



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 17, 2020

Title

Updates to the Funds Held on Behalf of the
Trial Courts Policy

Agenda Item Type

Action Required

Effective Date

January 17, 2020

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

December 20, 2019

Recommended by

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

Contact

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Executive Summary

The Trial Court Budget Advisory Committee recommends adopting revisions to the current *Judicial Council-Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts* including streamlining the submission schedule, making a change to the recipient of the request, and providing language corrections to better align with court year-end closing, trial court allocation offsets, and requests to amend previously reviewed requests.

Recommendation

The Trial Court Budget Advisory Committee recommends the Judicial Council adopt the following, effective January 17, 2020:

1. Revise submission due dates from five dates to three, but retain the following:
 - a. August—Funds Held on Behalf (FHOB) requests for preliminary fund balance cap;
 - b. November (formerly December)—FHOB requests for final fund balance cap;
 - c. April—requests to amend previously approved requests; and

Remove the following:

- d. February; and
 - e. June.
2. Change submissions from the Judicial Council Administrative Director to the director of Budget Services.
 3. Make technical language corrections as appropriate.

Relevant Previous Council Action

Government Code section 77203 was added as part of Senate Bill 1021 (Stats. 2012, ch. 41) and was later amended by SB 95 (Stats. 2019, ch. 36, § 2), effective June 27, 2019. Prior to June 30, 2014, a trial court could carry over all unexpended funds from the courts 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.

Government Code section 68502.5(c)(2)(A) requires, when setting the allocations for trial courts, the Judicial Council to set a preliminary allocation in July of each fiscal year. Further, 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.

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 (Attachment A). The approved process also provides courts the opportunity to amend previously approved requests to address changes to:

- Amounts by year to be distributed to the court for the planned annual expenditures and/or encumbrances; or

- The total amount of the planned expenditures; or
- More than 10 percent of the total request among the categories of expense; or
- A change in purpose.

Analysis/Rationale

Recommendation 1: revising submission due dates from five to three

Currently, to be considered at a specific Judicial Council business meeting, new and amended requests must be submitted to the Judicial Council Administrative Director by the court's presiding judge or court executive officer at least 40 business days (approximately eight weeks) before the date of the next Judicial Council meeting. Past submission schedules have included five submission dates: one each in February, April, June, August, and December. The recommended policy change to reduce the number of submission dates from five to three will better align with:

- Court year-end closing;
- Determination of preliminary and final fund balance caps;
- Judicial Council approval of fund balance cap reductions;
- Trial court allocation reductions; and
- Streamlining requests to amend previously approved requests.

Recommendation 2: changing submissions from the Judicial Council Administrative Director to the director of Budget Services

This change will streamline the current submission review and approval process.

Recommendation 3: making technical language corrections as appropriate

Technical changes include:

- Removing language specifying that requests will be submitted to the "Administrative Director" to reflect "director of Budget Services";
- Removing "the Administrative Director will forward the request to the Judicial Council director of Finance";
- Removing "a formal review body consisting of members from TCBAC subgroup";
- Updating "Finance" to "Budget Services"; and

- Noting “TCBAC subgroup” as “subcommittee.”

Policy implications

None.

Comments

There were no public comments received on this item.

Alternatives considered

None.

Fiscal and Operational Impacts

There are no associated costs to implementing this policy proposal. Operational impacts are likely to be beneficial to courts, Judicial Council staff, and the Fiscal Planning Subcommittee as the changes will result in a more efficient FHOB process for the courts and a streamlined review and approval process for Judicial Council staff and the Fiscal Planning Subcommittee.

Attachments and Links

1. Attachment A: *Current Judicial Council-Approved Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*
2. Attachment B: *Summary of Recommended 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 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 TCBAC 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.

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*)

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

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 - a. Categories or activities include, but are not limited to:
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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~~ *director of Budget Services* 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 Services 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 *the Fiscal Planning Subcommittee of a formal review body consisting of members from the Trial Court Budget Advisory Committee (TCBAC); the subcommittee 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 Budget Services office budget~~ staff will issue a final report on behalf of the ~~subcommittee TCBAC-subgroup~~ for the council.
 - e. The final report to the ~~subcommittee 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.

44 f. The court may send a representative to the *subcommittee* ~~TCBAC review subgroup~~ and
45 Judicial Council meetings to present its request and respond to questions.

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78 how the funds were expended.
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81 were held on behalf of the courts will be made to confirm that they were used for their stated
82 approved purpose.

Recommended Criteria for Eligibility for TCTF Fund Balance Held on Behalf of the Courts

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