



Trial Court Facility Modifications Policy

ADOPTED AND EFFECTIVE
JULY 27, 2012
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JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT FACILITY MODIFICATION
ADVISORY COMMITTEE

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.

The *Trial Court Facility Modifications Policy*, initially approved and effective July 27, 2012, replaced and superseded the Judicial Council's *Prioritization Methodology for Modifications to Court Facilities*; last revised April 24, 2009. This revised *Trial Court Facility Modifications Policy*, if approved by the council, will become effective January 1, 2015.

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 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 and routine maintenance and repairs. Facility Modifications are distinguished from routine maintenance and repairs 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 (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 Real Estate and Facilities Management staff, within the Judicial Council's Administrative Division. 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 Trial Court Facility Modification Advisory Committee (TCFMAC) 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 TCFMAC 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 canceled.

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 TCFMAC to fund requests that are ad hoc or unplanned, but that rank among the highest priority Facility Modifications. The TCFMAC will determine at the beginning of the fiscal year the estimated 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 decisions at each meeting to ensure funds are spent appropriately and fully for the fiscal year. Based on this funding determination the Judicial Council staff will present a proposed list of Facility Modification at each meeting. The TCFMAC 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 II(A) 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 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 Judicial Council 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 Judicial Council personnel through requests made to the CSC. The Judicial Council 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 Judicial Council 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. Judicial Council staff will report to the TCFMAC on all Priority 1 requests as part of the next scheduled TCFMAC meeting.

2. Priority 2–6 Requests. Requests for Priority 2–6 Facility Modifications will be tracked by the Judicial Council staff and the courts using the Judicial Council’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

C. Trial Court Facility Modifications Advisory Committee: Duties and Procedures

The TCFMAC will meet as needed to review the Judicial Council 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 Judicial Council reports and any other available information, the TCFMAC 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 TCFMAC may also determine that certain items do not qualify as Facility Modifications and remove them from the list of recommended projects.

D. Trial Court Facility Modifications Advisory Committee: 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 Judicial Council staff to the TCFMAC will develop a proposed allocation among the four Facility Modification Budget Allocation Categories and a list of potential Planned Facility Modifications.
3. The TCFMAC will consider the Judicial Council 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 TCFMAC will also use this Judicial Council 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 TCFMAC 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 TCFMAC’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 TCFMAC's responses will be included with the final recommendations in a report to the Judicial Council.

6. Based upon comments received, the TCFMAC will determine its final recommended funding allocation and list of Planned Facility Modifications, which will be presented to the council for review and approval.
7. This policy, the budget allocations, and list of Planned Facility Modifications approved by the Judicial Council will be the basis on which the TCFMAC and the Judicial Council staff, 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 TCFMAC the authority to redistribute funds among the four budget allocations as necessary to ensure that 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 TCFMAC.
9. The Judicial Council also delegates to the TCFMAC 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 TCFMAC will not expend more than 20% of the annual budget prior to the Judicial Council's approval.

E. Trial Court Facility Modifications Advisory Committee: Annual Informational Report

The TCFMAC 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 TCFMAC activities.

F. Trial Court Facility Modifications Advisory Committee: Quarterly Report

The TCFMAC will develop a quarterly report to provide to the council as an informational item. 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.