



## *Judicial Branch Procurement*

Some Superior Courts Generally Followed  
Requirements but Could Improve Their  
Procurement Practices

*January 2019*

**REPORT 2018-301**





**CALIFORNIA STATE AUDITOR**

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January 15, 2019  
**2018-301**

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

Pursuant to Chapter 31, Statutes of 2013, the California State Auditor presents this audit report assessing five superior courts' compliance with the requirements of the California Judicial Branch Contract Law (Judicial Contract Law), Public Contract Code sections 19201 through 19210. The Judicial Contract Law requires the Judicial Council of California (Judicial Council) to adopt and publish a *Judicial Branch Contracting Manual*, which establishes the requirements and recommended practices for procurement and contracting that all judicial branch entities, including superior courts, must follow. The Judicial Council published its latest version of the manual in 2018.

This report concludes that the five courts we reviewed for this audit—the superior courts in Imperial, Los Angeles, Monterey, Santa Barbara, and Santa Clara counties—adhered to most required and recommended procurement practices that we evaluated, but they could improve. For example, the Santa Clara court did not have an agreement on file for certain services it purchased, and it lacked appropriate documentation for three other contracts. The other four courts also lacked appropriate documentation for one contract each. In addition, staff at the Monterey court approved seven payments that exceeded their payment authorization limits by amounts ranging from \$2,000 to more than \$107,000. We also identified one instance in which the Imperial court processed a payment without appropriate prior written approval, and the Santa Barbara court's payment process lacked a documentation step that would increase the court's assurance that payments are appropriate.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA  
California State Auditor

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## SUMMARY

For this fourth biennial audit of the contracting and procurement practices of California superior courts, we reviewed the superior courts in Imperial, Los Angeles, Monterey, Santa Barbara, and Santa Clara counties. We determined that these five courts adhered to most of the required and recommended contracting and procurement practices for which we tested; however, they could make certain improvements to ensure that they have appropriate controls in place and receive the best value for their procurement dollars. We reviewed the selected courts' procurement practices related to contracts, payments, and purchase card transactions. This report concludes the following:

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### All Five Courts Could Improve Their Contracting Practices

We reviewed 12 contracts at each of five courts and found varying levels of noncompliance with appropriate contracting practices: Santa Clara did not have an agreement on file to support a \$582,000 services payment that it made, and it lacked appropriate supporting documentation for three additional contracts, including one for \$778,000 to procure temporary staff. Although the other four courts generally followed the applicable procurement requirements that we tested, we identified certain issues at each one.

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### Four Courts Could Improve Their Processes for Handling Payments to Vendors and Recording Receipt of Goods and Services

We found that some courts did not always use proper internal controls when processing payments and could therefore not ensure that they used public funds appropriately: the Monterey court did not always follow the payment authorization limits it established. For seven of the 18 payments we examined, court employees approved payments that exceeded their authorization levels by amounts ranging from \$2,000 to more than \$107,000. Further, the Santa Clara court did not always fully separate duties so that no one person controlled more than a single key aspect of payment processing. All five courts we examined routinely verified the delivery of goods and services before they paid vendors, but we identified certain limited exceptions.

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### Three Courts Could Improve Their Purchase Card Practices

Several courts may have put public funds at risk when they violated the procurement policies included in the *Judicial Branch Contracting Manual* (judicial contracting manual): the Santa Clara court exceeded both single-transaction and daily limits for purchase card transactions, and the Imperial and Santa Barbara courts each established transaction limits for some users, but did not document those deviations as the judicial contracting manual requires.

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### **Summary of Recommendations**

The superior courts we reviewed should ensure that they award their contracts competitively when appropriate and that they assess and document best value and fair and reasonable pricing when warranted. Courts should also ensure that they have all agreements for goods or services documented in the procurement file.

The courts should ensure that payment duties are adequately separated. Courts should also require that staff submit packing slips or receipts to verify delivery before invoices are paid.

Finally, courts should ensure that staff are aware of, and abide by, the judicial contracting manual's purchase card transaction limits and should document in their local manuals as appropriate any alternative purchase card limits.

### **Agency Comments**

The Monterey and Santa Barbara courts each agreed with our recommendations to them, while the Santa Clara court stated that it will take certain actions in response to our recommendations to it. The Los Angeles court disagreed with our finding pertaining to it. The Imperial court did not submit a written response to our report.



# INTRODUCTION

## Background

The California Judicial Branch Contract Law (Judicial Contract Law) went into effect in 2011. It requires all judicial branch entities to comply with the provisions of the Public Contract Code that are applicable to state agencies and that relate to the procurement of goods and services. It also requires the Judicial Council of California (Judicial Council)—which is the policymaking body of the California court system responsible for ensuring the consistent, independent, impartial, and accessible administration of justice in the State—to create a contracting manual for all judicial branch entities, such as superior courts, and for these entities to adopt local contracting manuals. In addition, the Judicial Contract Law directs the California State Auditor’s Office (State Auditor), subject to legislative approval, to audit five judicial branch entities other than the Judicial Council every two years to assess their implementation of the Judicial Contract Law. This is our fourth audit of judicial procurement since 2011.

## The Judicial Branch Contracting Manual

The Judicial Contract Law requires the provisions of the *Judicial Branch Contracting Manual* (judicial contracting manual) to be substantially similar to those of the *State Administrative Manual* and the *State Contracting Manual* and to be consistent with the Public Contract Code. The *State Administrative Manual* provides general fiscal and business policy guidance to state agencies, while the *State Contracting Manual* provides more specific guidance regarding procurement and contract management. The Public Contract Code contains, among other provisions, competitive bidding requirements for state agencies. The Legislature’s objectives in enacting these laws included providing all qualified bidders with a fair opportunity to enter bids and eliminating favoritism, fraud, and corruption in the awarding of public contracts. In addition to establishing procurement requirements, the judicial contracting manual also contains recommended procurement practices for courts. Although those provisions are not mandatory, the judicial contracting manual states that courts should follow the recommended practices unless they have good business reasons for doing otherwise.

Like the Public Contract Code, the judicial contracting manual generally requires judicial branch entities to secure competitive bids or proposals for each contract, with certain exceptions, as the text box shows. For example, the judicial contracting manual exempts purchases under \$10,000 from

### Judicial Purchases That Are Exempt From Competitive Bidding Requirements

- Purchases under \$10,000.
- Emergency purchases.
- Purchases from government entities.
- Legal services.
- Purchasing through certain leveraged procurement agreements.
- Purchases from business entities operating community rehabilitation programs.
- Licensing or proficiency testing examinations.
- Purchases through local assistance contracts.
- Sole-source purchases.

Source: Judicial contracting manual, August 2018.

### Sole-Source Procurement

Under a sole-source procurement, only one vendor is afforded the opportunity to provide the goods or services. Before a court enters a sole-source procurement, it must request use of the sole-source approach, and an appropriate court authority (such as the presiding judge or court executive officer) must approve the request. The request should include the following information:

- Description of the goods and services to be procured.
- Explanation of why the goods and services cannot be procured competitively.
- Description of the effort made to solicit competitive bids, if any.
- Documentation that the pricing offered is fair and reasonable.
- Explanation of special factors affecting the cost or other aspect of the procurement, if any.

Source: Judicial contracting manual, August 2018.

### Leveraged Procurement Agreement

A leveraged procurement agreement allows multiple entities to make purchases in order to take advantage of their combined buying power to reduce prices, improve terms and conditions, or improve procurement efficiency. The judicial contracting manual recommends that courts determine whether pricing is fair and reasonable when using leveraged procurement agreements because the courts may be able to obtain better prices by negotiating directly with the vendors or by conducting competitive procurements.

Source: Judicial contracting manual, August 2018.

competitive bidding requirements as long as a court determines that the price is fair and reasonable. State procurement rules and the judicial contracting manual also do not require competitive bids for contracts for emergency purchases or for contracts that are with governmental entities.

The judicial contracting manual also allows for several types of noncompetitive procurements. Two types that judicial branch entities can use are sole-source procurements and certain leveraged procurement agreements (leveraged agreements). A sole-source procurement is one in which an entity affords only one vendor the opportunity to provide goods or services, as the text box describes.

An entity can use a leveraged agreement to purchase goods and services from certain vendors on the same or substantially similar terms without having to seek competitive bids, as the text box explains. The Department of General Services administers some leveraged agreements for use by state agencies and local governments so that they may buy directly from suppliers through existing contracts and agreements. The judicial contracting manual includes a process for using leveraged agreements, but it recommends that judicial branch entities consider whether they can obtain better pricing or terms by negotiating with vendors or soliciting competitive bids.

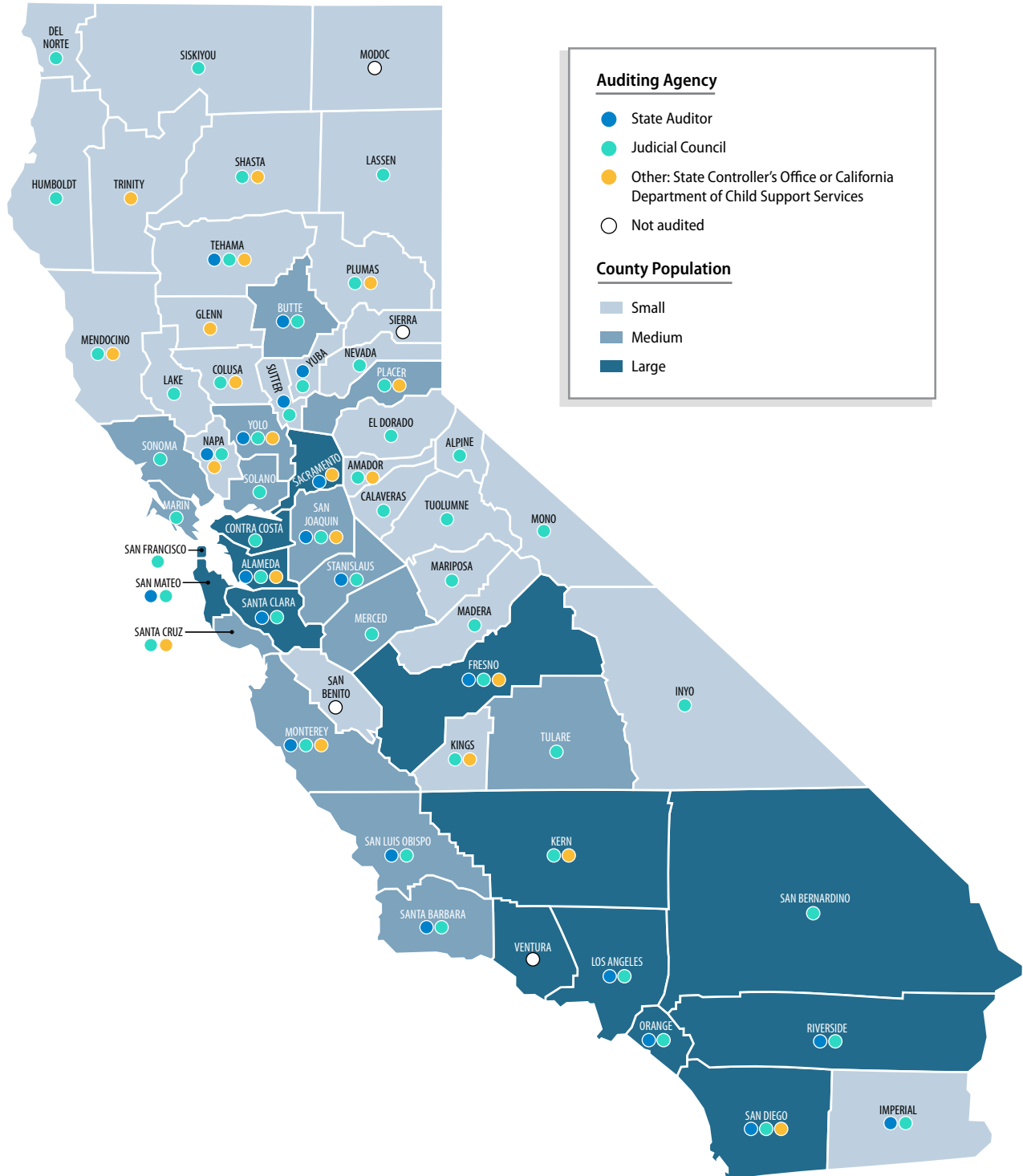
### Audits of California Superior Courts

Including this report, we have issued four audit reports covering procurement practices at 21 of the State's 58 superior courts since the Judicial Contract Law went into effect in 2011. We based

our selection of the courts we examined on factors including a court's size, total volume of contracts, previous audits or known deficiencies, and significant or unusual changes in management. We selected only courts we had not already audited.

California's superior courts are also subject to audit from several other agencies. The Office of Audit Services of the Judicial Council conducts court audits. Likewise, the California State Controller's Office's Division of Audits, which performs independent audits of government agencies that spend state funds, also conducts audits of superior courts. Finally, the California Department of Child Support Services—which works with parents and guardians to ensure children and families receive court-ordered financial and medical support—also conducts such audits. Since 2011 entities have conducted a total of 93 audits of California's superior courts. The Figure on the following page shows a map of California's 58 counties, their relative population sizes, the superior courts that we have audited, and those that have been audited by the Judicial Council or another independent body since 2011.

**Figure**  
Most Superior Courts Have Been Audited Since 2011



Source: Analysis of the State Auditor's audits and the Judicial Council's record of audits performed by it, the State Controller's Office, and the California Department of Child Support Services.

## All Five Courts Could Improve Their Contracting Practices

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### Key Points

- The Santa Clara court did not always follow appropriate contracting practices. It did not have an agreement on file to support \$582,000 it paid for services that the county provided in fiscal year 2017–18. It also lacked appropriate supporting documentation for three non-competitively bid contracts, including one for \$778,000 to procure temporary staff.
- Although the other four courts we visited generally followed the applicable procurement requirements that we evaluated, we identified certain issues at each one. For instance, the Los Angeles court lacked documentation showing that it had acquired goods at the best value for one contract, while the Monterey court lacked documentation of fair and reasonable pricing for one contract. Furthermore, the Santa Barbara and Imperial courts each lacked written justification for entering into a sole-source contract.

### The Santa Clara Court Did Not Always Follow Applicable Contracting Practices

According to the judicial contracting manual, each court should establish contracting processes and levels of approval authority that are consistent with applicable law and the rules of the court and that promote responsible stewardship of public funds. The manual further recommends that courts determine and document whether prices are fair and reasonable when following a noncompetitive process. We reviewed 12 contracts at each of the five county superior courts we audited. Although the courts generally adhered to most of the contracting provisions we tested, we observed that the Santa Clara court did not always follow applicable contracting practices.

For instance, the Santa Clara court lacked a written agreement—such as a contract—to substantiate \$582,000 for services that Santa Clara County billed to it for fiscal year 2017–18. A 2016 memo from the county executive officer indicated that after the Santa Clara court separated its operations from those of the county in July 1997, the county continued to provide various services to the court in accordance with an agreement between the two. The memo also stated that the agreement was renewed and extended through June 2016; however, the Santa Clara court could not provide a copy of an agreement covering fiscal year 2017–18. Without an agreement, the court has not demonstrated proper stewardship of public funds and has less assurance that it obtained and paid for agreed-upon services from the county.

In three other instances, Santa Clara court staff failed to adhere to contracting requirements, thereby reducing assurance that the prices the court paid were fair and reasonable. In the first case, in fiscal year 2015–16, the court appears to have

neither competitively awarded a contract for temporary staff nor justified contracting for the staff as a sole-source procurement. A purchase order for the services in fiscal year 2017–18 shows an amount of \$778,000. According to the court’s general services manager, the court’s human resources department contracted for temporary workers for a project without obtaining bids. The manager stated that once the court’s procurement/contracts and accounting departments learned of the hiring, staff scrambled to create an agreement even though the human resources department had not created a sole-source justification document. Thus, the court failed to competitively award the contract or to document its reason for using a sole-source procurement, as the judicial contracting manual requires.

In the two other cases, the Santa Clara court entered into leveraged procurement agreements without documenting whether it determined the prices were fair and reasonable. The judicial contracting manual recommends that after identifying a leveraged

#### Methods for Determining Whether a Procurement Price Is Fair and Reasonable

The *State Contracting Manual* describes the following methods that help ensure buyers obtain fair and reasonable prices:

- Performing a price comparison.
- Using prices from an established catalog or market pricing media.
- Using prices set by law or regulation.
- Using historical pricing.
- Using an experienced buyer who knows that the price is fair and that the cost of verification would exceed any benefit.

Source: Department of General Services’ *State Contracting Manual*, Volume 2.

procurement agreement, courts determine fair and reasonable pricing and also consider negotiating with vendors or conducting competitive bidding to obtain better pricing. The text box describes methods for determining whether a price is fair and reasonable. The general services manager for the Santa Clara court explained that when the court needs to make certain procurements, he identifies agreements he can leverage on the Judicial Council’s website. According to the general services manager, a previous information technology (IT) director for the court was part of the evaluation team for one of the two leveraged agreements in question and therefore had knowledge of the pricing for one of these contracts. In the other instance, the Santa Clara court extended an existing agreement for collection services for another year and an additional \$1.35 million. However, the court’s procurement files included no documentation that the court assessed whether either of the leveraged agreements’ prices was fair and reasonable.

### The Los Angeles, Monterey, Santa Barbara, and Imperial Courts Could Improve Their Contracting Practices

Although the other four courts we visited generally adhered to applicable contracting requirements, we identified certain documentation issues related to their contracting practices.

For example, the Los Angeles court did not demonstrate that it obtained best value for \$253,000 in goods it acquired under one contract in fiscal year 2017–18. In 2012 the court selected two vendors for a master services agreement, which is a type of leveraged agreement. However, the court did not specify how its officials would select which of the two vendors to use when placing an order under the agreement other than the court would select the vendor at its discretion. Although the judicial contracting manual does not identify the specific procedures a court should follow when making purchases under a leveraged agreement the court created, an underlying premise of the manual is that courts should obtain best value when acquiring goods and services. We therefore expected the Los Angeles court to have included in its procurement files evidence of which of the agreement’s two vendors offered the best value for the goods acquired; however, it did not.

In addition, during our audit period, the Monterey court used a 2013 leveraged procurement agreement to obtain Internet services worth up to \$78,000 in fiscal year 2017–18. Guidance for agencies using this agreement strongly encourages them to obtain multiple quotes for services to obtain the best price. Furthermore, the judicial branch manual recommends that agencies using leveraged agreements determine whether pricing is fair and reasonable and document how they selected leveraged agreements, including the best-value criteria they used. However, Monterey’s procurement file does not show that the court performed these steps, indicating that the court may have missed an opportunity to procure Internet services at a lower cost. Using older agreements heightens the risk that a court may not be receiving the best value for its procurement dollars.

We found similar issues at the Santa Barbara and Imperial courts. When we tested three sole-source contracts at the Santa Barbara court, we found that the procurement file for one contract—worth about \$18,000 in fiscal year 2017–18—did not contain an approved sole-source justification. Likewise, one of the three sole-source contracts—valued at \$194,000 over three years—that we tested at the Imperial court did not have a sole-source justification on file for a renewal that the court signed in fiscal year 2017–18.

### **Recommendations**

The Santa Clara court should ensure that it supports all payments with a contract or purchase order that clearly states the terms and pricing for any goods or services received. The court should also ensure that it competitively awards its contracts as appropriate and that it properly documents its fair and reasonable pricing determinations, including those for applicable leveraged agreements.

The Los Angeles court should ensure that it documents best value in its procurement files when selecting vendors from leveraged procurement agreements.

The Monterey court should ensure that it documents fair and reasonable pricing from vendors in its procurement files.

The Imperial and Santa Barbara courts should ensure that they document their justifications and approvals for using noncompetitive procurements.



## Four Courts Could Improve Their Processes for Handling Payments to Vendors and Recording Receipt of Goods and Services

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### Key Points

- Although the Monterey court had payment authorization limits in place, it did not always follow them. For seven of the 18 payments we examined, court employees approved payments that exceeded their authorization levels by amounts ranging from \$2,000 to more than \$107,000.
- The Santa Clara court did not always fully separate duties in payment processing. For three of the 18 payments we examined, the court's director of finance approved the invoices for payment and also posted them for payment in the court's financial system.
- All five courts we reviewed routinely verified the delivery of goods and services before they paid vendors, but we identified certain limited exceptions at the Imperial and Santa Barbara courts.

### Although the Monterey Court Had Payment Authorization Limits in Place, It Did Not Always Follow Them

Following proper internal controls over the processing of payments is a critical step for ensuring that courts use public funds appropriately. However, when we reviewed 18 payments at each of the five superior courts we audited, we found that the Monterey court did not consistently comply with its own payment authorization limits. Specifically, the Monterey court's local contracting manual includes dollar limits up to which it authorizes court employees in specified positions to approve invoices for payment. Adhering to such authorization limits increases the court's assurance that it makes appropriate payments. However, the court did not consistently follow these authorization limits during fiscal year 2017–18. Six court staff members who approved seven of the 18 payments (39 percent) we reviewed did so for amounts above their authorization limits. The payments exceeded the staff members' authorization limits by amounts ranging from \$2,000 to more than \$107,000. For example, the court's chief information officer approved a \$157,500 payment even though he only had the authority to approve payments up to \$50,000.

This lack of consistent adherence to the payment approval limits increases the court's risk of making inappropriate payments. The court's chief financial officer explained that in one of these instances, he approved a payment because the appropriate person was unavailable when the court needed to make the payment, although the court could provide no documentation that it authorized the chief financial officer to do so. The chief financial officer stated that the other six instances were the result of oversights on the part of the court. He also noted

that the court plans to remind staff who approve or process payments of individuals' limits and to cover the topic during future trainings.

### **The Santa Clara Court Did Not Always Fully Separate Duties in Payment Processing**

We found that although the Santa Clara court provides its staff with payment process instructions, including a list of each individual's role and a flowchart illustrating the steps of the payment process, its internal controls do not cover one area. The *State Contracting Manual*, which provides guidelines to promote sound business decisions and practices for the State, notes that state entities should separate key duties and responsibilities for approving invoices and preparing payments. When courts make payments without separation of duties—meaning splitting responsibilities so that no one person controls more than a single key aspect of a purchasing activity—it increases the risk of improper expenditures, which then puts public funds at risk. However, staff at the Santa Clara court did not practice such separation of duties in certain instances.

Specifically, in three of 18 cases we reviewed at the Santa Clara court, the director of finance approved the invoices for payment and also posted them for payment in the court's financial system. The court's payroll manager noted that in the past, different individuals had approved and posted these three payments, and she was unsure why this process had changed. She stated that the court will work to ensure that in the future, different people approve and post payments.

### **The Imperial and Santa Barbara Courts Could Better Document the Receipt of Goods and Services**

The judicial contracting manual states that before processing and releasing any payment to a vendor, a court should have documentation verifying that the vendor has provided the goods or properly performed the services for which the court is paying. At each of the five courts we audited, court staff routinely verified the delivery of goods or services before the courts made the payments we reviewed. However, we identified certain concerns at two of the courts. Specifically, an internal practice allowed the Imperial court to process one payment—\$4,100 for telecommunications services—without the appropriate prior written approval. Staff explained that when a payment amount matches the contract amount, the court does not require an approval of the individual payment. This internal practice

contradicts the judicial contracting manual's guidance on documentation and bypasses a key opportunity to ensure the appropriateness of every payment.

At the Santa Barbara court, staff noted that although vendors may provide packing slips or receipts, the court does not require them when processing payments. The judicial contracting manual states that courts should inspect delivered goods and retain documentation of the inspection's results in a procurement file. According to an accounting supervisor, the Santa Barbara court currently has three methods to demonstrate the receipt of goods or services: a receipt, a packing slip, or an email from court staff verifying that they have received the goods or services. He indicated that the former chief financial officer required only an email as assurance that the court had received goods or services. The accounting supervisor acknowledged that such emails are a weakness in the court's payment process and that the court intends to reinstate the requirement for packing slips or receipts. This change would increase the court's assurance that its payments are appropriate. In contrast, the Monterey court has a useful policy as part of its vendor payment process in which an accounts payable staff member matches the details of an invoice to equivalent details on a packing slip, shipping order, or receiving report before the court approves payment for goods or services.

### **Recommendations**

The Monterey court should revise its guidance regarding invoice approval limits to include a description of circumstances under which it will allow exceptions to such limits, and it should inform court staff of the revisions.

The Santa Clara court should establish and implement procedures to ensure that adequate separation of duties exists for procurement. These procedures should specifically prevent a single individual from both approving an invoice's amount and then also authorizing its payment.

To ensure the appropriateness of every payment, the Imperial court should require all invoices to receive approval before it processes their payment.

The Santa Barbara court should reinstate its previous requirement that staff submit packing slips or receipts before its payment of invoices.

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## Three Courts Could Improve Their Purchase Card Practices

### Key Points

- In one instance, the Santa Clara court exceeded the judicial contracting manual's purchase card transaction limit by almost \$7,000 and its daily purchasing limit by nearly \$3,400.
- The Imperial and Santa Barbara courts did not document purchase card transaction limits that deviated from the judicial contracting manual's guidelines, which specifically require such documentation.

### The Santa Clara Court Exceeded Both the Transactional and Total Daily Limits in One Instance

Proper controls over purchase cards help ensure that courts use public funds appropriately. The state-administered procurement card program, CAL-Card, is available to all superior courts, although they are also allowed to use other purchase cards. The Imperial, Monterey, Los Angeles, and Santa Barbara courts use CAL-Cards; the Santa Clara court uses a different vendor for its purchase cards. When courts make payments that exceed approved transaction limits on purchase cards or do not follow judicial contracting manual policies, they may put public funds at risk. Further, because courts often provide purchase cards to individuals so they can buy directly from vendors, the cards may be subject to abuse if the courts do not properly oversee their use.

We tested purchase card transactions at two county superior courts—Monterey and Santa Clara—because their total purchase card payments for fiscal year 2017–18 exceeded either \$100,000 or 10 percent of the court's procurements during the fiscal year. We did not find any exceptions in our review of the Monterey court's purchase card transactions; the text box describes the strong internal purchase card controls we found at the Monterey court. However, we did find one instance in which the Santa Clara court made a purchase card payment that exceeded the judicial contracting manual's transactional and total daily limits.

The Santa Clara court has five purchase cards, four of which are dedicated to certain categories, such as staff training and travel, and the fifth of which is assigned to the court's chief executive officer. When we tested six purchase card payments, we found that an \$8,390 purchase of staff IT training exceeded both the judicial contracting manual's \$1,500 per-transaction maximum and its suggested daily purchase limit of \$5,000, although the purchase was otherwise appropriate. By not consistently following the judicial contracting manual's required and suggested transaction limits, the court increases

#### The Monterey Court's Controls Over Its Purchase Card Transactions

- The Monterey court has five purchase cards, each of which has an automatic transaction limit of \$1,500.
- All procurements made using purchase cards must be initiated by approved requisitions.
- The Monterey court's alternative procedure for making travel arrangements using purchase cards is documented, as the judicial contracting manual requires.

Source: Analysis of documents provided by the Monterey court.

the risk that its staff will use purchase cards inappropriately. Although the payroll manager asserted that the Santa Clara court does not have a transaction limit for this card, the court did not include this information in its local contracting manual as the judicial contracting manual requires.

### **The Imperial and Santa Barbara Courts Did Not Document Purchase Card Transaction Limits That Deviated From the Judicial Contracting Manual's Guidelines**

Although we did not test individual purchase card payments at the Imperial, Los Angeles, or Santa Barbara courts because the total payments did not meet our review threshold, we identified concerns about purchase card transaction amount limits at the Imperial and Santa Barbara courts that exceeded the judicial contracting manual's recommended limits. The manual states that courts can use purchase cards for a maximum of \$1,500 per transaction. However, the Imperial court established single-transaction limits of \$2,000 for four of its nine purchase cards, of \$5,000 for three of its purchase cards, and \$10,000 for one of its purchase cards. Similarly, the Santa Barbara court established a transaction limit of \$2,500 for three of its seven purchase cards.

Although the judicial contracting manual allows courts to establish purchase card procedures that deviate from its policies, the manual states that courts should document any such alternative procedures and incorporate them into their local manuals. The Los Angeles court, for instance, established an alternative procedure to increase its purchase card transaction limit to \$5,000, which it documented in its local manual and in its policies and procedures.

At the time of our audit, neither the Imperial nor the Santa Barbara court had incorporated their alternative procedures into their local manuals. Without properly documented or built-in transaction limits, the Imperial and Santa Barbara courts increase the risk that their staff will use purchase cards inappropriately. Staff at the two courts noted that they will update their local manuals to reflect their alternative procedures for purchase card transaction limits.

### **Recommendations**

The Santa Clara court should ensure that its staff abide by the judicial contracting manual's purchase card transaction limits, or it should document an alternative transaction limit in its local contracting manual.

The Imperial and Santa Barbara courts should document their alternative purchase card procedures regarding transaction limits in their local manuals.

We conducted this audit under the authority vested in the California State Auditor by Government Code 8543 et seq. and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA  
California State Auditor

January 15, 2019

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## APPENDIX

### Scope and Methodology

We conducted this audit pursuant to the audit requirements contained in the Judicial Contract Law. Our audit focused on the superior courts in Imperial, Los Angeles, Monterey, Santa Barbara, and Santa Clara counties. The table below lists the audit's objectives and the methods we used to address them.

**Table**  
**Audit Objectives and the Methods We Used to Address Them**

AUDIT OBJECTIVE	METHOD
1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed relevant state laws and rules, as well as each court's relevant policies and procedures.
2 Based on risk factors specified in the California Judicial Branch Contract Law (Judicial Contract Law), Public Contract Code section 19210(a)(1), identify five judicial branch entities excluding the Judicial Council of California for audit to assess their implementation of the Judicial Contract Law.	Evaluated all 58 California superior courts and ranked them based on significant changes that have occurred since 2016 that may impact compliance with the Judicial Contract Law; the amount of time since it was last audited and previous audit results or known deficiencies; significant changes in management or employee turnover; the complexity and size of the courts and its existing contracting practices and procedures; the volume and type of procurements made by the court relative to total judicial branch procurements and to county population; and substantial changes to the number and amount of total procurements in the previous year.
3 For the five superior courts selected for audit: <ul style="list-style-type: none"> <li data-bbox="342 1171 743 1272">a. Determine whether each court has developed its own local contracting manual, and assess its conformance to the judicial contracting manual.</li> <li data-bbox="342 1472 743 1577">b. Assess each superior court's internal controls over contracting and procurement and determine whether the court followed those controls.</li> <li data-bbox="342 1585 743 1774">c. Assess each superior court's compliance with key elements of the judicial contracting manual and its local contracting manual and procedures, including those related to competitive bidding, sole-source contracting, and payment and deliverable review and oversight.</li> <li data-bbox="342 1782 743 1934">d. Evaluate each superior court's contracts to determine whether it may have inappropriately split contracts to avoid obtaining necessary approvals or complying with competitive bidding requirements.</li> </ul>	<p>Reviewed each court's local contracting manual applicable for fiscal year 2017–18, compared provisions to the judicial contracting manual applicable for the same year, and queried court staff regarding any questionable discrepancies. Each of the five courts we reviewed had a local manual that generally conformed to the judicial contracting manual, as required. At the time of our fieldwork, the Santa Clara Court had updated its local manual to align to the most recent judicial contracting manual, published in August 2018; similarly, the Los Angeles and Santa Barbara courts' staff told us they had begun updating their local manuals to align to the August 2018 judicial contracting manual, and the Monterey court's staff said it planned to update its local manual in early 2019. Staff at the Imperial court told us it had not yet established a process for updating its local contracting manual to align to the August 2018 judicial contracting manual.</p> <p>Reviewed each court's local contracting manual and interviewed key staff regarding the court's procurement processes. We judgmentally selected 12 contracts at each court from the contracts that were active during fiscal year 2017–18, as reported in the Judicial Council's <i>Semiannual Report on Contracts for the Judicial Branch</i> (semiannual reports) posted on the Judicial Council's website. We also judgmentally selected 18 payments at each court from the payments each court reported to us for fiscal year 2017–18. We tested each of these contracts and payments and queried court procurement staff regarding any exceptions.</p> <p>Reviewed the list of contracts that were active at each court during fiscal year 2017–18, as reported in the semiannual reports posted on the Judicial Council's website, to identify instances in which courts might have split a contract into multiple contracts to avoid competitive bidding or necessary approval requirements. We followed up with court staff as needed regarding additional clarification on the items we tested. We did not find evidence of contract splitting at any of the five courts we reviewed.</p>

continued on next page...

AUDIT OBJECTIVE	METHOD
<p>e. Review the appropriateness of each superior court's state purchase card (CAL-Card) or other court-issued purchase card transactions when those transactions exceed a total of \$100,000 or 10 percent of all reported procurement payments for a one-year period.</p>	<p>Determined whether each court used purchase cards to make purchases and reviewed the monthly statements for these cards. We tested a judgmental selection of six transactions at each of the two courts whose purchase card transactions exceeded our threshold of \$100,000.</p>

Sources: Analysis of the Judicial Contract Law and of information and documentation identified in the table column titled *Method*.

### ***Assessment of Data Reliability***

In performing this audit, we relied upon electronic data extracted from the information systems of the Judicial Council and three of the superior courts we audited. Specifically, to select contracts for testing the superior courts' compliance with procurement procedures, we used the Judicial Council's semiannual report for the periods from July 2017 through December 2017 and from January 2018 through June 2018.

The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. To gain assurance that the population from which we selected contracts for our compliance testing was complete, we selected six contracts from each of the five superior courts—for a total of 30 contracts—and traced them to the semiannual reports. We noted no exceptions to completeness for the contracts we selected from the Monterey court's iShare/Procurement System or those we selected from the Santa Barbara court. However, we found that the reports did not include one contract each that we selected from the Imperial Court, the Los Angeles court's Novatus system, or the Santa Clara court. We therefore deemed the information in the semiannual reports for the Imperial, Los Angeles, and Santa Clara courts incomplete. Although we recognize that these limitations may affect the precision of the numbers we present, there is sufficient evidence in total to support our audit findings, conclusions, and recommendations.



SHERRI R. CARTER  
EXECUTIVE OFFICER / CLERK

111 NORTH HILL STREET  
LOS ANGELES, CA 90012-3014

## *Superior Court of California* *County of Los Angeles*

December 17, 2018

Elaine M. Howle\*  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for the opportunity to review the Bureau of State Audits 2018 Procurement Report. As outlined below, the Superior Court of California, County of Los Angeles (Court) does not agree with the audit findings.

**Finding – Los Angeles Court could not provide documentation that it obtained the best value for the \$253,000 in goods acquired under one contract in fiscal year 2017-18.**

The Judicial Branch Contracting Manual (JBCM) does not impose a continuing obligation on Judicial Branch Entities to assess and/or document best value when issuing a Purchase Order (PO) from a Court contract that has been competitively bid by the Court. This is true even when multiple contracts are awarded through a single solicitation, as authorized by JBCM Chapter 4, Section 4.2.D. The procedure set forth in Section 4.2.D does not include a requirement that the Court indicate an additional method for selecting between the awarded vendors when ordering services off of the Court agreements. ①

The two agreements awarded in 2012 were the result of a full competitive procurement process that included analysis and consideration of pricing submitted by both vendors as part of their proposals and followed the protocol for making multiple awards through a single solicitation. The pricing submitted by each vendor was determined to be competitive during the solicitation evaluation process and was incorporated into the final agreement with each vendor. As an added precaution, the Court's contracts included a Most Favored Public Entity provision that requires the contractor to extend lower pricing to the Court if the same lower pricing is offered to another federal, state, county or municipality. This provision provides added protection to ensure that the Court continues to receive the best competitive pricing under these agreements.

\* California State Auditor's comments begin on page 23.

Elaine M. Howle, California State Auditor  
December 17, 2018

page 2 of 2

In the context of competitive procurements, "best value" is a standard for awarding the initial contract and it necessarily includes criteria other than pricing. However, once the Court establishes a competitively bid contract, there is no JBCM requirement for a continued assessment (or documentation) of best value for each PO issued to an awarded vendor.

- **Recommendation: The Los Angeles court should ensure it documents best value pricing in its procurement files when selecting vendors from master services agreements.**

In full accordance with the JBCM, the Court does follow this practice in all situations where it is required per the JBCM.

**Finding – Failure to report contracts as part of the semiannual reports as required by the JBCM.**

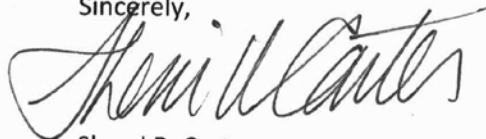
All Court contracts that have POs associated with them are included by the Court in the judicial branch financial system (SAP) and should be automatically reported by the Judicial Council of California (JCC) as part of these reports.

During the audit onsite visit, the contracts outlined below were identified as possibly missing from the JCC semiannual report. The POs for these transactions were issued by the Court through the SAP system and should have been automatically included by the JCC in the semiannual report.

1. 2014-028-A2 – First 1 year extension re Structured Cabling Master Agreement
2. 2015-053A1 – QC Services for Mental Health; Extension

Please include this response in your final 2018 Procurement Report. If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,



Sherri R. Carter

c: Presiding Judge Daniel J. Buckley  
Jeremy D. Cortez, Chief Deputy of Finance and Administration

## COMMENTS

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

To provide clarity and perspective, we are commenting on the response to our audit report from the Superior Court of California, County of Los Angeles (Los Angeles court). The numbers below correspond to the numbers we placed in the margin of the Los Angeles court's response.

We appreciate the Los Angeles court's comments and have clarified our finding and recommendation to better reflect our position. We stand by our recommendation that the court should ensure it documents best value when selecting vendors from which it acquires goods and services under leveraged procurement agreements.

Based on additional information provided by the Los Angeles Court, we amended the text to state that the semiannual reports did not include one contract from the Los Angeles court's Novatus system.

①

②

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LYDIA M. VILLARREAL  
*Presiding Judge*  
 2018 - 2020

**SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF MONTEREY**

240 Church Street, Salinas, California 93901 - (831) 775-5400  
[www.monterey.courts.ca.gov](http://www.monterey.courts.ca.gov)

JULIE R. CULVER  
*Asst. Presiding Judge*

CHRIS RUHL  
*Court Executive Officer*

December 17, 2018

Elaine M. Howle, CPA  
 California State Auditor  
 621 Capitol Mall, Suite 1200  
 Sacramento, CA 95814

**RE: Report Number 2018-301, *Judicial Branch Procurement***

Dear Ms. Howle,

The Superior Court of California, County of Monterey has reviewed the findings and recommendations contained in the California State Auditor's draft report regarding judicial branch procurement. We have detailed below our responses to the two recommendations contained in the report, to both of which the court agrees. The court has already begun to take action in response to the recommendations and intends to have fully implemented all corrective actions by the end of February 2019.

**Recommendation #1: The Monterey court should ensure it documents fair and reasonable pricing from vendors in its procurement files.**

Response: The court agrees with the recommendation. The court will ensure its local contracting manual (LCM) supplements and contains all relevant sections of the Judicial Branch Contracting Manual that cover fair and reasonable pricing. In addition, in regard to leveraged purchase agreements, the court will revise its LCM to improve the court's processes in determining and documenting that the appropriate steps have been taken when ascertaining whether the vendor's prices are fair and reasonable.

Planned implementation date: February 28, 2019

**Recommendation #2: The Monterey court should revise its guidance regarding invoice approval limits to include a description of circumstances under which it will allow exceptions to such limits and inform court staff of the revisions.**

Response: The court agrees with the recommendation. The court will update and revise its LCM to clarify general approval authority limits as well as specific categorical approval authority limits, and the process and procedures related to the granting of exceptions to those limits. The court's Finance Division staff will also initiate regular annual trainings for all relevant court staff as well as as-needed trainings for new

January 2019

relevant court staff to communicate these revisions, as well as maintain staff awareness of these policies in the future. The court has already communicated to relevant court staff in November 2018 to remind them of the current invoice approval limits pending revision of the LCM.

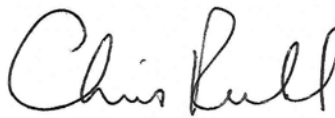
Planned implementation date: February 28, 2019

We would also like to thank and recognize your staff – Rachel Hibbard, David Monnat, and Wren Greaney – for their professional and courteous demeanor when working with our court staff, both in-person and through correspondence, during the audit process.

Sincerely,



Hon. Lydia M. Villarreal  
Presiding Judge



Chris Ruhl  
Court Executive Officer



Judge Patricia Kelly  
Presiding Judge

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA



Darrel E. Parker  
Court Executive Officer

December 12, 2018

Elaine M. Howle, CPA  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 94815

RE: Report No. 2018-301

Dear Ms. Howle:

The Santa Barbara Superior Court reviewed the draft audit report, Judicial Branch Procurement, Report 2018-301. We agree with the recommendations contained within the report, and are including the courts strategies and timelines to attain compliance below.

*Recommendation # 1* – Santa Barbara court should ensure they document their justifications and approvals for using noncompetitive procurements.

*Santa Barbara agrees that the justification and approvals for using noncompetitive procurements must be clearly documented in all contract files. An additional procurement specialist is now assisting with the workload to allow for more time and focus on each individual procurement. Additionally, procurement presently utilizes a contract summary at the inception of the procurement which serves as a check-list to ensure that no steps are over-looked, and all required documentation is accounted for in each procurement file.*

*Estimated completion date: March 31, 2019*

*Recommendation # 2* – Santa Barbara court could better document the receipt of goods and services. The Santa Barbara court should reinstate its previous requirement that staff submit packing slips or receipts before payment of invoices.

*The court agrees that better documentation should be used for the receipt of goods and services. Santa Barbara Court will reinstate the previous requirement that staff submit packing slips or receipts prior to the payment of invoices. We agree that this will further assure that payments are appropriate. The court is currently revising the forms and procedures to include in an updated local contracting manual, and posted to the court intranet. Training on the updated policies and procedures will be provided to court staff to ensure compliance.*

*Estimated completion date: March 31, 2019*

January 2019

Judge Patricia Kelly  
Presiding Judge

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA



Darrel E. Parker  
Court Executive Officer

*Recommendation # 3 – Santa Barbara court should document their alternative purchase card procedures regarding transaction limits in their local manuals.*

*Santa Barbara agrees that alternative procedures should be documented in the local contracting manual. The court began revising its local contracting manual earlier this fiscal year. If we determine that it is necessary to maintain alternate limits on any of the court credit cards, those limits will be documented in the manual.*

*Estimated completion date: March 31, 2019*

Thank you for your time and communication with us throughout the process. We appreciate the recommendations made, and will utilize the opportunity to further improve our practices.

Sincerely,

A handwritten signature in black ink that reads "Patricia Kelly".

Patricia Kelly, Presiding Judge  
Superior Court of California, County of Santa Barbara

Cc: Darrel E. Parker, Superior Court Executive Officer

## Superior Court of California County of Santa Clara

191 North First Street  
San Jose, California 95113  
(408) 882-2700

Chambers of  
HON. PATRICIA M. LUCAS, Presiding Judge



December 18, 2018

Elaine Howle  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Re: Santa Clara Superior Court Response to State Audit

Dear Ms. Howle:

### ***Key Points Response pertaining to procurement practices related to contracting***

- The Court is aware of and agrees with the findings identified by the state auditors regarding lack of a proper solicitation process or sole-source justification relating to certain contracts. The Procurement Department will include in their contracting and procurement procedures reference to State contracting guidelines. The Court will also conduct scheduled price checks on existing contracts to ensure that the Court continues to receive the best pricing. If the Court chooses not to go through a solicitation process, a sole-source justification will be included in the contract in place of the solicitation.
- The Procurement Department has formulated its procedures and operated on the understanding that Leveraged Procured Agreements (LPA's) did not have to go through a solicitation process and that our Court can participate in these agreements without having to do anything further under the solicitation process. The Court now has a clear understanding of the requirements relating to such agreements.
- Going forward, the Procurement Department will scrutinize all future LPA's from government entities as well as LPA's with piggybacking clauses to determine requirements for any participating Court, to check to ensure that current pricing is fair and reasonable.
- The Procurement department will also try to ensure that either a solicitation or price check is first conducted prior to the Court extending any LPA's once the initial term has ended.

### ***Key Points Response pertaining to separation of duties and documentation/approval of goods receipts***

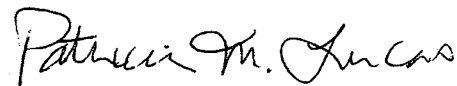
- The Court recognizes the deficiency in clear separation of duties with Court staff in the approval of invoices and posting of invoices. These incidences occurred due to a lack of staffing in Finance. Staff from other departments such as Procurement and Law Library are assisting Finance in processing these invoices until Finance can go back to adequate staffing numbers.
- Going forward, the Court will prioritize clear separation of duties between invoice approvals and the posting of invoices in SAP.

- Procurement will emphasize in their annual training the necessity for Court approvers to approve only within their designated approval amounts. Training for managers and supervisors will also emphasize that the responsibility is theirs to verify delivery of goods and services before processing invoices for payment. The Procurement Department is reviewing its invoice approval procedures and will be revising them to state clear procedures and guidelines on invoice approval limits and exceptions to the amount limits. Those procedures also will be revised to allow only managers and supervisors to approve receipts and invoices prior to processing them for payments.

***Key Points Response pertaining to purchase card practices***

- The Court recognizes that the use of the Court purchase cards exceeded the daily amount limit and transactional amount limit. These instances are not the normal practice of the Procurement Department. In instances where the amounts were exceeded, the vendor did not accept purchase orders and the time constraints of the project did not allow for cutting a check.
- The Court follows the State's procurement guidelines for finding the lowest/best price for goods and services. Best pricing for goods is often sourced out from vendors such as Amazon, which do not accept purchase orders. In these cases, purchase cards are the only accepted form of payment.
- The Court's Procurement Department will limit the use of the Court purchase card and will ensure the Court stays within the purchase card's daily amount limits and transaction limits.
- The Court will review the Court's purchase card limits and match it to the Judicial Council's amount limits for purchase cards. The Court will also ensure through training and reinforcement that the staff abide by the Judicial Council's purchase card limits. The Court will investigate alternative transaction limits and will revise its procedures as necessary.

Very truly yours,



Honorable Patricia M. Lucas  
Presiding Judge

cc: Rebecca Fleming, Court Executive Officer  
Walter Eissmann, Finance Director