



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 February 25–26, 2016

Title

Judicial Branch Procurement: California State
Auditor Report

Agenda Item Type

Information Only

Submitted by

Advisory Committee on Financial
Accountability and Efficiency for the
Judicial Branch
Hon. Kathleen E. O’Leary, Chair

Date of Report

February 5, 2016

Contact

Pat Haggerty, 415-865-7922
pat.haggerty@jud.ca.gov
Michael Derr, 415-865-5340
michael.derr@jud.ca.gov

Judicial Council staff
Zlatko Theodorovic, Director
Finance

Executive Summary

On December 10, 2015, the California State Auditor released a performance audit report entitled *Judicial Branch Procurement: Although the Judicial Council Needs to Strengthen Controls Over Its Information Systems, Its Procurement Practices Generally Comply With Applicable Requirements*. The audit was required by Public Contract Code section 19210 to assess the implementation of the California Judicial Branch Contract Law. The report contained two recommendations and identified no new issues concerning procurement documentation, internal controls, and payments. This result represents progress over the last audit, in 2013. With respect to information security controls, the report indicates that the judicial branch still needs to continue to enhance and build on the policies and procedures previously approved and currently being implemented. The Administrative Director’s responses to the two recommendations are included in the report.

Previous Council Action

This is the second audit of the procurement practices of the Judicial Council as required by California Public Contract Code section 19210 to assess the implementation of the Judicial Branch Contract Law (Public Contract Code, §§ 19201–19210). The first audit on Judicial Council procurement was released in December 2013 by the California State Auditor and entitled *Judicial Branch Procurement: Semiannual Reports to the Legislature Are of Limited Usefulness, Information Systems Have Weak Controls, and Certain Improvements in Procurement Practices Are Needed*. This audit was presented to the Judicial Council at its February 2014 meeting.

Methodology and Process

At its January 15, 2016, meeting the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch was presented with and discussed the performance audit conducted by the California State Auditor. The committee recommended that the report be presented to the Judicial Council.

The state auditor conducted the audit according to the audit requirements contained in the Public Contract Code section 19210, which is part of the Judicial Branch Contract Law. This law requires the state auditor to perform biennial audits of the Judicial Council. In the audit report (see the link to the report on the last page of this report), the state auditor lists the audit objectives and the methods used to fulfill those objectives.

A summary of the eight objectives follows:

1. *Judicial Branch Contracting Manual* (JBCM)—determine if consistent with requirements of the California Judicial Branch Contract Law.
2. Prior audit—determine implementation status of prior recommendations.
3. Reliability of data—determine reliability of data used on contract reporting.
4. Judicial Council’s *Local Contracting Manual*—determine if the manual conforms to the JBCM.
5. Internal controls—assess and determine compliance of internal controls over contracting and procurement practices.
6. Payment practices—assess and determine compliance with internal controls.
7. Split contracts—evaluate to determine whether contracts were inappropriately split to avoid necessary approvals or competitive bidding requirements.
8. Credit card transactions—review appropriateness of transactions.

The state auditor reviewed 60 procurements and 60 payments that the Judicial Council made between July 2013 and June 2015. Additionally, the state auditor reviewed 23 competitively bid contracts and noted that the Judicial Council correctly evaluated the bids for all 23.

Summary of Findings

The audit report highlights are as follows:

- The Judicial Council has corrected nearly all of the problems with its procurement and payment practices that were identified in the state auditor's report released in December 2013.
- The judicial contracting manual was generally consistent with state law, the *State Administrative Manual*, and the *State Contracting Manual*.
- The Judicial Council has not resolved prevalent weaknesses in the general controls over its information systems and as a result according to the state auditor it continues to compromise the security and availability of its sensitive information.
- In response to a previous recommendation, the Judicial Council is now making its semiannual procurement reports available in a sortable electronic format.

Below are the two recommendations from the state auditor and the Administrative Director's responses.

State Auditor Recommendation 1

The Judicial Council should update its judicial contracting manual to include the required minimum fuel economy standard for the judicial branch's vehicle purchases.

Administrative Director Response

In the next revision of the *Judicial Branch Contracting Manual* (JBCM) currently scheduled to be effective July 1, 2016, it is our intention to include in the appropriate section of the JBCM the following paragraph.

Under Public Resources Code (PRC) 25722.7, fleet vehicle purchases by JBEs must meet minimum fuel economy standards. Under PRC 25722.7(a) and (b), the fleet vehicle purchases must meet the fuel economy standard in Section 3620.1 of the State Administrative Manual (SAM), which sets forth a minimum miles per gallon standard for the combined annual purchases of vehicles by each JBE. Please refer to PRC 25722.7 and SAM 3620.1 for further information.

As discussed with you, this revision and others that may be made are subject to review and approval by the JBCM Working Group, the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, and the Judicial Council.

State Auditor Recommendation 2

The Judicial Council should develop a corrective action plan by February 29, 2016, to address the recommendation from our December 2013 report related to the controls over its information systems. The corrective action plan should include Judicial Council's prioritization of tasks, resources, primary and alternative funding sources, milestones for all of the actions required to fully implement its framework of information systems controls by June 2016. Further, the Judicial Council should continue to provide guidance and routinely follow up with the superior courts to assist with their effort to make the necessary improvements to their information systems controls.

Administrative Director Response

In 2014 the Judicial Council approved an *Information Systems Controls Framework* that was mapped to security policy standards of the National Institute of Standards and Technology (NIST). In 2014 a plan was created to implement this new framework, and work was started on implementation of the supporting policies and procedures. It is important to understand however that several key areas, such as data classification, contingency planning, and the establishment of a formalized information security program may not be fully addressed until funding that has again been requested in a budget change proposal has been obtained. Even if the budget change proposal is approved, the funding would not be received until fiscal year 2016–2017 and without receipt of those funds our full implementation of the plan cannot be accelerated from the current plan's estimated completion date of 2018. The June 2016 date contained in the recommendation for full implementation of the framework of information system controls would seem to be unrealistic regardless of whether the requested funding is received.

Similarly, without additional funding for this effort for most if not all of the 58 trial courts, full implementation of an information security plan will not occur in the expected timeframe proposed in the recommendation. Judicial Council staff continue to work with court technology officers on the framework to establish a standard security approach within the judicial branch. As you can appreciate, the branch has trial courts ranging from very small (less than 20 staff) to large and extra-large. Court expertise, needs, and resources concerning information security controls range in the same manner. This requires a unique plan for each trial court.

The Judicial Council's corrective action plan will be developed by February 29, 2016 and will address the specific items included in the recommendation. Some of the items will be discussed in general, such as funding sources, as there are other priorities and dependencies that may not be resolved at that time and may require further investigation and analysis.

The Judicial Council's staff has and will continue to provide guidance and routinely follow up with the superior courts to discuss the necessary improvements to their information system controls.

As an update to the responses above, the Governor's proposed budget included some funding for the branch's information security controls.

Attachments and Links

Judicial Branch Procurement: Although the Judicial Council Needs to Strengthen Controls Over Its Information Systems, Its Procurement Practices Generally Comply With Applicable Requirements, at www.bsa.ca.gov/pdfs/reports/2015-302.pdf