



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-081*

For business meeting on March 15, 2024

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**Title**

Trial Court Budget: Update to the Funds  
Held on Behalf of the Trial Courts Policy

**Agenda Item Type**

Action Required

**Effective Date**

March 15, 2024

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

February 22, 2024

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair

**Contact**

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### Executive Summary

The Trial Court Budget Advisory Committee recommends adopting revisions to the current policy and guidelines for the Funds Held on Behalf of the Trial Courts program. The revisions include newly defined criteria, streamlining of the submission process, and implementation of a reimbursement model to distribute funding to the participating trial courts. Revising the current policy and guidelines will support transparency and accountability of the program. Under the Judicial Council–approved program, trial courts can request that Trial Court Trust Fund–reduced allocations be retained in the Trial Court Trust Fund as restricted fund balance for the benefit of those courts. The funds are allocated back to the courts by the Judicial Council for the purposes stated in the approved requests.

### Recommendation

The Trial Court Budget Advisory Committee recommends the Judicial Council, effective March 15, 2024:

1. Require that trial courts submit new requests using new funding from the previous fiscal year or unspent funding from a previously approved funds-held-on-behalf project to be considered for a new project because the original project has been completed or surrendered;

2. Allow trial courts to submit amended requests only to (1) amend the amount of funds for an existing project and/or (2) extend the fiscal year period to implement a previously approved project;
3. Establish one annual submission deadline in September, after all courts have completed their year-end financial closeout process (requests will go to the council at its January meeting for consideration);
4. Strongly encourage trial courts that have submitted a request for consideration to send a representative to the Fiscal Planning Subcommittee meetings;
5. Redesign the application form to make it easier to complete and review and ensure it includes relevant project and fiscal information needed for consideration and tracking of the request;
6. Implement a monthly reimbursement model so that the funds are held in the Trial Court Trust Fund on behalf of the court, as originally intended. Courts will be reimbursed monthly based on actual expenses submitted and recorded in the Judicial Council Phoenix accounting system. For courts that might have difficulty paying for upfront costs, there will be a process for them to request early distribution of funding prior to the submittal of actual expenditures related to the project; and
7. Make language amendments to the current policy (see Attachment A) to reflect the recommendations and delete outdated references.

These recommendations, presented to the Judicial Branch Budget Committee at its February 9, 2024, meeting, are included in Attachment B.

### **Relevant Previous Council Action**

At its meeting on July 6, 2015, the Trial Court Budget Advisory Committee (TCBAC) established the Ad Hoc Working Group on Fiscal Planning to examine permitting trial court allocation amounts that were reduced as a result of a court exceeding the authorized fund balance cap to be retained in the Trial Court Trust Fund (TCTF) for the benefit of that court. The working group was charged with developing fiscal planning and management guidelines on how these retained amounts would be managed to ensure an effective program for the trial courts.

At its business meeting on April 15, 2016, the Judicial Council approved the TCBAC's *Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*. This new policy authorized the retention of reduced trial court allocations, related to the fund balance cap, in the TCTF as restricted fund balance for the benefit of those courts for projects or expenditures approved by the Judicial Council. Trial courts were required to report to the TCBAC within 90 days of a completed project or planned expenditure on how the funds were expended.

At its business meeting on January 17, 2020, the Judicial Council adopted revisions to the *Judicial Council–Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*. These revisions included a streamlined submission schedule, a changing of the recipient of the request from the Judicial Council’s Administrative Director to the director of Budget Services, and language amendments to better align with the timing of year-end closing for the courts, trial court allocation offsets, and requests to amend previously approved requests.

At its meeting on May 11, 2022, the Judicial Council approved the TCBAC’s additional recommendation to update the policy. This specific update changed the requirement that courts report to the TCBAC within 90 days of completion of a project or planned expenditure from a quarterly to an annual reporting of all projects or planned expenditures completed in a fiscal year, including status updates on projects or planned expenditures not completed. Judicial Council Budget Services staff prepares the annual funds held on behalf (FHOB) report to the TCBAC in consultation with the courts.

### **Analysis/Rationale**

Government Code section 68502.5(c)(2)(A) requires the Judicial Council to set a preliminary allocation in July of each fiscal year when setting the allocations for trial courts. 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 is required to finalize allocations to the trial courts, and each court’s finalized allocation is offset by the amount of reserves in excess of the amount authorized to be carried over under Government Code section 77203.

Government Code section 77203 outlines the amount of funding a trial court may carry over from the prior fiscal year. Prior to June 30, 2014, a trial court could carry over all unexpended funds from the court’s operating budget from the prior fiscal year. Beginning June 30, 2014, and concluding June 30, 2019, a trial court could carry over unexpended funds in an amount not to exceed 1 percent of the court’s operating budget from the prior fiscal year.

Since June 30, 2020, a trial court may carry over unexpended funds in an amount not to exceed 3 percent of the court’s operating budget from the prior fiscal year. The increase in the fund balance cap was in recognition of the need for trial courts to have sufficient reserve funding to support operational needs and address emergency expenditures.

The FHOB program was established in fiscal year 2015–16 to allow reduced trial court allocations, related to the fund balance cap, to be retained in the TCTF as restricted fund balance for the benefit of those courts for projects or expenditures approved by the Judicial Council. For fiscal years 2015–16 to 2022–23, the Judicial Council approved a total of \$76.3 million in FHOB requests from the trial courts. Allowable requests for FHOB of the courts can include but are not limited to:

- Projects that extend beyond the original planned three-year process such as delayed deployment of information systems;

- Technology improvements or infrastructure such as a new case management system;
- Facilities maintenance or repair allowed under rule 10.810 of the California Rules of Court;
- Court efficiencies such as online and smart forms for court users; and
- Other court infrastructure projects such as vehicle replacement or copy machine replacement.

The FHOB process is intended only for expenditures that cannot be funded by a court's annual budget or three-year encumbrance term and that require multiyear savings to implement. The process also requires reporting on the use of the funds.

In October 2023, the chair of the TCBAC established an ad hoc working group, consisting of five members of the Fiscal Planning Subcommittee, to evaluate the FHOB program to consider potential changes to the policy. The working group was charged with evaluating the process, application, and distribution components of the program to increase transparency, streamline the submission schedule, and identify process improvements. The items considered by the working group are summarized below:

- Clarify the definitions of new and amended requests to improve transparency in the use of the funding and to streamline the tracking and reporting of approved projects;
- Reduce the number of submission cycles to streamline project tracking and reporting, reduce the number of committee meetings, and align with the year-end closing for court financial records;
- Ensure that courts send a representative to the Fiscal Planning Subcommittee meetings to address any questions from the members regarding requests under consideration;
- Simplify the application form to make it easier to complete and review and to ensure it includes the relevant project and fiscal information; and
- Implement a reimbursement model to properly structure the program so that requested funds are held in the TCTF on behalf of the requesting courts and distributed to the courts for actual reported expenditures.

Revising the current policy and guidelines will support transparency and accountability of the FHOB program. Additionally, administration of the program will be streamlined by eliminating multiple application cycles, which will reduce court and council workload and better align with trial courts' fiscal year-end planning.

### **Policy implications**

These recommendations will result in revisions to the FHOB policy that are consistent with the original intent of the program to hold funds in the TCTF on behalf of the requesting trial courts until actual expenditures are incurred for the approved projects. Additional changes to the policy will streamline the administration of the program and improve transparency regarding how the funds are used to support trial court operations.

### **Comments**

This item did not circulate for comment and received no public comment.

### **Alternatives considered**

Reducing the submission cycles from three per year to two per year was considered. In an effort to streamline the process and ensure that requests were based on final financial information, it was determined that one submission cycle that aligns with the year-end closing of financial statements for the trial courts will be more efficient and result in reduced workload for the courts and council staff.

When reviewing the definition of new and amended requests, consideration was given to allowing courts to submit requests for an amended project with a new purpose using unspent funding from a previously approved project. It was determined that this approach was inconsistent with the intent of the program and did not support the goal of increased transparency in the use of the funding. Additionally, it would make tracking and reporting of approved projects more difficult.

Distribution of funds upon Judicial Council approval or based on project expenditure plans submitted by the trial courts was considered. It was determined that implementation of a reimbursement model will properly structure the program so that requested funds are held in the TCTF on behalf of the requesting courts and distributed to the courts for actual reported expenditures.

### **Fiscal and Operational Impacts**

There are no costs to implement these recommendations, which will result in operational efficiencies that will benefit the trial courts, council staff, and the Fiscal Planning Subcommittee. The changes will support a more streamlined and efficient administrative process, improve accuracy in tracking and reporting projects, and increase transparency regarding how the funds are used to implement Judicial Council–approved projects.

### **Attachments and Links**

1. Attachment A: Judicial Council–Approved *Summary of Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*
2. Attachment B: Proposed revisions to *Summary of Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*

## **Summary of Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts**

### **Recommended 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 copymachine 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 *director of Budget Services* by the court's presiding judge or court executive officer.
  - c. *Budget Services* 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 the *Fiscal Planning Subcommittee* of the Trial Court Budget Advisory Committee (TCBAC); the *subcommittee* 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 *Budget Services* office staff will issue a final report on behalf of the *subcommittee* for the council.
  - d. The final report to the *subcommittee* and the Judicial Council will be provided to the requesting court before the report is made publicly available on the California Courts website.
  - e. The court may send a representative to the *subcommittee* 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 *director of Budget Services* 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 *annually* 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.

## **Recommended 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.

## **Recommended 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*)

## ***Summary of Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts***

### **Recommended 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. The program is not intended to address ongoing activities or commitments.
  - a. Allowable cCategories 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 new 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 efficiency y ies-projects such as online and smart forms for court users and RFIDsystems 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 are as follows:
  - a. All funds held on behalf requests for the prior fiscal year will be submitted in a once per year submission cycle in the fall, after courts complete their year-end close-out, for consideration by the Judicial Council at its January business meeting. at the January council meeting.
  - a. All requests will be submitted to the Judicial Council for consideration.
  - b. Requests will be submitted to the Judicial Council's Director of Budget Services by the court's presiding judge or court executive officer.
  - c. Budget Services staff will review the request, ask the court to provide any missing or incomplete information, draft a preliminary report and, share it the preliminary report with the court for any its comments, revise as necessary, and issue the report to the Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee (TCBAC). T; the subcommittee will meet to consider review the request and, hear any presentations from representatives of the requesting courts. court representative, and ask questions of the representative if one participates on behalf of the court; and Budget Services office staff will issue a final report on behalf of the subcommittee for consideration by the Judicial Council.

- d. The final report to the subcommittee and the Judicial Council will be provided to the requesting court before the report is made publicly available on the California Courts website.
- e. The court ~~may~~ is strongly encouraged to send a representative to the subcommittee ~~and meetings and may send a representative to the~~ Judicial Council meetings to ~~present its request and~~ respond to questions.

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3. To be considered at the January a-scheduled Judicial Council business meeting, requests must be submitted to the Director of Budget Services no later than by September 25. 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 be held on the court's behalf.
- a. Failure to comply with the terms and conditions will ~~ould~~ 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. Request for funds held on behalf of the trial courts may be submitted for the following:

- a. Requests for new projects or planned expenditures using prior fiscal year funding.
- b. Requests for new projects or planned expenditures using unspent funding from a previously approved project that has been completed or surrendered by the requesting court.
- c. Requests to amend previously approved projects or planned expenditures to adjust the amount of funding needed and/or the expenditure period to complete the original project.
- a.d. Denied requests will result in the immediate change in the designation of the related TCTF fund balance from restricted to unrestricted and will no longer be held on behalf of the requesting court unless the Judicial Council specifies an alternative action.

~~— New requests may be submitted for prior fiscal year funding only, unless the request is followingw ith except to# 6 as described below.~~

~~5. Approved requests that courts subsequently determine need to be revised to reflect a change (1) in the amounts by year to be contributed for an existing projectdistributed to the court for the planned annual expenditures and/or encumbrances, and (2) to change the fiscal year period 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 submitted as a new request. Courts may utilize previously approved unspent FHOB project funding in which the project has been completed or surrendered foramended 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 courtfor the previously approved request funding to 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.~~

6. Courts will be reimbursed monthly for actual expenses submitted for the approved project and recorded in the Judicial Council's Phoenix SAP accounting system against the approved project.
  - a. Distribution of funding may be approved granted without a recorded expense at the discretion of the Judicial Council's Director of Budget Services. The court must submit a request and justification explaining why the funding is needed prior to incurring and reporting expenditures for the project. :
7. ~~On completion of the project or planned expenditure, e~~Courts are required to report to the Trial Court Budget Advisory Committee annually on the status of each project or planned expenditure and how the funds were expended until the project is completed. For completed projects a final report must be submitted, and then no further reporting is required.
8. ~~As part of the courts' audits in the scope of the~~ During the required trial court ~~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.

## Recommended 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.

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

~~Below is the information~~ Trial courts are required to ~~be provided by trial courts all~~ applicable information as requested 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)~~