



January 13, 2022

**2021-302**

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

Dear Governor and Legislative Leaders:

This report concludes that over the past decade in which the California State Auditor's Office (State Auditor) has been responsible for regularly auditing the Judicial Council of California (Judicial Council), the Judicial Council has made substantial progress in its procurement and payment policies and practices. The Judicial Council is the policymaking body of the California courts. Under the leadership of the Chief Justice and in accordance with the California Constitution, the Judicial Council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice.

In 2011 the State enacted the California Judicial Branch Contract Law (judicial contract law), which requires Judicial Branch entities to comply with the provisions of the Public Contract Code that apply to state agencies and departments for the procurement of goods and services, subject to certain exceptions. The judicial contract law also requires the State Auditor, subject to legislative appropriation, to conduct a biennial audit of the Judicial Council's compliance with the judicial contract law. We have conducted five biennial audits of the Judicial Council and issued 24 recommendations for the Judicial Council to improve its procurement and payment policies and practices. The text box lists our past four audit reports. In our most recent audits, the Judicial Council has consistently implemented all recommendations. As a result, the Judicial Council has strengthened its procurement and payment policies and practices.

In fall 2021, we contracted with the nationally recognized consulting firm Kearney & Company (consultant), which has in-depth experience auditing procurement processes in the federal court system. Our consultant evaluated the Judicial Council's procurement and payment policies and performed a detailed review of more than 50 procurements and more than 60 payments executed by Judicial Council staff. Our consultant determined that, in all material respects, the Judicial Council is in compliance with the judicial contract law. Specifically, our consultant reached the following conclusions:

- **Procurement policies:** As required, the Judicial Council's contracting manuals are consistent with requirements in state law and certain state administrative manuals.
- **Procurement processes:** The Judicial Council has implemented, and its staff are consistently following, appropriate procurement controls and practices.

#### Past Reports on Judicial Council Procurement

- **December 2019:** Judicial Council of California Letter Report (2019-302)
- **December 2017:** Judicial Council of California: It Needs to Follow Competitive Bidding Processes More Consistently and Establish Clear Guidance for Invoice Processing (2017-302)
- **December 2015:** Judicial Branch Procurement: Although the Judicial Council Needs to Strengthen Controls Over Its Information Systems, Its Procurement Practices Generally Comply With Applicable Requirements (2015-302)
- **December 2013:** Judicial Branch Procurement: Semiannual Reports to the Legislature Are of Limited Usefulness, Information Systems Have Weak Controls, and Certain Improvements in Procurement Practices Are Needed (2013-302/2013-303)

Source: [California State Auditor's Office](#).

- **Payment processes:** The Judicial Council staff are consistently following requirements in its contracting manual and its internal procedures related to vendor payments.
- **Annual procurement reports:** The Judicial Council is accurately reporting required information on payments and contracts to the Legislature and the State Auditor's Office. It is also reporting this information through the public transparency website of the Financial Information System of California (FI\$Cal).

### **The Judicial Council's Contracting Manuals Comply with Legal and Administrative Requirements**

The Judicial Council maintains a judicial contracting manual for the various Judicial Branch entities, such as the Superior Courts. It also maintains its own procurement manual (local manual). The judicial contract law requires that these manuals be consistent with the Public Contract Code, which governs contracts entered into by public entities, as well as certain state administrative manuals that provide additional procurement guidance. Our prior audits found that the judicial contracting manual and local manual generally complied with these requirements but that the Judicial Council could better ensure that both manuals were routinely updated with relevant changes that had been made in the Public Contract Code or state administrative manuals. The Judicial Council fully implemented these recommendations regarding updates to the manuals. Our consultant found in its review that the judicial contracting manual remains consistent with the requirements in the Public Contract Code and state administrative manuals. In addition, our consultant determined that the local manual conforms to the judicial contracting manual.

### **The Judicial Council Has Sufficient Controls Over Its Procurement Process**

Although the Judicial Council had problems with its procurement process in the past, it has improved its process in response to our reports. In December 2013 our first audit of the Judicial Council's procurements identified weaknesses in the Judicial Council's process, such as not always using competitive bidding for procurements exceeding the State's dollar threshold. Subsequent audits also identified some problems in the Judicial Council's procurement process, including not obtaining proper management approval on sole-source contracts. Over the last eight years, the Judicial Council has made improvements to its procurement process by implementing our audit recommendations. For this audit, our contractor reviewed more than 50 procurements, testing for compliance with the judicial contracting manual and the Judicial Council's internal procedures. Our contractor looked specifically at requirements related to competitive bidding and sole-source contracting. Based on this review, our contractor did not identify any issues related to the Judicial Council's procurement process.

### **The Judicial Council Has Improved Its Payment Processes**

In general, our audits have found that the Judicial Council staff follow its payment processes and that these processes are sufficient. However, our 2017 audit found that, out of the 60 payments we tested, three did not comply with the judicial contracting manual. Two did not have proof that the Judicial Council received the goods and services. In a third payment, the Judicial Council paid an invoice dated a year before the corresponding purchase order was created. To resolve these issues, we recommended that the Judicial Council develop a document with clear invoice-processing

procedures for its accounting staff, and the Judicial Council resolved this recommendation through its transition to FI\$Cal. In our 2019 audit, we did not identify any subsequent concerns with payments. In this audit, our consultant selected more than 60 payments for review and determined that all the payments complied with the requirements of the judicial contracting manual and the Judicial Council's procedures.

### **The Judicial Council Provides Transparency on Its Financial Information**

The Judicial Council is reporting timely and reliable information on its procurements and payments. Previously, state law required the Judicial Council to submit semiannual reports to the Legislature and our office on certain financial activities, such as payments to contractors or vendors. Although some of our past audits had identified issues with these semiannual reports, in August 2020, the Legislature passed a bill that changed the Judicial Council's reporting responsibilities. Effective January 2021, the Judicial Council must submit only an annual report to the Legislature and our office, but it must also make its contract and payment information available to the public via FI\$Cal's public transparency website. Consequently, our consultant performed procedures to assess the reliability of the Judicial Council's financial information in both FI\$Cal and its reports to the Legislature for July 1, 2019, through June 30, 2021. Our consultant determined that the information was reliable.

Our consultant conducted this audit under the authority vested in the California State Auditor by Government Code section 8546 and according to generally accepted government auditing standards. Those standards require that the consultant 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. Based on our review of the consultant's work product, we believe that the evidence obtained provides a reasonable basis for the findings and conclusions contained in this audit report.

Respectfully submitted,



MICHAEL S. TILDEN, CPA  
Acting California State Auditor

January 13, 2022

## APPENDIX

### Scope and Methodology

The State Auditor contracted with Kearney & Company to complete this audit. The audit was conducted according to audit requirements contained in the Public Contract Code section 19210, the judicial contract law, and the standards of the U.S. Government Accountability Office, which the State Auditor is statutorily required to follow. The judicial contract law requires the State Auditor, upon legislative appropriation, to perform biennial audits of the Judicial Council. The table lists the audit objectives we developed and the methods Kearney & Company used to fulfill those objectives.

### Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
1 Determine whether the judicial contracting manual is consistent with the requirements set forth in the judicial contract law.	Compiled revisions to the contract code, <i>State Administrative Manual</i> , and <i>State Contracting Manual</i> from July 1, 2019, through June 30, 2021, and determined whether the judicial contracting manual reflected relevant revisions and whether it was consistent with requirements set forth in the judicial contract law.
2 Determine whether the Judicial Council's local manual conforms to the judicial contracting manual.	Determined whether any revisions made to the judicial contracting manual were reflected in the local manual.
3 Assess the Judicial Council's internal controls over procurement practices and then determine whether it complied with those controls and other key requirements, including requirements related to competitive bidding and sole-source contracting.	<ul style="list-style-type: none"> <li>• Reviewed the judicial contracting manual, the local manual, and the Judicial Council's procedures, and also interviewed staff to assess the Judicial Council's internal controls over contracting and procurement.</li> <li>• Used data from FISCAL to identify all Judicial Council procurements for the period from July 1, 2019, to June 30, 2021.</li> <li>• Tested a selection of procurements including contract agreements, purchase orders, and contract amendments for compliance with the requirements of the judicial contracting manual and the local manual, including requirements regarding procurement approval, segregation of duties, competitive bidding, and other key controls.</li> </ul>
4 Assess the Judicial Council's internal controls over payment practices and determine whether it complied with those controls.	<ul style="list-style-type: none"> <li>• Reviewed the judicial contracting manual, local manual, and the Judicial Council's procedures, and interviewed staff to assess the Judicial Council's internal controls over payments.</li> <li>• Made a selection of invoice payments from the procurements reviewed in Objective 3. Tested the selected payments for compliance with requirements of the judicial contracting manual and other procedure documents, including requirements concerning invoice approval, proper authorization, and segregation of duties.</li> </ul>
5 Evaluate the Judicial Council's contracts to determine whether the Judicial Council inappropriately split any contracts to avoid necessary approvals or competitive bidding requirements.	<ul style="list-style-type: none"> <li>• Confirmed that the judicial contracting manual still prohibits Judicial Branch entities from splitting transactions costing more than \$10,000 into multiple transactions costing less than \$10,000.</li> <li>• Used data from FISCAL to identify vendors from which the Judicial Council made multiple procurements of less than \$10,000 for the period between July 1, 2019, through June 30, 2021.</li> <li>• For a selection of procurements from vendors with multiple payments less than \$10,000, assessed procurement documentation to determine whether any of those multiple procurements should have been a single competitively bid procurement. We found none.</li> </ul>

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AUDIT OBJECTIVE	METHOD
<p>6 Assess the reliability of data in the Judicial Council's semiannual reports on Judicial Branch contracts and payments, as necessary, for the purpose of establishing testing selections.</p>	<ul style="list-style-type: none"><li>• Obtained data from FI\$Cal that the Judicial Council used to generate the semiannual reports for the period of July 1, 2019, through June 30, 2021.</li><li>• For a selection of hard-copy procurement files, determined whether the selected procurements were accurately recorded in the semiannual report and in FI\$Cal.</li><li>• For a selection of payment invoices from the semiannual reports, reviewed the hard-copy invoice records related to each payment to verify that the amounts in the semiannual reports matched the amount on the invoices.</li><li>• Determined that these data are sufficiently reliable for the audit purpose of selecting our testing items, and for relying on the information the Judicial Council provided in its semiannual reports.</li><li>• We did not identify any reportable findings related to this objective.</li></ul>

Source: Audit workpapers.