



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on March 2, 2018

Title

Trial Court Allocations: Fund Balances Held
on Behalf of the Trial Courts

Agenda Item Type

Action Required

Effective Date

March 2, 2018

Rules, Forms, Standards, or Statutes Affected
None

Date of Report

February 14, 2018

Recommended by

Trial Court Budget Advisory Committee
Hon. Jonathan B. Conklin, Chair

Contact

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Executive Summary

The Judicial Council provides a process by which trial courts can 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. The Trial Court Budget Advisory Committee (TCBAC) recommends approving revisions to the process to allow previously approved and now amended requests to be approved by TCBAC's Fiscal Planning Subcommittee (FPS) and require that subcommittee to provide informational reports to the Judicial Council on the amended requests it approves.

Recommendation

The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council, effective March 2, 2018, approve revisions to the *Judicial Council–Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts* to:

1. Revise the process for submitting and reviewing previous requests that have been amended to:

- Allow the FPS to approve those amended requests or refer them to the Judicial Council for approval; and
 - Require the FPS to provide an informational report to the Judicial Council on the amended requests that the subcommittee approves; and
2. Make technical changes, including changing the recipient of the request from “Administrative Director” of the Judicial Council to “Director of Budget Services,” “Finance” staff to “Budget Services” staff to reflect the current name of the Judicial Council staff reporting unit, and “TCBAC subgroup” to “FPS.”

The text of the revised process, criteria, and required information is available as Attachment A.

Previous Council Action

At the Judicial Council’s April 15, 2016, business meeting, the council approved the TCBAC-recommended process, criteria, and required information for trial courts to request that TCTF-reduced allocations related to the 1 percent fund balance cap be retained in the Trial Court Trust Fund as restricted fund balance for the benefit of those courts. This retention allows the courts to prudently plan for and fund necessary court infrastructure projects such as technology or infrastructure improvements; facilities maintenance and repair allowed under California Rules of Court, rule 10.810; court efficiencies projects; and other court infrastructure projects that would not be possible as an unintended consequence of the 1 percent fund balance cap.

Through January 2018, the Judicial Council has approved 23 new and 25 amended requests. Of the 25 amended requests, 13 have been to reduce approved amounts held, 8 have been to extend the amount held to later fiscal years because of contractor delays, and the remaining 4 have been to add funding to approved requests.

Rationale for Recommendation

The process approved by the council (see Attachment A) provides the following information to ensure clear, transparent, and uniform standards for the courts requesting that funds be held on their behalf, as well as for the subcommittee members, Judicial Council staff, and Judicial Council members who will be processing, reviewing, and evaluating the requests:

- Criterion for eligibility;
- Submission, review, and approval process;
- Deadline for submission;
- 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; and
- Audit review as part of the normal audit cycle.

The criterion for eligibility is that a court have significant court expenditures that cannot be financed within its annual budget. 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 deadline for submission is based on the need to submit draft council reports almost six weeks before the meeting.

The requirements for submission of a new or amended request were 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.

At its January 17, 2018, meeting, the TCBAC discussed the FPS's recommended changes to the TCTF Funds Held on Behalf process. The TCBAC chose to amend the proposed revisions with additional language to clarify that the FPS has the authority to approve or deny amended requests. Further clarifying language was added that required any TCTF Funds Held on Behalf requests to be consistent with reduced allocations that exceed statutorily required reserves.

Comments, Alternatives Considered, and Policy Implications

No public comments were received on the proposed revisions.

The TCBAC considered adding additional language to clarify instructions on completing the templates required when submitting a TCTF Funds Held on Behalf request. Because these instructions are included in the yearly memo that is transmitted to all the courts when deadlines are established for each fiscal year, the TCBAC decided not to include this language in the proposed revisions. Judicial Council Budget Services staff will instead have the memo with the instructions and required templates posted on the Judicial Resources Network.

Implementation Requirements, Costs, and Operational Impacts

The implementation requirement for amending this process includes notifying courts and affected Judicial Council staff of the changes for amended requests. Judicial Council Budget Services staff should see little to no change in workload and no significant operational impacts.

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 "[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. Attachment A: Proposed revisions to the *Judicial Council–Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*

Judicial Council–Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts

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 new requests will be submitted to the Judicial Council for consideration.
 - b. Requests will be submitted to the ~~Administrative Director~~ Director of Budget Services by the court's presiding judge or court executive officer.
 - c. The ~~Administrative Director~~ Director of Budget Services will forward ~~the~~ a summary of all requests received to the Administrative Director, to the Judicial Council director of Finance.
 - d. ~~Finance~~ 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 ~~a formal review body consisting of members from the Fiscal Planning Subcommittee (FPS) of the Trial Court Budget Advisory Committee (TCBAC); the TCBAC subgroup FPS~~ 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. The FPS has the authority to approve or deny amended requests.
 - e. ~~and Finance office~~ Budget Services staff will issue a final report on behalf of the ~~TCBAC subgroup~~ the FPS for the council.

- f. The final report to the ~~TCBAC review subgroup~~ FPS and the Judicial Council will be provided to the requesting court before the report is made publicly available on the California Courts website.
 - g. The court may send a representative to the ~~TCBAC review subgroup~~ FPS 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~~ 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) changes 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~~ 2b–2d 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.
 - b. The FPS may choose to refer any amended request to the Judicial Council for its approval. If the FPS chooses to approve the amended request at its level, the FPS will provide the Judicial Council with an informational report on approved amended requests at the next business meeting.
 - c. Amended requests that make changes in the amounts by year to be distributed to the court for the planned annual expenditures and/or encumbrances will need to provide an annual report to the FPS on the use of the held funds.
 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 separate 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.
9. Final TCTF fund held on behalf requests will be consistent with allocation reductions for exceeding statutorily required reserves.

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.

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*)