



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 14–15, 2016

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Title	Agenda Item Type
Trial Court Allocations: Trial Court Reserves Held in the Trial Court Trust Fund	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	April 15, 2016
Recommended by	Date of Report
Trial Court Budget Advisory Committee Hon. Jonathan B. Conklin, Chair	March 25, 2016
	Contact
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### Executive Summary

The Trial Court Budget Advisory Committee recommends adopting a process, criteria, and procedures for trial courts to request that Trial Court Trust Fund (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 that make the request.

### Recommendation

The Trial Court Budget Advisory Committee (TCBAC) unanimously recommends that the Judicial Council, effective April 15, 2016, adopt a process, criteria, and required information for requesting that Trial Court Trust Fund reduced allocations be retained in the TCTF as restricted fund balance for the benefit of those courts by approving:

1. “Recommended Process for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts;”
2. “Recommended Criteria for Eligibility for TCTF Fund Balance Held on Behalf of the Courts;” and

3. “Recommended Information Required to be Provided by Trial Courts for TCTF Fund Balance Held on Behalf of the Courts.”

These three recommended texts, together titled *Summary of Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*, are attached at pages 7–10. Attachment A, *Application for TCTF Funds Held on Behalf of the Court*, is the form proposed by the TCBAC for courts to use to follow the recommendations in this report.

### **Previous Council Action**

The Judicial Council has taken no action related to this item.

### **Rationale for Recommendation**

Government Code section 77203 was added as part of Senate Bill 1021 (Stats. 2012, ch. 41) and was later amended, as was Government Code section 68502.5, to add subparagraph (c)(2)(A) by Senate Bill 75 (Stats. 2013, ch. 31):

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.

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.

Effective 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 the 1 percent authorized to be carried over from the prior fiscal year. Section 68502.5(c)(2)(A) directed 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.

TCTF fund balance held on behalf of the trial courts allows the courts to prudently plan for and fund necessary court infrastructure projects such as technology improvements and infrastructure, allowable facilities maintenance and repair under rule 10.810 of the California Rules of Court, court efficiencies projects, and other court infrastructure projects that would not be possible otherwise as an unintended consequence of the 1 percent fund balance cap.

The TCBAAC, at its meeting on July 6, 2015, 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 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. The working group was composed of the following members:

- Hon. Winifred Younge Smith, Cochair, Presiding Judge, Superior Court of Alameda County
- Mr. David H. Yamasaki, Cochair, Court Executive Officer, Superior Court of Santa Clara County
- Hon. Barry P. Goode, Judge, Superior Court of Contra Costa County
- Hon. Paul M. Marigonda, Presiding Judge, Superior Court of Santa Cruz County
- Mr. Alan Carlson, Chief Executive Officer, Superior Court of Orange County
- Mr. Stephen H. Nash, Court Executive Officer, Superior Court of Contra Costa County
- Mr. Michael M. Roddy, Court Executive Officer, Superior Court of San Diego County
- Mr. Brian Taylor, Court Executive Officer, Superior Court of Solano County
- Ms. Mary Beth Todd (now ret.), Court Executive Officer, Superior Court of Sutter County
- Ms. Christina M. Volkers, Court Executive Officer, Superior Court of San Bernardino County

The working group met on August 5, October 29, November 13, and December 9, 2015, and on February 23, 2016, to develop recommendations for the process, criteria, and required information for requesting funding that was reduced as a result of a court's exceeding the 1 percent fund balance cap to be retained for the benefit of that court. At its December 9 and February 23 meetings, the working group approved the following recommendations, which were also provided by the director of Judicial Council Finance to the Department of Finance (DOF) and which received positive feedback from DOF staff.

The recommended process, attached at pages 7–10, provides the following components to ensure clear, transparent, and uniform standards for the courts that would be requesting that funds be held on their behalf, as well as the bodies and Judicial Council staff that would be processing, reviewing, and evaluating the requests:

- Criteria 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
- Audit review as part of the normal audit cycle

The criteria for eligibility restricts this process to only significant court expenditures that could not be financed within their annual budget. Both 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 submission deadline is based on the need for June council meeting draft reports to be submitted almost six weeks before the meeting. Given staff analysis, generation of the report to a TCBAC subgroup, scheduling of a meeting of the subgroup, and generating a report from the subgroup, 40 business days is a short timeline. The requirements for submitting 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.

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

The working group considered two alternatives for the retention of funds, disbursement of funds, and appropriation. These alternatives were considered less viable because they either required statute to establish a new state fund or had fewer measures to ensure that the TCTF had sufficient appropriation authority to return the funds to the courts in the fiscal years needed.

The working group considered four alternatives for the submission, review, and approval process. The recommended option, without overly extending the process, presents a greater level

of review than having Judicial Council Finance staff submit recommendations directly to the Judicial Council, but less than including DOF staff in the review process through several levels of review. The working group received no feedback indicating that DOF staff were interested in that level of involvement.

No public comments were received when the recommendations were considered by the TCBAC at its March 10, 2016, meeting.

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

Judicial Council Finance staff is unable to make a determination as this time regarding whether sufficient resources are available to support this process because the workload will depend on the volume of requests. The work requirements and operational impacts on Finance staff are provided below.

- **Submission, Review, and Approval Process:** Finance staff will review the requests, 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 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. Then Finance staff will issue a final report on behalf of the TCBAC subgroup for the council.
- **Retention and Disbursement:** Because a vast majority of courts' operations funds are distributed to the courts from the Trial Court Trust Fund and any court allocation reductions for exceeding the 1 percent fund balance cap are made from the TCTF, court funds would be retained in the Trial Court Trust Fund with the funds moving from the court to the TCTF and from the TCTF back to the court through the monthly distribution process that occurs on the 15th of each month or the first business day prior, if the 15th falls on a nonbusiness day. Courts could issue checks to the Trial Court Trust Fund when distribution adjustments aren't possible because of the timing and/or amount of the funds being moved.
- **Appropriation:** Finance staff will work with DOF staff regarding any requests approved in the current fiscal year that have budget year expenditures in the plan added to the Support for Operation of the Trial Courts (Program 45.10 or 0150010) appropriation authority for the budget year in the Governor's Proposed Budget in January. Finance staff will also work with DOF staff on any approved requests that cannot be added to the Governor's Proposed Budget to have budget year expenditures in the plan added to the Support for Operation of the Trial Courts appropriation authority for the budget year in the May Revision. Failing that, Judicial Council staff will request an augmentation through Budget Act provisional language.

- **Recordkeeping:** Finance staff will be responsible for keeping a record of the approved requests and the schedule of payments into the TCTF from the courts as well as the distributions from the TCTF to the courts. Finance staff will inform the Judicial Council at the start of the fiscal year of any amounts to be distributed to the courts for that year.

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

TCTF fund balance held on behalf of the trial courts is consistent with Goal II, Independence and Accountability, of the strategic plan 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. *Summary of Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*, at pages 7–10
2. *Attachment A: Application for TCTF Funds Held on Behalf of the Court*

## ***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 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 TCBCAC 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.



## **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 proposed 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*)

## APPLICATION FOR TCTF FUNDS HELD ON BEHALF OF THE COURT

Please check the type of request:		
<input type="checkbox"/> <b>NEW REQUEST</b> <i>(Complete Section I, III, and IV only.)</i>  <input type="checkbox"/> <b>AMENDED REQUEST</b> <i>(Complete Sections I through IV.)</i>		
<b>SECTION I: GENERAL INFORMATION</b>		
<b>SUPERIOR COURT:</b> Click here to enter court	<b>PERSON AUTHORIZING REQUEST</b> <i>(Presiding Judge or Court Executive Officer):</i>	
	<b>CONTACT PERSON AND CONTACT INFO:</b>	
<b>DATE OF SUBMISSION:</b> Click here to enter a date.	<b>TIME PERIOD COVERED BY THE REQUEST, INCLUDING CONTRIBUTION AND EXPENDITURE:</b>	<b>REQUESTED AMOUNT:</b> \$
<b>REASON FOR REQUEST</b> <i>(Please briefly summarize the purpose for this request, including a brief description of the project/proposal. Use attachments if additional space is needed.):</i>		
<b>SECTION II: AMENDED REQUEST CHANGES</b>		
A. Identify sections and answers amended.   B. Provide a summary of the changes to the request.		
<b>SECTION III: TRIAL COURT OPERATIONS AND ACCESS TO JUSTICE</b>		
A. Explain why the request does not fit within the court's annual operational budget process and the three-year encumbrance term.		

## APPLICATION FOR TCTF FUNDS HELD ON BEHALF OF THE COURT (Continued)

**SECTION III (continued): TRIAL COURT OPERATIONS AND ACCESS TO JUSTICE**

- B.** How will the request enhance the efficiency and/or effectiveness of court operations, and/or increase the availability of court services and programs?
- C.** If a cost efficiency, please provide cost comparison (table template provided).
- D.** Describe the consequences to the court's operations if the court request is not approved.
- E.** Describe the consequences to the public and access to justice if the court request is not approved.
- F.** What alternatives has the court identified if the request is not approved, and why is holding funding in the TCTF the preferred alternative?

**SECTION IV: FINANCIAL INFORMATION**

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

- A.** Three-year history of year-end fund balances, revenues, and expenditures
- 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
- C.** Identification of all costs, by category and amount, needed to fully implement the project
- D.** A specific funding and expenditure schedule identifying the amounts to be contributed and expended, by fiscal year