



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 27, 2012

Title	Agenda Item Type
Court Facilities: Revised Policy for Prioritizing Facility Modifications	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	July 27, 2012
Recommended by	Date of Report
Court Facilities Working Group Hon. Brad R. Hill, Chair Hon. Patricia M. Lucas, Vice-Chair	July 13, 2012
Trial Court Facility Modification Working Group	Contact
Hon. David Edwin Power, Chair	Lee Willoughby, Director 916-263-1493, lee.willoughby@jud.ca.gov
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Executive Summary

The Trial Court Facility Modification Work Group (TCFMWG) and the Court Facilities Working Group recommend adoption of the new *Trial Court Facility Modifications Policy*, which updates and supersedes the current *Prioritization Methodology for Modifications to Court Facilities*. The creation of the Court Facilities Working Group, a clarification of the policy's definition of "Facility Modification," and three additional years of implementation have necessitated that this policy be updated.

Recommendation

The Trial Court Facility Modification Working Group, with endorsement by the Court Facilities Working Group, recommends that the Judicial Council, effective July 27, 2012, adopt the *Trial Court Facility Modifications Policy* to replace the existing policy.

Previous Council Action

On December 2, 2005, the Judicial Council adopted *Prioritization Methodology for Modifications to Court Facilities*, a policy for prioritizing, budgeting, funding, and implementing trial court facility modifications. On April 24, 2009, the council adopted a revised version of the policy to reflect new circumstances and lessons learned since the original policy's adoption.

Until 2010, the Executive and Planning Committee (E&P) approved the annual budget allocation and the prioritized list of Facility Modifications. Starting in Fiscal Year (FY) 2010-2011, E&P determined that the Judicial Council should review the annual budget allocation and the prioritized list of Facility Modifications.

The Judicial Council approved annual facilities modification budgets and prioritized lists of modifications at its August 26, 2011, and October 29, 2010, meetings. The total annual budget for judicial branch facilities modifications is set by the Legislature.

Rationale for Recommendation

The Trial Court Facilities Act of 2002 grants the authority and responsibility to the Judicial Council to “[e]stablish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities, including, but not limited to, facilities planning, acquisition, construction, design, operation, and maintenance.” (Gov. Code, § 70391(e).) To meet this responsibility, the council adopted and implemented its *Prioritization Methodology for Modifications to Court Facilities* in 2005. The current policy as revised in April 2009 is attached.

The creation of the Court Facilities Working Group, a clarification of the policy's definition of “Facility Modification,” and three additional years of implementation have necessitated that this policy be updated.

The Court Facilities Working Group was created in 2011 to provide oversight of the trial court facility program. Although its involvement in the Facility Modification program is not mentioned in current policy, it appears appropriate for the Court Facility Working Group to have an active role in this program.

Various questions have arisen over the last few years about the distinction between a Facility Modification and routine maintenance and repairs. Because of different funding sources it is important that a clear distinction between the two is established. The revised policy provides that additional clarification.

The three years since the adoption of the 2009 policy have seen the program grow from \$25 million annually to a current annual budget of \$50 million for FY 2012-2013. Also during this time the transfer of responsibility for court facilities from the counties to the Judicial Council was

completed. Thus, the council currently has responsibility for approximately 500 court facilities throughout the state.

This updated policy has been approved by the Trial Court Facility Modification Working Group (TCFMWG). The TCFMWG recommended the changed policy to the Court Facilities Working Group (CFWG). The CFWG approved and forwarded an updated policy for council approval.

The proposed updated policy would include the following significant changes:

1. **Responsibilities transition from E&P to the full Judicial Council.** The current policy delegates the authority to approve the annual budget allocation and the prioritized list of Facility Modifications to E&P. The updated policy would eliminate this delegation, bringing decisions regarding annual budget allocations and prioritization back to the Judicial Council, consistent with recent practice. Doing so will better enable the council to satisfy its broad statutory responsibilities in the area of court facilities, including responsibility for establishing facilities-related policies and for allocating appropriated funds. (Gov. Code, § 70391(e), (h).)¹
2. **Updated definitions.** The definition of *Facility Modification* has been revised for clarity and expanded. The previous high-level definition created several areas needing additional clarification to allow consistent implementation and reduce misinterpretation.

The most significant area in need of clarification was the distinction between *routine maintenance* and *Facility Modification*, which can be difficult to determine. The updated definition includes a number of criteria to weigh in determining whether a project can be considered a Facility Modification.

3. **New descriptor for Priority 3 Facility Modifications.** The updated policy changes the title of a Priority 3 Facility Modification from “Recommended” to “Needed.” This change clarifies that, while all Priority 3 Facility Modifications are needed, not all can be recommended for funding at the time they are reported because the final decision must consider available funding as well as need.
4. **Revised TCFMWG membership requirements and term length.** In the original 2005 policy, any employee of the judicial branch could be a member of the TCFMWG. The updated policy conforms to the historic practice of judges and court executive officers serving as TCFMWG members.

¹ Government Code section 70391 provides that the Judicial Council “shall have the following responsibilities and authorities with regard to court facilities: [¶] . . . [¶] (e) Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities . . . [¶] . . . [¶] (h) Allocate appropriated funds for court facilities maintenance and construction”

The original 2005 policy had no term limits for members, while the 2009 version limited members to three-year terms. The proposed policy retains the three-year term but allows the chair of the CFWG to extend an individual member's term, which will benefit the stability of the program and allow members to gain the full insight necessary to oversee and make funding decisions for this large facility program.

5. ***Manageable reporting requirements.*** Annual reporting requirements are recommended to be changed to encourage reports more in line with current needs and to reduce the likelihood of misinterpretation. The original 2005 policy required annual prioritized reports to include a preliminary ranked list of all requests for Priority 2–6 Facility Modifications. In 2011, this resulted in a ranked list of more than 4,000 requests. Items on the list could have been requested by any one of the more than 1,000 users of the AOC's Computer Aided Facility Management program—and some requests included budgets that were merely conservative “not-to-exceed” budgets and not based on a full scoping and cost-estimating process. Most of the listed requests had not been reviewed according to any council standard, and had virtually no possibility of funding during FY 2011–2012. This preliminary list was widely misconstrued as a list of work projects the AOC was committed to perform regardless of budget limitations.

The proposed new requirements call for two reports to the Judicial Council each year. First, a recommendation on the preliminary budget allocation among Facility Modification funding categories, generated at the beginning of each fiscal year and submitted for approval to the Judicial Council, addressing four major funding categories: Priority 1 modifications; Statewide Planning; Planned modifications; and Priority 2–6 modifications. This recommendation would also include a fully vetted list of the Planned Facility Modifications recommended for funding in the coming fiscal year. This report will be presented to the council for its approval.

Second, an annual informational report prepared after the close of the fiscal year will present the activities of the TCFMWG, including a list of all funded facility modifications as well as various types of statistical data on the program. The CFWG will closely review this informational report and participate in its presentation to the council

6. ***Delegations to the TCFMWG.***

The proposed policy includes four delegations to the TCFMWG, three of which existed in the previous policy. First, in section II.C.3 of the proposed policy, the Judicial Council continues to delegate to the TCFMWG the authority to reallocate funds remaining in the planned facility modifications allocation after all planned facility modifications have been completed among the other three facilities modification budget categories. This delegation is necessary because delays in reallocating the unused funds could result in the funds becoming unavailable if not obligated by the end of the fiscal year.

Second, under the proposed policy in section II.C.4, the Judicial Council continues to delegate to the TCFMWG the authority to determine which Priority 2-6 facilities modifications, according to the council-approved policy, will be funded out of the council-allocated budget. The list of requests for Facility Modification is currently over 5,000 items. The majority of the items are roughly estimated to cost less than \$25,000. The TCFMWG meets at least eight times each year to consider which Facility Modifications should be funded. Because of the amount of time involved in this process it may be impractical to have the council review this list in detail and make the decisions. If the TCFMWG were only to develop recommendations, it could detract from the group's ability to respond quickly to changing events and requirements throughout the year. This could result in either making decisions early in the fiscal year that do not reflect the changing conditions of the facilities, or funds becoming unavailable if not obligated by the end of the fiscal year.

Third, in section V.C.8., the proposed policy continues the Judicial Council delegation to the TCFMWG to reallocate funds among the four budget categories, consistent with the policy. This delegation is recommended for the same reasons as the delegation to determine which Facility Modifications will be funded throughout the year.

Finally, in section V.C.9., the proposed policy provides for a new delegation to the TCFMWG to authorize Priority 1 (Critical) and Priority 2 (Necessary) Facility Modifications between the beginning of the fiscal year and Judicial Council approval of the annual recommendations. This delegation is necessary because of the critical nature of this work and is consistent with the practice that has been in place since 2005. The former policy specifically delegated to the AOC the authority to use internal procedures to ensure timely and effective responses to Priority 1 conditions. This delegation provides instead for the TCFMWG to authorize the funding for these items.

Priority 2 Facility Modifications by definition are necessary and not optional. Delaying Priority 2 Facility Modifications when funding is available will result in increased costs, reduced functionality of building systems, and reduced access to court facilities. Delays in funding Priority 2 Facility Modifications will likely result in an increased number of Priority 1 Facility Modifications, which have direct impacts on court operations. The alternative would be to prepare the funding allocation based on the Governor's January budget proposal, rather than waiting until the final budget is adopted. Events of the last few years would indicate that this may not be a reliable basis for final planning. The proposed revised policy limits the delegation to the TCFMWG to authorize Priority 1 and Priority 2 Facility Modifications at the start of the fiscal year to no more than 20% of the annual budget. The council could further limit the total amount either by percentage of the budget or by a dollar amount that could be expended prior to the council's approval.

Information about actions taken under each of the above delegations will be presented to the Judicial Council in the annual informational report prepared after the close of the fiscal year.

7. Oversight by E&P

The proposed revised policy establishes a requirement for the TCFMWG to provide a quarterly report to E&P, which would be provided to the Judicial Council at the next council meeting. Those reports will include a list of all Facility Modifications funded during the quarter, as well as any reallocation of funds between the funding categories. This will allow E&P and the Judicial Council to closely monitor the Facility Modification program, while retaining a process that has served the branch well. The first of these quarterly reports will be presented to E&P in October 2012, for the first quarter of FY 2012-2013. E&P will review the reports over the next year and recommend any additional changes to the policy as needed to ensure an effective and efficient use of Facility Modification funds.

Comments, Alternatives Considered, and Policy Implications

Alternative actions were considered based on input from E&P, the TCFMWG, and the CFWG.

The revised definition of *Facility Modification* was crafted after extensive review. The goal was to create not only a set of words to describe a Facility Modification but also to include a series of factors to consider when distinguishing between Facility Modifications and routine maintenance and repairs.

Various lengths for the standard term of TCFMWG membership were considered by the TCFMWG; suggestions ranged from keeping the term set at three years to extending it to five years. The final flexible recommendation represents a compromise agreed to by all that does not obligate a member to more than three years but allows the chair of the CFWG to extend a member's term if such extension appears to serve the best interests of the TCFMWG and the judicial branch.

The TCFMWG and the chair of the CFWG discussed a variety of possible changes to the annual reporting requirements. Changing the requirement to two reports is intended to strengthen the transparent process without disseminating information that has not yet been fully considered and approved by the TCFMWG.

The updated policy was posted for court comment on Serranus for a two-week period in June 2012. A notice to review the report was included in two Court News Update publications. No responses were received. While this may seem unusual, the two previous versions of the policy received a total of three comments, all of which supported the proposed policy. The Annual Reports of the TCFMWG also received little response over the last five years. After soliciting comments on the revised policy, a further revision was made to the policy, so that the Judicial Council will approve the recommendations of the TCFMWG, rather than the CFWG as originally proposed. This revision has not been circulated for public comment. The proponents do not believe that revision would be material to the potential commenter. In order to proceed

with a prompt approval of the proposed policy, it is presented for approval at this council meeting. If the council considers it important to solicit comments on this revision, the proponents request approval conditioned on a subsequent comment period and a report at the next council meeting.

Implementation Requirements, Costs, and Operational Impacts

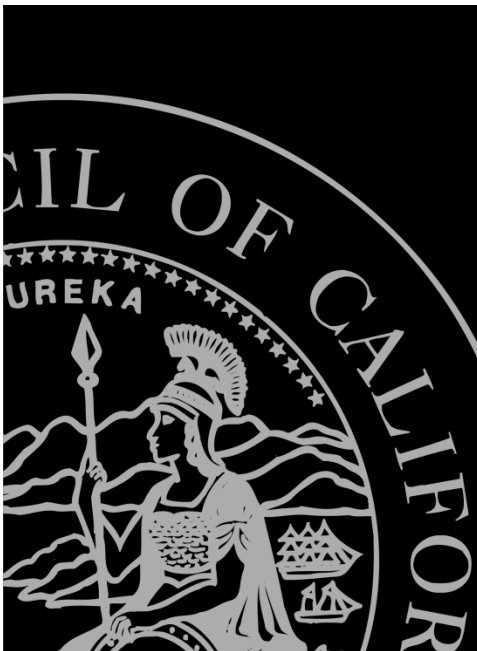
Implementation of the proposed revised policy will entail no additional cost.

Relevant Strategic Plan Goals and Operational Plan Objectives

This recommendation for Judicial Council action supports the following goals from the Strategic Plan for California's Judicial Branch: Goal III (Modernization of Management and Administration), and Goal VI (Branch Infrastructure for Service Excellence).

Attachments

- A. Trial Court Facility Modifications Policy, July 27, 2012 (proposed)
- B. Prioritization Methodology for Modifications to Court Facilities, April 24, 2009



Trial Court Facility Modifications Policy

ADOPTED AND EFFECTIVE
JULY 27, 2012

DRAFT



ADMINISTRATIVE OFFICE
OF THE COURTS

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT

I. Purpose

Government Code section 70391(h) requires the Judicial Council to allocate appropriated funds for the maintenance and construction of court facilities. Government Code section 70374(c)(1) authorizes the use of funds in the State Court Facilities Construction Fund for projects involving, among other things, rehabilitation, renovation, or replacement of court facilities. This document presents the methodology and process for identifying and prioritizing facility modifications (Facility Modifications) to be made to trial court facilities, the responsibility or title for which rests with the state.

This document replaces and supersedes the Judicial Council's *Prioritization Methodology for Modifications to Court Facilities*; last revised April 24, 2009 and, if approved, would become effective on July 27, 2012.

II. Definitions

A. Facility Modification

A Facility Modification is a physical modification to a facility or its components that restores or improves the designed level of function of a facility or facility components. A Facility Modification may consist of:

- A modification that alters or increases the designed level of services of a building;
- A “special improvement” meaning a one-time modification to a facility that is not expected to be repeated during the lifetime of the facility;
- An alteration, addition to, or betterment of a facility that changes its function, layout, capacity, or quality;
- A rehabilitation, which restores a facility to its former state or capacity;
- A renovation, which restores a facility to a former or better state, including by repairing or reconstructing facility components;
- A replacement, which puts a new facility component of the same or better quality or function, in the place of an existing facility component;
- The addition of new systems, equipment, or components to a facility that would not otherwise exist;
- A modification to a facility that is required to bring the facility into compliance with law, including but not limited to the Americans with Disabilities Act, title 24 of the California Code of Regulations, and federal and state hazardous materials laws and regulations;
- Any of the foregoing where a facility or its components are damaged, seriously deteriorated, dysfunctional, subject to intermittent service outage, or otherwise in insufficient operating condition as a result of

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- deferred maintenance, emergency, acts of God, severe wind or weather conditions, vandalism, or criminal activity; and
- A correction of collateral damage arising from an emergency incident or unanticipated finding that is discovered during the performance of Facility Modification work.

A Facility Modification differs from routine maintenance and repair of a court facility, which is the routine, recurring, and generally anticipated work that must be performed periodically throughout the life of a facility to keep the building and its grounds, equipment, and utilities infrastructure in a condition adequate to support their designed level of service. Routine maintenance and repair includes annual or less frequent periodic repairs and replacements of building components and equipment consistent with manufacturers' recommendations or industry-recommended service cycles. While a Facility Modification may either restore or improve a facility's designed level of function, routine maintenance and repair always maintains, without materially improving, the facility and its components at their designed level of function. Routine maintenance and repair is the basic and ongoing work that is needed, as part of ordinary facility operation and management, to keep the facility and its components in a condition adequate to support existing facility operations and to prevent deterioration, break down, and service interruptions.

In some instances, it is difficult to distinguish between a Facility Modification, on the one hand, and routine maintenance and repair, on the other hand. Facility Modifications are distinguished from routine maintenance and repair based on the scope and complexity of the work to be performed, and the anticipated impact of the work on the ongoing operation of the facility. Factors to be considered in evaluating the scope, complexity, and impact of a project include:

- The amount of time and materials needed to complete the work;
- The number of steps involved in completing the project;
- The type and number of tools required to perform the work;
- The extent to which facility structures or equipment must be altered or moved to complete the project;
- Whether the facility component involved is a substantial part of a major facility system;
- Whether one or more facility systems will be disrupted or taken out of service as a result of the project; and
- Whether the project involves critical facility systems such as life safety or security equipment, HVAC equipment, utilities infrastructure, roofs and other structural components, or accessibility features (i.e., elevators, escalators, doors, parking lots and structures).

Projects of greater scope and complexity or with a more critical impact on the ongoing safe and secure operation of the court facility are more likely to be Facility Modifications; however, for projects that are more difficult to distinguish, case-by-case evaluation is required.

A Facility Modification differs from a capital project, which significantly increases the facility's gross area; substantially renovates the majority (more than 50 percent) of the facility; involves the construction of a new facility or a facility acquisition; or changes the use of the facility, as in a conversion from another use to court use.

B. Judicial Branch Facilities' Customer Service Center (CSC)

The Judicial Branch Facilities' Customer Service Center, or CSC, is a 24-hour service center established to receive, track, and control all work statewide related to court facilities. The center is managed by the Office of Court Construction and Management (OCCM), a division of the Administrative Office of the Courts (AOC), through its Real Estate and Asset Management Services' Facilities Management Unit. The CSC is the primary contact point for all Facility Modification requests and all maintenance services. The e-mail address is csc@jud.ca.gov.

C. Facility Modification Budget Allocation Categories

1. Statewide Facility Modifications Planning Allocation

The Statewide Facility Modifications Planning Allocation is the portion of the Facility Modifications budget set aside by the Judicial Council for planning, investigations, and other activities related to the identification, solution analysis or development of Facility Modification requirements, estimates, and plans. This includes studies of issues that may eventually require Facility Modifications as well as full facility assessments used for long-range planning of the Facility Modification program. This budget does not include detailed construction design work, which is incorporated into the cost of each specific Facility Modification.

2. Priority 1 Facility Modifications Allocation

The Priority 1 Facility Modifications Allocation is the portion of the Facility Modification budget set aside by the Judicial Council for performance of emergency Facility Modifications. Due to the unpredictable nature of these Facility Modifications funding must be set aside to ensure an adequate reserve to address any emergencies that may arise over the course of the Fiscal Year.

3. Planned Facility Modifications Allocation

The Planned Facility Modifications Allocation is the portion of the Facility Modification budget set aside by the Judicial Council for Facility Modifications that the TCFMWG has fully vetted and recommended for funding at the beginning of the Fiscal Year and that are approved by the Judicial Council. Typically these Facility Modifications are considered to be among the highest

priority from those *not* funded in the previous year due to budget constraints. Funds remaining in this allocation after all Planned Facility Modifications have been completed can be reallocated by the among the other Facilities Modification Budget Categories. The Judicial Council will be advised of any such reallocations in the annual information report submitted after the close of each fiscal year. The report also will indicate if any Planned Facility Modifications approved by the council are cancelled.

4. Priority 2-6 Facility Modifications Allocation

The remainder of the Facility Modifications budget is set aside by the Judicial Council for Priority 2–6 Facility Modifications that were either not received prior to the beginning of the fiscal year or involved lower-priority work not yet fully vetted and estimated but eligible for funding during the current fiscal year depending on funds available and priority of the requested modification.

This budget allocation is spread over the course of the Fiscal Year by the TCFMWG to fund requests that are ad hoc or unplanned, but that rank among the highest priority Facility Modifications. The TCFMWG will determine at the beginning of the fiscal year the amount to be used at each of its meetings as part of a plan to stage the work over the course of the year. This will allow for funding decision at each meeting to ensure funds are spent appropriately and fully for the fiscal year. Based on this funding determination the AOC staff will present a proposed list of Facility Modification at each meeting. The TCFMWG will then approve or disapprove funding for each of the proposed Facility Modifications.

III. Priority Categories

Priority Categories for Facility Modifications

Projects determined to be Facility Modifications will be assigned one of the six priority categories described below. These priority categories are based on methods commonly used by private sector facility management firms. Facility Modifications will be prioritized based on confirmation that the requested project qualifies as a Facility Modification under the criteria in section IIA above, as well as by priority category, specific justifications, effect on court operations, public and employee safety, risk management and mitigation, funding availability, equity among the courts, implementation feasibility, cost/benefit analysis, planning and design status, contribution to ADA compliance, and status of major capital improvements.

Facility Modifications determined to be Priority 1 will be addressed immediately and regardless of whether the court occupies a shared-use facility. Planned Priority 2–6

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Facility Modifications requested for shared-use facilities will be assigned an appropriate priority category; their prioritization and implementation may be dependent, however, on financial participation by the county that shares the building.

Priority categories for Facility Modifications are as follows:

Priority 1—Immediately or Potentially Critical. A Priority 1 ranking is appropriate where a condition of the facility requires immediate action to return the facility to normal operations or where a condition exists that will become critical if not corrected expeditiously. Such conditions necessitate a Facility Modification to prevent accelerated deterioration, damage, or dysfunction; to correct a safety hazard that imminently threatens loss of life or serious injury to the public or court employees; or to remedy intermittent function, service interruptions, or potential safety hazards. These conditions may include, but are not limited to, major flooding, substantial damage to roofs or other structural building components, or actual or imminent hazardous material release or exposure. Depending on scope, complexity, and impact, a severe deterioration in life safety or security components may also be considered a condition requiring a Priority 1 Facility Modification.

Owing to their critical nature, Priority 1 Facility Modification requests will be addressed immediately by AOC staff using internal procedures—including a method and a process for setting aside funds to address Priority 1 requests—that ensure timely and effective responses to unplanned damage, deterioration, or dysfunction resulting from an emergency or other potentially critical conditions.

Priority 2—Necessary, But Not Yet Critical. A Priority 2 ranking is appropriate where a facility requires a modification to preclude deterioration, potential loss of function or service, or associated damage or higher costs if correction of a condition is further deferred.

Priority 3—Needed. A Priority 3 ranking is appropriate where addressing a Facility Modification will reduce long-term maintenance or repair costs or improve the functionality, usability, and accessibility of a court facility. Such a condition is not hindering to the most basic functions of the facility, but its correction will improve court operations.

Priority 4—Does Not Meet Current Codes or Standards. A Priority 4 ranking is appropriate where a facility or one or more of its components does not conform to current code requirements, despite having complied with all codes in place at the time of initial construction. Such conditions are considered *legally nonconforming*, and their modification to meet current code requirements is generally not required.

Priority 5—Beyond Rated Life, But Serviceable. A Priority 5 ranking is appropriate where a facility is currently adequate to support court operations but, owing to some condition, cannot be expected to fully and properly function as designed for more than one year without the requested Facility Modification.

Priority 6—Hazardous Materials, Managed But Not Abated. A Priority 6 ranking is appropriate for a Facility Modification where a facility contains hazardous materials, such as asbestos or lead-based paints, that are managed in place and not yet abated.

IV. Process for Requesting and Prioritizing Facility Modifications

A. Requesting Facility Modifications

Potential Facility Modifications will be identified by court and AOC personnel through requests made to the CSC. The AOC staff in collaboration with the local court staff will

- confirm that each requested project is a Facility Modification under the criteria set forth above in section II;
- assign a priority category to each request;
- resolve any questions and develop a preliminary cost estimate; and
- finalize the scope of the Facility Modification.

1. Priority 1 Requests. Owing to their critical nature, Priority 1 requests will be addressed immediately by AOC staff using internal procedures that ensure timely and effective responses to unplanned damage, deterioration, or dysfunction resulting from an emergency or other potentially critical conditions. AOC staff will report to the TCFMWG on all Priority 1 request as part of the next scheduled TCFMWG meeting.

2. Priority 2–6 Requests. Requests for Priority 2–6 Facility Modifications will be tracked by the AOC and the courts using the AOC’s Computer Aided Facility Management (CAFM) database. Each request will outline the problem to be addressed and state the impact if the problem is not addressed. Requests will be processed by CSC staff and tracked in CAFM.

B. Prioritizing Requests for Priority 2–6 Facility Modifications

The following criteria will be used in ranking of all noncritical Facility Modifications:

- priority category
- specific justifications, effect on court operations
- public and employee safety and security, and risk management
- funding availability
- equity among the courts
- implementation feasibility

- cost/benefit analysis
- design and plan status,
- contribution to ADA compliance
- planned major capital improvements

V. Trial Court Facility Modifications Working Group

A. Trial Court Facility Modifications Working Group: Membership and Terms

The Trial Court Facility Modifications Working Group (TCFMWG) has been established by the Judicial Council to review Facility Modification needs across the state. Judges or court executive officers from any California court who have knowledge of or interest in facilities management or construction are eligible to apply for membership. The TCFMWG consists of five judges selected by the Trial Court Presiding Judges Advisory Committee and three Court Executive Officers selected by the Court Executive Officers Advisory Committee. Members serve a three-year term, though terms may be extended at the discretion of the chair of the Court Facilities Working Group (CFWG). The chair and vice-chair of the TCFMWG are appointed from among the TCFMWG membership by the Chief Justice, with recommendations from the chair of the CFWG. AOC staff is responsible for notifying the pertinent selection committee when new members need to be appointed.

B. Trial Court Facility Modifications Working Group: Duties and Procedures

The TCFMWG will meet as needed to review the AOC staff prepared reports, which will include a suggested ranked list of all proposed Facility Modifications with fully developed scopes of work and cost estimates as well as current funding availability. The total cost of all modifications on the draft ranked list may not exceed total available funding for the current fiscal year. Based on a review of the AOC reports and any other available information, the TCFMWG will determine which modifications to recommend for funding in the current fiscal year and which should be deferred for future consideration based on funding availability. The group may also determine that certain items do not qualify as Facility Modifications and remove them from the list of recommended projects.

C. Trial Court Facility Modifications Working Group: Annual Recommendation to the Judicial Council

1. The Legislature appropriates funding to the annual Facility Modification budget (annual budget) out of the State Court Facilities Construction Fund and the Immediate and Critical Needs Account.
2. Based on the annual budget, the AOC staff to the TCFMWG will develop a proposed allocation among the four Facility Modification Budget Allocation Categories and a list of potential Planned Facility Modifications.

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3. The TCFMWG will consider the AOC staff proposal and develop a recommended allocation among the four Facility Modification Budget Allocation Categories; Priority 1 Facility Modifications, Statewide Facility Modification Planning, Planned Facility Modifications, and Priority 2–6 Facility Modifications.
4. The TCFMWG will also use this AOC staff proposal to determine if there are high priority Facility Modifications that should be funded with the Planned Facility Modification allocation. A list of proposed Planned Facility Modifications, if any, will be developed, and will include the location, a short description, and estimated cost of each Planned Facility Modification. Based on the Annual Budget, the TCFMWG may recommend all funding be preserved for use on the highest priority Facility Modifications throughout the year and not recommend any Planned Facility Modifications.
5. The TCFMWG's draft recommendations of the proposed funding allocation and the list of Planned Facility Modifications will be made available to the trial courts for comment by posting them on Serranus and emailing them to the Presiding Judges and the Court Executive Officers. The comments and the TCFMWG's responses will be included with the final recommendations in a report to the CFWG.
6. Based upon comments received, the TCFMWG will determine its final recommended funding allocation and list of Planned Facility Modifications, which will be presented to the CFWG for review and approval. The CFWG may approve the TCFMWG recommendations in whole or it may revise the recommendations.

The CFWG will forward its recommended funding allocation and list of Planned Facility Modifications to E&P for placing on a Judicial Council business meeting agenda for the council's consideration and approval or revision.

7. This policy, and the budget allocations and list of Planned Facility Modifications approved by the Judicial Council will be the basis on which the TCFMWG and the AOC in collaboration with the local courts will proceed to implement Facility Modifications.
8. During the fiscal year, justifiable reasons may arise for reallocating funds among the four Facility Modification budget allocations—Statewide Facility Modification Planning, Priority 1, Planned, and Priorities 2–6. Under this policy, the Judicial Council delegates to the TCFMWG the authority to redistribute funds among the four budget allocations as necessary to ensure that

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the funds are used in the fiscal year and are used for the highest priority Facility Modifications, consistent with this policy and the criteria outline in section IV.B above. All reallocations will be reported to the council as part of the annual report on the activities of the TCFMWG.

9. The Judicial Council also delegates to the TCFMWG the authority to approved Priority 1 and 2 Facility Modifications between the beginning of the fiscal year and the Judicial Council's approval of the annual budget allocation and list of Planned Facility Modifications. This is necessary to ensure that emergency and necessary Facility Modifications that could impact court operations are not delayed. The TCFMWG will not expend more than 20% of the annual budget prior to the Judicial Council's approval.

D. Trial Court Facility Modifications Working Group: Annual Informational Report

The TCFMWG will develop an informational annual report summarizing its activities during the preceding fiscal year. Like the annual budget allocation recommendation, this report will be provided to the courts for comment in the same manner as the recommendations to the Judicial Council outlined above.

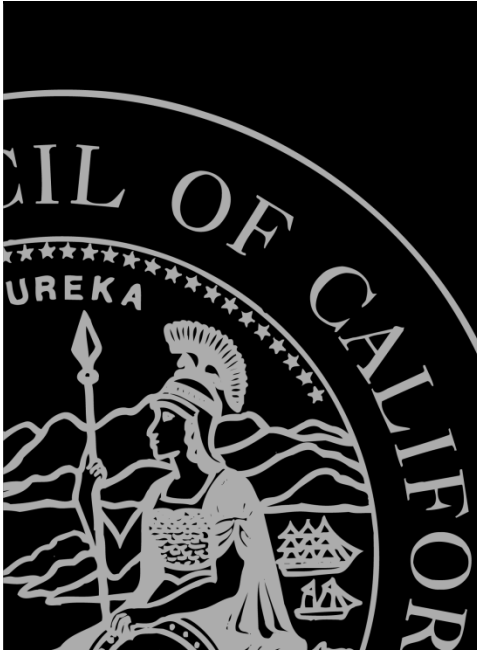
This report will be developed in the second quarter of the new fiscal year after all data is available and analyzed for the preceding year. This report will include data on actual expenditures, requests received, any backlog of work based on industry standard major facility systems, funding of modifications by priority, time required to complete each project, cancellation of any council-approved projects, redistribution of funding between categories, and other significant TCFMWG activities.

The CFWG will review this report and forward it to E&P for placing on a Judicial Council business meeting agenda as an informational item.

E. Trial Court Facility Modifications Working Group: Quarterly Report to E&P

The TCFMWG will develop a quarterly report to provide to E&P, which will also be provided to the Judicial Council at the next council meeting. The report will include a list of all Facility Modifications funded during the quarter, as well as any reallocation of fund between the funding categories. The first of these reports will be presented to E&P in October 2012 covering the first quarter of FY 2012-13.

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Prioritization Methodology for Modifications to Court Facilities

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ADMINISTRATIVE OFFICE
OF THE COURTS

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT

I. I. Purpose

This document presents a methodology and a process for prioritizing modifications to be made to trial court facilities for which responsibility or title has been transferred from county to state jurisdiction.

II. Definitions

A. Facility Modifications

A facility modification is defined as a generally planned, physical modification to a facility component or components that restores or improves the designed level of function of a facility or facility components. Such a modification can include, but is not limited to, a modification for fire and life safety, security, compliance with the Americans with Disabilities Act (ADA), or title 24 of the California Code of Regulations. A facility modification may also include a one-time modification of a building that is not expected to be repeated during the lifetime of the building, such as a seismic upgrade, or be an unplanned emergency response to failed systems or system components negatively affecting life safety or court operations, requires immediate attention, or requires substantial fund expenditures or scoping or design services to correct. Any collateral damage related to an emergency incident, or unknown finding discovered in the process of implementing any facility modification, will be corrected as part of the overall work performed. Facility modifications may or may not require design support. Facility modifications typically encompass additions of new systems, equipment, or other components not otherwise existing. Additionally, facility modifications involve alterations, renovations, replacements, or refurbishments to existing systems, equipment, or other components not considered routine maintenance and repair activities.

Facility modifications exclude routine maintenance and repair activities in that the latter include routine system parts replacement or repair on existing building components, as recommended by the manufacturers or industry-recommended service cycles to ensure the continued operation of systems. Maintenance activities may also include unplanned emergency repairs. Routine maintenance and repair activities include both minor activities, which involve unplanned and planned maintenance, and major activities, which are of a greater scope and typically require some design and engineering support.

Facility modifications are distinguished from major capital outlay projects in that the latter significantly increases the facility's gross area, as in a major addition to a structure; substantially renovate the majority of the facility; comprise a new facility or an acquisition; or change the use of the facility, as in a conversion from another use to court use

B. Judicial Branch Facilities' Customer Service Center (CSC)

The CSC is a statewide, 24-hour service center created to receive, track, and control all work related to court facilities. This center is managed by the Facilities Management

Unit of Real Estate and Asset Management Services in the Administrative Office of the Courts (AOC), Office of Court Construction and Management (OCCM). The CSC is the primary contact point for unplanned trial court facility modification requests and all maintenance services. The e-mail address is csc@jud.ca.gov.

C. Statewide Facility Modifications Planning Budget

The portion of the Facility Modifications budget set aside for planning, investigations, and other activities related to the identification, solution analysis and/or the development of Facility Modifications requirements, estimates, and plans. This does not include detailed design work for specific facility modifications. Design work is included in the cost of the individual Facility Modifications.

D. Planned Priority 2–6 Budget

The portion of the Facility Modifications budget set aside for work identified during the annual gathering of requirements or for work carried over from the previous fiscal year that was not funded.

E. Unforeseen or Out-of-Cycle Priority 2–6 Budget

The portion of the Facility Modifications budget set aside for work requested out of the normal annual-requirement gathering period or for work that is of a lower priority than the work in the Planned Priority 2–6 Budget, which may be funded during the year based on available funds and the priority of the requirement.

III. Priority Categories

A. Priority Categories for Facility Modifications

Facility modifications will be assigned one of the following six priority categories. These priority categories are based on methods commonly used by private sector facility management firms. As described below, facility modifications will be prioritized based on priority category, specific justifications, the effect on court operations, public and employee safety, risk management and mitigation, funding availability, equity among the courts, implementation feasibility, cost/benefit analysis, and planning and design status of major capital improvements.

Facility modifications that are determined to be priority 1 will be addressed immediately and regardless of whether the court occupies a shared-use facility. Planned priorities 2–6 facility modifications requested for shared-use facilities will be assigned an appropriate priority category. Their prioritization and implementation may be dependent, however, on financial participation by the county that shares the building. Priority categories for facility modifications are as follows:

1. **Priority 1—Immediately or Potentially Critical.** Condition requires immediate action to return a facility to normal operations, or a condition that will become immediately critical if not corrected expeditiously. Such conditions necessitate the need to stop accelerated deterioration or damage, to correct a safety hazard that imminently threatens loss of life or serious injury to the public or court employees, or to remediate

intermittent function and service interruptions as well as potential safety hazards. Such conditions may include, but are not limited to, the following: major flooding; substantial damage to roofs or other structural building components; or hazardous material exposure. Depending on scope and impact, a severe deterioration in life safety protection may also be considered a priority 1 condition requiring a facility modification.

Owing to their critical nature, priority 1 requests will be addressed immediately by AOC staff using internal procedures that ensure timely and effective responses to unplanned emergency or potentially critical conditions, including a method and a process for setting aside funds to address priority 1 conditions.

2. **Priority 2—Necessary, But Not Yet Critical.** Condition requires correction to preclude deterioration, potential loss of function or service, or associated damage or higher costs if correction is further deferred.
3. **Priority 3—Recommended.** Condition to be addressed will reduce long-term maintenance or repair costs or will improve the functionality, usability, and accessibility of a court. The condition is not hindering the most basic functions of a facility, but its correction will support improved court operations.
4. **Priority 4—Does Not Meet Current Codes or Standards.** Condition does not conform to current code requirements, yet it complied at the time of initial construction. Such conditions are considered legally nonconforming and are generally not required to be modified to meet current code requirements.
5. **Priority 5—Beyond Rated Life, But Serviceable.** Condition is currently adequate but cannot be expected to function as designed in the future.
6. **Priority 6—Hazardous Materials, Managed But Not Abated.** Condition involves hazardous materials, such as asbestos or lead-based paints, which are currently managed in place but not yet remediated.

IV. Process for Requesting and Prioritizing Facility Modifications

A. Requesting Facility Modifications

Facility modifications priorities 2–6 will be identified by court and AOC personnel in advance of each fiscal year. Thereafter, emergency priority 1 items and unplanned requests are made to the CSC to initiate a facility modification. The AOC staff will work collaboratively with the local court to assign a priority category to each request, resolve any questions, develop a preliminary cost estimate, and finalize the scope of the request.

1. **Priority 1 Requests.** Owing to their critical nature, priority 1 requests will be addressed immediately by AOC staff using internal procedures that ensure timely and effective responses to unplanned emergency or potentially critical conditions, including a method and a process for setting aside funds to address priority 1 conditions. Priority 1

requests can be made by the courts' contact to the CSC, followed by submission of an online Facility Modifications Request Form to the AOC in the process described below:

2. Priorities 2–6 Requests. Priorities 2–6 requests will be annually developed by the AOC and each court. Thereafter, for unplanned midyear needs, the court may initiate a request for facility modifications using an online Facility Modifications Request Form. The request will outline the problem to be addressed and state the impact if the problem is not addressed. The form will be e-mailed to csc@jud.ca.gov. If the court initiates a facility modifications request, the e-mail must originate from the presiding judge, the court executive officer, or their designees of record, as reported to the AOC. If AOC staff initiates a request, the e-mail must be approved by the OCCM director or an assistant director or manager.

The request form will be processed by the staff of the CSC and tracked in the Computer-Aided Facilities Management (CAFM) database.

B. Prioritizing Requests for Priorities 2–6 Facility Modifications

The superior courts will annually request priorities 2–6 facility modifications for each forthcoming fiscal year and AOC staff will assign a priority category to each request, develop a preliminary cost estimate, and finalize the scope of the request. AOC staff will then prepare a report on pending trial court facility modifications. Each report will include a preliminary ranked list of all pending requests, including a summary of the rationale for the preliminary ranking. Preliminary ranked lists of all requests will be prepared by AOC staff based on the following factors: priority category; specific justifications; the effect on court operations, and on public and employee safety; risk management and mitigation; funding availability; equity among the courts; implementation feasibility; cost/benefit analysis; design and plan status; and planned major capital improvements.

A Trial Court Facility Modifications Working Group (the working group) will be established to review facility modification needs across the state. On an annual basis, will review the AOC staff report, which includes a preliminary ranked list of all pending requests and a rationale for the ranking. The reports prepared by AOC staff will be submitted to the working group for its meetings in advance of each budget year cycle.

Based on a review of the AOC reports and any other additional information, the working group will develop an annual report that includes a recommended prioritized list of planned priorities 2–6 facility modifications and a list of funded facility modifications. These preliminary prioritized lists for funding will utilize the same factors indicated above. The working group's annual report, including a list of all requested facility modifications received and under consideration for ranking and the preliminary ranked list of planned priorities 2–6 facility modifications, will be made available to the trial courts for comments by posting it onto Serranus and through distribution to the chairpersons of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. All comments will be considered and addressed by the working group. All comments and working group responses will be presented to the;

Executive and Planning Committee (E&P Committee), as part of the final report of the working groups.

C. Trial Court Facility Modifications Working Group Membership and Terms of Service

Persons selected for the working groups will be members of the judicial branch (the branch) affiliated with any court in the state and possessing knowledge of or interest in facilities management or construction. Members of the branch affiliated with any court in the state will include justices, judges, subordinate judicial officers, and court staff. The working group will be composed of four members of the branch selected by the Trial Court Presiding Judges Advisory Committee and three members of the branch selected by the Court Executives Advisory Committee. The chair of the working group will be appointed by the Chief Justice from the membership of the group. Members will serve a three-year term. The chair may be extended for a fourth year at the discretion of the Chief Justice. The chair at the time of adoption of this policy will establish a rotation process to establish a cycle where normally no more than three members are replaced each fiscal year. Time served prior to the adoption of the policy will not count toward the three-year term, but no member will serve for more than six consecutive years. The AOC staff will be responsible for notifying the respective selection committee when new members need to be appointed. The working group is envisioned to confer as often as necessary to review and prioritize requests for planned priorities 2–6 facility modifications.

D. Trial Court Facility Modifications Working Group Procedures

On an annual basis, the working group will provide a full report to the E&P Committee on pending priorities 2–6 facility modifications requests, including the preliminary ranked list of modifications. In approving the final ranked list, the E&P Committee will consider those factors used by the working groups, including priority category; specific justifications; the effect on court operations, and on public and employee safety; risk management and mitigation; funding availability; equity among the courts; implementation feasibility; cost/benefit analysis; design and plan status; and planned major capital improvements. The final ranked list will be based on an analysis of these factors, the annual report prepared by the working group, additional information requested by the E&P Committee as necessary to determine a final list, and the funds available for addressing priorities 2–6 conditions as defined by the Judicial Council in the process of establishing the annual budget. The ranked lists approved by the E&P Committee will be the basis on which the AOC will proceed to implement facility modifications. AOC staff will manage the work from design through construction, inspection, and acceptance. The AOC will work collaboratively with local courts to implement facility modifications.

There may be justifiable reasons for making adjustments to the prioritization of planned priorities 2–6 requests and reallocating of funds among the four facility modification budgets—statewide facility modification planning, priority 1, planned priorities 2–6, and unforeseen or out-of-cycle priorities 2–6—during the course of a year. Therefore, the

working group has the authority to make adjustments to the prioritized list of priorities 2–6 facility modifications and adjust funds among the four budgets for facility modifications as necessary.

