



Trial Court Facility Modifications Policy

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JUDICIAL COUNCIL
OF CALIFORNIA

I. Purpose

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

This *Trial Court Facility Modifications Policy* replaces and supersedes the version approved by the Judicial Council on July 27, 2012.

II. Facility Modifications

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;
- An alteration, addition to, or betterment of a facility that makes the facility more energy efficient and/or conserves water usage;
- 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, emergencies, 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 maintain, 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, breakdown, and service interruptions.

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.

III. Prioritizing Facility Modification Projects

A. Identification of Potential Facility Modifications

Judicial Council staff will work with trial court executive officers and their staff to document the court's operational needs. Facility conditions will be assessed by Judicial Council staff and contractors periodically to assess Facility Modification requests and requirements.

As set forth below, Judicial Council staff will assign a priority category to each modification requested or indicated, develop a preliminary cost estimate, and determine a high-level scope of work for the Facility Modification.

B. Priority Categories for Facility Modifications

Projects determined to be Facility Modifications will be assigned one of the six priority categories described below. However, the amount of the funding available annually determines which priorities can be funded.

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 the 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.

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 the most basic functions of the facility, but its correction will improve court operations. All energy efficiency projects will be classified as Priority 3, unless energy efficiency is a component of the overall project.

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.

Facility Modifications determined to be Priority 1 will be addressed immediately regardless of whether the facility is subject to a joint occupancy agreement with a county. Planned Priorities 2–6 Facility Modifications—located in a common area in a facility that is subject to a joint occupancy agreement with a county—will be assigned an appropriate priority category. However, the

implementation of that Facility Modification may be dependent on financial participation by the county that shares the facility.

Attachment A sets forth examples of priority levels for specific types of projects: Paint/Wall Covering and Window Covering, Flooring, Americans with Disabilities Act (ADA) Projects, and Vandalism and Graffiti Mitigation.

C. Scoring and Prioritizing Priorities 2–6 Facility Modifications

Within each priority category, each proposed Facility Modification will be scored and prioritized by Judicial Council staff utilizing the first five criteria listed below. The Facility Modifications will be ranked within each priority with the lowest cumulative scores within a priority signifying the highest ranking and the highest scores within a priority signifying the lowest ranking.

1. Justification and Effect on the Court: This will be a score between 5 and 50, with 5 indicating the court is closed or court operations are significantly impacted (negatively) due to the need for the Facility Modification and 50 indicating the court is operating at standard productivity, **and** court appearance and dignity are not diminished by the condition. However, it would be desirable to complete the Facility Modification, but it is not essential for court operations. *Please note that any number between 5 and 50 can be used to quantify the justification and the effect this requirement has on the court.* The information below will assist in determining the correct number. Equity among courts can be taken into consideration when assigning appropriate values below.

- 5–15 Court operations are *significantly* impacted (negatively).
- 16–20 Court is operating, but at less than standard productivity.
- 21–35 Court appearance and dignity are diminished by the condition of the facility.
- 36–50 The court is operating at standard productivity, **and** court appearance and dignity are not diminished by the condition. However, it would be desirable to complete the Facility Modification.

2. Safety, Security, Risk Management: This will be a score between 5 and 25 (with 5 indicating there is a potential for serious risk and 25 indicating there is no risk). The focus here is on safety, security, and risk management/mitigation by taking into consideration public and employee safety. *Please note that any number between 5 and 25 can be used to quantify the effect this requirement has on the court.* The information below will assist in determining the correct number.

- 5–15 Potential serious risk
- 16–20 No significant risk
- 21–25 No risk

3. Feasibility: This will be a score of 10, 15, 20, or 25, with 10 indicating the project is easy to perform and 25 indicating the project requires major design efforts and may not be practical to perform. Factors to consider when assigning a score are (a) whether the modification is a shared responsibility with a county that would require an independent agreement to share costs of that modification, (b) permitting issues, (c) funding availability, (d) planning and assessments, (f) court approvals, and (g) fire plans.

- 10 Easy to perform with little or no planning or assessments
- 15 Requires some planning and assessments
- 20 Requires major planning and assessments effort or shared cost difficult to receive
- 25 Requires major planning and assessments effort, may not be practical, shared cost highly unlikely

4. Cost/Benefit: This will be a score based on the Simple Return on Investment (ROI)¹ value associated with the project. Deduction will be 3 points for each year of ROI less than seven creating a potential score of between -21 and -3. This criterion allows for Facility Modifications that will pay back the cost of the effort over shorter time frames to move up the list by using a negative score. An energy-saving improvement yielding reduced utility bills or an automation project resulting in a demonstrable reduction in labor expenses are good examples. Project documentation must be validated by Judicial Council staff.

- 0 ROI in excess of 7 years
- -3 ROI of 7 years
- -6 to -21 ROI of 6 to 1 years

For Facility Modifications, where energy efficiency is the primary component of the project, the project's ROI will be compared to the Maximum Investment Threshold (MIT)² of the measure being installed. For projects where ROI is less than MIT, the project will be awarded -3 points, plus a -3 point for every year the ROI is less than MIT, with a maximum score of -21.

- 0 ROI is greater than MIT
- -3 ROI is equal to MIT
- -6 to -21 ROI is less than MIT

5. Design Status: This will be a score of 5, 15, or 25, with 5 indicating the project is designed and ready to perform today, and 25 indicating the designs will take more than 90 days to

¹ Simple Return on Investment (ROI) is the gross project cost divided by the dollars saved annually.

² Maximum Investment Threshold is 50% of the maximum of either (a) the Effective Useful Life as defined by the California Public Utilities Commission (derived from Database of Energy Efficiency Resources) for the measure, or (b) Guaranteed Life (manufacturer's guarantee or warranty exceeding stated Effective Useful Life) of the measure.

complete. Facility Modifications that require no design effort, or are already in design, will receive higher scores than those still requiring design effort.

- 5 Designed, ready to perform immediately
- 15 Designed, will be ready to perform within 90 days
- 25 Designs will take more than 90 days to complete

6. Planned Major Capital Improvements: Judicial Council staff can take into consideration whether there is a planned major capital project that would address the Facility Modification need in a reasonable period of time. If there is a planned major capital project that will address the Facility Modification need in a reasonable period of time, the Judicial Council may determine that it is not an efficient use of resources to implement the Facility Modification, notwithstanding the final scoring of the five criteria listed above.

D. TCFMAC Review of Court Requests for Reconsideration

The Trial Court Facility Modification Advisory Committee (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.

Courts and Judicial Council staff may request that a decision made by the TCFMAC be reconsidered. Such requests could address funding, prioritization, or scoring decisions. All such requests must be in writing and signed by the presiding judge or court executive officer, or, if from the Judicial Council, the director of Facilities Services. Requests for reconsideration should be submitted to the chair of TCFMAC. The TCFMAC will then review all the information and make a final determination.

IV. Quarterly Reports to the Judicial Council

Judicial Council staff will develop a quarterly report for each quarter of the fiscal year, to be approved by TCFMAC and provided 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 funds between the funding categories. The final quarter report for each fiscal year will also include the annual summary of Facility Modifications for the prior fiscal year.

Paint/Wall Covering and Window Covering

The following priorities are applicable for Facility Modifications involving paint/wall covering and window coverings when paid for by the Judicial Council. However, rule 10.810 of the California Rules of Court authorizes courts to use their operating funds for interior painting. If a local court elects to utilize its own operating funds for interior painting, then these priorities are not applicable since the costs are being paid for by the local court and will not be funded as a Facility Modification project pursuant to this policy.

Priority 1: Only when done as part of a larger Priority 1 Facility Modification that would require painting to complete the repair. For example, if a water leak resulted in replacement of sheetrock, painting to match the preexisting color would be included in the renovation effort.

Priority 2: Only used for significant safety hazards (e.g., peeling lead-based paint). Priority 2 Facility Modifications should be limited to the minimum effort needed to address the immediate concern (corner-to-corner painting versus whole room).

Priority 3: Use when excessive wear does not justify a Priority 2 Facility Modification but impacts the dignity of the court to a level that its correction will improve court operations and provide minimal maintenance standards; for example, repainting and wall covering repairs in public common areas and courtrooms where the wear/damage indicates a total lack of concern for basic maintenance standards. Priority 3 projects should be limited to the minimum effort needed to address the immediate concern (corner-to-corner painting versus whole room). Priority 3 Facility Modifications should limit planned work in alignment with this requirement during project scope development.

Priority 4: Only used where painting is required for code compliance.

Priority 5: Most painting and wall/window covering replacement will fall into this priority. Due to the limited funding for this priority, courts should be encouraged to budget for recurring painting and wall covering replacement.

Priority 6: Only used to provide repairs/covering after the removal of managed but not abated hazardous materials.

Flooring

The following priorities are applicable for Facility Modifications involving flooring when paid for by the Judicial Council. Notwithstanding the preceding, rule 10.810 of the California Rules of Court authorizes local courts to use their own operating funds for flooring projects. If a local court elects to utilize its own operating funds for flooring projects, then these priorities are not applicable since the costs are being paid for by the local court and will not be funded as a Facility Modification project pursuant to this policy.

Priority 1: Floor finishing done as part of a larger Priority 1 Facility Modification that would require flooring repairs/replacement to complete the repair with or without hazardous material. For example, if a water leak resulted in moldy carpeting, replacing the carpet to match the preexisting carpet would be included in the repair effort.

Priority 2: Only used for significant safety hazards, such as tripping hazards. Before flooring replacement is approved, repairs of the existing flooring should be attempted. Only when repairs are not practical or cost-efficient should total area flooring be replaced. Even then it should normally be limited to the room/area and not extended to the entire floor or department.

Priority 3: Use when excessive wear does not justify a Priority 2 Facility Modification but impacts the dignity of the court to a level that its correction will improve court operations and provide minimal maintenance standards; for example, repairs in public common areas and courtrooms where the wear/damage indicates a total lack of concern for basic maintenance standards. Priority 3 work should be limited to the minimum effort needed to address the immediate concern (single room versus whole floor).

Priority 4: Only used where flooring repairs/replacement is required for code compliance.

Priority 5: Most flooring replacement will fall into this priority. Due to the limited funding for this priority, courts should be encouraged to budget for normal life cycle flooring replacement.

Priority 6: Only used to provide repairs/replacement after the removal of managed but not abated hazardous materials.

Americans with Disabilities Act Projects

The Judicial Council has the responsibility to make certain that all court buildings comply with the Americans with Disabilities Act (ADA). The priorities for ADA projects will be as follows:

Priority 1: ADA projects will not normally fall under this priority as this priority is generally intended to repair an existing condition that has become immediately or potentially critical in nature due to it being broken or damaged. (This priority is not intended to be an upgrade to an existing condition.)

Priority 2: Only used to mitigate a legal action or written claim, and only for the items noted in the written claim or legal action. Written claims should be submitted by the CEO. For example, if the written claim or legal action identifies no ADA-accessible bathrooms on the first floor, the focus will be on providing an accessible bathroom on the first floor and not throughout the building. If ADA compliance is part of the overall repair, then compliance must be followed for that specific repair. For example, if the Priority 2 Facility Modification is to replace a washroom lavatory and fixtures, that particular lavatory and associated fixtures, and its components, must be ADA compliant.

Priority 3: Use when there is an impact to the dignity of the court to a level that its correction will improve functionality, usability, and accessibility of court operations. Priority 3 work should be limited to the minimum effort needed to address the immediate concern. If ADA compliance is part of the overall repair, then compliance must be followed for that specific repair. For example, if the Priority 3 Facility Modification is to replace or add a break room cabinet, sink, or fixtures, that particular cabinet and associated fixtures, and its components, must be ADA compliant.

Priority 4: Most ADA work will fall under this priority. The following are examples: doors do not have closers or improperly pull weight, bathrooms are not compliant, ramps are needed, service counter heights are too high, and elevator operating panels are not compliant. These examples in existing buildings are not code violations in their current state; however, all of these conditions might have to be corrected if the building is modified.

Priority 5: ADA projects will not fall under this priority.

Priority 6: ADA projects will not fall under this priority.

Vandalism and Graffiti Mitigation

The Judicial Council has the responsibility for damage that occurs to court facilities as a result of vandalism. Vandalism includes graffiti-related damage. The priority for Vandalism and Graffiti Mitigation will be established as follows:

Priority 1: These projects have immediate impact and are potentially critical in nature. 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.

Priority 2: Vandalism and Graffiti Mitigation can only be justified as a Priority 2 Facility Modification if it is described as vandalism in a public area that must be repaired immediately to prevent further deterioration of the building infrastructure. Public areas are generally described as building lobby areas, restrooms within free access areas, courtrooms, and corridors outside of courtrooms where the public congregates. Priority 2 Facility Modifications should be limited to the minimum effort needed to address the immediate concern.

Priority 3: Use when there is an impact to the dignity of the court to a level that its correction will improve functionality, usability, and accessibility of court operations. Priority 3 work should be limited to the minimum effort needed to address the immediate concern.

Priority 4: Only used where Vandalism and Graffiti Mitigation is required for code compliance.

Priority 5: Vandalism and Graffiti Mitigation projects will not fall under this priority.

Priority 6: Vandalism and Graffiti Mitigation projects will not fall under this priority.