



JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-027

For Circulating Order CO-22-02 on: May 10, 2022

Title

Trial Court Budget: Funds Held on Behalf of the Trial Courts Reporting Frequency

Agenda Item Type

Action Required

Effective Date

May 10, 2022

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

April 22, 2022

Recommended by

Trial Court Budget Advisory Committee

Hon. Jonathan Conklin, Chair

Ms. Rebecca Fleming, Vice-Chair

Contact

Catrayel Wood, 916-643-7008

Catrayel.Wood@jud.ca.gov

Executive Summary

The Trial Court Budget Advisory Committee recommends adopting a revision to the current *Judicial Council-Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts* policy, which requires courts to, on completion of an approved project or planned expenditure, report to the Trial Court Budget Advisory Committee within 90 days on the project or planned expenditure and how the funds were expended.

Recommendation

The Trial Court Budget Advisory Committee recommends the Judicial Council approve the following, effective May 10, 2022:

1. Revise the current *Judicial Council-Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts* policy, requiring that courts report to the TCBAC within 90 days of completion of a project or planned expenditure regarding how the funds were expended, from a quarterly to an annual reporting of all projects or planned expenditures completed in a fiscal year;

2. Include a requirement on the annual reporting to include status updates on projects or planned expenditures not completed; and
3. Make language corrections to the current policy as appropriate.

This recommendation was presented to the Judicial Branch Budget Committee on April 6, 2022 and approved for consideration by the Judicial Council.

Relevant Previous Council Action

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 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 Government Code section 77203.

Government Code section 77203 outlines the amount of funding a 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. Commencing 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. Commencing 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.

At its meeting on July 6, 2015, the Trial Court Budget Advisory Committee (TCBAC) established the Ad Hoc Working Group on Fiscal Planning (working group) to examine permitting trial court allocation amounts that were reduced because of the 1 percent 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 regarding how to maintain these retained amounts and how the courts would most effectively use the program.

At its business meeting on April 15, 2016, the council approved the TCBAC-recommended process, criteria, and required information for trial courts to request TCTF-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 (see Link A). Included in this approval was the requirement that courts report to TCBAC within 90 days of a completed project or planned expenditure and report how the funds were expended. Judicial Council Budget Services staff coordinates this effort with the courts for reporting to TCBAC each quarter.

The council adopted revisions to the policy at its business meeting on January 17, 2020, including (1) streamlining the submission schedule; (2) making a change to the recipient of the request from the Judicial Council Administrative Director to the director of Budget Services; and

(3) providing language corrections to better align with court year-end closing, trial court allocation offsets, and requests to amend previously reviewed requests (see Link B).

Analysis/Rationale

Budget Services staff currently surveys courts each quarter to determine if a project has been completed to comply with the current 90-day reporting requirement and to report to the TCBAC quarterly. The current process (Attachment A) requires staff to survey courts multiple times in a fiscal year, based on the expenditure plan indicating a project would be completed in that fiscal year. Because projects often experience delays, quarterly surveys result in repeated requests with similar responses from courts.

For example, in preparation of the November 16, 2021 TCBAC meeting, staff surveyed courts on projects or planned expenditures with planned completion through October 2021. Of the courts surveyed, less than half reported projects as complete, and many courts were in the process of amending their funds held on behalf (FHOB) expenditure plans for consideration.

Revising the current requirement for courts to report within 90 days of project completion to an annual report (Attachment B) on completed projects following the close of each fiscal year would result in a more streamlined process by eliminating recurring court surveys, reducing court and council workload, and would better align with the fiscal year expenditure plan included in the FHOB application. An annual reporting process that also includes status updates on projects or expenditures not completed would further support the transparency and accountability of the FHOB process.

Policy implications

None.

Comments

There were no public comments received on this item.

Alternatives considered

Biannual reporting was considered. However, it too would result in recurring court surveys and not align with fiscal expenditure plans included in the FHOB application.

Fiscal and Operational Impacts

There are no associated costs in implementing this recommendation. Operational impacts are expected to be beneficial to courts, council staff, and the TCBAC as the changes would result in a more efficient FHOB project status reporting process for the courts and a streamlined review and reporting process for council staff.

Attachments and Links

1. Attachment A: Current Process, Criteria, and Required Information for TCTF FHOB of the Courts

2. Attachment B: Proposed Process, Criteria, and Required Information for TCTF FHOB of the Courts
3. Link A: Judicial Council meeting minutes of April 15, 2016, at <https://jcc.legistar.com/View.ashx?M=M&ID=463457&GUID=194A3350-D97F-452B-ACF4-1EBE6C105CCA>
4. Link B: Judicial Council meeting minutes of January 17, 2020, at <https://jcc.legistar.com/View.ashx?M=M&ID=711572&GUID=AC46528C-6E37-406A-A1CE-B41CC33E29EB>

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 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.

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.
 - 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. Courts are required to report to the Trial Court Budget Advisory Committee annually on the status of the project or planned expenditure if not yet complete, and how the funds were expended for completed projects and planned expenditures.
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*)