



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27, 2015

Title

Trial Courts: Realignment of State Trial Court
Improvement and Modernization Fund
Expenditures

Agenda Item Type

Information Only

Date of Report

October 19, 2015

Submitted by

Judicial Council staff
Zlatko Theodorovic, Finance Director and
Chief Financial Officer

Contact

Zlatko Theodorovic, 916-263-1397
zlatko.theodorovic@jud.ca.gov

Executive Summary

Upon recommendation of the Trial Court Budget Advisory Committee, at the April 17, 2015, Judicial Council meeting, the council approved the consideration of shifting certain costs away from the State Trial Court Improvement and Modernization Fund (IMF) beginning in 2016-17, the assessment on whether costs of the Trial Court Transactional Assistance Program can be provided on a fee-for-service basis, and the viability of a cost recovery model for the Center for Families, Children, and the Courts Publications program and the California Courts Protective Order Registry program. This action would permanently shift approximately \$2.867 million in expenditures to the Judicial Council's General Fund appropriation to support core central costs of the Court Interpreters Program, Treasury Services-Cash Management, Audit Services, Uniform Civil Fees, and Regional Office Assistance Group and shift \$17,000 in expenditures to the Trial Court Trust Fund, Program 45.45-Court Interpreter appropriation to support the Domestic Violence Family Law Interpreter Program. This memorandum provides staff's assessment of (1) whether it is feasible and/or appropriate to shift these expenditures to alternative fund sources, (2) whether sufficient ongoing expenditure authority exists within the Judicial Council's General Fund appropriation and Program 45.45-Court Interpreters Trial Court Trust Fund appropriation to support the shift of these costs, and (3) if it is appropriate to switch to a fee-for-service and/or cost recovery model for the identified programs.

Previous Council Action

The Trial Court Budget Advisory Committee (TCBAC) has been charged by the Judicial Council to make recommendations to the council on annual allocations from the IMF. At its March 23, 2015, meeting, TCBAC made several recommendations regarding the 2015-16 allocations for the IMF. The recommendation included allocating \$59.372 million in 2015-16 from the IMF for various programs and projects, eliminating funding for various projects and programs starting in 2015-16 or 2016-17, and shifting costs for various programs to either other judicial branch funds, courts, or other sources. At the April 17, 2015 business meeting, the Judicial Council approved TCBAC’s recommendations and directed staff to evaluate the possibility of shifting funding for specified programs from the IMF to alternative funding sources. The Judicial Council also approved TCBAC’s recommendations and directed staff to determine whether the costs of the Trial Court Transactional Assistance Program can be provided on a fee-for-service basis and if it is viable to implement a cost recovery model for the Center for Families, Children, and the Courts Publications (CFCC) and the California Courts Protective Order Registry (CCPOR) programs.

Methodology and Process

Recommendation #3a requested that the Judicial Council consider shifting the costs of translating domestic violence forms under the Domestic Violence – Family Law Interpreter Program to the TCTF Program 45.45 Court Interpreters appropriation. TCBAC believes the budget act language that specifies what the TCTF Program 45.45 appropriation can be used for permits the use of the appropriation for the cost of translating domestic violence forms. Recommendation #3b requested that the Judicial Council consider shifting the “core central office” costs of the Court Interpreters Program (CIP) – Testing, Development, Recruitment, and Education, Treasury Services – Cash Management, Audit Services, Uniform Civil Fees, and Regional Office Assistance Group programs to the Judicial Council’s General Fund appropriation. TCBAC believes the programs that they identified as “core central office” functions, those typically performed by a central administrative office, and initially funded under the council’s statewide administrative infrastructure initiative (excluding the CIP program), should not be funded from the IMF. The 2015-16 allocations for these programs are as follows:

Program	Total
Domestic Violence – Family Law Interpreter Program	\$17,000
Subtotal, Recommendation #3a	\$17,000
Court Interpreters Program (Testing, Development, etc.)	\$143,000
Treasury Services – Cash Management	\$238,000
Audit Services	\$660,000
Uniform Civil Fees	\$366,000
Regional Office Assistance Group	\$1,460,000
Subtotal, Recommendation #3b	\$2,867,000
Total, All Programs	\$2,884,000

Recommendation #3c requested that the Judicial Council direct staff to determine whether the costs of the Trial Court Transactional Assistance Program (TCLA) can be provided on a fee-for-service basis, having the courts reimburse the applicable state fund for services used. TCBAC indicated that this recommendation is similar to its recommendation to have courts pay for the California Law Enforcement Telecommunications Systems (CLETS) program. If the Judicial Council believes this program is a priority, they could conduct an analysis on whether the trial courts that wish to continue participation in this program could pay for their costs from the TCTF.

Recommendation #4 requested that the Judicial Council determine the viability of cost recovery for the CFCC and CCPOR programs. TCBAC believes that cost recovery is desirable and a possibility for these two justice partner-related programs.

4a: Direct council staff to determine if a cost recovery model for the CFCC Publications program can be established with justice partners that share the materials beginning in 2016-17.

4b: Direct council staff to explore a reimbursable option for the CCPOR program in 2016-17 and onward and to evaluate the effects on the CCPOR program on the recommendation to have courts fund the CLETS program instead of the IMF.

Program descriptions

Below are brief descriptions of the programs that have been evaluated per the council's direction.

Domestic Violence – Family Law Interpreter Program. The translation of forms used for Domestic Violence restraining orders is vital to ensure that non English-speaking or LEP litigants understand the forms and procedures for requesting or responding to a restraining order. Because restraining orders seek to prevent further harm and violence to protected parties and can detrimentally affect a restrained party's fundamental rights and liberties, it is imperative that all information and forms published by the court be interpreted and translated on an ongoing basis as laws change.

Court Interpreters Program. This program ensures access to the courts for persons with limited English proficiency or those who are deaf or hard-of-hearing, by developing programs and practices that enhance the quality of interpretation and increase the availability of qualified interpreters in the courts.

Treasury Services – Cash Management. The centralized treasury system offers a broad spectrum of banking services to enable the trial courts to maximize their return on investments by pooling invested funds on a statewide basis. Daily cash management is one of the vital functions included in the array of services offered by the statewide treasury function.

Audit Services. This office conducts risk assessments, develops audit programs, performs audits of the Judicial Council and trial courts, assists state and external auditors, and recommends

improvements based on audit results, thereby playing a key role in meeting the branch's oversight responsibilities.

Uniform Civil Fees System. The Uniform Civil Fees System supports the centralized reporting, distribution, and legislatively-mandated reporting of uniform civil fees collected by all 58 trial courts. The system generates reports for the State Controller's Office and various entities that receive the distributed funds.

Regional Office Assistance Group. The Regional Office Assistance Group provides oral and written legal advice to the trial courts on issues related to court administration, labor and employment law, business transactions, and procurements of goods and services.

Trial Court Transactional Assistance Program. The Program assists trial courts in obtaining competent, qualified counsel to assist trial courts with contract and procurement matters.

Center for Families, Children, and the Courts Publications Program. The CFCC publishes many written materials for a diverse audience of judges, professionals, and court users. These publications include research briefings, statistical updates, informational pamphlets, and more.

California Courts Protective Order Registry Program. This program is a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement officers.

Fiscal Status of the Trial Court Trust Fund

The Budget Act of 2015 eliminated the \$20 million transfer from the IMF to the TCTF and included up to \$66.2 million from the General Fund to backfill fee and assessment revenues that support courts' base allocation. The projected 2015-16 ending fund balance in the TCTF is \$20.6 million. Excluding about \$17.0 million in restricted fund balance, approximately \$3.6 million remains as unrestricted fund balance. At this time, it is estimated that the TCTF may have a revenue shortfall of approximately \$5.6 million in 2015-16.

Fiscal Status of the State Trial Court Improvement and Modernization Fund

Based on up-to-date revenue and expenditure data, the IMF is expected to have a projected 2015-16 ending fund balance of -\$11.1 million, with a structural deficit of -\$15.9 million, primarily due to declining revenues and the depletion of fund balance. TCBAC noted that any new proposal or program costs that relied on IMF funding must include information on alternative funding options. If the Judicial Council approved all of the recommendations for the 2015-16 IMF allocations, the 2015-16 ending fund balance is still expected to be negative (-\$1.7 million). Further, assuming revenues continue at the same levels as expected for 2015-16, it is anticipated that the 2016-17 ending fund balance will also be negative unless further reductions to allocations are made.

TCBAC’s Recommendation #3a – Consider shifting expenditures for the Domestic Violence – Family Law Interpreter Program to Program 45.45-Court Interpreters Program appropriation.

Provisional language in the annual Budget Act imposes limits on the use of Program 45.45 funds. The language provides that:

“The funds appropriated in Schedule (4) shall be *for payments to contractual court interpreters, and certified or registered court interpreters* employed by the courts for services provided during court proceedings and other services related to pending court proceedings, including services provided outside a courtroom, *and the following court interpreter coordinators*: 1.0 each in counties of the 1st through the 15th classes, 0.5 each in counties of the 16th through the 31st classes, and 0.25 each in counties of the 32nd through the 58th classes. . . .”

Judicial Council staff believes that translation of forms, though a critical language access service, does not fall under the limiting language of what may be funded through Program 45.45. Translation of forms is not a payment to a contractual court interpreter or certified or registered court interpreter for services provided during court proceedings or related to court proceedings, nor funding for court interpreter coordinators.
(Italics added)

TCBAC’s Recommendation #3b - Consider shifting the “core central office” costs of the Court Interpreters Program – Testing, Development, Recruitment, and Education, Treasury Services – Cash Management, Audit Services, Uniform Civil Fees, and Regional Office Assistance Group programs to the Judicial Council’s General Fund appropriation.

In 2012-13, 2013-14 and 2014-15, Program 30-Judicial Council indicated savings of \$2.2 million, \$3.5 million, and \$1.3 million, respectively. As the branch grappled with budget reductions in previous years, the Judicial Council was conservative in both hiring practices and spending, leading to a slightly higher level of savings in 2012-13 and 2013-14. The Judicial Council’s budget has since stabilized somewhat and staff believe that ongoing savings will be significantly less in the out years. It is expected that the majority of the Judicial Council offices will begin to fill some of the critical positions held vacant. While current staff have been able to maintain the most primary of functions, other essential tasks have been set aside. Additionally, the Judicial Council is expected to absorb annual rent cost increases until an augmentation is provided in the following fiscal year, leading to even less anticipated savings. Beginning January 1, 2016, the new compensation structure for the new classifications will go into effect. While it is estimated that there may be some minor General Fund savings within the Judicial Council in the first year of implementation, it is projected that there will be cost increases as eligible salaries are adjusted in future years. Finally, as the comprehensive review of the services offered by the Judicial Council is completed, to the extent workload and staffing priorities change and services and functions are realigned, the Judicial Council must maintain

flexibility to adapt quickly to changes. Over the next 18 months, Judicial Council staff will reach out to its customers and stakeholders to identify customer needs and prioritize its services in light of existing resources based on this input and the needs of the branch as directed by the Judicial Council. This effort will also result in the development of an ongoing process for regular input on customer needs that will be used to review services on a more regular basis. Any commitment of Judicial Council funding from outside sources limits the council's ability to implement changes and enhance the needs of our customers.

TCBAC's Recommendation 3c - The Judicial Council direct staff to determine whether the costs of the Trial Court Transactional Assistance Program can be provided on a fee-for-service basis, having the courts reimburse the applicable state fund for services used.

TCBAC's Recommendation 4(a)(b) - The Judicial Council should determine the viability of cost recovery for the CFCC and CCPOR programs. Specifically, TCBAC directed council staff to determine if a cost recovery model for the CFCC Publications program can be established with justice partners that share the materials beginning in 2016-17 and directed council staff to explore a reimbursable option for the CCPOR program in 2016-17 and onward and to evaluate the effects on the CCPOR program on the recommendation to have courts fund the CLETS program instead of the IMF.

As indicated in chapter 3 of the January 2015 audit by the California State Auditor, the State Auditor recommended that the Judicial Council should conduct a comprehensive survey of the courts on a regular schedule—at least every five years—to ensure that the services it provides align with their responses. The AOC should re-evaluate any services that the courts identify as being of limited value or need. Additionally, in chapter 4, the State Auditor recommended that the Judicial Council should evaluate services provided to the trial courts and consider implementing a fee-for-service model, which could shift costs of certain services to the trial courts. Over the next 18 months, Judicial Council staff will reach out to its customers and stakeholders to identify customer needs and prioritize its services in light of existing resources based on this input and the needs of the branch as directed by the Judicial Council. This effort will also result in the development of an ongoing process for regular input on customer needs that will be used to review services on a more regular basis. The review and assessment of this program and potential implementation of a fee-for-service and/or cost recovery model for the TCLA, CCFC, and CCPOR programs is premature and will be encompassed in the overall evaluation of programs and services offered by the Judicial Council.

Policy and Cost Implications

This request would permanently shift \$2.884 million from the State Trial Court Improvement and Modernization Fund to other funding sources and includes two components:

- (1) \$17,000 from the State Trial Court Improvement and Modernization Fund to Program 45.45-Court Interpreter Program appropriation within the Trial Court Trust Fund.

- (2) \$2.867 million from the State Trial Court Improvement and Modernization Fund to the Judicial Council's General Fund appropriation.

While these programs provide valuable services to support trial court operations, Judicial Council staff believes that translation of forms does not fall under the limiting language of what may be funded out of Program 45.45-Court Interpreters. Further, while there is no statutory impediment to shifting the "core central office" costs of the Court Interpreters Program – Testing, Development, Recruitment, and Education, Treasury Services – Cash Management, Audit Services, Uniform Civil Fees, and Regional Office Assistance Group programs to the Judicial Council appropriation, an analysis of the Judicial Council's General Fund appropriation indicates there is not sufficient ongoing available appropriation authority to absorb the cost of these services.

Possible Recommendations

Analyze all services/programs funded from the State Trial Court Improvement and Modernization Fund and Trial Court Trust Fund. In many cases, expenditures from the IMF are for services that are provided directly to trial courts free of charge, but are a necessary function of court operation. Judicial Council staff believe that the initial survey to customers and stakeholders to identify customer needs and prioritize its services will provide more clarity on the types and level of services that will continue to be provided. Additionally, as part of its assessment of programs and services, the Judicial Council could consider implementing a fee-for-service and/or cost recovery model that could modify the way services are currently budgeted.