby courts that meet certain specified guidelines may request approval from the Judicial Council 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 Judicial Council approves the court’s request, the Judicial Council 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 Judicial Council-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 calculation:

| Finding Reference | Subject   |
|-------------------|---|
| 2018-27-01        | Calculation of the One Percent Cap - Encumbrances |

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#### **FINDING REFERENCE: 2018-27-01**

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

#### **CRITERIA**

“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.

**“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. However, if encumbering the current year's fund balance would allow the court time to make structural changes to its budget to include this expense or would provide the court greater budget flexibility in the following fiscal year, encumbering the current year's fund balance would be appropriate. All other rules, such as 1 and 6, must be complied with. Examples of ongoing expenses are rent or lease of space, maintenance charges for a case management system after implementation, printer/copier maintenance, janitorial contracts, and security screening services.

**CONDITION**

At the end of fiscal year (FY) 2017-18, the Court encumbered more than it should for its financial commitments. Courts self-report their annual expenditures on the *1% Fund Balance Cap Calculation* Form, including their year-end expenditure accrual amounts and encumbrances. If a court overstates its year-end encumbrance information on the form, it may potentially inflate how much fund balance it may carry over from one year to the next.

Specifically, at the end of FY 2017-18, the Court reported year-end encumbrances for future FY 2018-19 printer leasing services and FY 2019-20 document storage services, which are both ongoing expenses. In fact, three of the Court's nine year-end encumbrances were for future ongoing expenses and totaled \$13,200, or 9% of the \$149,070 of year-end encumbrances it reported on its FY 2017-18 1% fund balance cap calculation form. The Court stated that it encumbered these amounts to ease its budget process. However, the Judicial Council's June 2014 Encumbrance Policy primarily indicates that fund balance should not be used for ongoing expenses as these ongoing expenses should be part of a court's annual budget. Nonetheless, the JC policy does allow a court to encumber ongoing expenses to allow it time to include these expenses in its annual budget or to provide greater flexibility in the following year. However, the Court encumbered future printer leasing expenses that have been ongoing for more than four years and future document storage expenses that have been ongoing for more than seven years, both of which are common ongoing expenses that it should have already built into its annual budget. As a result, the Court encumbered \$13,200 more than it should have at the end of FY 2017-18. Had the Court not reported these encumbrances on its 1% fund balance cap calculation form, its fund balance at the end of FY 2017-18 would have been over the cap by nearly \$13,300 and potentially subject to a budget offset.

**RECOMMENDATION**

To ensure the Court does not continue to reserve its current year fund balance to pay for the recurring operating costs it anticipates in future years—and thus prevent the Judicial Council from reallocating these excess funds among the State's 58 superior courts in future budget

years—the Court should provide training to its fiscal staff to ensure its encumbrance practices are consistent with the intent of the Judicial Council’s encumbrance and one percent fund balance policies.

Further, the Court should refer this audit finding to the Judicial Council’s Branch Accounting and Procurement Office and Budget Services so that they can determine how best to work with the Court and the Judicial Council to possibly adjust the Court’s budget allocation or take other appropriate measures.

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

Agree. The Court’s former Fiscal Manager resigned in January 2018, and the Court was without a Fiscal Manager for over a year, including at the end of FY 2017-18. The Court has recently hired a new Fiscal manager, who is familiar with encumbrance practices and the 1% fund balance cap. The Court will contact the Judicial Council’s Branch Accounting and Procurement Office and request training for the Court’s fiscal staff regarding encumbrance practices and the 1% fund balance cap.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** November 1, 2019

**Responsible Person(s):** Tarry Singh, Fiscal Manager

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## JBSIS CASE FILING DATA

### The Court Should Ensure It Can Fully Support the Case Filings Data It Reports to JBSIS

#### Background

The Judicial Branch Statistical Information System (JBSIS) is a 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.

Although the scope of our review was limited because the Court could not always provide listings of the CMS cases underlying each case filing count it reported to JBSIS, by case type, of the CMS listings or reports the Court could provide, we found that the Court generally supported the case filings data it reported to the Judicial Council's JBSIS reporting system. Nevertheless, our review identified some count differences between JBSIS and court records that we believe requires the Court's corrective action. This finding pertained to the following specific area of the JBSIS case filings data:

| Finding Reference | Subject                                      |
|-------------------|--|
| 2018-29-01        | Validity of JBSIS Data – Case Filings Counts |

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#### **FINDING REFERENCE: 2018-29-01**

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

#### **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.

**CONDITION**

For fiscal year 2016-17, the Court reported 9,005 new case filings to JBSIS. For each month, the Court reports each new case filing as a count in one of 89 possible case categories (such as “civil limited” or “felony”). The Court therefore reported 1,068 individual filing counts (89 categories x 12 months) to JBSIS in fiscal year 2016-17. Audit Services requested the Court provide records or data supporting its reported case filing counts for fiscal year 2016-17. However, the Court was unable to provide supporting documentation for the entire fiscal year because it does not keep any contemporaneous records from its automated process of uploading its case filings data from its CMS to JBSIS. According to the Court, there is no requirement that courts maintain documentation of the case filings data reported to JBSIS. Although the Court acknowledged it could generate ad hoc CMS reports of the case filings counts it reported to JBSIS, the process for running these reports would be too time consuming and the Court staff responsible for running these reports would not be able to provide the information in time for the audit due to other work priorities. As such, the Court decided it would be best to not have court staff spend additional time attempting to produce the JBSIS case filings count data. Therefore, we were unable to fully reconcile the fiscal year 2016-17 new case filing counts the Court reported to JBSIS to any Court records.

Nonetheless, the Court was able to generate and provide some ad hoc CMS reports that we were able to use to partially reconcile to the case filing counts the Court reported to JBSIS for fiscal year 2016-17. Specifically, the Court provided CMS reports listing the case numbers associated with case filings for six case types and five months of fiscal year 2016-17. We reconciled the number of new filings in each monthly listing to the 335 case filing counts the Court reported to JBSIS in the corresponding monthly case categories. Our review found seven count differences that in absolute terms totaled only 9 filing count differences out of a total of 335 reported case filing counts for these six case types and five months reviewed, or a 2.7% count difference. According to the Court, it could not explain the reasons for the differences because of limitations in CMS searching capabilities led it to conclude that it would be too time consuming for staff to research the cases in the CMS.

Although we were unable to determine an overall error rate for fiscal year 2016-17 due to the Court not being able to provide complete case filing count records, Audit Services raises this JBSIS reporting discrepancy as an audit finding since the Judicial Council had not yet established data quality standards at the time of the FY 2016-17 JBSIS reporting that (1) defined an acceptable error rate for reporting and (2) defined what steps each court is expected to take to reasonably ensure accurate and complete reporting. The Judicial Council has since established such standards, which require courts to review and amend their JBSIS reporting when the error rate for a case category exceeds a 2% threshold.

**RECOMMENDATION**

To ensure the Court is doing all it reasonably can to ensure accurate and complete JBSIS reporting, it should do the following:

- Generate and retain from its CMS systems, or require staff to compile and retain, detailed listings of the case numbers that support its case filing counts that are both contemporaneous and consistent with its monthly JBSIS reporting.

- Periodically review listings of reported case filings, such as monthly or quarterly, to identify individual cases that it may have improperly counted.
- Ensure staff follow the Judicial Council standards on acceptable error rates when reporting case filing counts data to JBSIS and submit amended reports to JBSIS when it finds count differences that exceed this standard.

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

Disagree. California Rules of Court, rule 10.400, cited as authority for these findings, states that the Court “must collect and report to the Judicial Council information ... as prescribed by the JBSIS Manual adopted by the Judicial Council.” The Court has collected and reported the information as prescribed in the JBSIS Manual.

With regard to the first finding, the JBSIS Manual does not require the Court to compile and retain detailed listings of the case numbers that support its case filing counts. The Court was unable to locate any legal basis for an “inherent responsibility” to create and retain this documentation. The Court respectfully submits that if the creation and retention of this documentation is important for the Judicial Council, the Judicial Council should consider including corresponding language in version 3.0 of the JBSIS Manual, scheduled for release later this year.

With regard to the second and third findings, it was the Court’s understanding that the period covered by this audit was FY 2017-18. For the period covered by the audit, the JBSIS Manual neither required courts to correct JBSIS data, nor defined when a court’s data was sufficiently flawed to require an amended report. The absence of these requirements was acknowledged in the April 17, 2018 letter from the Chair of the Advisory Committee on Audits and Financial Accountability to the Chair of the Court Executive Advisory Committee (“CEAC”), requesting the assistance of CEAC’s JBSIS Subcommittee to amend the JBSIS rules. The Court is therefore uncertain why it has received findings for failure to comply with practices that were not in effect during the audit period. Indeed, these practices were approved for inclusion in the next version of the JBSIS Manual on February 1, 2019, several months after the Court’s audit had begun. The Court intends to collect and report information as prescribed by the JBSIS Manual, including any new versions thereof.

**Response provided on 4/16/2019 by:** Gil Solorio, CEO

**Date of Corrective Action:** The Court will continue to comply with the requirements of the JBSIS Manual, including any amendments made thereto.

**Responsible Person(s):** n/a

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

To provide clarity and perspective, we are commenting on the Court’s response. The Court explains in its response that the JBSIS rules applicable to the year in which we reviewed did not require courts to keep records of which specific cases correspond to the case filings they reported to JBSIS.

While the Court is technically correct, our recommendation is intended to help the Court improve its JBSIS reporting and data quality practices. The Judicial Council and the superior courts collectively recognize the important role JBSIS plays in determining how much funding each trial court receives as part of the budget allocation process. JBSIS data also influences other significant decisions made by the judicial branch beyond just trial court budgeting. All judicial branch entities should understand the importance of reporting accurate and complete JBSIS data, and Audit Services believes each court has an inherent responsibility towards ensuring the JBSIS data they report is sufficiently accurate and complete for the branch's decision-making.

Without knowing which cases the Court reported to JBSIS, or when, it is unlikely the Court will ever be positioned to periodically evaluate its own JBSIS data for errors. Given the importance of JBSIS, Audit Services believes the Court should not wait for an explicit directive to begin taking steps now to review and monitor the quality of its case filings data.

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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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