



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 16, 2016

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Title	Agenda Item Type
Trial Court Allocations: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	December 16, 2016
Recommended by	Date of Report
Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee Hon. Jonathan B. Conklin, Chair	December 1, 2016
	Contact
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### Executive Summary

The Trial Court Budget Advisory Committee's Fiscal Planning Subcommittee recommends that the Judicial Council approve one request for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, courts may request funding reduced as a result of a court's exceeding the 1 percent fund balance cap, to be retained in the TCTF for the benefit of that court. The total amount requested that would be reduced from their fiscal year 2016–2017 allocations for exceeding the cap is \$732,981.

### Recommendation

Based on actions taken at its November 10, 2016, meeting, the Trial Court Budget Advisory Committee's (TCBAC's) Fiscal Planning Subcommittee recommends that the Judicial Council, effective December 15, 2016, allocate and designate \$732,981 in Trial Court Trust Fund fund balance to the Superior Court of Santa Barbara County from funding to be reduced from the court's allocation in fiscal year (FY) 2016–2017 as a result of the court's exceeding the 1 percent fund balance cap because of contracts that could not be encumbered in FY 2015–2016 due to

delays in the implementation of its case management system. The funds would be distributed to the court in FY 2016–2017 (see Attachment B1).

Attachment A, *Summary of Requests for TCTF Funds to be Held on Behalf of the Court*, provides a summary of the court requests, including the amount of the request and other relevant information. Attachment C, *Judicial Council–Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*, provides the recommendations proposed by the TCBAAC and approved by the Judicial Council at its April 15, 2016, business meeting.

### **Previous Council Action**

At the Judicial Council’s June 24, 2016, business meeting, the council approved 13 requests from 11 trial courts that FY 2016–2017 allocations reduced as a result of a court’s exceeding the 1 percent fund balance cap be retained in the TCTF for the benefit of those courts. The requests totaled \$6.9 million. At the Judicial Council’s July 29, 2016, business meeting, the council approved 2 requests from 2 trial courts that FY 2016–2017 allocations reduced as a result of a court’s exceeding the 1 percent fund balance cap be retained in the TCTF for the benefit of those courts. The requests totaled \$1.3 million. At the Judicial Council’s October 28, 2016, business meeting, the council approved 2 requests from 2 trial courts that FY 2016–2017 allocations reduced as a result of a court’s exceeding the 1 percent fund balance cap be retained in the TCTF for the benefit of those courts. The requests totaled \$0.3 million.

At the Judicial Council’s April 15, 2016, business meeting, the council approved the TCBAAC-recommended process, criteria, and required information for trial courts to request that Trial Court Trust Fund–reduced allocations—related to the 1 percent fund balance cap—be retained in the TCTF as restricted fund balance for the benefit of those courts. This retention allows the courts to prudently plan for and fund necessary court infrastructure projects such as technology or infrastructure improvements; facilities maintenance and repair allowed under California Rules of Court, rule 10.810; court efficiencies projects; and other court infrastructure projects that would not be possible as an unintended consequence of the 1 percent fund balance cap.

The council-approved process (see Attachment C) provides the following criteria to ensure clear, transparent, and uniform standards for the courts requesting that funds be held on their behalf, as well as for the subcommittee members, Judicial Council staff, and Judicial Council members who will be processing, reviewing, and evaluating the requests:

- Criterion for eligibility;
- Submission, review, and approval process;
- Deadline for submittal;
- Allowance for additional appropriate terms and conditions from the Judicial Council;
- Plan changes that require submission of an amended request;
- Plan changes that require submission of a new request;
- Postcompletion reporting requirements; and

- Audit review as part of the normal audit cycle.

The criterion for eligibility is that courts have significant court expenditures that cannot be financed within their annual budgets. The submission, review, and approval process and the allowance for additional appropriate terms and conditions are consistent with the process for supplemental funding requests. The deadline for submittal is based on the need to submit June council meeting draft reports almost six weeks before the meeting.

Forty business days is a short timeline, given staff analysis, generation of the report to a TCBCAC subgroup, scheduling of a meeting of the subgroup, and generation of a report from the subgroup. The requirements for submission of an amended or new request are intended to ensure that the council is aware of any modifications to an approved plan and has given its explicit approval. Postcompletion reporting and audit requirements provide final review of the plans and their adherence to the approved purpose.

### **Rationale for Recommendation**

Trial Court Trust Fund fund balance held on behalf of the trial courts allows the courts to meet contractual obligations and fund necessary court infrastructure projects such as (1) technology improvements or infrastructure, (2) rule 10.810–allowable facilities maintenance and repair, (3) court efficiencies projects, and (4) other court infrastructure projects whose work extends beyond the three-year term of the contract encumbrance.

The TCBCAC established the Fiscal Planning Subcommittee to review and make recommendations directly to the Judicial Council regarding trial court requests to permit trial court allocation amounts—reduced related to the 1 percent fund balance cap—to be retained in the TCTF for the benefit of that court. At its November 10, 2016, meeting, the subcommittee approved the recommendations provided in this report. The subcommittee is composed of:

- Hon. Jonathan B. Conklin, Chair, Superior Court of Fresno County;
- Mr. Kevin Harrigan, Superior Court of Glenn County;
- Mr. Michael D. Planet, Superior Court of Ventura County;
- Hon. Glenda Sanders, Superior Court of Orange County;
- Hon. Winifred Younge Smith, Superior Court of Alameda County;
- Mr. Brian Taylor, Superior Court of Solano County; and
- Mr. David H. Yamasaki, Superior Court of Santa Clara County.

Government Code section 77203 was added as part of Senate Bill 1021 (Stats. 2012, ch. 41) and later amended by Senate Bill 75 (Stats. 2013, ch. 31), as follows:

77203. (a) Prior to June 30, 2014, a trial court may carry over all unexpended funds from the courts operating budget from the prior fiscal year.  
(b) Commencing June 30, 2014, a trial court may carry over unexpended funds in an amount not to exceed 1 percent of the court’s operating budget from the prior

fiscal year. The calculation of the 1 percent authorized to be carried over from the previous fiscal year shall not include funds received by the court pursuant to the following:

- (1) Section 470.5 of the Business and Professions Code.
- (2) Section 116.230 of the Code of Civil Procedure, except for those funds transmitted to the Controller for deposit in the Trial Court Trust Fund pursuant to subdivision (h) of that section.
- (3) Subdivision (f) of Section 13963, Sections 26731, 66006, 68090.8, 70640, 70678, and 76223, subdivision (b) of Section 77207.5, and subdivision (h) of Section 77209.
- (4) The portion of filing fees collected for conversion to micrographics pursuant to former Section 26863, as that section read immediately before its repeal, and Section 27361.4.
- (5) Sections 1027 and 1463.007, subdivision (a) of Section 1463.22, and Sections 4750 and 6005, of the Penal Code.
- (6) Sections 11205.2 and 40508.6 of the Vehicle Code.

Government Code section 68502.5 was amended as part of SB 1021 to add subparagraph (c)(2)(A) and further amended by SB 75, as follows:

68502.5(c)(2)(A). When setting the allocations for trial courts, the Judicial Council shall set a preliminary allocation in July of each fiscal year. The preliminary allocation shall include an estimate of available trial court reserves as of June 30 of the prior fiscal year and each court's preliminary allocation shall be offset by the amount of reserves in excess of the amount authorized to be carried over pursuant to subdivision (b) of Section 77203. In January of each fiscal year, after review of available trial court reserves as of June 30 of the prior fiscal year, the Judicial Council shall finalize allocations to trial courts and each court's finalized allocation shall be offset by the amount of reserves in excess of the amount authorized to be carried over pursuant to subdivision (b) of Section 77203.

Beginning 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 that 1 percent. Government Code section 68502.5(c)(2)(A) directs 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.

### **Comments, Alternatives Considered, and Policy Implications**

No public comments were received when the recommendations were considered by the TCBAC's Fiscal Planning Subcommittee at its November 10, 2016, meeting. Further, no

alternatives were considered by the subcommittee. In their attached applications (see Attachment B1), the requesting courts provided alternatives that they considered in case their requests were not approved.

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

There is no additional cost to allocating the funds beyond the amount requested for allocation. In their attached applications (see Attachment B1), the requesting courts provided the consequences to court operations, the public, and access to justice if their requests were not approved.

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

Trial Court Trust Fund fund balance held on behalf of the trial courts is consistent with strategic Goal II, Independence and Accountability, in that it helps courts to “[a]llocate resources in a transparent and fair manner that promotes efficiency and effectiveness in the administration of justice, supports the strategic goals of the judicial branch, promotes innovation, and provides for effective and consistent court operations” (Goal II.B.3).

### **Attachments**

1. Attachment A: *Summary of Requests for TCTF Funds to be Held on Behalf of the Court*
2. Attachment B1: Application for TCTF Funds Held on Behalf of the Court—Superior Court of Santa Barbara County
3. Attachment C: *Judicial Council–Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*

**Summary of Requests for TCTF Funds to be Held on Behalf of the Court**

<b>#</b>	<b>Court</b>	<b>Amount</b>	<b>Time Period</b>	<b>Category</b>	<b>Quick Summary</b>
1	Santa Barbara	732,981	2016-17	Project extending beyond 3-year term	Delayed implementation of Tyler Case Management System
	<b>Total</b>	<b>732,981</b>			



**APPLICATION FOR TCTF FUNDS HELD ON BEHALF OF THE COURT (Continued)****SECTION III (continued): TRIAL COURT OPERATIONS AND ACCESS TO JUSTICE****A. How will the request enhance the efficiency and/or effectiveness of court operations, and/or increase the availability of court services and programs?**

Odyssey, the new case management system, has already added efficiency to our civil, family law and probate operations by virtually eliminating paper files. Case files are now electronically delivered to the courtrooms. Since the files are all scanned and exist in the database of the document management system, there are no lost files. This has saved hours of staff time from searching for physical files in judge's chambers, clerk's offices and research attorney offices. With the introduction of e-filing, the Court has reduced the need for attorneys and other litigants to file physical paperwork at the Clerk's Office. E-filing is web-based and available from the attorney or litigant's desktop. When most parties are electronically filing, the Court will also be able to dramatically reduce the number of staff hours dedicated to scanning documents. Granting this request will allow us to expand similar services in the criminal, traffic and juvenile operations. Additionally, continuing our work on the next phase will permit litigants, lawyers, the public and the media to gain electronic access to records on line, as allowed and appropriate. When we complete electronic access to records in the coming year, we expect to make two full-time positions available for functions other than making copies of documents and mailing or faxing them to requesting parties.

**If a cost efficiency, please provide cost comparison (table template provided).**

**B. Describe the consequences to the court's operations if the court request is not approved.**

A denial of this request would be devastating to our organization. We have invested years of time, effort and equipment into this next phase of the case management system implementation. We lack the resources to continue without the carryover of these funds. The next phase includes electronic payments, which is needed to replace our outdated system. Further, this implementation will allow us to move off of our current interactive voice response system and interactive web response system, which is inadequate, to a more contemporary architecture and system of response. A denial of this request would compel us to maintain two separate case management systems. We are banking on saving money once we are completely weaned off our current criminal, traffic and juvenile case management system, Sustain Justice Edition. Denying this request would force us to remain using both Sustain and Odyssey. Once we cease use of the Sustain system we will save \$250,000 annually in support expenses. Remaining on both systems will be cost prohibitive. The move to a paperless system with electronic filing is a move into the future. Denying this request would anchor us squarely in the past, wedding us to outdated labor intensive processes. Our Court is a "donor" court under the Workload Allocation Funding Methodology. We have seen a 25% reduction in staffing and no ability to provide negotiated salary increases. The only way to address the press of labor's issues is to reduce our reliance on expensive positions. Our investment in Odyssey has already begun to yield results. We must continue this project in order to gain further efficiencies and free up resources to meet the stated demands. Finally, we have a contractual obligation with this vendor, Tyler, Inc. While both parties have continued in good faith, we may be subject to litigation if we are unable to meet our financial commitment to this vendor.

**C. Describe the consequences to the public and access to justice if the court request is not approved.**

Granting permission to use the carried-over funds permits the Court to provide electronic access to court records. This enhancement will provide greater access to court records over the internet through the vendor's portal. Without the use of these monies, litigants, lawyers, the media and the public will continue to be compelled to drive to the courthouse to obtain copies of documents, none of which are electronically available. Many of these documents are required by divorcing couples who need final copies of their judgments to enroll children in school, seek medical treatment, retire or re-marry, and often the documents are needed in short order. Vandenberg Air Force base is within our jurisdiction and litigants from this community move frequently. Gaining access to documents electronically expands access to justice. Denying the use of these funds would close the door to electronic access.

Due to funding and staff reductions, our court closes the door to the clerk's office and shuts off the phones in the early afternoon allowing staff work time away from interruption. Providing electronic access affords 24-hour access to important information and critical documents. We are now pursuing a further reduction in telephone hours in order make limited staff available to complete critical tasks uninterrupted. Denying electronic access to information at the same time we are looking to reduce public service hours exacerbates the access problem for all involved.



**D. What alternatives has the court identified if the request is not approved, and why is holding funding in the TCTF the preferred alternative?**

The only alternative available to the Court is to maintain two different case management systems. This is cost prohibitive as the maintenance cost for the Tyler Odyssey system is \$199,000 annually and the cost of the current Sustain system is \$250,000 annually. If the Court is unable to complete the next phase of implementation and move off of the Sustain platform we will be compelled to pay two maintenance fees or go without support.

Please provide the following (*table template provided for each*):

**A. Three-year history of year-end fund balances, revenues, and expenditures**

Attached

**B. Current detailed budget projections for the fiscal years the trial court would either be contributing to or receiving distributions from the TCTF fund balance held on the court's behalf**

Attached

**C. Identification of all costs, by category and amount, needed to fully implement the project**

Attached

**D. A specific funding and expenditure schedule identifying the amounts to be contributed and expended, by fiscal year**

N/A

## ***Judicial–Council Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts***

### **Process for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts**

1. Trial Court Trust Fund fund balance will be held on behalf of trial courts only for expenditures or projects that cannot be funded by a court’s annual budget or three-year encumbrance term and that require multiyear savings to implement.
  - a. Categories or activities include, but are not limited to:
    - i) Projects that extend beyond the original planned three-year term process such as expenses related to the delayed opening of new facilities or delayed deployment of new information systems;
    - ii) Technology improvements or infrastructure such as installing a local data center, data center equipment replacement, case management system deployment, converting to a VoIP telephone system, desktop computer replacement, and replacement of backup emergency power systems;
    - iii) Facilities maintenance and repair allowed under rule 10.810 of the California Rules of Court such as flooring replacement and renovation as well as professional facilities maintenance equipment;
    - iv) Court efficiencies projects such as online and smart forms for court users and RFID systems for tracking case files; and
    - v) Other court infrastructure projects such as vehicle replacement and copy machine replacement.
2. The submission, review, and approval process is as follows:
  - a. All requests will be submitted to the Judicial Council for consideration.
  - b. Requests will be submitted to the Administrative Director by the court’s presiding judge or court executive officer.
  - c. The Administrative Director will forward the request to the Judicial Council director of Finance.
  - d. Finance budget staff will review the request, ask the court to provide any missing or incomplete information, draft a preliminary report, share the preliminary report with the court for its comments, revise as necessary, and issue the report to a formal review body consisting of members from the Trial Court Budget Advisory Committee (TCBAC); the TCBAC subgroup will meet to review the request, hear any presentation of the court representative, and ask questions of the representative if one participates on behalf of the court; and Finance office budget staff will issue a final report on behalf of the TCBAC subgroup for the council.
  - e. The final report to the TCBAC review subgroup and the Judicial Council will be provided to the requesting court before the report is made publicly available on the California Courts website.
  - f. The court may send a representative to the TCBAC review subgroup and Judicial Council meetings to present its request and respond to questions.

3. To be considered at a scheduled Judicial Council business meeting, requests must be submitted to the Administrative Director at least 40 business days (approximately eight weeks) before that business meeting.
4. The Judicial Council may consider including appropriate terms and conditions that courts must accept for the council to approve designating TCTF fund balance on the court's behalf.
  - a. Failure to comply with the terms and conditions would result in the immediate change in the designation of the related TCTF fund balance from restricted to unrestricted and no longer held on behalf of the court unless the council specifies an alternative action.
5. Approved requests that courts subsequently determine need to be revised to reflect a change (1) in the amounts by year to be distributed to the court for the planned annual expenditures and/or encumbrances, (2) in the total amount of the planned expenditures, or (3) of more than 10 percent of the total request among the categories of expense will need to be amended and resubmitted following the submission, review, and approval process discussed in 1–3 above.
  - a. Denied revised requests will result in the immediate change in the designation of the related TCTF fund balance from restricted to unrestricted and no longer held on behalf of the court unless the council specifies an alternative action.
6. Approved requests that courts subsequently determine have a change in purpose will need to be amended and resubmitted following the submission, review, and approval process discussed in 1–3 above, along with a request that the TCTF funds held on behalf of the court for the previously approved request continue to be held on behalf of the court for this new purpose.
  - a. Denied new requests tied to previously approved requests will result in the immediate change in the designation of the related TCTF fund balance from restricted to unrestricted and no longer held on behalf of the court unless the council specifies an alternative action.
7. On completion of the project or planned expenditure, courts are required to report to the Trial Court Budget Advisory Committee within 90 days on the project or planned expenditure and how the funds were expended.
8. As part of the courts' audits in the scope of the normal audit cycle, a review of any funds that were held on behalf of the courts will be made to confirm that they were used for their stated approved purpose.

### **Criteria for Eligibility for TCTF Fund Balance Held on Behalf of the Courts**

TCTF fund balance will be held on behalf of the trial courts only for expenditures or projects that cannot be funded by the court's annual budget or three-year encumbrance term and that require multiyear savings to implement.

## **Information Required to Be Provided by Trial Courts for TCTF Fund Balance Held on Behalf of the Courts**

Below is the information required to be provided by trial courts on the *Application for TCTF Funds Held on Behalf of the Court*:

### **SECTION I**

#### **General Information**

- Superior court
- Date of submission
- Person authorizing the request
- Contact person and contact information
- Time period covered by the request (includes contribution and expenditure)
- Requested amount
- A description providing a brief summary of the request

### **SECTION II**

#### **Amended Request Changes**

- Sections and answers amended
- A summary of changes to request

### **SECTION III**

#### **Trial Court Operations and Access to Justice**

- An explanation as to why the request does not fit within the court's annual operational budget process and the three-year encumbrance term
- A description of how the request will enhance the efficiency and/or effectiveness of court operations, and/or increase the availability of court services and programs
- If a cost efficiency, cost comparison (*table template provided*)
- A description of the consequences to the court's operations if the court request is not approved
- A description of the consequences to the public and access to justice if the court request is not approved
- The alternatives that the court has identified if the request is not approved, and the reason why holding funding in the TCTF is the preferred alternative

### **SECTION IV**

#### **Financial Information**

- Three-year history of year-end fund balances, revenues, and expenditures (*table template provided*)
- Current detailed budget projections for the fiscal years during which the trial court would either be contributing to the TCTF fund balance held on the court's behalf or receiving distributions from the TCTF fund balance held on the court's behalf (*table template provided*)

- Identification of all costs, by category and amount, needed to fully implement the project (*table template provided*)
- A specific funding and expenditure schedule identifying the amounts to be contributed and expended, by fiscal year (*table template provided*)