



## Judicial Council of California . Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 13, 2013

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Title	Agenda Item Type
Judicial Branch Administration: Audit Report for Judicial Council Acceptance	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	December 13, 2013
Recommended by	Date of Report
Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	November 7, 2013
Hon. Richard D. Huffman, Chair	Contact
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### Executive Summary

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) and the Administrative Office of the Courts (AOC) recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Monterey*. This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

## Recommendation

A&E and AOC recommend that the Judicial Council, effective December 13, 2013, accept the following “pending” audit report:

1. Audit report dated December 2012 entitled: *Audit of the Superior Court of California, County of Monterey.*

This acceptance will result in the audit report progressing from “pending” status to “final” status, and publishing the final report on the California Courts public website.

## Previous Council Actions

The Judicial Council at its August 27, 2010, business meeting approved the following two recommendations, which established a new process for review and acceptance of audit reports:

1. Audit reports will be submitted through the Executive and Planning Committee to the Judicial Council. Audit reports will not be considered “final audit reports” until formally accepted by the council.
2. All final audit reports will be placed on the California Courts public website to facilitate public access. This procedure will apply to all audit reports accepted by the Judicial Council after approval of this recommendation.

Since August 2010 audit reports have been submitted to the Judicial Council for acceptance.

## Rationale for Recommendation

Council acceptance of audit reports submitted by A&E through the Executive and Planning Committee is consistent with its policy described above and with its responsibility under Government Code section 77009(h), which states that “[t]he Judicial Council or its representatives may perform audits, reviews, and investigations of superior court operations and records wherever they may be located.”

## Comments, Alternatives Considered, and Policy Implications

### A&E Committee comments

A&E reviewed the report with particular attention focused on the issues contained in the Management Summary. Internal Audit Services (IAS) discussed four primary areas of concern with A&E. A&E concurred that the issues summarized below be included in this report:

1. Certain collection calculations and distributions have not been done accurately.  
The audit of the Court’s process for calculating and distributing the fines, penalties, fees, and other assessments it collects identified five calculation and distribution exceptions including:
  - Lack of assessing the Government Code section 68090.8 – 2% deposit for automation for two cases tested involving Penal Code 1463.22 and Fish and Game 12021.
  - Improper charging of the Vehicle Code section 40508.6(a) \$10 administrative assessment for a traffic school case;

- Incorrect distribution of the emergency medical air transportation (EMAT, Government Code section 76000.10) penalty assessment in traffic school cases; and.
- Red light traffic school and bail forfeiture cases.

The audit focused on high-volume case types and on cases with violations involving complex or special distributions where there is a greater likelihood of error. Distribution errors have been identified as a systemic issue with courts as similar issues have been identified to varying degrees in every audit report presented to the Judicial Council for acceptance. This systemic issue has resulted in increased attention by the AOC. Last year the AOC held distribution training for courts throughout the state. This year, the AOC partnered with the California State Controller's Office to expand training on a statewide basis for courts, counties, educational institutions, and others. Reference materials and calculation templates were provided to all training participants, including staff from Monterey Superior Court. Monterey Superior Court agreed with the issues and has indicated that all of the corrections necessary to its case management system have been made.

2. Trust fund reconciliations were not complete and were significantly past due.

At the time of our audit the Court was not current in its trust account reconciliations to ensure that the general ledger and bank balances are supported by the case management system records. This is a critical internal control process. The Court started depositing new trust funds into an account managed by the AOC Treasury in December 2010, but maintained its existing trust funds in a locally managed bank account. The Court at the time of our audit in December 2012 did not have completed reconciliations since December 2010 for the AOC Treasury trust account and for the local bank trust account was only completed through March 2011. In addition, the reconciliations were not reviewed and approved by a supervisor.

The Court agreed with the issue and hired a temporary employee to get the reconciliations current.

3. Employee allowances may be used for questionable or non-reimbursable expenses

The Court provides monthly salary allowances to executive and management employees to pay for expenses that are questionable or prohibited by policy. The Court permits the use of these allowances to support holiday and other social functions for employees, which have been primarily characterized as celebrations or parties and are therefore inappropriate uses of public funds because they are social in nature and do not serve a business purpose of the Court. Additionally, executive employees receive annual professional allowances that may be used for professional memberships. Use of court funds for the reimbursement of professional association dues for trial court employees who are not represented by a recognized employee organization and who earn more than \$100,000 annually is prohibited less the license is a requirement of the position.

The Court agreed with the issues identified and has implemented corrective action or is in the process of doing so for the issues reported. The general issue of allowability of expenditures for employee morale/recognition events has come up on a number of recent audits.

4. Court operations funds inappropriately used for a years of service celebration

Shortly before a court official retired the Court used court funds to pay for a retirement party. Policy expressly does not allow for the court to “pay or reimburse the costs of a group meal that is intended to be part of a retirement event for a judge or court employee.”

The Court is in disagreement with IAS’s conclusion that this is a retirement party. Its response indicates that “the officially stated purpose for this purchase was for a Years of Services Celebration- which is according to FIN 8.05, 6.8(1) is allowable.” IAS believes that the Court’s interpretation of policy is incorrect as the first sentence of the policy allows for a business meal that is related to service awards and not retirement.

**Comments and policy implications**

The process established for finalizing an audit report, a process that has been thoroughly discussed with judicial branch leadership, involves extensive reviews and discussions with the entity being audited. It also allows, at any point in the process, for the entity (trial courts generally) to request an additional review of the draft audit report by the Chief of Staff before the audit report is placed in a pending status and presented to A&E for review and discussion. Once presented to A&E, additional comments from A&E could result in further discussions with the entity being audited before the committee recommends submission of the report to the council for acceptance.

In its review of audit reports, A&E generally has comments and questions that, in some cases, require additional analysis or discussion with the trial courts. IAS ensures that the results of any analysis, comments, and questions are addressed and provided to A&E.

Additionally, the Judicial Council, in December 2009, adopted rule 10.500 of the California Rules of Court, effective January 1, 2010, which provides for public access to nondeliberative or nonadjudicative court records. Final audit reports are among the judicial administrative records that are subject to this 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, confidential or sensitive information that would compromise the security of the court or the safety of judicial branch personnel is omitted from audit reports. In accordance with auditing standards, disclosure of the omissions is included in the applicable reports.

**Alternatives**

No alternatives were considered because the recommendation is consistent with approved council policy and with the provisions of Government Code section 77009(h).

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

The proposed recommendation imposes no specific implementation requirements or costs, other than disclosure of the attached audit reports through online publication.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

The recommendation contained in this report pertains to the activities of IAS and the role it plays in the judicial branch as an independent appraisal entity. IAS's role as an evaluator is important for both the strategic plan and the operational plan of the judicial branch. Specifically, IAS plays an important role as evaluator under Goal II, Independence and Accountability—in particular Goal II.B.4—by helping to “[e]stablish fiscal and operational accountability standards for the judicial branch to ensure the achievement of and adherence to these standards.” Additionally, IAS has an important role in fulfilling several of the objectives of the operational plan related to Goal II because its work pertains to the requirement that the branch “maintain the highest standards of accountability for its use of public resources and adherence to its statutory and constitutional mandates.” Part of the role and responsibility of IAS also relates to Objective II.B.4 because the audit reports it produces help to “[m]easure and regularly report branch performance.”

## **Attachments**

There are no attachments to this report. The following audit report will be placed on the California Courts public website ( <http://www.courts.ca.gov/12050.htm> ) after the Judicial Council has accepted it:

1. Audit report dated December 2012 entitled: *Audit of the Superior Court of California, County of Monterey.*