



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 22, 2014

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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	August 22, 2014
Recommended by	Date of Report
Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	August 14, 2014
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 Committee) and Judicial Council staff recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Mendocino*. 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**

The A&E Committee and Judicial Council staff recommend that the Judicial Council, effective August 22, 2014, accept the following “pending” audit report:

1. Audit report dated July 2013 entitled: *Audit of the Superior Court of California, County of Mendocino*.

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 Action**

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 the A&E Committee 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.”

## **A&E Committee Comments**

The A&E Committee reviewed the report and recommended this audit report be on consent agenda. The A&E Committee focused particular attention and discussion on:

- The Court has been in a transition status during the last two years as there have been staffing and fiscal issues. For almost two years the Court has had either no court executive officer or an interim / part-time retired court executive from another court assisting it. This impacted the wrap up of the audit as our field work was completed almost one year ago. A new court executive officer has been hired in August 2014.
- There were 116 audit issues reported on this audit with 67 (58%) reported in the body of the report as significant and 49 (42%) considered minor and only reported in the appendix of the report. For a court of this size the total issues are high but this is

somewhat mitigated by the large number of revenue distribution issues (27, or 23%, of the 116 total issues).

- The higher than normal number of repeat issues (8) from the prior audit including:
  - Reconciliation of trust monies between fiscal records and the case management system;
  - Encumbrance practices not followed;
  - Contract documentation and provisions not in compliance with policy;
  - Invoice payment not done by an authorized individual; and
  - Domestic violence fines, fees, and assessments not imposed or not properly imposed.

The Court has corrected a large number of the issues during the last year (59 or 51%). As noted above, there are 27 revenue distribution issues in the report that remain incomplete (23%) but to address this the Court requested and is being assisted by another nearby court in correcting the issues. The Court has also contracted with another court for procurement and contracting services recognizing the need in that area. With all of this being done, the Court can handle the bulk of the remaining incomplete issues which are predominately in the cash area. Some assistance will also be provided by the Judicial Council's Trial Court Administrative Services Office.

Audit Services (AS) discussed the following specific areas of concern that are primarily from the Management Summary of the audit report.

1. Certain collection calculations and distributions have not been done accurately

The Court did not distribute certain collections as prescribed by statutes and guidelines. State statutes and local ordinances govern the distribution of the fines, fees, penalties, and other assessments that courts collect. The Court uses its case management system to assess and distribute the fines and fees it collects, and prepares at month-end a report of revenues collected. Our review of sample cases collected and distributed by the Court identified various calculation and distribution errors on its CMS's.

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 highlighted 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 AS. During the last two years Judicial Council staff has partnered with the California State Controller's Office to hold distribution training on a statewide basis for courts, counties, educational institutions, and others. Reference materials and calculation templates were provided to all training participants.

Like many of its sister court systems statewide, AS found instances where the Court did not correctly apply certain fees, assessments, and penalties. For example:

- GC § 68090.8 - 2% State Automation is not applied to the GC § 76000.10 – Emergency Medical Air Transport (EMAT) penalty.

- Distribution percentage calculations are incorrect because the Court incorrectly accounted for the GC § 76000.10 \$4 EMAT penalty. The Court failed to subtract the \$4 penalty from the total fine before determining the proper denominator for percentage calculations of the base, penalties and surcharge.

In addition, again, like many of its sister courts, the Court sometimes imposed outdated amounts such as:

- The VC § 42007.3 Red Light traffic school distribution is incorrect because it used outdated distribution percentages against the current fines, penalties, fees and assessments. The outdated percentages did not include distributions to VC § 42007.1 \$49 TS fee, VC 1§ 1205.2(c) \$5 Court Traffic School, GC § 76104 Emergency Medical Services (EMS) penalty and the 30% red light allocation. It also incorrectly distributed to GC § 76100 \$1 Local Courthouse Construction Fund. All these errors resulted in overstated distributions of VC § 42007 county Traffic Violator School, GC § 76000.5 EMS penalty, GC § 70372(a) State Court Facilities penalty and the PC § 1465.7 20% State surcharge.
- For three of the 14 domestic violence cases reviewed where probation was ordered, the PC 1202.4(b) State Restitution fine ordered was \$100 instead of the increased amount of \$120 for misdemeanor convictions that took effect January 1, 2012. Also, for the same three cases, the ordered PC 1202.44 Probation Revocation Restitution fine should have been \$120 instead of \$100 because of the increase to the State Restitution fine.

As noted above, the Court has requested and is being assisted by another nearby court in correcting the revenue distribution issues. AS will also consult with the Court as necessary to correct any issues in this area.

## 2. Procurement, Accounts Payable, and Reimbursement Controls and Processes

As stewards of public funds, courts are obligated to demonstrate responsible and economical use of public funds. Judicial branch entities including superior courts must comply with the procurement and contracting policies and procedures provided in the *Judicial Branch Contracting Manual* (JBCM). The *Trial Court Financial Policies and Procedures Manual* (FIN Manual) provides courts with policy and procedures to ensure courts process invoices timely and in accordance with the terms and conditions of agreements. Additionally, statutes and policy require court judges and employees to follow business-related travel reimbursement procedures recommended by the Administrative Director, approved by the Judicial Council, and incorporated into the FIN Manual. Lastly, the FIN Manual defines the rules and limits courts must observe when arranging or claiming reimbursement for meals connected to official court business.

AS reviewed the Court's controls and processes in procurement, accounts payable, and reimbursement for business travel and business meals; and noted numerous issues. These issues included:

#### Invoice and Travel Reimbursement Review and Approval Procedures

- For four (ten percent) of the 39 invoices and claims reviewed, the Court could not provide a purchase order or contract, and a fifth invoice did not contain specific details regarding the services provided. Therefore, we could not determine whether the payment for these five invoices was appropriate.
- Five (13 percent) of the 39 invoices and claims reviewed did not contain proof of receipt of goods or services received.
- Two (five percent) of the 39 invoices and claims reviewed did not contain evidence of review and approval by appropriate Court staff prior to payment.
- Four travel expense claims (TECs) did not contain evidence of review and approval by an appropriate-level supervisor. Also, while there was evidence of review and approval on a fifth TEC, this TEC was not approved by a supervisor at the appropriate level.

The Court agreed with the above issues and indicated corrective action or prospective correction of the issues identified.

#### Procurement Practices and Contract Provisions and Certifications

- Purchase requisitions were not completed for four of 16 procurements reviewed. Also, funds were not encumbered through a purchase order or contract for nine of 16 procurements reviewed.
- The Court's courier service contract and office supplies blanket purchase order do not fall under one of the non-competitive bid procurement categories specified in JBCM, Chapter 5. Therefore, both procurements should have gone through the competitive bidding process.
- All four contracts reviewed did not contain the contractor's certification of compliance with any orders issued by the National Labor Relations Board.
- One of four contracts reviewed did not contain a certification clause certifying compliance with antitrust claim requirements per Government Code § 4552-4554, a schedule listing the hourly, daily, weekly, or monthly cost of each person or job classification, a certification that the contractor is qualified to do business in California, and a provision that the contractor will not assist, promote, or deter union organizing activities.

The Court agreed with the above issues and recognizing the need in this area has contracted with another court for procurement and contracting services.

AS will on a periodic basis request from the Court the status of the correction of the issues identified in the audit report. As requested by the committee, AS will perform a detailed follow-up in approximately four to six months. It will report on the status of correction of issues to the Executive Office and the A&E Committee, as appropriate.

#### **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. AS 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 non-deliberative or non-adjudicative 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 AS and the role it plays in the judicial branch as an independent appraisal entity. AS's role as an evaluator is important for both the strategic plan and the operational plan of the judicial branch. Specifically, AS 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 AS 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 July 2013 entitled: *Audit of the Superior Court of California, County of Mendocino.*