



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 22, 2015

Title	Agenda Item Type
California State Auditor Report, Five Superior Courts Did Not Consistently Follow Judicial Branch Contracting Practices	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	January 22, 2015
Recommended by	Date of Report
Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	January 8, 2015
Hon. Richard D. Huffman, Chair	Contact
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Executive Summary

In November 2014 the California State Auditor released a report, *Judicial Branch Procurement: Five Superior Courts Did Not Consistently Follow Judicial Branch Contracting Practices*, that is required to be performed by Public Contract Code Section 19210 to assess the implementation of the Judicial Branch Contract Law biennially for five judicial branch entities. The California State Auditor concluded that the five superior courts in the audit could improve their compliance with the *Judicial Branch Contracting Manual*. The California State Auditor found instances of noncompliance with payment approval levels, lack of justifying using a noncompetitive procurement process, and not having procedures to implement the State's Disabled Veteran Business Enterprise program or the small business preference for competitive information technology procurements.

Recommendation

At its December 18, 2014 meeting, the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) discussed the California State Auditor's audit report, *Judicial Branch Procurement: Five Superior Courts Did Not Consistently Follow Judicial Branch Contracting Practices* and recommended the report for presentation to the judicial council for consent agenda.

Previous Council Action

The judicial council has previously approved the *Judicial Branch Contracting Manual* (Manual) and multiple amendments. The initial approval was with an October 1, 2011 effective date. The last amendment was approved by the judicial council in December 2013 with an effective date of January 1, 2014.

In March 2013 the California State Auditor (State Auditor) issued its audit report, *Judicial Branch Procurement: Six Superior Courts Generally Complied With the Judicial Branch Contracting Law, but They Could Improve Some Policies and Practices*. This audit was required under Public Contract Code, Section 19210, and was presented to the judicial council at its April 2013 meeting.

In December 2013 the State Auditor issued its audit report, *Judicial Branch Procurement, Semiannual Reports to the Legislature Are of Limited Usefulness, Information Systems Have Weak Controls, and Certain Improvements in Procurement Practices Are Needed*. This audit was required under Public Contract Code Section 19210, and was presented to the judicial council at its February 2014 meeting.

Methodology and Process

Public Contract Code, Section 19210 requires the California State Auditor to biennially "identify five judicial branch entities, excluding the Administrative Office of the Courts, to assess the implementation of" the California Judicial Branch Contracting Law (Law). As required by the Law enacted in 2011, the Judicial Council (formerly the Administrative Office of the Courts or AOC) maintains the *Judicial Branch Contracting Manual* which outlines procedures for judicial branch personnel to use when procuring goods and services. The State Auditor used the Manual to assess implementation of the Law by the superior courts of Alameda, Butte, Fresno, San Luis Obispo, and Yuba. The five audit objectives for the audit are detailed on page 7 of the report.

The judicial entities reviewed use the Phoenix Financial System to issue purchase orders and record certain procurement activity. The State Auditor tested selected information system general controls that the AOC had implemented over the Phoenix Financial System in its previous audits in December 2013 and plans to follow-up on the AOC's and the superior courts' efforts toward addressing the information system control findings from them in its audit of the AOC in 2015. The general controls are the policies and procedures that apply to all or a large segment of the AOC's information systems and help ensure their proper operation. The areas covered by general controls are security management, access controls, configuration management, segregation of duties, and contingency planning.

Summary of Findings and Recommendations

The State Auditor in its report concluded that the five superior courts in the audit “could improve their compliance with the requirements of the California Judicial Branch Contract Law” and that “none of these five superior courts fully complied with the judicial contracting manual’s guidance. The report on page 18 specifies all of the recommendations of the audit for the superior courts with the notable exception Butte Superior Court which has no recommendations to respond to. The report has 17 recommendations for the courts including eight for Alameda Superior Court, five for Fresno Superior Court, three for San Luis Obispo Superior Court, and one for Yuba Superior Court.

Three (the superior courts of Alameda, Fresno, and Yuba) of the five courts audited made procurement payments without proper authorization with the State Auditor commenting that Alameda Superior Court did not properly authorize any of the 18 payments tested and, in fact, the State Auditor indicated that authorization was not provided by the court for nine of the payments totaling almost \$203,000. Additionally, the State Auditor in the report noted that managers at the Fresno and Yuba courts approved seven payments and two payments, respectively, for amounts that exceeded their payment approval levels.

With respect of following procedures for noncompetitive procurements, the report noted that all five superior courts did not follow the judicial contracting manual’s requirements for noncompetitive procurements for 21 of the 60 contracts reviewed. The report noted that Butte Superior court modified its policy in October 2014 to address the problems that were observed in the report. The State Auditor noted that when the courts do not comply with the judicial contracting manual’s guidance for noncompetitive procurements, they risk giving the appearance of favoritism or failing to achieve the best value for their procurements.

The State Auditor also reported that the courts also lacked certain procedures that the judicial contracting manual requires. Specifically, the manual requires that superior courts adopt procedures to implement the State’s contracting preferences: the State’s Disabled Veteran Business Enterprise program and the small business preference for competitive information technology procurements. The superior courts of Butte, San Luis Obispo and Fresno had not adopted procedures for the small business preference for competitive information technology procurements.

The five superior courts agreed with the findings and recommendations contained in the report and their responses are contained in the back of the report starting at page 21. The courts are required to respond to the report’s recommendations at 60 days, six months, and one year after the issuance of the report and annually thereafter until all of the recommendations are considered fully implemented.

Attachment and Link

The State Auditor’s report *Judicial Branch Procurement: Five Superior Courts Did Not Consistently Follow Judicial Branch Contracting Practices* is published on its web site at <http://www.bsa.ca.gov/pdfs/reports/2014-301.pdf> and is attached.