



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 23, 2013

Title	Agenda Item Type
Court Facilities: Court Financial Contributions	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	August 23, 2013
Recommended by	Date of Report
Administrative Office of the Courts Steven Jahr, Administrative Director of the Courts	July 23, 2013
	Contact
	Judicial Branch Capital Program Office Gisele Corrie, Financial Manager 916-263-1687 gisele.corrie@jud.ca.gov

Executive Summary

The Administrative Office of the Courts (AOC) recommends that the Judicial Council adopt a new Court-Funded Facilities Request (CFR) Procedure enabling superior courts to contribute to certain future facilities costs via allocation reduction in specified circumstances, with previously approved court contributions continuing through the end of the approved project or current lease term. The AOC also recommends that the council make related delegations and require related reporting. Although legislation enacted in fiscal year 2012–2013 further reduced trial court funding and significantly restricted the courts' ability to carry fund balances, the AOC recommends adoption of a new CFR Procedure to provide courts an additional method of meeting their facilities needs where contributions remain feasible.

Recommendation

The AOC recommends that the Judicial Council, effective August 23, 2013:

1. Adopt a new Court-Funded Facilities Request (CFR) Procedure for new superior court requests to contribute to urgent court facilities needs, not including capital outlay expenses, via allocation reduction, consistent with the guidelines and procedures specified below:
 - a. The court contribution will be used exclusively to pay for the following urgent court facilities needs:
 - i. Lease-related costs (i.e., lease payments and operating costs, repairs, or modifications required by a lease);
 - ii. Costs that are allowable court operations expenditures under rule 10.810 of the California Rules of Court (i.e., equipment, furnishings, interior painting, flooring replacement or repair, furniture repair, or records storage), if the court prefers to have the AOC handle the matter on its behalf; or
 - iii. Other facility improvements that are not allowable court operations expenditures under rule 10.810 (i.e., facilities operations, maintenance, repairs, and modifications but not capital projects), if they would improve a court's functioning or reduce ongoing court operating costs.
 - b. If the court financial contribution will pay lease-related costs:
 - i. The AOC holds or has accepted assignment of the lease;
 - ii. The lease term will not exceed five years; and
 - iii. Any lease renewal (including renewals pursuant to an option contained in an existing lease contract) must be considered as a new CFR.
 - c. Courts wishing to contribute funding for multiple small projects that are non-lease items in a fiscal year may expedite the approval process by submitting a single CFR, under the following procedure:
 - i. The CFR proposes a maximum fiscal year budget (i.e., the court's cumulative total financial contribution) for small projects that year;
 - ii. Following approval of that amount, the court will submit individual service work order requests, to be charged against its authorized maximum annual fiscal year budget as follows:
 - A. Individual service work orders may not exceed \$15,000.
 - B. Each service work order will identify the type of service requested and state whether the work is rule 10.810 allowable or unallowable.
 - C. If the work is rule 10.810 allowable, the service work order will provide a brief explanation of the reason that the court prefers to have the AOC handle the matter on its behalf.
 - D. If the work is not allowable under rule 10.810, the service work order will provide a brief explanation of how the requested work will improve the court's functioning or reduce ongoing court operating costs.
 - E. Once a maximum fiscal year budget for small projects has been approved, a regional manager for the AOC's Facilities Management Unit may approve individual service work order requests.
 - F. The AOC's Facilities Management Unit must report at each meeting of the Trial Court Facility Modification Advisory Committee on disposition of all individual service work order requests received since the committee's last meeting.

- iii. A court's cumulative financial contribution via service work orders may not exceed the maximum fiscal year budget established under the original CFR. Work requiring expenditures beyond that established budget will require a new CFR.
 - d. The court's presiding judge or court executive officer submits a CFR application demonstrating the court's ability to meet the financial commitment.
 - e. The AOC's Fiscal Services Office (FSO) will review the court's application and any other relevant information, may request further information from the court as needed, and will advise if it has concerns about the court's ability to meet the proposed financial commitment.
 - f. If there are no unresolved FSO concerns, the court will execute an intra-branch agreement with the AOC, authorizing the AOC to directly pay the costs covered by the court's CFR from the Trial Court Trust Fund (TCTF), making a corresponding reduction to the court's TCTF allocation.
 - g. Any court submitting a CFR application must agree that its TCTF allocation will be reduced, during the period specified in the application, if approved, to meet the full financial commitment, notwithstanding any other court financial needs that may arise, as other court facilities funding sources are fully committed and therefore not available to replace a court contribution.
2. Delegate to the Trial Court Facility Modification Advisory Committee the authority to approve CFRs under the new procedure applying the above criteria, with the AOC then making related payments from the Trial Court Trust Fund (TCTF) and corresponding reductions to courts' TCTF allocations. If the AOC's FSO has concerns about a court's ability to meet a proposed financial commitment, it may present those concerns to the Trial Court Facility Modification Advisory Committee, and the court may present a response.
3. Instruct the Trial Court Facility Modification Advisory Committee to provide an informational report to the Judicial Council on a quarterly basis about all CFRs granted during the previous quarter, with reports to specify the nature of the cost covered by each court's contribution, the reason each request was considered urgent, and key terms for any leases (e.g., start and end date of term, options to renew, early termination provisions, total cost, covered improvements).
4. Approve the revised CFR form, attached to this report, for courts' use.
5. Instruct the AOC to pursue approval of the state Department of Finance (DOF) to transfer money in the TCTF to the Court Facilities Architectural Revolving Fund (Revolving Fund), under the new CFR Procedure, to cover rule 10.810 allowable costs associated with relocating to and/or equipping a different court facility associated with a move, and authorize the AOC to make such transfers with DOF approval.

Previous Council Action

In October 2006, the Judicial Council, among other things, delegated to the AOC the authority, under Government Code section 68085(a)(2)(A), to (1) approve the direct payment or reimbursement of allowable costs from the TCTF to fund the costs of operating one or more trial courts upon the consent of the participating courts, and (2) make corresponding reductions to

courts' TCTF allocations.¹ Consistent with this delegation, the AOC adopted the original CFR Procedure, to assist courts by enabling their contribution to short-term facilities maintenance needs while the Judicial Council and the counties were negotiating the transfer of responsibility for court facilities.

As the CFR Procedure had been an interim measure, the transfer process had been completed, and new legislation had further reduced superior court budgets, imposing new limits on their ability to carry fund balances,² the Judicial Council discontinued the original CFR Procedure for all new requests on December 14, 2012, with a limited six-month exception, pending review. Under the exception, the council delegated to the Administrative Director of the Courts the authority to approve new CFRs in specified instances to avoid other greater costs between December 2012 and the date of the council's June 2013 meeting.

The council directed the Administrative Director to return at its June 2013 meeting with a report on (1) courts' outstanding financial commitments under the CFR Procedure, (2) the impact of recent legislation restricting courts' fund balances, and (3) the advisability of the council's approving a new policy permitting courts to make limited financial contributions to meet urgent facilities needs, consistent with guidelines and reporting obligations that the council might approve. Finally, the council delegated to the Trial Court Facility Modification Working Group (now an advisory committee) the responsibility for receiving regular reports about all court facilities leases and forwarding information related to those leases for council consideration and action as appropriate, and also approved a revised CFR form for courts' use until June 2013.

At its June 2013 meeting, however, the Judicial Council agreed to delay considering the CFR issue for two months, extending the delegation to the Administrative Director to approve new CFRs in the interim. The council approved this action so that the Court Executives Advisory Committee (CEAC) might review the Administrative Director's draft report and provide input. At the council's direction, the item was moved to the agenda for its August 2013 meeting.

Rationale for Recommendation

Recommendation 1: Adopt a new CFR Procedure

The Judicial Council discontinued the prior CFR Procedure for new requests in December 2012, pending review. As directed, the AOC surveyed the courts in the intervening period, seeking their input about whether they remain able to contribute to facilities costs via allocation reduction, whether the option should be preserved, and, if so, whether changes in procedure are recommended. The survey responses support adopting a new procedure with modest changes to improve the timeliness of CFR decision-making and the courts' receipt of information about related allocation reductions and distribution amounts.

¹ See Judicial Council of Cal., mins. (Oct. 20, 2006), item G, numbered para. 13, at p. 38, available at www.courts.ca.gov/documents/min102006.pdf.

² See Gov. Code, § 77203(b) ("Commencing June 30, 2014, a trial court may carry over unexpended funds in an amount not to exceed 1 percent of the court's operating budget from the prior fiscal year").

Although the significant reductions to superior court budgets have presented challenges, restrictions on the courts' ability to carry fund balances will not commence until June 30, 2014. With few exceptions noted below, courts generally report they remain able to meet existing CFR commitments and would like to preserve the option of contributing to future facilities costs, via allocation reduction, if they consider it necessary. Ongoing reductions to superior court budgets have not eliminated the need for many court leases, and new leases may be needed if existing facilities prove inadequate or insufficient. Court contributions to the costs of repairs and other needed facilities maintenance or modification, via allocation reduction, also assist in avoiding accelerated deterioration and increased expenses for the future. To the extent they remain feasible, court contributions assist in bridging the gap created by inadequate state funding for court facilities and the repeated redirection and borrowing from state court construction funds.

Although not every court will be financially able to take advantage of the CFR Procedure,³ most courts responding to the AOC survey expressed the preference to preserve the flexibility that it affords. Given the few choices available, and the inadequacy of alternative funding sources, the AOC recommends adopting a new CFR Procedure with criteria described in the recommendations.

Survey of superior courts about their current CFR financial commitments. Pursuant to the Judicial Council's direction at its December 2012 meeting, the AOC has surveyed superior courts, to gather all necessary information about the nature and extent of their outstanding financial commitments under previous CFRs and about their interest in the adoption of a new CFR Procedure, enabling them to contribute to facilities costs via allocation reduction going forward. The survey questionnaire sent to each court included information about the council's December 2012 decision, with a hyperlink to the council report, a summary of each individual court's outstanding CFR commitments, and a request for additional information to permit the council's informed consideration of the issue.

The survey asked each court to provide information, including:

- *For each lease assigned to the AOC (i.e., AOC is the named tenant):*
 - The purpose or use of the facility (e.g., courtrooms, offices, records storage, other court storage, or collections), with indication whether space is vacant;
 - Occupancy levels (e.g., the number of staff, full-time and part-time, headquartered at the facility);
 - Court expectations about when each lease might be terminated, given budget and other factors; and

³ Courts retain the option of making rule 10.810 allowable expenditures on their own, without resorting to the new CFR Procedure or an allocation reduction.

- Funding source for lease costs (e.g., the TCTF or Assembly Bill 1058 funding).⁴
- *For outstanding minor facilities improvements qualifying as allowable court operations costs* under rule 10.810 (i.e., equipment, furnishings, interior painting, flooring replacement or repair, furniture repair, or records storage):
 - The confirmed budget; and
 - The court’s preference about continuing or modifying the terms of its existing agreement with the AOC.
- *For outstanding facilities work that does not qualify as allowable court operations costs* (e.g., maintenance or repairs, building modifications, and capital projects), the survey also noted each court’s outstanding financial commitments.⁵

The following chart provides an estimated summary of current court financial commitments under the CFR program, for FYs 2012–2013 and 2013–2014.⁶ Many of the commitments are one-time in nature, while others entail extended commitments (e.g., for leases and capital projects). Overall, 42 superior courts (72% of all superior courts) have agreed to contribute to their facilities costs, via allocation reduction in both fiscal years. Of that number, 31 courts (53% of all superior courts) are contributing to the cost of their facilities leases (71 leases) and anticipate having the same space needs for approximately 46 (65%) of those leases for the foreseeable future. The remaining courts reportedly do not intend to renew their leases.

Court-Funded Expense Type	Ongoing Expense	# of Courts Participating	# of Leases	Rule 10-810 Allowable	Reported Occupancy	FY 12-13 Budget	FY 13-14 Budget
AOC-Held Leases:							
Lease: Office/Courtroom/Miscellaneous Storage	X	26	41		520.3	5,669,000	5,298,000
Lease: New Judgeship	X	4	4		209.0	719,000	1,071,000
Lease: Parking	X	4	4		0.0	269,000	275,000
Lease: Court only funds specific cost (e.g., janitorial, maintenance, utilities)	X	5	6		298.0	156,000	158,000
Lease: Records Storage	X	10	15	X	25.5	1,161,000	1,410,000
Subtotal: All AOC Held Leases		31	70		1,052.8	7,974,000	8,212,000
Allowable court-operations costs, <i>not</i> including records storage (e.g., equipment, interior painting, flooring repair)	X	29		X		1,330,000	899,000
Unallowable court-operations costs, not including capital projects (e.g., facilities maintenance, repair, and modifications)		5				31,000	
Capital Projects	X	3				18,150,000	6,000,000
Total Courts' Contributions/Commitments		42	70		1,052.8	27,485,000	15,111,000

⁴ AB 1058 (Stats. 1996, ch. 957) established a statewide Child Support Commissioner and Family Law Facilitator Program, which is grant funded.

⁵ The survey did not ask the three courts contributing to capital projects or the four courts contributing to unallowable facilities work about ability to meet outstanding financial commitments. Two of the three courts with capital projects recently had covered the same topic for the Court Facilities Advisory Committee. The third does not currently rely on the CFR Procedure in making its contributions. For the four courts contributing, via allocation reduction, to costs of other unallowable facilities work costs, the cumulative outstanding financial commitment is small (\$31,000).

⁶ The budget amounts noted in the chart are rounded to the nearest thousand.

The chart below provides further detail about AOC-held leases.⁷ As shown below, 53 of the existing 70 court-funded leases (76% of the total) will expire in the next three years if not renewed. Of those leases, 30 have options to renew as part of the existing lease terms, although renewal may entail greater costs. Seven of the 70 leases (10% of the total) have terms extending five to eleven years, and most of those lack a lease provision permitting early termination, signifying that the AOC may have difficulty ending the leases and may have to pay penalties (or pay all rent due under the full term of the lease) if early termination were to become necessary.⁸

Overview of Current Lease Terms (AOC-Held Leases)	# of Courts Participating	# of Leases	# of Leases with Early Termination Provisions	# of Leases with Options for Renewal	Occupancy	FY 13-14 Budget
All Leases with terms ending within three years:	25	53	18	30	529.8	3,353,000
All Leases with terms ending between three and five years :	9	10	6	8	229.0	2,575,000
All Leases with terms ending between five and eleven years :	7	7	2	6	294.0	2,284,000
Total AOC-Held Leases	31	70	26	44	1,052.8	8,212,000

Only two courts reported concerns about their ability to meet existing financial commitments for leases. In one case, the court’s lease extends six more years, through March 2019, with no provision permitting early termination. That court requested the AOC’s assistance in reviewing options regarding the lease. Together, the AOC and the court identified the following options: (1) seek one or more entities to sublet the space; (2) terminate the lease and negotiate a termination penalty; or (3) retain the space and continue lease payments for six more years. The court is pursuing the first option at present. At the court’s request, the AOC has engaged a real estate agent to seek entities interested in subletting the space. If that effort does not yield results, the court will remain in the space through the end of the term, and then consolidate operations into its remaining facilities. The second court is evaluating all existing leases and will make necessary adjustments after the FY 2013–2014 Budget Act is signed and the Judicial Council has determined its allocation.

Superior court survey responses regarding adoption of a new CFR Procedure. The AOC’s survey also asked courts whether they favored adoption of a new CFR Procedure and how such a procedure might be improved. In general, their responses on the first topic were affirmative. Some suggested that quicker decision-making and more timely information about related financial impacts would be helpful. Below is a summary of court responses on these issues.

- ***Adoption of a new CFR Procedure:*** Forty-five of the 58 superior courts (78%) responded to the question about adopting a new CFR Procedure. Of those, 33 favored the action, 3 were undecided, and 9 did not oppose ending the CFR Procedure. The courts that favored retaining it noted that the procedure (1) enables them to secure timely repairs and modifications, addressing health and safety concerns (e.g., permitting prompt repairs

⁷ The budget amounts noted in the chart are rounded to the nearest thousand.

⁸ Another court has a small annual financial commitment (about \$15,000 per year), which is to continue indefinitely, so long as the court continues use of certain secure parking for judicial officers and a sally port .

following a fire or flood); (2) strikes a balance between state and local priorities, allowing courts to contribute to costs that are a local priority even if not sufficiently urgent to warrant priority in the competition for scarce statewide funding; and (3) enables them to draw upon AOC expertise in an area (facilities) with which courts have had little opportunity to become familiar. In addition, when questioned about equity issues raised by the CFR Procedure (e.g., better-funded courts having greater ability to address their own urgent facilities needs), some courts responded the concerns are mitigated by steps the Judicial Council and the Trial Court Budget Working Group (now an advisory committee) are taking to improve funding equity between courts.

For the three courts that reportedly were undecided about retaining a CFR Procedure, the primary issue was leases. Those courts wish to preserve an alternative method for funding leases to ensure their space needs are met, given scarce statewide court facilities funding. If the CFR Procedure is eliminated, some thought legislation might be proposed along with amendments to rule 10.810, together authorizing court spending in this area.

Of the nine courts that reportedly did not oppose eliminating the CFR Procedure, only one provided comments. That court indicated that it planned to terminate an existing lease. Given this fact and the state of its current budget, the court did not see a continued need for the procedure.

- *Improving the CFR Procedure:* Forty-three of the 58 superior courts (74%) responded to the question about improving the CFR Procedure. Of those, 28 expressed no concerns, while 15 recommended improvements. The latter group requested quicker notification about CFR decisions and a reasonable opportunity to review in advance both the specific costs covered by their contributions and the corresponding amount of proposed reductions to their TCTF allocations and monthly distributions. The AOC recommends that the Judicial Council delegate to the Trial Court Facility Modification Advisory Committee the authority to approve CFRs, because the committee meets at regular intervals, permitting predictability of decision-making and quicker reporting to courts. The AOC also has begun sending courts statements the month after requested facilities costs are paid, describing the covered costs and giving the amounts of the proposed corresponding allocation and distribution reductions *before* reductions are made.

Recommendations 2–3: Delegate to the Trial Court Facility Modification Advisory Committee the authority to approve CFRs, with reporting requirements

The Trial Court Facility Modification Advisory Committee oversees the judicial branch program that manages renovations, facilities operations, maintenance, and real estate for trial courts throughout the state. In December 2012, the council delegated to it the responsibility for

overseeing court facilities leases and forwarding related information to the council for information and action, as appropriate.⁹

As the proposed CFR Procedure would permit court contributions, via allocation reduction, to precisely the sorts of facilities costs (maintenance, repairs, renovations, and leases) that the committee oversees, it is best positioned to assist the Judicial Council by reviewing and approving requests. The committee meets at least eight times annually, generally every six to seven weeks. The frequency of its meetings would allow the committee to review CFRs in a timely manner. If this recommendation is approved, the AOC would post the committee's schedule on Serranus, with information about submission deadlines. It would then work with court requestors to ensure the committee has all necessary information about requests, preparing analyses to consider whether proposed expenses may be funded under the CFR Procedure if approved, courts' ability to meet proposed funding obligations, and the likely financial impact if a CFR is granted.

To ensure that the Judicial Council is informed and able to meet its statutory responsibility for overseeing superior court facilities,¹⁰ the AOC further recommends that the Trial Court Facility Modification Advisory Committee report to the council quarterly about all CFRs granted in the previous quarter.

Recommendation 4: Approve the proposed CFR Form

The proposed revised CFR Form, attached, will assist courts by ensuring requirements are clearly stated and will assist the Trial Court Facility Modification Advisory Committee and the Judicial Council by ensuring both have all needed information to properly decide CFRs and oversee the CFR Procedure. The earlier version of the form was tailored for use during the six-month extension of the original CFR Procedure (December 2012 to June 2013),¹¹ and the Judicial Council had prescribed narrower limits for the procedure than those currently proposed. New lease costs could be funded, for example, only if the court contribution was necessary to avoid greater costs and courts could not contribute to other facilities costs that were not allowable under rule 10.810.¹² The revised form requests all information necessary to make an informed judgment about the CFR, applying the criteria described in Recommendation 1, above. It also provides contact information for AOC subject matter experts who can assist the courts in completing their requests.

Recommendation 5: Seek approval to use the Revolving Fund and, if approved, authorize transfers

⁹ Judicial Council of Cal., mins. (Dec. 13–14, 2012), item V., numbered para. 4, at pp. 21–22, available at www.courts.ca.gov/documents/jc-20121214-minutes.pdf.

¹⁰ See Gov. Code, § 70391 (The Judicial Council shall exercise full control over superior court facilities, establish policies and procedures to ensure courts have adequate and sufficient facilities, and manage court facilities).

¹¹ As noted above, the Judicial Council granted a further extension until August 2013.

¹² See Judicial Council of Cal., Rep., *Court Facilities: Court Financial Contributions and Judicial Council Oversight* (Nov. 29, 2012), at pp. 11–12, available at www.courts.ca.gov/documents/jc-20121214-itemV.pdf.

DOF approval of the AOC's transfer of money in the TCTF to the Revolving Fund, under the new CFR Procedure, would cover rule 10.810 allowable costs associated with relocating to and/or equipping a different court facility associated with a move. Appellate courts currently use this approach, as they do not have their own bank accounts and thus cannot carry forward fund balances from year to year. The trial courts are also interested in use of the Revolving Fund for this purpose as evidenced by responses to the survey.

The survey questionnaire sent to each court asked courts with active capital projects whether they would be interested in using a new CFR Procedure to transfer funds from the TCTF to the Revolving Fund, with corresponding allocation reduction, if DOF concurred, so that the money would be available to cover one-time costs of relocating to and/or equipping a facility associated with a move. Although the question was posed for those with active capital projects, a greater number of courts (45 of 58) responded. In the responses received, 23 courts expressed an interest in having the option, while 9 did not consider it necessary, and 13 did not think the option applicable to their current needs.

If the DOF approves use of the Revolving Fund as described, the AOC also will seek confirmation about whether money held in the Revolving Fund under the new procedure would be included when calculating the amount that a court may carry over to a new fiscal year. As noted, above, effective July 1, 2014, courts may only carry over unexpended funds amounting to one percent of their operating budgets.

Comments, Alternatives Considered, and Policy Implications

Comments

As noted, the AOC has surveyed all superior courts, requesting their input about the extent of their facility-related financial commitments, the advisability of the Judicial Council's adopting a new CFR Procedure, and potential improvements on the prior procedure. Of the 58 courts, 54 responded (93%). Those responses are summarized, above, in the rationale for Recommendation 1. The AOC also presented its proposed report to an ad hoc group of CEAC members on July 9, 2013, for review and comment and to the Trial Court Facility Modification Advisory Committee at its July 12, 2013, meeting. Both advisory committees approved the recommendations presented above.

Alternatives

In preparing the recommendations, the AOC considered, but ultimately rejected, alternative proposals that the Judicial Council (1) decline to adopt a new CFR Procedure enabling courts to contribute funding, via allocation reduction, to cover the costs of their urgent facilities needs; (2) delegate authority to approve CFRs to another advisory body, such as the Court Facilities Advisory Committee; or (3) require more or less frequent reporting from the Trial Court Facility Modification Advisory Committee.

No new CFR Procedure. The AOC considered recommending against adoption of a new CFR Procedure for new requests. It does not present such a recommendation, however, because a

strong majority of the courts that responded to the survey favor adoption of the procedure (73% of those who responded, or 57% of all superior courts) to maximize the alternatives available for meeting court facilities needs going forward. The AOC concurs that the alternative is needed to avoid greater problems absent a legislative change permitting broader court spending on facilities,¹³ which we understand to be unlikely in the near future.

Because alternative state funding sources are fully committed, if courts are not able to contribute funding for lease renewals, some will have to consolidate into inadequate remaining space, with attendant moving costs, branch closures, and reduced public services. Enabling courts to contribute, via allocation reduction, to unallowable rule 10.810 costs also makes it possible to address facilities needs that are a court priority and otherwise would be unmet due to inadequate state funding for court facilities. Enabling courts to contribute, via allocation reduction, to allowable rule 10.810 costs that they otherwise might pay themselves (e.g., interior painting or flooring repair) means savings for courts, as the AOC handles related work for them.

Delegate CFR approval authority to another Judicial Council committee. The AOC considered recommending that the Judicial Council delegate authority to approve CFRs to another committee, rather than to the Trial Court Facility Modification Advisory Committee. It considered, for example, recommending that the delegation be to the Court Facilities Advisory Committee, which also provides oversight for facilities matters. The Court Facilities Advisory Committee is charged with overseeing new court construction, however, so it does not deal with ongoing leases or maintenance and modifications of existing facilities. As those topics are within the purview of the Trial Court Facility Modification Advisory Committee, it is the best equipped to oversee the proposed new CFR Procedure. Accordingly, the AOC recommends the delegation be to the latter committee.

More or less frequent reporting regarding the CFR Procedure. The AOC considered recommending that the Trial Court Facility Modification Advisory Committee provide, at each Judicial Council meeting, an informational report about CFRs that the committee had granted since the previous council meeting. Given recent budget cuts and related AOC staffing reductions, however, the reporting requirements would be difficult to meet. The AOC also considered recommending that the committee report to the Judicial Council once, at the start of each fiscal year, about CFRs that it granted the previous fiscal year. Reporting only once annually, however, would not seem to ensure the council sufficient information about court facilities needs and financial contributions to meet statutory oversight responsibilities in these

¹³ See Gov. Code, § 77009; Cal. Rules of Court, rule 10.810; *Trial Court Financial Policies and Procedures Manual*, FIN 3.01, 6.3, para. 5 (collectively imposing limits on court facilities spending).

areas.¹⁴ It also would not seem to provide the council adequate information about committee decision-making under the recommended delegation.¹⁵

Implementation Requirements, Costs, and Operational Impacts

To implement the above recommendations, if approved, the AOC would have to gather, analyze, and report to the Trial Court Facility Modification Advisory Committee regarding all CFRs; purchase, provide, and manage facilities-related goods and services and leases; report to courts on the resulting costs and the corresponding proposed allocation and distribution reductions; direct and record those reductions; support the advisory committee in reporting to the council on a quarterly basis about all CFRs that are granted; and report to the advisory committee on service work order requests received since the committee's last meeting. The actions are recommended to ensure that the advisory committee and the council have sufficient information to fully oversee the proposed new CFR Procedure.

If the recommendation is approved, all courts will be able to rely on the AOC for purchase and management of facilities-related goods and services allowable under rule 10.810, thereby conserving their administrative resources, reducing overhead costs, and possibly increasing efficiency. Courts that have the financial resources may choose to address local facility-related priorities and contribute to other facilities costs (i.e., costs not allowable under rule 10.810, such as utilities, repairs, modification, and certain leases) that otherwise would not be possible, or would require significantly longer waits, if the only recourse were to existing state facilities funding, which is both inadequate and fully committed to projects deemed a higher statewide priority.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommended council actions support Goal III (Modernization of Management and Administration) and Goal VI (Branchwide Infrastructure for Service Excellence).

Attachments

1. Court-Funded Request Form (revised)

¹⁴ See, e.g., Gov. Code, § 70391(e) (The Judicial Council must “[e]stablish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities”); *id.*, § 68502.5(c)(1) (“The Judicial Council shall retain ultimate responsibility to adopt a budget and allocate funding for the trial courts” and shall perform other activities to assure courts can carry out their functions, and promote implementation of statewide policies).

¹⁵ See, e.g., *County of Los Angeles v. Nesvig* (1965) 231 Cal.App.2d 603, 616 (In delegating authority, a public entity must retain sufficient control to “safeguard the public interest”).

Judicial Council – Administrative Office of the Courts Court-Funded Facilities Request (CFR) Form

Superior Court of California, County of _____
AOC Building ID: _____ Building Name: _____
Court Contact Name and Title: _____
E-mail: _____ Telephone: _____

Before completing this form, please contact AOC staff to discuss the court’s facilities-related request and anticipated costs. The following AOC staff can assist the court in developing cost estimates and securing related services:

- For lease-related costs: Eunice Calvert-Banks, 415-865-4048, eunice.calvert-banks@jud.ca.gov
- For other facilities-related services or work: please contact your AOC regional facility representative.

Please submit this completed form—via e-mail, fax, or regular mail—to:

Sarah Sanchez
Office of Real Estate and Facilities Management
Judicial and Court Administrative Services Division
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Tel: 415-865-4021; Fax: 415-865-8885
E-mail: sarah.sanchez@jud.ca.gov

The Judicial Council has delegated to the Trial Court Facility Modification Advisory Committee the authority to approve new Court-Funded Facilities Requests (CFRs) if all of the following are true:

1. The court contribution will be used exclusively to pay for the following urgent court facilities needs:
 - i. Lease-related costs (i.e., lease payments and operating costs, repairs, or modifications required by a lease);
 - ii. Costs that are allowable court operations expenditures under rule 10.810 of the California Rules of Court (i.e., equipment, furnishings, interior painting, flooring replacement or repair, furniture repair, or records storage), if the court prefers to have the AOC handle the matter on its behalf;¹ or
 - iii. Other facility improvements that are not allowable court operations expenditures under rule 10.810 (i.e., facilities operations, maintenance, repairs, and modifications but not capital projects), if they would improve a court’s functioning or reduce ongoing court operating costs.

¹ Courts retain the option of making rule 10.810 allowable expenditures on their own, without resorting to the new CFR Procedure or an allocation reduction.

Judicial Council – Administrative Office of the Courts Court-Funded Facilities Request (CFR) Form

2. If the court financial contribution will pay lease-related costs:
 - i. The AOC holds or has accepted assignment of the lease;
 - ii. The lease term will not exceed five years; and
 - iii. Any lease renewal (including renewals pursuant to an option contained in an existing lease contract) must be considered as a new CFR.
3. Courts wishing to contribute funding for multiple small projects that are non-lease items in a fiscal year may expedite the approval process by submitting a single CFR, under the following procedure:
 - i. The CFR proposes a maximum fiscal year budget (i.e., the court's cumulative total financial contribution) for small projects that year;
 - ii. Following approval of that amount, the court will submit individual service work order requests, to be charged against its authorized maximum annual fiscal year budget as follows:
 - a. Individual service work orders may not exceed \$15,000.
 - b. Each service work order will identify the type of service requested, and state whether the work is rule 10.810 allowable or unallowable.
 - c. If the work is rule 10.810 allowable, the service work order will provide a brief explanation of the reason that the court prefers to have the AOC handle the matter on its behalf.
 - d. If the work is not allowable under rule 10.810, the service work order will provide a brief explanation of how the requested work will improve the court's functioning or reduce ongoing court operating costs.
 - e. Once a maximum fiscal year budget for small projects has been approved, a regional manager for the AOC's Facilities Management Unit may approve individual service work order requests.
 - f. The AOC's Facilities Management Unit must report at each meeting of the Trial Court Facility Modification Advisory Committee on disposition of all individual service work order requests received since the committee's last meeting.
 - iii. A court's cumulative financial contribution via service work orders may not exceed the maximum fiscal year budget established under the original CFR. Work requiring expenditures beyond that established budget will require a new CFR.
4. The court's presiding judge or court executive officer submits a CFR application demonstrating the court's ability to meet the financial commitment.
5. The AOC's Fiscal Services Office (FSO) will review the court's application and any other relevant information, may request further information from the court as needed, and will advise if it has concerns about the court's ability to meet the proposed financial commitment.
6. If there are no unresolved FSO concerns, the court will execute an intra-branch agreement (IBA) with the AOC, authorizing the AOC to directly pay the costs covered by the court's CFR from the Trial Court Trust Fund (TCTF), making a corresponding reduction to the court's TCTF allocation.

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7. Any court submitting a CFR application must agree that its TCTF allocation will be reduced, during the period specified in the application, if approved, to meet the full financial commitment, notwithstanding any other court financial needs that may arise, as other court facilities funding sources are fully committed and therefore not available to replace a court contribution.
8. If the AOC's FSO has concerns about a court's ability to meet a proposed financial commitment, it may present those concerns to the Trial Court Facility Modification Advisory Committee, and the court may present a response.

The Trial Court Facility Modification Advisory Committee will provide, on a quarterly basis, an informational report to the Judicial Council about all CFRs granted during the previous quarter, with reports to specify the nature of the cost covered by each court's contribution, the reason each request was considered urgent, and key terms for any leases (e.g., start and end date of term, options to renew, early termination provisions, total cost, and covered improvements).

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Superior Court of California, County of _____ AOC Building ID: _____
Building Name: _____
Building Address: _____

1. Indicate nature of urgent request (check one):

- Lease-related cost (excluding records storage)
 Lease payment only, OR Lease payment including tenant improvement costs
- Lease for records storage only
 Lease payment only, OR Lease payment including tenant improvement costs
- Facilities-related cost allowable under rule 10.810 (i.e., equipment, furnishings, interior painting, flooring replacement or repair, or furniture repair).
- Facilities-related cost that is *not* allowable under rule 10.810 (e.g., facility modification), needed to improve court operations or reduce operating costs.
- Annual budget needs to be established to address multiple small projects, under \$15,000 each.

2. Provide cost estimate, identify funding source, and attach documentation reflecting court's ability to meet financial commitment:

Estimated Cost: \$_____ One-time \$_____ Ongoing \$_____

Please identify the amount to be committed from each of the funding sources, which, when totaled, should equal the Estimated Cost.

Fund source: Operating Budget Amount: \$ _____
 Grant Funds Amount: \$ _____
(specify grant title): _____
 Salary Savings Amount: \$ _____
 Fund Balance (Reserves) Amount: \$ _____
 Other Amount: \$ _____
(explain): _____

- Attach documentation supporting the court's ability to meet its financial commitment through term of request (include cost-estimate calculations in Excel format).
- Check this box if the court received a loan or advance from the TCTF or other judicial branch fund in the current or last fiscal year or anticipates requesting one in the current fiscal year.

3. Describe the costs that the court's proposed funding contribution would cover (attach additional pages if necessary):

4. If the request would fund a lease:

- Describe the planned use of the space (e.g., records storage, courtroom, offices); multi-use space should be separated by use with percentage of occupancy provided for each;
- State the start and ending dates of the lease term and any options for renewal;
- State the scope and cost of all Tenant Improvements to be performed on facility if lease is approved; and

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Court-Funded Facilities Request (CFR) Form

- State the number of court officers and staff to be located in the space. Note: For space to be designated as records storage, the duties of the staff in the building need to support records storage.
5. If the request would fund a rule 10.810 allowable cost, explain why the court prefers to have the AOC perform the required work on its behalf.
 6. Describe why the court deems the request urgent as well as the manner in which operations would be improved or costs reduced if the request is granted:
 7. Describe the court operations that this project will serve and any special considerations or features of the desired services that the court's contribution would fund:

Signature of Presiding Judge or Court Executive Officer

Date