

MERCED COUNTY

Audit Report

COURT REVENUES

July 1, 2011, through June 30, 2017



BETTY T. YEE
California State Controller

November 2019



BETTY T. YEE
California State Controller

November 19, 2019

Lisa Cardella-Presto, Auditor-Controller
Merced County
2222 M Street
Merced, CA 95340

Amanda Toste, Interim Court Executive Officer
Superior Court of California
Merced County
627 West 21st Street
Merced, CA 95340

Dear Ms. Cardella-Presto and Ms. Toste:

The State Controller's Office audited Merced County's court revenues for the period of July 1, 2011, through June 30, 2017.

Our audit found that the county overremitted a net of \$30,127 in state court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified revenues by a net total of \$5,446;
- Overremitted the State Domestic Violence Restraining Order Reimbursement Fund (Penal Code section 1203.097) by \$17,786; and
- Overremitted the State Domestic Violence Training and Education Fund (Penal Code section 1203.097) by \$17,787.

Our audit also found that the court incorrectly prioritized the distribution of installment payments.

The county should reduce subsequent remittances to the State Treasurer by \$30,127.

If you have questions regarding payments, TC-31s, or interest and penalties, please contact Jennifer Montecinos, Manager, Tax Programs Unit, by telephone at (916) 324-5961, or by email at lgpsdtaxaccounting@sco.ca.gov.

If you have questions regarding the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138, or by email at lkurokawa@sco.ca.gov.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/hf

Lisa Cardella-Presto, Auditor-Controller -2-
Amanda Toste, Interim Court Executive Officer

November 19, 2019

cc: Lloyd Pareira, Chairman
Merced County Board of Supervisors
Grant Parks, Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
California Victim Compensation Board
Anita Lee, Senior Fiscal and Policy Analyst
Legislative Analyst's Office
Sandeep Singh, Manager
Local Government Policy Unit
State Controller's Office
Jennifer Montecinos, Manager
Tax Programs Unit
State Controller's Office

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	3
Follow-up on Prior Audit Findings	3
Views of Responsible Officials	3
Restricted Use	3
Schedule—Summary of Audit Findings Affecting Remittances to the State Treasurer	4
Findings and Recommendations	5
Attachment A—County’s Response to Draft Audit Report	
Attachment B—Superior Court’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Merced County on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2011, through June 30, 2017.

Our audit found that the county overremitted a net of \$30,127 in state court revenues to the State Treasurer because it:

- Underremitted the 50% excess of qualified revenues by a net total of \$5,446;
- Overremitted the State Domestic Violence Restraining Order Reimbursement Fund (Penal Code [PC] section 1203.097) by \$17,786; and
- Overremitted the State Domestic Violence Training and Education Fund (PC section 1203.097) by \$17,787.

Our audit also found that the court incorrectly prioritized the distribution of installment payments.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to receive a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the County Treasurer as soon as practical and provide the County Auditor with a monthly record of collections. This section further requires that the County Auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires the SCO to review the reports and records to ensure that all fines and forfeitures have been transmitted. GC section 68104 authorizes the SCO to examine records maintained by the court. Furthermore, GC section 12410 provides the SCO with general audit authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county and court remitted all court revenues to the State Treasurer pursuant to the TC-31 process.

The audit period was July 1, 2011, through June 30, 2017.

To achieve our objective, we performed the following procedures:

General

- Gained an understanding of the county and court's revenue collection and reporting processes by interviewing key personnel, and reviewing documentation supporting the transaction flow;

- Scheduled monthly TC-31 remittances prepared by the county and the court showing court revenue distributions to the State; and
- Performed a review of the complete TC-31 remittance process for revenues collected and distributed by the county and the court.

Cash Collections

- Scheduled monthly cash disbursements prepared by the county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period;
- Performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements; and
- Recomputed the annual maintenance-of-effort (MOE) calculation for all fiscal years in the audit period to verify the accuracy and completeness of the 50% excess of qualified revenues remitted to the State.

Distribution Testing

- Assessed the priority of installment payments. Judgmentally selected a non-statistical sample of three installments to verify priority;
- Scheduled parking surcharge revenues collected from entities that issue parking citations within the county to ensure that revenues were correct, complete, and remitted in accordance with state statutory requirements;
- Performed a risk evaluation of the county and the court, and identified violation types susceptible to errors due to statutory changes during the audit period. Based on the risk evaluation, judgmentally selected a non-statistical sample of 33 cases for nine violation types. Errors found were not projected to the intended (total) population. Then, we:
 - Recomputed the sample case distributions and compared them to the actual distributions; and
 - Calculated the total dollar amount of significant overremittances to the State.

We conducted this performance audit in accordance with 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We did not audit the county and the court's financial statements. We considered the county and court's internal controls only to the extent necessary to plan the audit. We did not review any court revenue remittances that the county and court may be required to make under GC sections 70353 and 77201.1(b), included in the TC-31.

Conclusion

As a result of performing the audit procedures, we found instances of noncompliance with the requirements described in our audit objective. Specifically, we found that the county overremitted a net of \$30,127 in state court revenues to the State Treasurer as follows:

- Underremitted the 50% excess of qualified revenues by a net total of \$5,446;
- Overremitted the State Domestic Violence Restraining Order Reimbursement Fund (PC section 1203.097) by \$17,786; and
- Overremitted the State Domestic Violence Training and Education Fund (PC section 1203.097) by \$17,787.

These instances of noncompliance are quantified in the Schedule and described in the Findings and Recommendations section of this audit report.

We also found that the court incorrectly prioritized the distribution of installment payments. This instance of noncompliance is non-monetary and described in the Findings and Recommendations section.

The county should reduce subsequent remittances to the State Treasurer by \$30,127.

Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, for the period of July 1, 2006, through June 30, 2011, issued October 9, 2012.

Views of Responsible Officials

We issued a draft report on September 27, 2019. Lisa Cardella-Presto, Auditor-Controller, responded by letter dated October 3, 2019 (Attachment A), agreeing with the audit results. In addition, Amanda Toste, Interim Court Executive Officer, responded by letter dated October 7, 2019 (Attachment B), agreeing with the audit results. The county and court's responses are included as attachments to this audit report.

Restricted Use

This audit report is solely for the information and use of Merced County; Superior Court of California, Merced County; the Judicial Council of California; and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

November 19, 2019

Schedule—
Summary of Audit Findings Affecting Remittances to the State Treasurer
July 1, 2011, through June 30, 2017

Finding ¹	Fiscal Year						Total	Reference ²
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17		
Underremitted 50% Excess of Qualified Revenues								
State Trial Court Improvement and Modernization Fund – GC §77205	\$ 4,101	\$ (930)	\$ (677)	\$ (1,324)	\$ 299	\$ 3,977	\$ 5,446	Finding 1
Overremitted Domestic Violence Fees								
State Domestic Violence Restraining Order Reimbursement Fund – PC §1203.097	(4,518)	(4,571)	(3,988)	(4,709)			(17,786)	
State Domestic Violence Training and Education Fund – PC §1203.097	(4,518)	(4,572)	(3,988)	(4,709)			(17,787)	
Subtotal	(9,036)	(9,143)	(7,976)	(9,418)	-	-	(35,573)	Finding 2
Net amount overremitted to the State Treasurer	\$ (4,935)	\$ (10,073)	\$ (8,653)	\$ (10,742)	\$ 299	\$ 3,977	\$ (30,127)	

¹The identification of state revenue account titles should be used to ensure proper recording when preparing the TC-31.

²See the Findings and Recommendations section.

Findings and Recommendations

**FINDING 1—
Underremitted 50%
excess of qualified
revenues**

During testing of the 50% excess of qualified revenues calculation, we found that the county underremitted a net total of \$5,446 for the audit period.

GC section 77205 requires the county to remit 50% of qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for fiscal year (FY) 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

The following table shows:

- The excess of qualified revenues above the base; and
- The county’s overremittance and underremittance to the State Treasurer by comparing the 50% excess of qualified revenues above the base to actual county remittances:

Fiscal Year	Qualifying Revenues	Base Amount	Excess Amount Above the Base	50% Excess Amount Due the State ¹	County Remittance to the State Treasurer ¹	County (Over)/ Underremittance to the State Treasurer ²
2011-12	\$ 3,140,001	\$ 1,733,156	\$ 1,406,845	\$ 703,423	\$ (699,322)	\$ 4,101
2012-13	2,837,649	1,733,156	1,104,493	552,247	(553,177)	(930)
2013-14	2,811,796	1,733,156	1,078,640	539,320	(539,997)	(677)
2014-15	2,437,657	1,733,156	704,501	352,251	(353,575)	(1,324)
2015-16	2,188,231	1,733,156	455,075	227,538	(227,239)	299
2016-17	1,955,770	1,733,156	222,614	111,307	(107,330)	3,977
Total						<u>\$ 5,446</u>

¹Differences due to rounding.

²Should be identified on the TC-31 as State Trial Court Improvement and Modernization Fund – GC § 77205.

The county understated qualified revenues by \$10,892 for the MOE calculation. The actual adjustment is \$5,446, representing 50% of the understated qualified revenues in excess of the base amount. The \$10,892 is calculated as follows:

- In FY 2011-12, the county prepared a correcting entry to distribute revenues from the State Penalty (PC section 1464) to traffic violator school (TVS) bail. However, when calculating the qualified revenues, TVS bail was incorrectly treated as a county base fine and adjusted by 75%. This resulted in a \$6,100 understatement of TVS bail.
- For the audit period, the county incorrectly reduced TVS bail by deducting \$1 per case for the County Courthouse Construction Fund and \$1 per case for the County Criminal Justice Facilities Construction Fund. The county should have calculated qualified revenues by applying 77% to total TVS bail; no deductions were necessary. This resulted in a \$65,387 understatement of TVS bail.
- From FY 2011-12 through FY 2015-16, the county incorrectly included the 30% Red Light (PC section 1463.11) revenues and Evidence of Responsibility (PC section 1463.22[a]) revenues in its

75% of base fines calculation. This resulted in a \$60,595 overstatement of the county’s base fines.

Recommendation

We recommend that the county:

- Remit \$5,446 to the State Treasurer and report on the TC-31 an increase to the State Trial Court Improvement and Modernization Fund; and
- Ensure that all of the applicable qualified revenues are reported properly for the MOE calculation.

County’s Response

We agree with this finding. Appropriate steps have been [taken] to ensure MOE calculations are reported properly.

**FINDING 2—
Overremitted
domestic violence fees**

During testing of domestic violence cases, we found that the county overremitted domestic violence fees by \$35,573 to the State Treasurer. The county incorrectly remitted two-thirds of domestic violence fees collected, instead of the required one-third. The error occurred because the county misinterpreted the required distributions.

PC section 1203.097(a)(5) requires that two-thirds of the domestic violence fees collected be posted to the county’s Domestic Violence Fund and the remaining one-third is remitted to the State Treasurer. Furthermore, the remaining one-third should be split evenly between the State Domestic Violence Restraining Order Reimbursement Fund and the State Domestic Violence Training and Education Fund. In addition, beginning January 1, 2013, domestic violence fees were increased to a minimum of \$500.

The incorrect distribution had the following effect:

<u>Account Title</u>	<u>Underremitted/ (Overremitted)¹</u>
State Domestic Violence Restraining Order Reimbursement Fund	
– PC §1203.097	\$ (17,786)
State Domestic Violence Training and Education Fund	
– PC §1203.097	(17,787)
Total	<u>\$ (35,573)</u>
County Domestic Violence Fund	<u>\$ 35,573</u>

¹Differences due to rounding.

Recommendation

We recommend that the county:

- Offset subsequent remittances to the State Treasurer by \$35,573;
- Report on the TC-31 decreases of \$17,786 to the State Domestic Violence Restraining Order Reimbursement Fund and \$17,787 to the State Domestic Violence Training and Education Fund; and
- Make the corresponding account adjustments.

County's Response

We agree with this finding. Adjustments have been made to the corresponding account to correctly distribute the domestic violence fees.

**FINDING 3—
Incorrect distribution
priority**

During testing of cases with installment payments, we found that the court incorrectly prioritized state restitution fines over the 20% state surcharge, and fines and penalty assessments. The error occurred because court personnel misinterpreted the required distributions.

PC section 1203.1(d) requires the prioritization of all installment payments in the following order:

1. Restitution orders to victims
2. 20% state surcharge
3. Fines, penalty assessments, and restitution fines
4. Other reimbursable costs

We did not measure the fiscal effect of this error because the amount is not significant due to the limited number of affected cases.

Recommendation

We recommend that the court correct its accounting system to ensure that installment payments are allocated in accordance with statutory requirements.

Court's Response

The court agreed with this finding.

**Attachment A—
County’s Response to Draft Audit Report**



AUDITOR-CONTROLLER

Lisa Cardella-Presto, CPA
Auditor-Controller

2222 "M" Street
Merced, CA 95340
(209) 385-7511
(209) 725-3900 Fax
www.co.merced.ca.us

Equal Opportunity Employer

October 3, 2019

Lisa Kurokawa
Chief, Compliance Audits Bureau
State Controller's Office
Division of Audits
PO Box 942850
Sacramento, California 94250

Subject: State Controller's Office audit of County of Merced court revenues
for the period July 1, 2011 through June 30, 2017 (FY 2011 to FY 2017)

The County of Merced has reviewed the draft audit report of court revenues issued September 27, 2019 prepared by your office. The following are responses to your audit findings.

The County agrees with the findings and recommendations of the under-remitted amounts of \$5,446 and over-remitted amounts of \$35,573. Per recommendation of SCO auditor, the County will remit the under payment and over payment per audit findings to the State Treasurer pending receipt of final calculation from State Treasurer.

Finding 1 – Under-remitted 50% excess of qualified revenues.

We agree with this finding. Appropriate steps have been made to ensure MOE calculations are reported properly.

Finding 2 – Over-remitted domestic violence fees.

We agree with this finding. Adjustments have been made to the corresponding account to correctly distribute the domestic violence fees.

STRIVING FOR EXCELLENCE

We appreciate the professional manner which your staff, Mr. Gary D. Weimer conducted the audit and provided supporting information.

If you have any questions or further information please contact the Merced County Auditor-Controller's office at 209 385 7511.

Sincerely,



Lisa Cardella-Presto, CPA
Merced County Auditor-Controller

cc: James Brown, CEO
Amanda Toste, Interim Court Executive Officer
The Honorable Donald J. Proietti , Presiding Judge

**Attachment B—
Superior Court’s Response to Draft Audit Report**



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

www.merced.courts.ca.gov

627 West 21st Street Merced, CA 95340

Phone (209) 725-4100

AMANDA TOSTE
INTERIM COURT EXECUTIVE
OFFICER
and
JURY COMMISSIONER

October 7, 2019

Mr. Christopher Ryan, Audit Manager
Office of State Controller Betty T. Lee
Division of Audits, Compliance Audit Bureau
3301 C Street, Suite 725A
Sacramento, CA 95816

Dear Mr. Ryan,

In Connection with the State Controller's Office auditor of Merced County's court system for the period of July 1, 2011, through June 30, 2017, for the purposes of determining compliance with applicable California laws, rules, and regulations for the remittance and distribution of court related revenues due to the State of California, we affirm to the best of our knowledge and belief the following representations made to the State Controller's Office audit staff during the course of the audit.

1. We are responsible for the design and implementation of the court's remittance and distribution system and compliance with applicable laws, rules and regulations.
2. We have made available to the State Controller's Office audit staff all worksheets, reports files, and supporting documents related to the court's remittance and distribution system.
3. All memos, letters, and other correspondence from jurisdictions regarding the court related revenues remittance and distribution system have been disclosed, and made available to the State controller's Office audit staff.
4. There are no material transactions that have not been properly recoded that would have an effect on the accuracy of the court's remittance and distribution system.
5. No events have occurred subsequent to June 30, 2017, that would require adjustments to the remittance and distribution of court related revenues for the audit period.

The Court agrees with the findings. The Court also wants to extend our gratitude and thanks to the professional team members for the audit as it is our goal to ensure the court is in compliant with the laws, rules, and regulations for the remittance and distributions of the state, county, and court revenues.

Amanda Toste
Interim Court Executive Officer, Merced Superior Court

cc. Donald J. Proietti, Presiding Judge
Keri Brasil, Chief Financial Officer

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

<http://www.sco.ca.gov>