



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on August 25–26, 2016

Title

Trial Courts: Financial Policies and Procedures

Agenda Item Type

Action Required

Effective Date

August 26, 2016

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rule 10.804

Date of Report

August 11, 2016

Recommended by

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Executive Summary

Judicial Council staff recommends amending rule 10.804 of the California Rules of Court concerning the *Trial Court Financial Policies and Procedures Manual* because the rule currently provides that the manual include policies and procedures for procurement and contracting by superior courts. That is no longer necessary because these policies and procedures are now contained in the *Judicial Branch Contracting Manual*.

Recommendation

Judicial Council staff recommends that the Judicial Council, effective August 26, 2016, amend rule 10.804 to:

1. Remove unnecessary references to policies and procedures for procurement and contracting by superior courts;

2. Describe the content and purpose of the manual; and
3. Describe the amendments to the manual that must circulate for public comment.

The unnecessary references duplicate those now available in the *Judicial Branch Contracting Manual*.

The text of the amended rule is attached at pages 5–6.

Previous Council Action

Effective January 1, 2001, the Judicial Council adopted rule 10.804 (then numbered 6.707) of the California Rules of Court, which required that staff to the council adopt a financial policies and procedures manual for the trial courts. The need for the *Trial Court Financial Policies and Procedures Manual* (TCFPPM) arose following enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Stats. 1997, ch. 850), which provided for state funding of the trial courts, removing from counties the responsibility for budget control and financial management of trial courts. The manual was developed to assist trial courts in performing the fiscal management services formerly provided by the counties.

Among the policies and procedures set out in the manual are those for procurement and contracting. On March 24, 2011, Senate Bill 78 was enacted, creating a new part 2.5 of the Public Contract Code designated the California Judicial Branch Contract Law. It required the Judicial Council to adopt and publish a *Judicial Branch Contracting Manual* incorporating procurement and contracting policies and procedures that judicial branch entities, including trial courts, must follow. After the council’s adoption of the *Judicial Branch Contracting Manual* on August 26, 2011, inclusion of such policies and procedures in the TCFPPM was no longer necessary.

Rationale for Recommendation

This proposal would delete reference to “policies and procedures for procurement and contracting by superior courts” and the description of the limitations on those policies and procedures in subdivision (a) of rule 10.804. It would add that the TCFPPM contains regulations establishing budget procedures and recordkeeping, and include the following language from the manual that more fully describes its content and purpose: “The manual sets out a system of fundamental internal controls that will enable the trial courts to monitor their use of public funds, provide consistent and comparable financial statements, and demonstrate accountability.”

In addition, subdivision (b) would be amended to provide that substantive amendments to the TCFPPM must be available to the superior courts, the California Department of Finance, and the State Controller’s Office for 30 days for comment. Currently the rule provides that any amendments—technical corrections or substantive changes—be made available for comment by

those entities. Government Code section 77202(c)(3), however, requires circulation to all affected entities proposed changes to policies on “budget monitoring and reporting,” a type of substantive change. The amendment would provide for comments by courts and the other listed entities on changes to policies that address topics beyond budget monitoring and reporting, but would delegate authority to the Administrative Director to make technical changes and clarifications to the manual, provided the changes and clarifications are consistent with council policies. This will permit corrections and clarifications to be made in a timely manner.

An advisory committee comment would be added that provides examples of technical changes and clarifications, as follows: “Technical changes and clarifications include clarifying language that (1) does not change any substantive requirement imposed on courts; and (2) corrects typographical errors or citations, or makes reimbursement rate adjustments and other changes that result from changes in federal, state, or local rules, regulations or applicable law.” When technical changes are made, Judicial Council staff will promptly notify court executive officers, court financial officers, and court fiscal contacts of the changes by e-mail.

Finally, this report recommends that the amendments to rule 10.804 become effective on the same date the council approves the amendment of the rule. This will enable the Administrative Director to immediately make technical changes in the TCFPPM, such as increasing the maximum reimbursement rate authorized in the manual for lodging in San Francisco to be consistent with the rate that was implemented by the executive branch in July 2016 for excluded employees and that the council is approving for judicial branch employees in a separate report considered at the same time at this report.¹

Comments, Alternatives Considered, and Policy Implications

The proposal circulated for public comment from April 15 to June 14, 2016. Four comments were received. Two comments were substantive, but one fell outside the scope of the current proposal. The other urged consistent use of the term “trial court” throughout the rule. Staff agrees with the call for consistency, but notes that the term “superior court” is used consistently throughout chapter 9 of title 10, Judicial Administration Rules, in the California Rules of Court. To ensure internal consistency in the rules, staff proposes using the term “superior court” instead of “trial court.”

Alternatives

Staff did not consider any alternatives because the referenced provisions of rule 10.804 are currently inaccurate and out of date, as described above.

¹ See Judicial Council of Cal., Branch Accounting and Procurement Rep., *Judicial Branch Administration: Increased Maximum Lodging Reimbursement Rate for San Francisco* (Aug. 9, 2016).

Implementation Requirements, Costs, and Operational Impacts

No implementation requirements, costs, or operational impact are expected. The amendments will more accurately describe court operations by removing the statement that policies and procedures for procurement and contracting by superior courts are contained in the TCFPPM.

Attachments and Links

1. Cal. Rules of Court, rule 10.804, at pages 5–6
2. Chart of comments, at page 7

Rule 10.804 of the California Rules of Court is amended, effective August 26, 2016, to read:

Rule 10.804. Superior court financial policies and procedures

(a) Adoption of financial policies and procedures by the Judicial Council

As part of its responsibility for regulating the budget and fiscal management of the trial courts, the Judicial Council adopts ~~the~~ *Trial Court Financial Policies and Procedures Manual*. The manual contains regulations establishing budget procedures, recordkeeping, ~~must be consistent with the rules of court and policies adopted by the Judicial Council and must include~~ accounting standards, and other financial guidelines for superior courts, ~~and policies and procedures for procurement and contracting by superior courts. These policies and procedures must not modify superior courts' existing authority to procure, contract for, or use goods or services or the requirement that a court have authorized funding available in order to procure or contract for any good or service.~~ The manual sets out a system of fundamental internal controls that will enable the trial courts to monitor their use of public funds, provide consistent and comparable financial statements, and demonstrate accountability.

(b) Amendments ~~Comment period for financial policies and procedures~~

(1) Before ~~amending~~ making any substantive amendments to the *Trial Court Financial Policies and Procedures Manual*, the Judicial Council must make ~~it~~ the amendments available to the superior courts, the California Department of Finance, and the State Controller's Office for 30 days for comment.

(2) The Judicial Council delegates to the Administrative Director, under article VI, section 6 of the California Constitution and other applicable law, the authority to make technical changes and clarifications to the manual, provided the changes and clarifications are consistent with council policies.

(c) ~~Date of adherence to financial policies and procedures~~

Superior courts must adhere to the requirements contained in the *Trial Court Financial Policies and Procedures Manual*, except as otherwise provided in the manual. Superior courts must not be required to adhere to any substantive amendment to the manual sooner than 60 days after the amendment is adopted.

Advisory Committee Comment

Subdivision (a). Procurement and contracting policies and procedures for judicial branch entities, including superior courts, are addressed separately in the *Judicial Branch Contracting Manual*, which the Judicial Council adopted under Public Contract Code section 19206.

Subdivision (b)(2). Technical changes and clarifications include clarifying language that (1) does not change any substantive requirement imposed on courts; and (2) corrects typographical errors or citations.

Rule 10.804 of the California Rules of Court is amended, effective August 26, 2016, to read:

- 1 or makes reimbursement rate adjustments and other changes that result from changes in federal, state, or
- 2 local rules, regulations or applicable law.

SPR16-01**Trial Courts: Financial Policies and Procedures** (amend rule 10.804)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Superior Court of Los Angeles County	A	No comment.	No response required.
2.	Superior Court of Riverside County by Marita Ford Senior Management Analyst	NI	Change all references of “superior” to “trial”.	The committee agrees that the references should be consistent. Because the term “superior court” predominates in chapter 9 of title 10, Judicial Administration Rules, California Rules of Court, and every rule should be internally consistent in its nomenclature, the staff changed the single reference to “trial court” to “superior court.”
3.	Superior Court of San Diego County by Mike Roddy Executive Officer	A	No specific comment.	No response required.
4.	TCPJAC/CEAC Joint Rules Subcommittee (JRS), on behalf of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC).	AM	Suggested Modification: In the past two cycles, the Judicial Council has extended the comment period to 60 days (beyond the 30 days stated in the rule) as a courtesy given the number of substantive changes recommended. Although the rule proposal does not propose modifying the length of the comment period, the JRS recommends that the rule be modified to extend it to 60 days.	This suggestion is outside the scope of the current proposal and will be considered during the next cycle.