

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report Summary

TO: Members of the Judicial Council

FROM: Kim Davis, Director, Office of Court Construction and Management,
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DATE: December 2, 2005

SUBJECT: Court Facilities Planning: Facility Modifications Prioritization
Methodology (Action Required)

Issue Statement

The Administrative Office of the Courts (AOC) has developed a policy for prioritizing, budgeting, funding, and implementing appellate and trial court facilities modifications. The Judicial Council needs to establish a policy to guide the prioritization of requests for small alterations, minor renovations, and repairs to court facilities. This policy has been reviewed by the Interim Court Facilities Panel¹ (Interim Panel) and its directives are reflected in this policy recommendation.

Rationale for Recommendation

Recommendation 1

The Trial Court Facilities Act of 2002 (Gov. Code, § 70391(e)) specifies the authority and responsibility of 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.” In support of this responsibility, the AOC has prepared the *Prioritization Methodology for Modifications to Court Facilities*, included as an attachment. The prioritization methodology outlined in the attachment includes a detailed definition of facility modifications and six priority categories² based on methods commonly used by private-sector facility management firms. Funding of \$7.982 million for facility

¹ Rule 6.15 of the California Rules of Court specifies the membership and responsibilities of the Interim Panel. Interim Panel members are members of the Judicial Council.

² The facility modifications for priorities 1–6 are defined as follows:

Priority 1—Immediately or Potentially Critical; Priority 2—Necessary, but Not Yet Critical; Priority 3—Recommended; Priority 4—Does Not Meet Current Codes or Standards; Priority 5—Beyond Rated Life, but Serviceable; Priority 6—Hazardous Materials, Managed but Not Abated.

modifications was authorized in fiscal year 2004–2005, as a baseline appropriation for superior court facilities.

Recommendation 2

Funds for priority 1 facility modifications will be set aside each year to ensure that adequate funds are available to implement facility modifications necessary to correct emergency or critical incidents and conditions. Funds for planned priorities 2–6 facility modifications will also be made available. In addition, some unforeseen priorities 2–6 conditions may arise.

Recommendation 3

This recommendation clarifies the intention of the Judicial Council to continue to seek General Fund money for facility modifications to state-owned appellate court facilities consistent with the provisions in Government Code section 69204(e).

Recommendation 4

Funding of modifications to state-owned trial court facilities must rely on two sources for a limited time: the Court Facilities Trust Fund (Trust Fund), administered by the Judicial Council for the operation, repair, and maintenance of court facilities (Gov. Code, § 70352(b)); and the State Court Facilities Construction Fund (Construction Fund), used to acquire, rehabilitate, construct, or finance court facilities (Gov. Code, § 70301(d)). AOC staff recommends that priorities 1 and 2 facility modifications be funded by both the Trust Fund and the Construction Fund, until the facility transfer process has been completed for all trial courts and deferred maintenance funding needs have been determined. AOC staff recommends priorities 3-6 modifications be funded by the Construction Fund.

Recommendation 5

To ensure court involvement in the process of prioritizing requests, two working groups—one for trial courts and one for appellate courts—will be established to develop a preliminary ranked list of facility modifications for presentation to the Interim Panel. The superior and appellate courts will annually request priorities 2–6 facility modifications for each forthcoming fiscal year. AOC staff will collaborate with local courts to assign a priority category to each request, develop a preliminary cost estimate, finalize the scope of the request, and develop two reports. The two working groups will review facility modification requests and post their annual reports of preliminary recommendations on Serranus for comments. Persons selected for the working groups will be members of the judicial branch (i.e., justices, judges, subordinate judicial officers, and court staff) affiliated with any court in the state and possessing knowledge of or interest in facilities management or construction.

Recommendation 6

Each working group will be given the authority to adjust the prioritized list of planned priorities 2–6 modifications and reallocate funds among the three budgets, as necessary.

Recommendation 7

The Interim Panel will review the annual reports of the working groups, including the preliminary ranked lists of planned priorities 2–6 facility modifications. The Interim Panel will determine final prioritized lists—one for the trial courts and one for the appellate courts. The AOC will implement facility modifications based on the final prioritized lists approved by the Interim Panel.

Recommendation 8

The AOC will report to the council on the effectiveness of these policies based on the initial 12 months of implementation.

Alternative Actions Considered

The description of alternative actions considered includes those based on comments received from the Court Facilities Transitional Task Force³ (Task Force), the courts, and the Interim Panel.

Several courts and the Task Force raised concerns about processing time and a desire for direct control over prioritizing and implementing facility modifications. The Interim Panel considered AOC staff's suggestion of a pilot program, in which one or more superior courts, with responsibility already transferred to the state for one or more facilities, would be allocated a portion of available funds to prioritize and implement facility modifications. Given that recommendation 8 provides the council with an opportunity to review the policy's effectiveness in the first 12 months of implementation, the Interim Panel was reluctant to guide staff to recommend such a program.

Courts raised the issue of having either direct access to funds for facility modifications or access to the 25 percent designation of the Construction Fund to the superior courts. The relationship between the 25 percent designation and facility modifications needs to be determined in a separate policy, as does the allocation of other sources of funds. The Interim Panel agreed with a staff recommendation to postpone discussion on this topic.

Staff considered an option of presenting a preliminary ranked list of facility modifications directly to the Interim Panel for approval. However, this option would preclude the courts from providing input into the statewide list. Staff also considered using the Task Force, rather than creating new working groups, to review and prepare a preliminary ranked list of planned priorities 2–6 facility modifications. AOC staff believe that

³ Rule 6.60 of the California Rules of Court specifies the membership and responsibilities of the Task Force.

working groups established to review and prioritize facility modifications will be better equipped to provide analysis and recommendations to the Interim Panel. Both the Task Force and the Interim Panel concurred with this approach.

The draft policy proposed that the appellate court working group be made up of the members of the California Appellate Court Clerks Association, with no members from or appointed by the Administrative Presiding Justices Advisory Committee. Based on appellate court comments, the Interim Panel recommended changing the composition of the appellate court working group to parallel the trial courts. In addition, staff had proposed that the working groups be chaired by AOC staff. Based on court comments, the Interim Panel recommended that each group's chair be appointed by the Chief Justice from the membership of each group.

In response to accountability concerns and requests for an appeal process, the Interim Panel recommended that working groups post draft reports on Serranus and that all comments be considered by the appropriate group, and be presented to the Interim Panel. Courts also raised the issue of how activities funded by the trial court under rule 810 of the California Rules of Court relate to facility modifications. The AOC recognizes that activities that may be currently funded by the trial courts need to be reviewed in the context of the act changes brought by the Trial Court Facilities Act of 2002.

Comments From Interested Parties

Draft copies of this policy were initially distributed to the members of the Task Force, the State Department of Finance (DOF), and AOC regional and division directors and were posted on the public court website. Comments were also solicited by an e-mail to all administrative presiding justices, presiding justices, and clerk administrators within each appellate court district and all presiding judges and executive officers within the trial court system. The Interim Panel reviewed the draft policy. A summary of comments from the courts, with AOC responses, is attached.

Implementation Requirements and Costs

Development of the attachment was performed by AOC staff. It has selected the most cost-effective and responsive method of implementing facility modifications. The primary component of this method is the outsourcing of technical services managed by a small core of AOC staff.

Recommendation

Staff of the Administrative Office of the Courts recommends that the Judicial Council take the following actions:

1. Adopt the *Prioritization Methodology for Modifications to Court Facilities*.
2. Direct AOC staff to recommend an annual funding allocation to three groups of

approved facility modifications for both trial and appellate courts: priority 1; planned priorities 2–6; and unforeseen or out-of-cycle priorities 2–6.

3. Direct AOC staff to request state General Fund money for implementation of priorities 1–6 facility modifications for appellate court facilities.
4. Direct AOC staff to use available funds to implement trial court facility modifications as follows: Apply, as funds are available, money from either the State Court Facilities Construction Fund or the Court Facilities Trust Fund to implement priorities 1 and 2 facility modifications for a limited term. AOC staff is directed to use the Construction Fund to implement priorities 3–6 facility modifications.
5. Direct the AOC to create two working groups on facility modifications, one for trial courts and one for appellate courts, and direct each group to meet annually and develop an annual report, including a preliminary prioritized list of planned priorities 2–6 facility modifications for the next fiscal year.
6. Authorize and direct the two working groups to reprioritize planned priorities 2–6 facility modifications, as necessary during the fiscal year, and to reallocate funds among the three groups of approved facility modification budgets, as necessary.
7. Authorize and direct the Interim Panel to review the reports of each working group and annually approve the statewide trial courts prioritized list and the statewide appellate courts list of planned priorities 2–6 facility modifications, to use funds annually authorized by the Judicial Council. The Judicial Council directs the AOC to implement the lists of facility modifications approved by the Interim Panel.
8. Direct the AOC to report to the Judicial Council on the effectiveness of the above policy recommendations in their first 12 months of implementation.

Attachments

Prioritization Methodology for Modifications to Court Facilities, December 2005

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
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Report

TO: Members of the Judicial Council

FROM: Kim Davis, Director, Office of Court Construction and Management,
415-865-7971, kim.davis@jud.ca.gov
Kelly Popejoy, Manager of Planning, Office of Court Construction and
Management, 818-558-3078, kelly.popejoy@jud.ca.gov

DATE: December 2, 2005

SUBJECT: Court Facilities Planning: Facility Modifications Prioritization
Methodology (Action Required)

Issue Statement

The Administrative Office of the Courts (AOC) has developed a policy for prioritizing, budgeting, funding, and implementing appellate and trial court facilities modifications. Through the transfer of responsibility of court facilities from county to state jurisdiction, the AOC will assume responsibility for 451 existing court facilities and must prioritize and implement facility modifications. The Judicial Council needs to establish a policy to guide the prioritization of requests for small alterations, minor renovations, and repairs to court facilities. This policy supports the mission and policy direction of the Judicial Council in its long-range strategic plan—Goal III, Modernization of Management and Administration—by providing safe and secure facilities and improving existing court facilities to allow adequate, suitable space for the conduct of court business. This policy has been reviewed by the Interim Court Facilities Panel¹ (Interim Panel) and its directives are reflected in this policy recommendation.

Recommendation

Staff of the Administrative Office of the Courts recommends that the Judicial Council take the following actions:

1. Adopt the *Prioritization Methodology for Modifications to Court Facilities*.

¹ According to rule 6.15(d) of the California Rules of Court, the Interim Panel consists of at least two trial court judges, one appellate court justice, and two court administrators, each appointed by the Chief Justice from the members of the Judicial Council. The Interim Panel members must include at least one member from each of the Judicial Council's other internal committees. Furthermore and according to rule 6.15(b) of the California Rules of Court, the Interim Panel must review and consult with the AOC on matters concerning court facilities and must review proposals involving such matters before they are considered by the Judicial Council.

2. Direct AOC staff to recommend an annual funding allocation to three groups of approved facility modifications for both trial and appellate courts: priority 1; planned priorities 2–6; and unforeseen or out-of-cycle priorities 2–6.²
3. Direct AOC staff to request state General Fund money for implementation of priorities 1–6 facility modifications for appellate court facilities.
4. Direct AOC staff to use available funds to implement trial court facility modifications as follows: Apply, as funds are available, money from either the State Court Facilities Construction Fund (Construction Fund) or the Court Facilities Trust Fund (Trust Fund) to implement priorities 1 and 2 facility modifications for a limited term, to be reviewed by no later than three years after adoption of this policy based on analysis of appropriated funds. AOC staff is directed to use the Construction Fund to implement priorities 3–6 facility modifications.
5. Direct the AOC to create two working groups on facility modifications, one for trial courts and one for appellate courts, and direct each group to meet annually and develop an annual report, including a preliminary prioritized list of planned priorities 2–6 facility modifications for the next fiscal year.
6. Authorize and direct the two working groups to reprioritize planned priorities 2–6 facility modifications, as necessary during the fiscal year, and to reallocate funds among the three groups of approved facility modification budgets, as necessary. Each group will prepare a quarterly report of these midyear actions, if any, for submission to the Interim Panel.
7. Authorize and direct the Interim Panel to review the reports of each working group and annually approve the statewide trial courts prioritized list and the statewide appellate courts list of planned priorities 2–6 facility modifications, to use funds annually authorized by the Judicial Council. The Judicial Council directs the AOC to implement the lists of facility modifications approved by the Interim Panel.
8. Direct the AOC to report to the Judicial Council on the effectiveness of the above policy recommendations in their first 12 months of implementation, including a survey of courts that have required facility modifications to correct emergency

² The facility modifications for priorities 1–6 are defined as follows:

Priority 1—Immediately or Potentially Critical

Priority 2—Necessary, but Not Yet Critical

Priority 3—Recommended

Priority 4—Does Not Meet Current Codes or Standards

Priority 5—Beyond Rated Life, but Serviceable

Priority 6—Hazardous Materials, Managed but Not Abated

conditions as well as courts that have requested planned and/or unforeseen/out-of-cycle priorities 2–6 facility modifications.

Rationale for Recommendation

Recommendation 1

The Trial Court Facilities Act of 2002 (Gov. Code, § 70391(e)) specifies the authority and responsibility of 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.” In support of this responsibility, the AOC has prepared the *Prioritization Methodology for Modifications to Court Facilities*, included as an attachment. The prioritization methodology outlined in the attachment includes a detailed definition of facility modifications and six priority categories based on methods commonly used by private-sector facility management firms. The purpose of developing the categories is to allow the Judicial Council, the AOC, and the courts to plan for needed or desired facility modifications and ensure that the limited fiscal resources available are applied effectively and prudently across the state and over the course of the fiscal year.

The methodology also provides a framework for the judicial branch, in utilizing its resources and appropriately managing its facilities, to establish its transparency and accountability to members of the executive and legislative branches of government and to the public.

Funding of \$7.982 million for facility modifications was authorized in fiscal year 2004–2005, as a baseline appropriation for superior court facilities for which responsibility or title has transferred to the state. The AOC will request that these funds be increased as additional facilities become the responsibility of the Judicial Council.

Recommendation 2

Funds for priority 1 facility modifications will be set aside each year to ensure that adequate funds are available to implement facility modifications necessary to correct emergency or critical incidents and conditions. Funds for planned priorities 2–6 facility modifications will also be made available. In addition, some unforeseen priorities 2–6 conditions may arise after the ranked lists of planned priorities 2–6 facility modifications have been determined for implementation. The AOC will recommend to the Judicial Council an annual funding allocation for priority 1, planned priorities 2–6, and unforeseen or out-of-cycle priorities 2–6 facility modifications.

Recommendation 3

State General Fund money has historically been used to fund all new state-owned appellate courts and any repairs, renovations, or improvements to existing state-owned facilities. This recommendation clarifies the intention of the Judicial Council to continue to seek General Fund money for facility modifications to state-owned appellate court

facilities consistent with the provisions in Government Code section 69204(e). Currently, no annual baseline appropriation of funds has been established for appellate court facility modifications. However, the AOC will begin an assessment of needs in consultation with the appellate courts, in order to seek such funding on transfer of facility responsibility to the Judicial Council.

Recommendation 4

Funding of modifications to state-owned trial court facilities must rely on two sources for a limited time: the Trust Fund and the Construction Fund. According to Government Code section 70352(b), the Trust Fund is administered by the Judicial Council for the operation, repair, and maintenance of court facilities. Government Code section 70374(c)(1) states that the Construction Fund is to be used to acquire, rehabilitate, construct, or finance court facilities as defined in Government Code section 70301(d).

Based on the purpose of the Trust Fund, priorities 1 and 2 facility modifications should be funded by the Trust Fund. However, AOC staff is concerned that the funding needs for deferred maintenance projects may exceed the capacity of the Trust Fund. AOC staff therefore recommends that priorities 1 and 2 facility modifications be funded by both the Trust Fund and the Construction Fund, until the facility transfer process has been completed for all trial courts and deferred maintenance funding needs have been determined. The Construction Fund will be used in the interim to fund the excess expenditures for priorities 1 and 2 facility modifications that cannot be absorbed by the Trust Fund. No later than three years from the adoption of this recommendation by the Judicial Council, AOC staff will analyze the capacity of the Trust Fund to determine whether it can absorb the cost of priorities 1 and 2 facility modifications on an ongoing basis. AOC staff will recommend modifications to this recommendation as needed, based on this analysis.

Priorities 3–6 facility modifications are typically focused on small-scale renovations and alterations that should be funded by the Construction Fund.

Recommendation 5

This recommendation is intended to ensure court involvement in the process of prioritizing requests for planned facility modifications. As outlined in the attachment, the superior courts and appellate courts will annually request priorities 2–6 facility modifications for each forthcoming fiscal year, and AOC staff will collaborate with local courts to assign a priority category to each request, develop a preliminary cost estimate, and finalize the scope of the request. AOC staff will then develop two reports—one for the trial courts and one for the appellate courts—each of which will include a preliminary ranked list of all pending requests, as well as a rationale for the ranking.

To provide a mechanism for court input into the statewide process of ranking priorities 2–6 facility modification requests, two working groups—one for trial courts and one for

appellate courts—will be established to review facility modification needs across the state. Each working group will review the AOC staff report, which includes a preliminary ranked list of all pending requests and a rationale for the ranking. The respective working groups will meet in advance of each budget year cycle.

Based on the review of the AOC report and any other additional information, each working group will develop an annual report that includes a list of all requested facility modifications received and under consideration for ranking and a preliminary ranked list of planned priorities 2–6 facility modifications for funding. Each working group annual report will be made available to courts by posting on Serranus for comments. All comments will be considered and addressed by the appropriate working group. All comments and working group responses will be presented to the Interim Panel, as part of the final annual report of the working group.

Requests for facility modifications will be prioritized by the working groups, based on the 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, and planning and design status of major capital improvements.

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 appellate court working group will be composed of three members of the branch selected by the Administrative Presiding Justices Advisory Committee and two members of the branch selected by the members of the California Appellate Court Clerks Association. The trial court 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 each working group will be appointed by the Chief Justice from the membership of the group. These working groups are envisioned to confer as often as necessary to review and prioritize requests for planned priorities 2–6 facility modifications.

Recommendation 6

AOC staff anticipates that there may be justifiable reasons both for adjusting the prioritization of planned priorities 2–6 requests and for reallocating funds among the three facility modification budgets during the course of a year. For example, conditions may change at a particular facility that warrants its planned priorities 2–6 facility modifications to be ranked higher than originally determined by the Interim Panel. Over the budget year, funds allocated for priority 1 conditions may be exhausted as a result of unusual incidents or natural catastrophes, or, conversely, may be unused in the projected amount. To fund the correction of possible priority 1 incidents in the remaining budget

year, funds will need to be moved from one or both of the priorities 2–6 facility modification budgets. Also, to efficiently utilize annual appropriations, unused funds in the priority 1 budget should be allocated to lower priority needs.

Staff recommends that each working group be given the authority to adjust the prioritized list of priorities 2–6 facility modifications and reallocate funds among the three budgets for facility modifications as necessary. The working groups will submit a quarterly report to the Interim Panel for any such adjustments.

Recommendation 7

The Interim Panel will review the annual reports of the working groups, including the preliminary ranked lists of planned priorities 2–6 facility modifications. All AOC staff reports, minutes of working group meetings, and any other relevant background information will be made available to the Interim Panel in consideration of each working group’s annual report. Based on this information and the funds available for addressing planned priorities 2–6 conditions as established by the Judicial Council in the process of establishing the annual budget, the Interim Panel will determine final prioritized lists of planned priorities 2–6 facility modifications—one for the trial courts and one for the appellate courts.

These lists will be the basis on which the AOC will proceed to implement work for priorities 2–6 facility modifications. AOC staff will manage the work required to implement facility modifications, from design through construction, inspection, and acceptance.

The AOC may also use its allocated budget to implement certain priorities 2–6 facility modifications that were unforeseen or out of cycle at the time the Interim Panel determined the final ranked lists of facility modifications. Any unforeseen or out-of-cycle priorities 2–6 facility modification needs will be reviewed by the appropriate working group and forwarded to the Interim Panel for approval.

The AOC recognizes that some courts may have the capacity to directly manage the scoping, design, and construction of facility modifications. In the future, the AOC will develop procedures, including liability, risk management, and accountability, to delegate authority to qualified individual courts to implement facility modifications.

Recommendation 8

This recommendation establishes a one-year time frame for assessing the effectiveness of the proposed policies on prioritizing, budgeting, funding, and implementing facility modifications, with the intention of evaluating the AOC’s effectiveness in delivering efficient and cost-effective services. The evaluation of the AOC’s implementation of this policy will be presented to the Judicial Council and will include a survey of courts that

have requested planned and unforeseen priorities 2–6 modifications as well as required modifications to correct emergency conditions.

Alternative Actions Considered

The description of alternative actions considered includes those based on comments received from the Court Facilities Transitional Task Force³ (Task Force), the courts, and the Interim Panel.

Several courts and the Task Force raised concerns about the amount of time the process would take and a desire for direct control over prioritizing and implementing facility modifications. AOC staff had initially considered an alternate approach in which each court would be allocated some portion of available funds for facility modifications based on its proportionate share of space for which responsibility has transferred to the state. In this option, each court would prioritize and allocate according to its facility modification needs. This approach might result in some small courts not having adequate funds to correct critical needs. Some courts may have a relatively large portfolio for which the state is responsible and also critical facility modification needs that cannot be met by their allocations. This approach was not selected by AOC staff, because the result is contrary to the strategic plan goal of providing suitable court space around the state in a fair and balanced approach.

The Interim Panel considered AOC staff's suggestion of a pilot program, in which one or more superior courts that have transferred responsibility for one or more facilities to the state would be allocated a portion of available funds to prioritize and implement facility modifications. Training would need to be completed by the pilot court staff, and accountability standards and procedures for both prioritizing and expending state funds on facility modifications would be required of the pilot courts. A method for allocation of available state funding sources would need to be established. Given that recommendation 8 provides the council with an opportunity to review the effectiveness of the above policy recommendations in their first 12 months of implementation, the Interim Panel was reluctant to guide staff to recommend a pilot program for consideration by the council.

³ According to rule 6.60(a) of the California Rules of Court, the Task Force provides the AOC with advice and recommendations on issues related to appellate and trial court facilities, including, but not limited to: (1) acquisition, space programming, construction, and design; (2) maintenance and operation; (3) transfer of responsibility for trial courts from the counties to the state; and (4) policies and procedures. Its members consist of at least one person from the following categories: appellate court justice; trial court judicial officer; appellate court administrator; trial court administrator from a large, metropolitan county; trial court administrator from a non-large, metropolitan county; and member of the State Bar of California. Other members may be appointed by the Chief Justice, as indicated under rule 6.60(b)(2)–(3) of the California Rules of Court.

Courts raised the issue of having either direct access to funds for facility modifications or access to the 25 percent designation of the Construction Fund to the superior courts. Section 70374(d) of the Trial Court Facilities Act of 2002 states: “Twenty-five percent of all money collected for the State Court Facilities Construction Fund from any county shall be designated for implementation of trial court projects in that county. The Judicial Council shall determine the local projects after consulting with the trial court in that county and based on the locally approved court facilities master plan for that county.” In addition to these funds, there may be several other sources of court funds for facility modifications.

The relationship between the 25 percent designation of the Construction Fund and facility modifications needs to be determined in a separate policy, as does the allocation of other sources of funds for such modifications. In consultation with the trial courts, the AOC intends to draft a policy on the 25 percent designation for adoption by the Judicial Council. The Interim Panel agreed with a staff recommendation to postpone discussion on the allocation of all sources of funds to local courts for facility modifications, pending the transfer of responsibility of additional court facilities to the state and any outcome of the implementation of this policy.

Courts raised the issue of how activities funded by the trial court under rule 810 of the California Rules of Court relate to facility modification projects. The AOC recognizes that activities that may be currently funded by the trial courts, under that rule, need to be reviewed in the context of the act changes brought by the Trial Court Facilities Act of 2002.

Staff considered an option of presenting a preliminary ranked list of facility modifications directly to the Interim Panel for its approval. However, this option would preclude the courts from providing formal input into the development of the statewide list.

Staff also considered using the Task Force, rather than creating one or more new working groups, to review and prepare a preliminary ranked list of planned priorities 2–6 facility modifications. However, the Task Force is engaged in providing advice and recommendations to the AOC on a broad set of facility issues; therefore, AOC staff believe that working groups established solely to review and prioritize facility modifications for both the trial and appellate courts will be better equipped to provide analysis and recommendations to the Interim Panel. Both the Task Force and the Interim Panel concurred with this approach.

The first comment draft policy proposed that the appellate court working group be made up of the members of the California Appellate Court Clerks Association, with no members from or appointed by the Administrative Presiding Justices Advisory Committee. However, based on comments from several appellate courts, the Interim Panel recommended changing the composition of the working group to parallel that of

the trial courts. In addition, staff had proposed that the working groups be chaired by AOC staff with responsibility for implementing facility modifications. Based on court comments, the Interim Panel recommended that the chair of each group be appointed by the Chief Justice from the membership of each group.

In response to accountability concerns and requests for an appeal process, the Interim Panel recommended that the policy be modified to require each working group to post its draft report on Serranus for comments, and that all comments be considered and addressed by the appropriate working group and then presented to the Interim Panel as part of its final report.

Comments From Interested Parties

Draft copies of this policy were initially distributed to the members of the Task Force, the State Department of Finance (DOF), and AOC regional and division directors in September 2005. Staff of the AOC met with DOF staff to review the policies and received their general support of the approaches stated therein. The Task Force discussed a draft of the policy at its scheduled meeting on September 21, 2005. The Task Force raised the question whether state funds should be allocated in some amount to each court to execute facility modifications at its discretion. The Task Force also indicated a need to clarify the definition of “facility modifications,” as opposed to “maintenance projects.”

Based on comments from the Task Force, AOC staff revised the draft report and policy. The revised draft of this report and its attachment, *Prioritization Methodology for Modifications to Court Facilities*, were posted for three weeks on the public court website at www.courtinfo.ca.gov/programs/occm, and comments were solicited by an e-mail to all administrative presiding justices, presiding justices, and clerk administrators within each appellate court district and all presiding judges and executive officers within the trial court system. The comment period closed on October 17, 2005.

At its October 20, 2005, meeting, the Interim Panel reviewed the draft policy and the 17 comments received from the local courts. Its directives are incorporated in this document and presented above under Alternative Actions Considered.

A summary of comments from the court and the public, together with the AOC’s response to these comments, is attached.

Implementation Requirements and Costs

Development of the *Prioritization Methodology for Modifications to Court Facilities* was performed by AOC staff. It has selected the most cost-effective and responsive method of implementing facility modifications. The primary component of this method is the outsourcing of technical services managed by a small core of AOC staff. Outsourcing allows a more responsive and flexible approach to the various types of facility modification projects, is cost effective, and can leverage economies of scale where

possible. As a comparison, the California Department of General Services in fiscal year 2001–2002 had a staff of 2,000 employees (full-time equivalents), which oversees planning, design, and construction of major capital projects, facility modification projects, and maintenance of state facilities. The current staffing plan estimated to manage the judicial branch facilities program at full complement provides for 269 positions. The real estate assets of both entities are approximately the same.

The AOC has not yet estimated the cost effectiveness and implementation issues of delegating—to the trial or appellate courts—the prioritization, scoping, or design and execution of facility modifications. To address the issue raised by the Task Force and other courts on local prioritization and implementation of facility modifications, the AOC will first report to the council on the effectiveness of these policies based on the initial 12 months of implementation.

Funding of \$7.982 million for facility modifications was originally authorized in fiscal year 2004–2005, as an ongoing allocation to the AOC to administer trial court facilities for which responsibility or title has transferred to the state. The AOC will request an increase to these funds through the state budget process when additional court facilities become the responsibility of the state.

Attachments

Prioritization Methodology for Modifications to Court Facilities, December 2005

Prioritization Methodology for Modifications to Court Facilities Comments Summary

	Commentator	Position	Comment	Responses
1.	Hon. Judith D. McConnell, Administrative Presiding Justice, Division One, Court of Appeal, Fourth Appellate District— San Diego	AM	Recommendation 5 indicates: “The appellate court working group will be composed of the members of the California Appellate Court Clerks Association. The trial court working group will be composed of three members appointed by the Trial Court Presiding Judges Advisory Committee and three members appointed by the Court Executives Advisory Committee.” The Administrative Presiding Justices of the Appellate Courts have authority over administrative matters in appellate courts and should be represented as members of the appellate working group. That would be consistent with the composition of the trial court working group.	Appellate court working group to be composed of three members of the branch selected by the Administrative Presiding Justices Advisory Committee and two members of the branch selected by the California Appellate Court Clerks Association.
2.	Ms. Sharol Strickland, Executive Officer, Superior Court of Butte County	AM	Recommendation 6: I support the alternative recommendation, which provides for the Interim Panel on Court Facilities to make changes to the list of planned priority 2–6 facility modifications and/or approve the reallocation of funds among the three groups.	The working groups will be authorized to priorities 2–6 facility modifications and approve the reallocation of funds among the three groups.
3.	Mr. Michael D. Planet, Executive Officer, Superior Court of Ventura County	AM	<p>The Draft Court Facilities Planning: Facilities Modifications Prioritization document needs to be split into two components.</p> <p>Nowhere in these documents is there a reference to GC 70374(d), which mandates that 25% of all money collected for the Construction Fund be designated for the implementation of trial court projects in that county.</p> <p>The draft priority plan seems to be a sufficient guide for determining the projects and recipients of the 75% monies, but it is not clear in distinguishing the process for allocating the 25% for local projects. The document needs to make that clear. Additionally, that 25% money needs to remain in the local court’s account and accumulate, carry over to the following year(s) so that the court can build funds for somewhat larger projects. For example, if a</p>	<p>State fund sources for facility modifications may only be used for transferring buildings for facility modifications. Thereafter, section 70374(d) of the Trial Court Facilities Act of 2002 states: “Twenty-five percent of all money collected for the State Court Facilities Construction Fund from any county shall be designated for implementation of trial court projects in that county. The Judicial Council shall determine the local projects after consulting</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

	Commentator	Position	Comment	Responses
			<p>court is bringing in about \$300,000 per year and needs to do a courtroom remodel/security project that will cost \$450,000, then the court should be allowed to hold the funds over.</p> <p>It is this Court’s position that we have a significant number of facility modification projects right now that need funding. Immediate access to our 25% share of the Construction Fund would allow us to proceed with these projects without further delay. It must be noted that this Court’s adopted Court Facilities Master Plan, as prepared and produced by the AOC’s contractor, Omni Group, has over \$33,000,000 worth of capital projects and facilities modification projects listed in Chapter 6; of that, there is approximately \$8.2 million in facility modification projects. Our ability and the ability of all other courts to address these projects are directly tied to our receiving the mandated 25% share of the Construction Fund. Your support in that endeavor would be greatly appreciated.</p>	<p>with the trial court in that county and based on the locally approved court facilities master plan for that county.”</p> <p>The relationship between the 25 percent designation of the Construction Fund and facility modifications needs to be determined in a separate policy. In addition, the allocation of other sources of funds to local courts for facility modifications needs to be determined. The AOC intends to draft a policy, with court consultation, on the 25 percent designation for adoption by the Judicial Council.</p> <p>The Interim Panel agreed to postpone the discussion on the allocation of all sources of funds to local courts for facility modifications pending the transfer of responsibility of additional court facilities to the state and any outcome of the implementation of this policy (per recommendation 8).</p>
4.	Ms. Tressa S. Kentner, Executive Officer, Superior Court of San Bernardino County	AM	<p>Generally, the prioritization methodology is based on valid principles. I have some concerns about how they will affect local court operations on a daily basis. In our court, we always have maintenance projects and small building modifications projects underway.</p> <p>The modification projects include such things as modifying work areas to alleviate repetitive stress injuries, making space for additional staff, judicial officers and special programs such as self-help areas. The operational reality is that we must continue to have such projects whether they are included in the statewide plan or not.</p>	<p>The Interim Panel considered AOC staff’s suggestion of a pilot program for one or more courts that have transferred responsibility for one or more facilities to the state. The panel rejected this option in favor of implementing the proposed policy and evaluating the results of the policy after one year (per recommendation 8).</p> <p>In response to the issue of projects being needed (for new judges and new staff, for example), even if they are not identified in the ranked list of planned priorities 2–6 facility modifications, there</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

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			<p>First, the methodology fails to include new judgeships or staffing increases. Although it may seem prudent to wait until judgeships are created to consider space needs, this results in haphazard planning and creating courtroom areas in spaces which should not be acceptable. Local courts will make room however they can for new judgeships; hence, the methodology must include planning for new judgeships.</p> <p>An example of the impact of new judicial positions is our Court's receiving in additional child support Commissioner. We are unable to add the Commissioner until we lease space and do the tenant improvements necessary to create a courtroom to that space. To accommodate this new Commissioner, we likely will be moving child-support operations to a location that is separate from any of our current courthouses. While the child-support function is a somewhat stand-alone operation, the separate location will impact self-help services and the efficiency of the clerk's office.</p> <p>Staffing increases also impact space planning. While we are very appreciative of additional funding our court is receiving, we are forced to make the number of facility related decisions in order to accommodate staffing increases. These impacts should be considered at the start of facility modifications planning.</p> <p>Second, local trial courts should receive some funding for local facilities projects that are not subject to the statewide prioritization plan. One of the early facilities task forces recommended that 25% of local trial court construction funds be given to the trial courts for such projects. The</p>	<p>is a budget and process proposed for funding and approving out-of-cycle priorities 2–6 facility modifications. Planning for future judgeships is reflected in the <i>Five-Year Infrastructure Plan Fiscal Year 2006–2007</i>, as well as in each court's facilities master plan. Requests for acquisition of additional space are not eligible as facility modifications.</p> <p>On issue of 25 percent designation, see response to comment #3 above.</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

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			<p>Judicial Council should adopt that recommendation. In order to provide oversight, the Interim Panel should adopt guidelines or standards that courts must follow for the use of these funds. Additionally, courts could be required to submit a listing of projects funded locally. This would allow the Interim Panel to focus on larger projects.</p> <p>Third, the use of Construction Fund for maintenance projects could easily result in all the funds being allocated to maintenance. We should develop another source of funding for maintenance projects. Perhaps, a portion SAL could be allocated for such projects.</p> <p>Fourth, recommendation 6 allows for the reallocation of maintenance projects funding during a fiscal year. Maybe your reallocations should only be done in emergency situations; otherwise, courts will not be able to plan for modifications.</p>	<p>AOC staff share the concern about use of the construction fund for maintenance projects and therefore drafted recommendation 4 to include a review of the use of the construction fund for priorities 1 and 2 facility modifications, to be conducted no later than three years from adoption of this policy by the council. This supports the intention that the construction fund be used for improvements rather than maintenance projects.</p> <p>The intent of recommendation 6 is to reallocate funds to maximize the use of funds for planned priorities 2–6 modifications if there are few or no emergency incidents. Alternatively, funds and will be reallocated from planned priorities 2–6 modifications in the event there are inadequate funds for emergency situations.</p>
5.	Mr. Daniel Ropp, Director of General Services, Superior Court of Monterey County	AM	<p>The document doesn't address modifications for security purposes, only life safety and ADA compliance as specific areas for falling within this process. Are modifications for security purposes being addressed separately or is it also included under this proposed methodology?</p> <p>We also have some concerns requiring all courts to be completely dependent on the prioritization from the working group and interim panel for receiving funding for these types of expenditures. Our past experience is that this type of approach can be slow and doesn't always allow individual courts an opportunity to address specific local needs in a timely manner.</p>	<p>Facility modifications do include those that address security issues. The definition of facility modifications in the policy has been clarified to reflect this.</p> <p>The Interim Panel considered AOC staff's suggestion of a pilot program with one or more courts that have transferred responsibility for one or more facilities to the state. The panel rejected this option in favor of implementing the proposed policy and evaluating the results of the policy after one year (per recommendation 8).</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

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			<p>There should be an appeal process available to local courts if they do not agree with the prioritization or want an opportunity to restate their case and justification.</p> <p>How will you ensure adequate and fair representation for all courts if they do not have a member in the trial court working group? What is the makeup of the working group and how will representatives be chosen? There should be a mechanism for courts to have a voice in prioritizing the modifications that is not just through the working group or Interim Panel.</p> <p>Recommendation 7 states that AOC staff will manage the work required to implement modifications. The process needs to include direct local court inputs and participation in this process in cases where the local court elects to participate.</p> <p>With regard to the “Prioritization Methodology for Modifications to Court Facilities” document: For priority 1, we want to confirm that the list of possible conditions includes, but is not limited to, those spelled out in the document.</p> <p>For priority 2–6 requests, will courts receive copies of the submitted request forms discussed in Section IV 2? What is the SLA for responses to requests? Will all reports discussed in Section IV be made available to courts?</p>	<p>The final recommendation language now includes a process in which the reports of the working group, 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 to be presented to the Interim Panel, will be made available to courts by posting on Serranus for comment. All comments will be considered and addressed by the appropriate working group. All comments and working group responses will be presented to the Interim Panel as part of the final report of the working group.</p> <p>The AOC intends to work collaboratively with local courts to implement all facility modification projects.</p> <p>The list of priority 1 conditions includes but is not limited to those included in the document. The description of priority 1 conditions has been modified to reflect this.</p> <p>See response above regarding posting working group reports on Serranus for comment by the courts.</p>
6.	Mr. Alan Slater, Executive Officer, Superior Court of Orange County	AM	<p>The methodology will eliminate local facilities programs which are currently in place and slow down the overall facilities approval process.</p> <p>The methodology would “lump all the major and minor</p>	<p>The Interim Panel considered AOC staff’s suggestion of a pilot program with one or more courts that have transferred responsibility for one or more facilities to the state. The Panel rejected this option in favor of implementing the proposed</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

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			<p>projects” together with the likely result that immediate operational needs would take a back seat to large planned projects to correct major facility deficiencies.</p> <p>P. 7: The Interim Panel will review the recommended list of planned priority 2–6 facility modifications developed by each working group. This two step process between the working group and Interim Panel will be time consuming.</p> <p>P. 7: An alternate approach would be to allocate the available funds for facility modifications to each court based on its proportionate share of space for which responsibility has transferred to the state.</p> <p>The AOC should also consider an intermediate position where a portion of the funds are allocated locally and a portion retained to meet state-wide critical needs.</p> <p>P. 7: The AOC recognizes that some courts may have the capacity to implement facility modifications. In the future, the AOC will develop procedures, including liability, risk management, and accountability, to delegate authority to qualified individual courts to implement facility modifications.</p> <p>The procedures should be developed in consultation with courts that have had the capacity and experience in implementing facility modifications. In the interim while the procedures are under development, locally funded projects should proceed under local policy.</p> <p>The AOC should distinguish between projects that</p>	<p>policy and evaluating the results of the policy after one year (per recommendation 8).</p> <p>Facility modifications include projects that address operational needs. The AOC believes that these operational needs can largely be anticipated and planned for. A budget for out-of-cycle or unplanned facility modifications recognizes that in some cases facility modification needs cannot always be planned for.</p> <p>The Interim Panel agreed to postpone the discussion on the allocation of all sources of funds to local courts for facility modifications pending the transfer of responsibility of additional court facilities to the state and any outcome of the implementation of this policy (per recommendation 8).</p> <p>The AOC will develop any future procedures for local superior court implementation of facility modifications in consultation with courts, as indicated in this comment.</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

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			<p>improve current operations, implement new programs, or respond to growth, and projects that are necessary to preserve or enlarge the physical plant. The AOC should allocate funds annually to allow courts to retain discretion over local modifications necessary for operations. This will accelerate the completion of these projects while assigning the appropriate level of oversight to larger projects or state-wide initiatives with greater exposure.</p> <p>The AOC should recognize the cost effective procedures that local courts have in place to prioritize and manage capital projects and facilities modifications using local funds.</p> <p>The AOC should recognize that certain courts have established a successful track record (in terms of cost effectiveness, safety, etc.) in managing large capital projects. Greater local discretion should be given to these courts. The AOC can maximize value and ensure the timely completion of projects by offering assistance/oversight where it is most needed.</p> <p>P. 8: Current activities that may be funded by the trial courts, pursuant to rule 810 of the California Rules of Court, are also being considered in relation to the facility modifications implementation methodology.</p> <p>(Rule 810) Furnishings, paint, and flooring should be managed locally.</p>	<p>The AOC recognizes that rule 810 activities need to be reviewed in the context of current funding for facility modifications and major capital projects.</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

	Commentator	Position	Comment	Responses
7.	Ms. Kiri S. Torre, Executive Officer, Superior Court of Santa Clara County	AM	Local courts should be given autonomy in addressing minor maintenance/remodeling efforts. A local budget could be established to fund minor projects.	The Interim Panel considered AOC staff’s suggestion of a pilot program with one or more courts that have transferred responsibility for one or more facilities to the state. The panel rejected this option in favor of implementing the proposed policy and evaluating the results of the policy after one year (per recommendation 8).
8.	Superior Court of Los Angeles County,	AM	Prioritizing Requests for Priority 2–6 Facility Modifications (p.6): This system would prohibit LA from making alterations to our own facilities because of the funding source. A system similar to the existing one where we are given a fund to draw from would be most efficient in our opinion.	The Interim Panel considered AOC staff’s suggestion of a pilot program with one or more courts that have transferred responsibility for one or more facilities to the state. The panel rejected this option in favor of implementing the proposed policy and evaluating the results of the policy after one year (per recommendation 8).
9.	Mr. José Octavio Guillén, Executive Officer, Superior Court of Imperial County	AM	Question: What is the appeal process, should a court disagree with the results of the ranked list of prioritized modifications requests?	The final recommendation language now includes a process in which the reports of the working group, which includes 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 to be presented to the Interim Panel, will be made available to courts by posting on Serranus for comment. All comments will be considered and addressed by the appropriate working group. All comments and working group responses will be presented to the Interim Panel as part of the final report of the working group.
10.	Ms. Linda Ashcraft, Executive Officer, Superior Court of Solano County	AM	In order to properly address or comment on this Report, the following additional information would be helpful: 1. How many Priority One projects are there now and what are they?	Questions 1 and 2: Until a policy on prioritizing facility modification is adopted by the council, there are no requests for

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			<p>2. How many Priority Two projects are there now and what are they?</p> <p>3. What is the composition of the Interim Panel (number of Panel members and balance in membership between small, mid-size and large courts)?</p> <p>4. What happens to the money set aside if transfers do not take place in 2004–2005?</p> <p>Substantive Merits of the Report: The proposed methodology does not appear to take into account unique circumstances, such as the opportunity for a court to collaborate with a County on the interim use of available facilities that includes the build-out of space, pending transfer of ownership from County to State. As written, this Report provides no avenue for the AOC to respond quickly and in a meaningful way when a window of opportunity is presented to allow the court to expand into much needed space. This Report does not reference potential collaborations between Counties and courts, even when those collaborations include funding from the County. Without the ability to act quickly on such offers, opportunities are lost. Ultimately this loss will be felt by the state, as the state is the prospective beneficiary of such collaborations, when the intention of the parties is to transfer additional property to the State of California.</p> <p>Relatively small project renovations that do not fall within one of the designated priorities, are not addressed in this Report.</p> <p>Local control of projects, at the court level, would be</p>	<p>facility modifications that have been designated as priorities 1 or 2.</p> <p>Question 3: The membership of the Panel is determined by rule 6.15 of the California Rules of Court in section (d). There must be at least five members, including two trial court judges, one appellate court justice, and two court administrators, each appointed by the Chief Justice from members of the Judicial Council. The panel members must include at least one member from each of the council’s other internal committees.</p> <p>Question 4: The \$7.982 million authorized in fiscal year 2004–2005 is an ongoing allocation to the AOC for modifications to facilities for which responsibility or title has transferred to the state.</p> <p>Projects that expand court space are major capital outlay projects.</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

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			<p>ceded under the proposed methodology, to the Office of Court Construction and Management, which would not be desirable from our point of view. If a Working Group is established the Chair of this group should be selected from members of the Working Group and supported by OCCM staff. Additionally, the Report does not address how the Working Group will be accountable to the local court for decisions that impact those facilities.</p> <p>The Report was difficult to digest, as there is no clear, succinct explanation of how prioritization would work. Options appear to overlap. It is suggested that an outline approach, given the complexity of the methodology, be considered.</p>	<p>Some small renovations are planned priorities 2–6 facility modifications and are addressed by the proposed policy.</p> <p>The Interim Panel considered AOC staff’s suggestion of a pilot program with one or more courts that have transferred responsibility for one or more facilities to the state. The panel rejected this option in favor of implementing the proposed policy and evaluating the results of the policy after one year (per recommendation 8).</p> <p>The policy will be revised to have the chair of each working group be a member of the working group who is appointed by the Chief Justice.</p>
11.	Ms. Jody Patel, Executive Officer, Superior Court of Sacramento County	AM	<p>Questions are related to Attachment A: <i>Prioritization Methodology for Modifications to Court Facilities</i>:</p> <p><u>Section II A</u> states that Facility modifications <i>exclude court requested activities allowable under rule 810</i> of the California Rules of Court.</p> <p>What about furniture and equipment related to a “Facility Modification” project (which has typically been purchased by the court using rule 810 monies)? It would seem more practical to include any <u>furniture or equipment</u> needed as a result of the project as part of the project, rather than submit a request through separate budget channels. For example, if a court facility is being renovated, and a Facility Modification Project is approved, it would be more practical to tie the furniture and equipment needed DIRECTLY to this project rather than submitting a separate budget request which may or may not be</p>	<p>In response to the questions, staff has made the following response to Ms. Patel:</p> <p>Regarding your comment on rule 810:</p> <p>After the draft of the Facility Modifications policy on September 23, 2005, was sent out, AOC staff reworked the language relating to rule 810. The language posted on the Web site on September 27, 2005, in the <i>Comments From Interested Parties</i> now includes: “Current activities that may be funded by the trial courts, pursuant to rule 810 of the California Rules of Court, are also being considered in relation to the facility modifications implementation methodology.”</p> <p>AOC staff recognizes that rule 810 activities need</p>

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			<p>approved. This same rationale should apply to Capital Outlay Projects as well.</p> <p><u>Section II B</u> describes the operation of the <u>Judicial Branch Customer Service Center (CSC)</u>: Where will this Service Center be located? What provisions will be made to ensure continued support of court requests in the event the CSC operation is impacted by a power outage, fire, natural disaster or other events?</p>	<p>to be reviewed in the context of current funding for facility modifications and major capital projects.</p> <p>Regarding questions on the CSC: The CSC will be physically located in Sacramento, but is a walk-in, call-in, fax-in and Internet-based system that can be monitored from anyplace in the state. The CSC will have localized power backup capacity. In the event of a disaster that destroys the CSC operations, the CSC will be tied into the emergency response centers now being planned for each region. In other words, the emergency response centers will be trained to assume the functions of the CSC.</p>
12.	Ms. Kathleen Goetsch, Executive Officer, Superior Court of Merced County	AM	<p>This is to check the box Agree with Modifications. The proposal lays out how the Working Group is to prioritize but is silent on how the AOC would develop an initial ranking. I would think they should both use the same criteria. I thought the criteria given were fine for both groups.</p> <p>Also, it is unclear what to do if an emergency is caused not by some natural disaster but if a system were to simply fail, perhaps just because it is too old. In the beginning these kinds of items are shown as a part of the definition of “planned physical modification” but when I read the definition of Priority 1 on page 3 of 6 it wasn’t as clear to me. Perhaps it is there but it wasn’t as clear.</p>	<p>AOC staff and the working groups will utilize the same criteria, and the policy has been modified to reflect this suggestion. AOC staff, together with each local court, will generate each year’s planned items for submittal to the working group.</p> <p>System failures would be addressed as priority 1 facility modifications, considered as remediation of <i>intermittent function and service interruptions</i>.</p>

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Prioritization Methodology for Modifications to Court Facilities Comments Summary

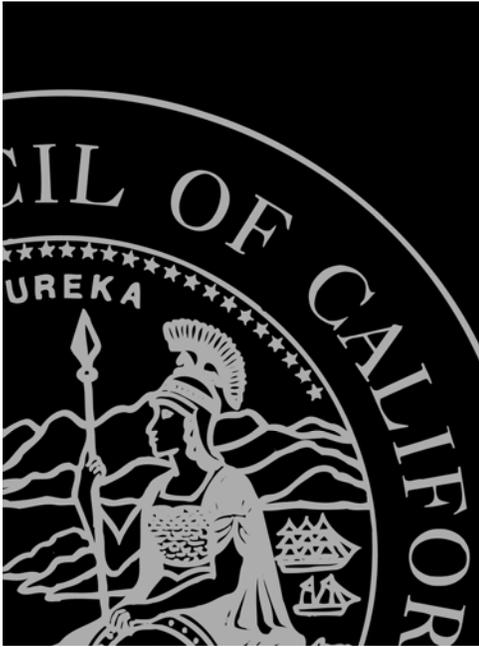
	Commentator	Position	Comment	Responses
13.	Mr. Joseph Lane, Clerk/Administrator, Court of Appeal, Second Appellate District— Los Angeles	A	None.	None.
14.	Hon. Harry R. Sheppard, Judge, Superior Court of Alameda County	A	None.	None.
15.	Hon. Paul Anthony Vortmann, Presiding Judge, Superior Court of Tulare County	A	None.	None.
16.	Mr. G. Sean Metroka, Executive Officer, Superior Court of Nevada County	A	None.	None.
17.	Mr. Ray Sorensen, Interim Executive Officer, Superior Court of San Diego County	A	None.	None.

Response Totals

	Agreement	Agree with Modifications	Do Not Agree	Total Respondents
Totals	5	12	0	17

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Prioritization Methodology for Modifications to Court Facilities

DECEMBER 2, 2005



ADMINISTRATIVE OFFICE
OF THE COURTS

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT

I. Purpose

This document presents a methodology and a process for prioritizing modifications to be made to appellate and 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 increase the facility's gross area, as in an addition to a structure; substantially renovate a major portion 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. Major capital outlay projects are contained in the Judicial Council Five-Year Infrastructure Plan Fiscal Year 2005–2006 available posted online at www.courtinfo.ca.gov/reference/fiveyear.htm.

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 will be the primary contact point for

unplanned trial court facility modification requests and all maintenance services. The e-mail address is csc@jud.ca.gov.

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:

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.** 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. Each year, the AOC will issue a report to the Judicial Council describing priority 1 situations and their resolution.

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 Modification

The superior courts and appellate 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 two reports—one on pending trial court and one on pending appellate 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.

Two working groups—one for trial courts and one for appellate courts—will be established to review facility modification needs across the state. On an annual basis, each working group 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 respective working group for their meetings in advance of each budget year cycle.

Based on a review of the AOC reports and any other additional information, each working group will develop an annual report that includes a preliminary prioritized list of planned priorities 2–6 facility modifications for funding. These preliminary prioritized lists for funding will utilize the same factors indicated above. Each 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 courts by posting on Serranus for comments. All comments will be considered and addressed by the appropriate working group. All comments and working group responses will be presented to the Interim Panel, as part of the final report of the working groups.

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 appellate court working group will be composed of three members of the branch selected by the Administrative Presiding Justices Advisory Committee and two members of the branch selected by the members of the California Appellate Court Clerks Association. The trial court 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 each working group will be appointed by the Chief Justice from the membership of the group. These working groups are envisioned to confer as often as necessary to review and prioritize requests for planned priorities 2–6 facility modifications.

On an annual basis, each working group will provide a full briefing to the Interim Panel on pending priorities 2–6 facility modifications requests, including an analysis of each request and a rationale for the preliminary ranked list of modifications. Annually, the Interim Panel will approve two final ranked lists of priorities 2–6 facility modifications: one for trial courts and one for appellate courts.

To develop a final ranked list, the Interim Panel 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 each working group, additional information requested by the

Interim Panel 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 Interim Panel 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 three facility modification budgets—priority 1, planned priorities 2–6, and unforeseen or out-of-cycle priorities 2–6—during the course of a year. Therefore, each working group has the authority to make adjustments to the prioritized list of priorities 2–6 facility modifications and adjust funds among the three budgets for facility modifications as necessary. Each working group will make a quarterly report to the Interim Panel on any such midyear adjustments.