



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 29, 2014

Title	Agenda Item Type
Court Facilities: Budget Allocations for Statewide Trial Court Facility Modifications and Planning in Fiscal Year 2014–2015	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	July 29, 2014
Recommended by	Date of Report
Trial Court Facility Modification Advisory Committee	July 8, 2014
Hon. David Edwin Power, Chair	Contact
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Executive Summary

The Trial Court Facility Modification Advisory Committee recommends allocations of the \$65 million appropriated by the Legislature for trial court facility modifications in the fiscal year 2014–2015 budget. The recommended allocations support facility modification planning and facility modifications for emergency and critical needs, but continue to defer funding of planned facility modifications.

Recommendation

The Trial Court Facility Modification Advisory Committee (TCFMAC) recommends that, the Judicial Council approve allocations of the \$65 million authorized by the Legislature for statewide court facility modifications and planning in fiscal year 2014–2015, as follows:

1. \$5 million for Statewide Facility Modifications Planning Allocation;
2. \$7 million for Priority 1 Facility Modifications Allocation;
3. \$53 million for Priorities 2–6 Facility Modifications Allocation; and
4. \$0 for Planned Facility Modifications Allocation.

Previous Council Action

The Trial Court Facility Modification Working Group was established by Judicial Council policy in 2005. The working group first met in April 2006 and operated under the *Trial Court Facility Modifications Policy*,¹ adopted by the Judicial Council in 2005 and revised on July 27, 2012. The primary oversight responsibilities included reviewing statewide facility modification requests and approving facility modification funding.

The working group's charge was formalized by the Judicial Council on December 14, 2012, and the working group was assigned additional oversight responsibility for the operations and maintenance of existing facilities, noncapital-related real estate transactions, energy management, and environmental management and sustainability. On April 25, 2013, the working group's status was elevated to that of advisory committee.

The Judicial Council allocated the fiscal year 2011–2012 budget of \$30 million at the August 26, 2011, meeting. The FY 2012–2013 budget of \$50 million was allocated at the July 27, 2012, Judicial Council meeting. The FY 2013–2014 budget of \$50 million was allocated at the October 25, 2013, Judicial Council meeting.

The TCFMAC reports previously approved by the Judicial Council are available at www.courts.ca.gov/2567.htm under Research and Reports: Conditions in Our Courts.

Rationale for Recommendation

The TCFMAC developed the budget proposal in alignment with the *Trial Court Facilities Modifications Policy*. The charge tasks the TCFMAC with providing recommendations and advice directly to the Chief Justice, Judicial Council, and the Administrative Director of the Courts.

Allocation strategy

The allocation strategy that underlies the recommendations presented in this report is designed to address planned facility modification projects that have been identified as critical needs for the trial courts. The Judicial Council proposed a 10-year increase in authority from the State Court Facilities Construction Fund (SCFCF)—in the amount of \$15 million per year—and four positions, and an ongoing increase of \$12 million per year and three positions from the General Fund for transfer to the Immediate and Critical Needs Account (ICNA) to fund trial court facility modification projects. Based on the minimum industry standard for capital infrastructure reinvestment of 2 percent, there is a total reinvestment need of \$77 million annually (not including reimbursements). This reflects a current funding shortfall of \$27 million. Currently, there is a backlog of identified projects pending funding. The requested funding will address

¹ As adopted in 2005, the policy was known as the *Prioritization Methodology for Modifications to Court Facilities*. When it was revised in 2012, the name also changed. See www.courts.ca.gov/documents/jc-20120727-itemG.pdf.

major repairs, system life-cycle replacements, and renovation projects in existing courthouses to provide safe and secure facilities for the benefit of all court users.

Although the judicial branch submitted a budget change proposal (BCP) for an additional \$27 million to support Planned Facility Modifications project requirements for the 2014–2015 fiscal year (FY), the Department of Finance (DOF) did not include the entire BCP funding request in the FY 2014–2015 Governor’s Budget. The DOF approved the SCFCF request for the \$15 million per year for 10 years, and recommended the Judicial Council use existing vacancies to fill the four requested positions. The General Fund request for \$12 million and three positions was denied. The existing budget of \$50 million along with the additional \$15 million approved by the Legislature and included in the FY 2014–2015 Budget Act allocated for facility modification projects will be consumed by the continuous emergency and critical needs projects that arise every day in our court facilities.

The strategy proposed by the TCFMAC will allow the branch to address emergency and critical needs projects as they arise within the real estate portfolio, at a time when program funding does not meet the overall needs of the trial courts. If this funding were allocated to noncritical work, the result would be increased failure of crucial building support systems. These failures would have an operational impact on the trial courts, including the possible closure of courtrooms and potentially entire facilities.

The TCFMAC makes every effort to focus on the priority of each project and its potential impact to the local court, not the facility location or previous funding history. While it is possible that, over a short period of time, one court may receive more funding on a square foot basis than another, this is the result of the facility needs. Over the longer term, these variances will equalize.

Funding sources and budget

The Facility Modification Program is funded from two sources:

- State Court Facilities Construction Fund (Sen. Bill 1732); and
- Immediate and Critical Needs Account (Sen. Bill 1407).

The total legislative appropriations for facility modifications in FY 2014–2015 is \$65 million, consisting of \$40 million in SCFCF funds and \$25 million in ICNA funds.

Allocation for statewide facility modifications planning

The TCFMAC recommends allocating \$5 million for this category, which targets the costs associated with facility assessments and facility modification planning. This allocation includes the costs of contracts, equipment, and materials to set up operations; development of building-specific facility management plans and procedures; development of hazardous material plans; and continuation of facility analysis using engineers, technicians, and trade professionals to determine the condition of facilities within the Office of Real Estate and Facilities Management portfolio. These tasks are required to identify deferred maintenance requirements, plan future

requirements, and ensure proper maintenance, thereby reducing the need for future facility modifications. Most of the needed costs will be used for consultant expenses. The proposed allocation of \$5 million is a \$1 million increase from the previous year's allocation and is based on the ongoing increase demand for planning functions.

Allocation for Priority 1 facility modifications

A reserve of \$7 million is recommended for allocation to immediate or potential emergency needs (Priority 1) that may develop in facilities. The allocation is equal to the FY 2013–2014 allocation and is based on the:

- Annual number of Priority 1 events over the past three fiscal years;
- Increased cost per event due to continued systems degradation; and
- Continued impact of the Los Angeles portfolio with its extremely large facilities.

Allocation for Priorities 2–6 facility modifications

The TCFMAC recommends the allocation of the remainder of the budget, \$54 million, to this category. The TCFMAC will review all facility modifications and fund those with the highest priority according to the council-approved policy. The TCFMAC approves the funds from this category proportionally over the course of the year, ensuring that funds are available for the highest priorities throughout the year.

The Judicial Council's Office of Real Estate and Facilities Management will continue to perform retro-commissioning studies in the facilities that have the highest utility consumption in order to target infrastructure facility modification projects with the goal to decrease program costs as a whole. While many facility modifications are in response to a specific broken system, \$1 million has been allocated to target energy conservation projects for FY 2014–2015. In FY 2013–2014, \$1.3 million was allocated to energy efficiency projects. In FY 2012–2013, \$500,000 was allocated for these types of projects. The current cumulative return on that investment in the form of utility costs savings is approximately \$695,000 annually.

No allocation for planned facility modifications

The TCFMAC does not recommend any funding allocations for planned facility modifications this fiscal year. Lack of staffing resources to sufficiently research, prioritize, develop scopes of work, and provide justifiable preliminary costs are the basis for this recommendation.

Comments from Interested Parties

An invitation to comment was posted on Serranus for a two-week period from June 3, 2014 to June 17, 2014. No comments were received.

Alternatives Considered and Policy Implications

Since no comments were received, no alternatives were presented for consideration.

Implementation Requirements, Costs, and Operational Impacts

The TCFMAC considered various dollar allocations for the different budget categories. The amounts recommended are based on historical data and a very conservative funding plan to allow sufficient funds for critical needs as they are identified by the courts and the Judicial Council staff. This allocation strategy will allow the TCFMAC to have the flexibility to fund the most critical needs throughout the year.

The FY 2014–2015 Facility Modifications Program budget will be allocated as the council approves, including as determined by the TCFMAC under the council-approved policy. There is no cost to the trial courts associated with this proposal.

